



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 1. OFFICE OF ADMINISTRATIVE LAW

The Office of Administrative Law (“OAL”) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to OAL. Comments may also be submitted by facsimile (FAX) at (916) 323-6826 or by e-mail to ctarpenning@oal.ca.gov. The written comment period closes at **5:00 p.m. on February 15, 2013**. OAL will consider only comments received at OAL by that time. Submit comments to:

Craig Tarpenning, Assistant Chief Counsel
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Government Code sections 11342.4 and 11349.1(c) authorize OAL to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific section 11343.4 of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action makes specific certain factors OAL will consider in determining whether “good cause” has been demonstrated for an earlier effective

date than specified in Government Code section 11343.4(a) for a regulation or order of repeal.

Section 11343.4 of the Government Code provides the general rule that, except as otherwise provided therein, a regulation or order of repeal required to be filed with the Secretary of State shall become effective on the 30th day after filing. Effective January 1, 2013, Senate Bill No. 1099 (Wright) amends subdivision (a) of Government Code Section 11343.4 to provide that, except as otherwise provided in subdivision (b), a regulation or order of repeal required to be filed with the Secretary of State shall become effective on a quarterly basis. Subdivision (b)(3) (currently subdivision (c)) of Government Code section 11343.4 provides that OAL may prescribe an earlier date, if the adopting agency makes a written request demonstrating good cause for an earlier effective date.

The regulation proposed in this rulemaking action would specify factors OAL will consider in determining whether “good cause” has been demonstrated for an earlier effective date. Those factors include, but are not limited to, whether affected businesses, including small businesses, and affected individuals will become aware of any regulatory changes before they go into effect and will have adequate time to comply with any new requirements before the new requirements go into effect. OAL will also consider whether the benefit to the people of the State of California from the earlier effective date will outweigh any negative effect on affected businesses, including small businesses, and individuals imposed by the earlier effective date.

Objective and Anticipated Benefits of the Proposed Regulation:

The broad objective of the regulation is to ensure that OAL consider appropriate factors in determining whether “good cause” has been demonstrated by an adopting state agency for an early effective date for a regulation or order of repeal. The specific benefit anticipated from the regulation is the continued application of the delayed quarterly effective dates specified in subdivision (a) of Government Code section 11343.4 for regulations and orders of repeal affecting businesses, including small businesses, and individuals except when “good cause” is demonstrated for an earlier effective date. Specifying the factors OAL will consider in determining whether “good cause” has been demonstrated should benefit the people of the State of California by insuring that OAL consider any negative effect on affected businesses, including small businesses, and individuals imposed by the earlier effective date and if there is any benefit to the people of the State of California from the earlier effective date that outweighs any negative effect on affected businesses, including small businesses, and individuals. Specifically, proposed sec-

tion 30 of title 1 of the California Code of Regulations will be beneficial to the protection of public health and welfare, worker safety, and the environment and the prevention of discrimination in those instances when an urgent need in these areas is demonstrated for an earlier effective date which outweighs the negative effect on businesses, including small businesses, imposed by the earlier effective date.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

OAL has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, OAL has concluded that this is the only regulation that concerns “good cause” for purposes of Government Code section 11343.4.

DISCLOSURES REGARDING THE
PROPOSED ACTION

OAL has made the following initial determinations:
Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

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

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

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

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

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

OAL concludes that it is (1) unlikely that the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new businesses within the State of California, (4) unlikely that the proposal will eliminate any existing businesses within the State of California, and (5) unlikely the proposal would cause the expan-

sion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: The benefits anticipated from the regulation are continued application of the delayed quarterly effective dates specified in subdivision (a) of Government Code section 11343.4 for regulations and orders of repeal affecting businesses, including small businesses, and individuals except when an earlier effective date does not have a negative effect on affected businesses, including small businesses, and individuals or when the benefit to the people of the State of California from the earlier effective date outweighs any negative effect on affected businesses, including small businesses, and individuals. Specifically, proposed section 30 of title 1 of the California Code of Regulations will benefit the health and welfare of California residents, worker safety, and the environment in those instances when an urgent need in these areas is demonstrated for an earlier effective date which outweighs the negative effect on businesses, including small businesses, imposed by the earlier effective date.

Small Business Determination: OAL has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

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

OAL invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period, or at the public hearing if one is requested.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Craig Tarpenning, Assistant Chief Counsel
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Telephone: (916) 323-6808

The backup contact person for these inquiries is:

Reference Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Telephone: (916) 323-6815

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

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

OAL 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, Senate Floor Bill Analysis for SB 1099 (August 28, 2012), and an economic impact assessment contained in the initial statement of reasons. Copies may be obtained by contacting Craig Tarpenning at the address or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments received, OAL may adopt the proposed regulations substantially as described in this notice. If OAL 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 OAL adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Craig Tarpenning at the address indicated above. OAL will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

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

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.oal.ca.gov.

**TITLE 2. VICTIM COMPENSATION
AND GOVERNMENT CLAIMS BOARD**

VICTIM COMPENSATION
PROGRAM REGULATIONS
Title 2, § 649:56

The Victim Compensation and Government Claims Board (Board) proposes to amend the regulation described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested individual, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on February 11, 2013. The Board will consider only comments received at the Board’s office by that time. Submit written comments to:

Geoff Feusahrens, Regulations Analyst
Victim Compensation and Government
Claims Board
400 R Street, Suite 500
Sacramento, CA 95811

Comments may also be submitted by facsimile (FAX) at (916) 491-6441 or by e-mail to regulations@vcgcb.ca.gov.

AUTHORITY AND REFERENCE

Government Code sections 11400.20, 13920 and 13974 authorize the Board to adopt this proposed regulation. The proposed regulation implements, interprets and makes specific Government Code sections 13920, 13956 and 13974.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Government Code section 13950 requires that the Victim Compensation and Government Claims Board

“assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts.”

The California Victim Compensation Program (CalVCP) proposes an amendment to Rule 649.56, Involvement in the Qualifying Crime of Prostitution. Victims of human trafficking are often forced to commit acts of prostitution. Because prostitution is a specific intent crime, CalVCP strongly contends that human trafficking victims are not committing the crime of prostitution because they are forced to perform the acts against their will. Human trafficking victims do not possess the specific intent to commit the crime of prostitution; therefore, CalVCP proposes adding the below language to Rule 649.56.

Because human trafficking victims are not committing the crime of prostitution, Rule 649.56, the regulation regarding the denial of benefits due to involvement in the events leading up to the qualifying crime, is not applied in human trafficking cases. The purpose of amending Rule 649.56 is to include language of our policy in the regulation therefore ensuring consistent processing decisions. CalVCP proposes adding the following language to Rule 649.56:

(d) This section shall not be applied to cases involving human trafficking pursuant to Penal Code section 236.1.

The Board has determined that the proposed regulation is not inconsistent or incompatible with existing state regulations. After performing a review of any related regulations, we have found that these are the only regulations dealing with this subject area. Therefore, this proposed regulation is neither inconsistent nor incompatible with existing state regulations. Further clarifying and defining this area would help the Board make better decisions and potentially benefit victims of crime to receive the help and benefits they need.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

By defining that human trafficking is not applicable in regard to Rule 649.56, CalVCP’s Restitution Fund may be impacted by an increase in applications, but there is no impact on the creation of new businesses or the elimination or expansion of businesses currently doing business within the State of California nor is there an impact on the creation or elimination of jobs within the State of California.

Benefits of the Proposed Action: Clarifying and defining this area would help the Board make better decisions and potentially benefit victims of crime to receive the help and benefits they need. Because human trafficking victims are not committing the crime of pros-

titution, Rule 649.56, the regulation regarding the denial of benefits due to involvement in the events leading up to the qualifying crime, is not applied in human trafficking cases. The purpose of amending Rule 649.56 is to include language of our policy in the regulation therefore ensuring consistent processing decisions. In doing so, victims of human trafficking can potentially benefit from CalVCP by receiving compensation to pay for various expenses such as relocation expenses and/or mental health therapy expenses.

Disclosures Regarding the Proposed Action. The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

Cost impacts on a representative private individual 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.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulation does not affect small businesses because the regulation only applies to individuals who apply to CalVCP.

CONSIDERATION OF ALTERNATIVES

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

effective in implementing the statutory policy or other provision of law.

The Board invites interested individuals to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Geoff Feusahrens
Victim Compensation and Government
Claims Board
400 R Street, Suite 500
Sacramento, CA 95811
Telephone: (916) 491-3863

The backup contact person concerning the proposed administrative action may be directed to:

Kevin Kwong
Victim Compensation and Government
Claims Board
400 R Street, Suite 500
Sacramento, CA 95811
Telephone: (916) 491-3750

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Geoff Feusahrens at the above address.

AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF 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 regulation and the Initial Statement of Reasons. Copies may be obtained by contacting Geoff Feusahrens at the address or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding the hearing, if requested, and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications which are sufficiently related to the original pro-

posed text, it will make the modified text available to the public at least 15 days before the Board adopts the regulation as revised. Please send requests for copies of the modified regulation to the attention of Geoff Feusahrens at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

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

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through our website at www.vcgcb.ca.gov.

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

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

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

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

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

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

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

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

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

DISABILITY ACCOMMODATION NOTICE

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

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

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

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor

Code Section 142.3, will consider the following proposed revisions to Title 8, High Voltage Electrical Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **February 21, 2013**.

1. **TITLE 8:** **HIGH VOLTAGE ELECTRICAL SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 5, Article 36, Section 2940.8
The Securing of Poles During Removal Operations
2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Group 16, Article 109
Section 5199(g)(3)(B), Exception 2
Aerosol Transmissible Diseases Respirator Exception

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **HIGH VOLTAGE ELECTRICAL SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 5, Article 36, Section 2940.8
The Securing of Poles During Removal Operations

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action is initiated by the Occupational Safety and Health Standards Board (Board) staff. The proposal results from discussions with stakeholders, including utility representatives, and in part, from a review of the Occupational Safety and Health Appeals Board Decision dated August 18, 2010, Docket Nos. 08-R2D1-4887 through 4889 in the appeal of SMUD for citations issued by the Division of Occupational Safety and Health (Division). The Appeals Board Decision indicates that the citations are related to the removal of a damaged power line pole that was hit by a vehicle, leaving the butt of the pole missing and the rest of the pole suspended in air and supported only by the power lines. In the removal of this pole, employees did not secure the suspended pole with a winch line/load line of an electric line truck prior to removing the conductors that supported the pole. The pole slipped through the truck pole guides (grabbers), fell to the ground and hit an employee who sustained a serious injury.

The Division issued citations related to the General Industry Safety Orders, Article 13 for Cranes and Other Hoisting Equipment. One of the citations concerned Section 4999 "Handling Loads," which requires that a

load be properly attached by means of slings or other effective and suitable means. Another citation was issued under Section 5002 "Overhead Loads," which in part requires hoisting operations to be conducted in a job-controlled manner that will avoid exposure of employees to the hazards of overhead loads. The Appeals Board decision indicated that neither of these crane orders applied, since the damaged pole being removed was not being hoisted or being passed directly over workers at the time of the accident. The proposal is necessary to ensure that poles being removed are secured not only during the actual hoisting of the pole but also in preparing and securing of the pole for the lift.

Utility representatives indicate that poles are frequently damaged or compromised from accidents related to motor vehicles hitting them. It is important that such poles or pole sections are secured not only during the actual lifting/hoisting process but also in preparing these poles for removal. An amendment is proposed for the High Voltage Electrical Safety Orders (HVESO), Section 2940.8 which is related to the handling of poles. The proposal would require that damaged or unstable poles or sections of poles encountered during removal operations be securely supported. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations in that federal OSHA does not have provisions proposed in Section 2940.8(f) that are related to the securing of poles or pole sections during the process of pole removal operations.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as the requirements of federal law and the Labor Code.
- Is the least burdensome effective alternative. It is a performance-based proposal that was developed with the assistance of stakeholders including

several major utilities, the Division and labor representatives from the International Brotherhood of Electrical Workers. The proposal will enhance the safety of employees involved in the removal of utility poles.

Section 2940.8. Material Handling.

New Subsection (f)

Existing Section 2940.8 includes provisions related to the unloading of poles, pole hauling, storage, the use of tag lines, and attaching/hoisting the load.

A new subsection (f) would require damaged or unstable poles, or sections of poles to be guyed, braced or otherwise securely supported during pole removal operations. The proposal would have the effect of providing a performance-based requirement that protects employees from hazards during pole-removal operations. Employers complying with the proposal's requirements could, for instance, use an electric line truck with the load line attached to secure the pole or pole section.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

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

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal adds a provision to ensure that utility poles and/or pole sections are securely supported during pole removal operations. The proposal is administrative and procedural in nature and is not inconsistent with industry practice. The proposal does not encumber the employer to incur added costs by having to purchase or otherwise acquire special equipment or tools.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

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

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

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

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

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

with utility company safe work practices and procedures.

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

ALTERNATIVES STATEMENT

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

- 2. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Group 16, Article 109 Section 5199(g)(3)(B), Exception 2
Aerosol Transmissible Diseases Respirator Exception

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Pursuant to California Labor Code Section 142.3, the Occupational Safety and Health Standards Board (Board) may adopt, amend, or repeal occupational safety and health standards or orders. Section 142.3 permits the Board to prescribe, where appropriate, suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and provide for monitoring or measuring employee exposure for their protection. Petition No. 524 asks the Board to amend Section 5199, the Aerosol Transmissible Disease Standard, subsection (g)(3)(B) regarding the use of respiratory protection during high-hazard procedure work defined by the standard. Exception 2 to the subsection permits the use of National Institute of Occupational Safety and Health (NIOSH) approved P100 filtering facepiece respirators. The Division of Occupational Safety and Health convened an advisory committee and after reviewing relevant information recommended that the Board revise the subsection.

The purpose of the proposed change is to allow employers to also use NIOSH approved N100 and R100 respirators. R100 respirators are made of filter material that is more resistant to oil particulates, a specific contaminant of concern in emergency response, than the

N100, but less resistant over time than P100 filters. N100 filters are not tested against oil particulates; therefore, in addition, if the employer chooses to use an N100 respirator, the employer must also:

- 1) Assure that selection is made with the employees being fully informed and trained about using the appropriate respirators provided for conditions that would degrade the filtration performance of the N type respirator; and
- 2) Provide training to the employees to make an assessment of the conditions where the patient is to receive high-hazard procedures to assure that the performance of the respirator being used will not be compromised.

The intended effect of this proposal is to allow employers who provide emergency medical services more flexibility in finding appropriate respirators for the exposure conditions in which they would be used. The use of N100 respirators might result in cost savings without compromising safety, so long as all elements of the proposed exception are followed. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational safety and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations, in that federal OSHA does not have a specific counterpart standard for aerosol transmissible diseases but does have a general respiratory protection standard for those employees who are required to wear a respirator. Further, the federal respirator standard does not specifically address the level of respiratory protection in this proposal.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts.

- Is the least burdensome effective alternative. The proposed expansion of the exception was developed by the Division with the assistance of an advisory committee of affected employer, employee and technical experts. The proposal will provide additional respirator alternatives while still adequately protecting employees. No alternative proposal has been suggested.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

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

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal allows the use of alternative respiratory protection when appropriate. This provides an option for employers and does not add regulatory requirements and thus, will not have an economic impact.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action since the proposal provides an alternative to the existing requirement.

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does

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

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

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

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

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal does not add regulatory requirements. However, the additional definitions provided will improve understanding of the requirements and simplify compliance for businesses of all sizes.

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

ALTERNATIVES STATEMENT

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise

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

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

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

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

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

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

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

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

TITLE 10. DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner (Commissioner) proposes to adopt a rule under the Escrow Law relating to escrow agent surety bonds. The Commissioner proposes to adopt Section 1718.1 of Title 10 of the California Code of Regulations.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed as follows:

Regular Mail

Department of Corporations
Attn: Karen Fong, Office of Legislation and Policy
1515 K Street, Suite 200
Sacramento, CA 95814

Electronic Mail

regulations@corp.ca.gov

Facsimile

(916) 322-5875

Comments may be submitted until 5:00 p.m., February 11, 2013. If the final day for the acceptance of comments is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

AUTHORITY AND REFERENCE

Financial Code Section 17400 authorizes the Commissioner to adopt/amend/rescind the proposed regulation. The proposed regulation implements, interprets and makes specific Section 17202 of the Financial Code.

INFORMATIVE DIGEST

A. Summary of Related Laws/Regulations and Policy Overview

The proposed regulatory action clarifies the Escrow Law's requirements for a surety bond that, among other things, is required of escrow agents for licensure, by including them in a surety bond form for the purpose of streamlining the escrow agent licensure process. In addition, the proposed regulatory action specifies that a surety bond cancellation notice be sent to the Department and the Escrow Agents' Fidelity Corporation prior to the expiration of the bond, for the purpose of providing an opportunity to help resolve any financial issue that may affect an escrow agent's ability to renew the bond.

The Department licenses and regulates escrow agents under the California Escrow Law (Financial Code Section 17000 et seq.). The California Escrow Law prohibits a person from engaging in business as an escrow agent within this state unless licensed by the Commissioner as an escrow agent. In order to obtain licensure as an escrow agent, an applicant must apply in writing as prescribed by the Commissioner and, among other things, obtain and maintain a surety bond. In addition, an escrow agent must be a member of the Escrow Agents' Fidelity Corporation if he or she processes specified escrow transactions. The Escrow Agents' Fidelity Corporation indemnifies its members against specified losses and administers a member audit program.

B. Benefits Anticipated from Regulatory Action

The benefits anticipated from this regulatory action include providing nonmonetary benefits to California, protecting general welfare and promoting fairness and equity, protecting the public, and increasing transparency in government.

C. Consistency and Compatibility with Existing State Regulations

The proposed regulatory action is consistent with existing escrow regulations, the Escrow Law and other Department regulations that set forth surety bond requirements for escrow agents. The Department's existing regulations generally require escrow agent licensees to submit surety bonds that satisfy the Commissioner. This proposed rule clarifies the Department's surety bond requirements for escrow agent licensees and new

applicants, which in turn may help streamline its licensure process for escrow agent licensees and new applicants. It is consistent with the intent of the escrow law to help protect consumers and government entities from fraud and malpractice.

The notification requirements of the proposed regulatory action concerning bond cancellation notices are consistent with existing regulations and Escrow Law requiring escrow agents to satisfy the Commissioner's surety bond requirements. These are also consistent with the intent of escrow law to protect the public from financial harm by providing the Escrow Agents' Fidelity Corporation greater opportunity to investigate or examine escrow agents to determine whether they are experiencing financial problems prior to the expiration of their surety bonds.

DISCLOSURES REGARDING THE PROPOSED ACTION

- Mandate on local agencies and school districts: none.
- Cost or savings to any state agency: none.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.
- Cost or savings in federal funding to the state: none.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: none.
- Significant effect on housing costs: none.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Pursuant to Government Code Section 11346.5(a)(1), the Department has determined that:

- (1) The proposed action will not create or eliminate jobs within California;
- (2) The proposed action will not create new businesses or eliminate existing businesses within this state;
- (3) The proposed action will not affect the expansion of businesses currently doing businesses within California; and

- (4) The proposed action will provide benefits to the health and welfare of California residents by protecting the general welfare and promoting fairness and equity. It would protect the public and increase transparency in government by helping protect consumers and government entities from fraud and malpractice. Specifically, the proposed action would protect the public from financial harm by providing the Escrow Agents' Fidelity Corporation greater opportunity to investigate or examine escrow agents to determine whether they are experiencing financial problems to help prevent mishandling of trust funds.

EFFECT ON SMALL BUSINESS

The Commissioner has made a determination that the proposed regulation will not affect small business. Under Government Code Section 11342.610, "small business" does not include the professional or business activity of escrow agents.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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.

CONSIDERATION OF ALTERNATIVES

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

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

As of the date this notice is published, the rulemaking file consists of this notice, the initial statement of reasons and the proposed text of the regulation. The rulemaking file is available for public inspection and copying throughout the rulemaking process at the Department of Corporations, Office of Legislation and Policy, 1515 K Street, Suite 200, Sacramento, California 95814.

The notice, initial statement of reasons and proposed text are also available on the Department's website www.corp.ca.gov.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

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. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to:

Karen Fong
Staff Services Analyst
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-3553
E-mail: karenfong@corp.ca.gov

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

Sherri Kaufman
Corporations Counsel
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-3553
E-mail: Sherri.Kaufman@corp.ca.gov

**TITLE 14. FISH AND GAME
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to im-

plement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend subsection (c) of Section 27.80, Title 14, California Code of Regulations, relating to Ocean Salmon Recreational Fishing — **April Season**.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The Pacific Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS) effective on May 1 of each year.

California's recreational salmon fishing regulations need to conform to the Federal regulations to achieve optimum yield in California under the Federal Salmon Fishery Management Plan. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational fishery in State waters (zero to three miles offshore) which are consistent with these Federal fishery management goals.

On May 1, 2012, NMFS implemented the 2012 Federal ocean salmon regulations, which included the PFMC's recommendation to open the California ocean salmon recreational fishing season south of Horse Mountain on April 6, 2013. While Federal waters south of Horse Mountain will open on April 6, 2013, State waters in this area will not open unless the Commission takes regulatory action to do so.

Two separate Commission actions are necessary to conform the State regulations to Federal rules that will apply in 2013. The proposed regulation would amend subsection 27.80(c), establishing salmon fishing regulations for the month of April, 2013. Recreational salmon fishing regulations for May 1 through the end of 2013 will be considered in a separate rulemaking action, tentatively scheduled for adoption in April 2013.

Present Regulations

Current regulations [subsections 27.80(c) and (d)] authorized ocean salmon recreational fishing north of Horse Mountain including Humboldt Bay from May 1 to September 9, 2012. Between Horse Mountain and Pigeon Point, ocean salmon recreational fishing was allowed from April 7 to November 11, 2012. All areas south of Pigeon Point had an ocean salmon recreational fishing season from April 7 to October 7, 2012. For all areas in 2012, the bag limit was 2 fish per day (all species except coho). All areas north of Point Arena had a minimum size limit of 20 inches total length. All areas south of Point Arena had a minimum size limit of 24 inches total length through July 5, 2012 and 20 inches to-

tal length thereafter. Since the existing regulations pertained only to the 2012 season, amendment of these regulations is essential to allow for any fishing in State waters during 2013.

Proposed Regulations

For public notice purposes to facilitate Commission discussion, the Department of Fish and Game is proposing three regulatory options to encompass all possible actions that would, or would not, allow for salmon fishing in the month of April 2013 in various areas of California for Commission consideration:

Option 1 — Varied season dates and regulations in all areas. The ranges proposed below encapsulate all possibilities for Federal ocean salmon regulations that are expected to be in effect April 6 through April 30, 2013. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in Federal ocean waters.

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2013 season will be decided in April by the PFMC and Commission and the section will be amended pursuant to the regulatory process.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may open on a date within the range of April 6 through April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission, considering Federal regulations applicable to this area for April 2013.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission, considering Federal regulations applicable to this area for April 2013.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission,

considering Federal regulations applicable to this area for April 2013.

- (5) For the areas south of Point Sur: The season, if any, may open on a date within the range of April 6 to April 30, 2013. The proposed bag limit will be from 1 to 3 fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined by the Commission, considering Federal regulations applicable to this area for April 2013.

Option 2 — No fishing in all areas. This is the same as the no change alternative as all ocean salmon recreational fishing seasons are currently closed pursuant to Section 27.80 regulations. If adopted, the regulatory text of Option 2 would specifically establish 2013 closed areas.

Option 3 — A possible combination of Options 1 and 2 may be developed after more information is available from the NMFS and PFMC. This may include different opening and closing dates, bag limits, size limits, days of the week open and periodic closures of some but not all areas.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has authority to adopt sport fishing regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, February 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mount Shasta Hatchery Museum, 3 North Old Stage Road, Mount Shasta, California, on Wednesday, March 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before February 24, 2013 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 12:00 p.m. on March 4, 2013. All comments must be received no later than March 6, 2013, at the hearing in Mount Shasta, CA. If you would like copies of any modifications to this

proposal, please include your name and mailing address.

The regulations as proposed in strikeout–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Mr. Paul Hamdorf, Acting Manager of the Marine Region, Department of Fish and Game, phone (562) 342–7210, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California.

The Commission anticipates benefits to the State’s Environment in the sustainable management of ocean salmon resources. The Commission anticipates benefits to health and safety of California residents in that providing salmon fishing opportunities encourages consumption of a nutritious food.

Additional benefits of the proposed regulations are concurrence with Federal law, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate benefits to worker safety.

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

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

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

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

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

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend subsection (d) of Section 27.80, Title 14, California Code of Regulations, relating to Ocean Salmon Recreational Fishing — **May to November Season**.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Pacific Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS) effective on May 1 of each year.

California’s recreational salmon fishing regulations need to conform to the Federal regulations to achieve optimum yield in California under the Federal Salmon Fishery Management Plan. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon recreational fishery in State waters (zero to

three miles offshore) which are consistent with these Federal fishery management goals.

Present Regulations

Current regulations [subsections 27.80 (c) and (d)] authorized ocean salmon recreational fishing for the 2012 season. For all waters north of Horse Mountain, including Humboldt Bay, ocean salmon recreational fishing was open from May 1 through September 9, 2012. Between Horse Mountain and Pigeon Point, ocean salmon recreational fishing was allowed from April 7 to November 11, 2012. All areas south of Pigeon Point had an ocean salmon recreational fishing season from April 7 to October 7, 2012. For all areas in 2012, the bag limit was 2 fish per day (all species except coho). All open areas north of Point Arena had a minimum size limit of 20 inches total length. All areas south of Point Arena had a minimum size limit of 24 inches total length through July 5, 2012 and 20 inches total length thereafter.

PFMC Regulatory Outlook

On March 11, 2013, the PFMC will propose a suite of ocean salmon fishery regulatory options after reviewing the most up-to-date salmon abundance information for target stocks and salmon species of special concern, including Sacramento River Winter Chinook which is listed as endangered under both Federal and State Endangered Species Acts (ESAs). These options will go out for public review and the final PFMC recommendations for Federal waters will be made on April 11, 2013. The Federal regulations will go into effect on or after May 1, 2013 and may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

Commission Regulatory Outlook

Although there are no PFMC regulatory options to consider until March, the 2013 ocean salmon sport fishing regulations could range from no fishing in all areas off California to limited salmon fishing for varied areas and dates to be determined between May 1, 2013 and November 10, 2013. The final PFMC recommendations made on April 11, 2013 will serve as the basis for

the State's ocean salmon sport fishery regulations for May 2013 through the end of the year.

Concurrent Regulatory Action

Two separate Commission actions are necessary to conform the State regulations to Federal rules that will apply in 2013.

The proposed regulations will establish ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for May 2013 through the end of the year [subsection (d) of Section 27.80].

The Commission will be considering ocean salmon sport fishing regulations (e.g., open/closed days, minimum size limits, bag limits) that would be effective for April 6–30, 2013 [subsection (c) of Section 27.80] in a separate rulemaking package, tentatively scheduled for adoption on March 6, 2013.

Proposed Regulations

For public notice purposes and to facilitate Commission discussion, the Department is proposing three regulatory options to encompass all possible actions that would, or would not, allow for salmon fishing on or after May 1 in various areas of California for Commission consideration:

Option 1 — Varied season dates and regulations in all areas. The ranges proposed below encapsulate all possibilities for Federal ocean salmon regulations that are expected to be in effect on or after May 1, 2013. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in Federal ocean waters.

- (1) For all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 1 through September 30, 2013.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 to November 10, 2013.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 to November 10, 2013.
- (4) For the area between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 to October 6, 2013.
- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 to October 6, 2013.

For all areas, the proposed bag limit will be from one to three fish and the proposed minimum size will be from 20 to 26 inches total length. The exact opening and closing dates, along with bag limit, minimum size, and days of the week open will be determined in April by the

Commission considering Federal regulations and may be different for each sub-area.

Option 2 — No fishing in all areas. This is the same as the no change alternative as all ocean salmon recreational fishing seasons are currently closed pursuant to Section 27.80 regulations. If adopted, the regulatory text of Option 2 would specifically establish 2013 closed areas.

Option 3 — A possible combination of Options 1 and 2 may be developed after more information is available from the NMFS and PFMC. This may include different opening and closing dates, bag limits, size limits, days of the week open and periodic closures of some but not all areas.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has authority to adopt sport fishing regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, February 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mount Shasta Hatchery Museum, 3 North Old Stage Road, Mount Shasta, California, on Wednesday, March 6, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Flamingo Conference Resort & Spa, 2777 Fourth Street, Santa Rosa, California, on Wednesday, April 17, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 7, 2013 at the address given below, or by fax at (916) 653–5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 12:00 p.m. on April 15, 2013. All comments must be received no later than April 17, 2013, at the hearing in Santa Rosa, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~–underline format, as well as an initial statement of reasons, including environmental considerations and all information

upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Mr. Paul Hamdorf, Acting Manager of the Marine Region, Department of Fish and Game, phone (562) 342–7210, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations range from no salmon fishing in 2013 to a normal ocean salmon season; therefore, the potential impacts range from 0 to 1,400 jobs depending on which option is ultimately adopted by the Commission. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long–term intent of the proposed action is to increase sustainability in fishable salmon stocks and, subsequently, the promotion and long–term viability of these same small businesses.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for an ocean salmon sport fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California’s ocean salmon resources.

Additional benefits of the proposed regulations are concurrence with Federal law, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate any non–monetary benefits to worker safety.

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

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that are Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

TITLE 20. CALIFORNIA ENERGY COMMISSION

Notice of Intention to Amend the Energy Commission’s Conflict-of-Interest Regulations

NOTICE IS HEREBY GIVEN that the California Energy Commission, pursuant to the authority vested by sections 87300 and 87306 of the Government Code, proposes to amend the Energy Commission’s conflict-of-interest code in the California Code of Regulations, Title 20, section 2402 (Appendix).

Pursuant to Government Code sections 87300 through 87302 and section 87306, the conflict-of-interest code designates employees and others who must file an annual (Form 700) statement of economic interests with the Energy Commission. The annual statement discloses certain investments, sources of income, interests in real property, and business positions. Employees and other classifications listed in the code must disqualify themselves from making or participating in the making of governmental decisions affecting

their relevant interests. The amendments are proposed to revise and update designated positions, interests affiliated with those positions, and disclosure categories. The amendments include:

- Addition and deletion of designated positions
- Amended disclosure categories for certain positions
- Changes to disclosure category 6, regarding utility-related business interests.

GENERAL DESCRIPTION OF THE PROPOSED AMENDMENTS

Per Fair Political Practices Commission regulations, this Notice provides a summary of the provisions of the existing code which will be affected by the proposed amendments, and a summary of how these provisions will be affected by the proposed amendments. (See Cal. Code of Regs., tit. 2, § 18750, subd. (c)(3)(A).)

The proposed amendments will update the conflict-of-interest code Appendix at Title 20 of the California Code of Regulations, section 2402 (a) and (b). The Appendix lists designated employee positions required to annually submit a statement of economic interests (“Form 700”) and the assigned disclosure categories for financial interests that potentially affect Energy Commission matters.

The Energy Commission’s conflict-of-interest code sections are proposed for amendments to reflect the current organizational structure of the Energy Commission, with updates to add new and newly-designated positions, delete designated positions that no longer exist, change the disclosure categories for certain positions, clarify the language of disclosure Category 6 (regarding utility-related business interests), and other nonsubstantive corrections.

Express terms and the Initial Statement of Reasons explaining each amendment will be made available to Energy Commission employees and other interested persons starting on December 28, 2012, for a 45-day public comment period.

WRITTEN COMMENT PERIOD

A 45-day written comment period is hereby established starting on December 28, 2012. Any interested person may submit written comments concerning the proposed conflict-of-interest code amendments to:

Docket No. 12-OIR-04
 California Energy Commission
 1516 Ninth Street, MS-4
 Sacramento, California 95814-5512

or via e-mail to: docket@energy.ca.gov.

PUBLIC HEARING

The Energy Commission will consider adoption of the proposed amendments at a public hearing held during its regularly scheduled business meeting on February 13, 2013 at 10 a.m. The hearing will take place at the Energy Commission, Hearing Room A, 1516 Ninth Street, Sacramento, California.

Any interested person may comment during the agenda item for the conflict of interest proposed amendments. The business meeting agenda is due to be published on February 1, 2013. To see the agenda, directions for remote access to the meeting, and general information, go to the business meeting section of the Energy Commission website, http://www.energy.ca.gov/business_meetings/.

AVAILABILITY OF PROPOSED AMENDMENTS

The Energy Commission has prepared a written explanation of the reasons for the designations, disclosure categories, and disclosure responsibilities, and has available all of the information upon which the proposal is based. Copies of the proposed amendments to the conflict-of-interest code and the initial statement of reasons may be downloaded from the Energy Commission's Intranet for employees during the 45-day comment period beginning December 28, 2012. Copies of the amendments and the initial statement of reasons may also be requested from the agency contact listed below.

AGENCY CONTACT

Copies of the proposed amendments to the conflict-of-interest code and all of the information upon which the amendments are based may be obtained from, and any inquiries concerning the proposed amendments should be directed to:

California Energy Commission
Attention: Robin Mayer, Attorney
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
(916) 651-2921
robin.mayer@energy.ca.gov

ALTERNATIVES CONSIDERED

Pursuant to Government Code sections 11346.2 and 11346.5 et seq., and Fair Political Practices Commission regulations (tit. 2, § 18750, subd. (c)(3)(K)) the Energy Commission has determined that no alternatives considered by the Commission would be more effective in carrying out the purpose for which the rule-

making is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

COSTS AND SAVINGS

The proposed amended conflict-of-interest code:

- Imposes no mandate on local agencies or school districts.
- Imposes no cost or savings on any State agency.
- Imposes no cost on any agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of title 2 of the Government Code.
- Will not result in any nondiscretionary cost or savings to local agencies.
- Will not result in any cost or savings in federal funding to the State.
- Will not have any potential cost impact on private persons or businesses, including small businesses.

PREPARATION OF THE INITIAL STATEMENT OF REASONS

The Energy Commission has prepared a written explanation for the proposed amendments to section 2402, Title 20 of the California Code of Regulations, to provide reasons for the designations of positions, disclosure categories, and disclosure responsibilities, and has available all of the information upon which the proposal is based.

POLICY STATEMENT OVERVIEW

As required by Energy Commission regulations, this notice also explains the broad objectives of the proposed amendments and the specific benefits anticipated by their adoption. (Cal. Code of Regs., tit. 20, § 1222 [requiring procedures in accordance with Gov. Code, § 11346.5].)

The broad objective of the proposed amendments is to fulfill the purpose and the mandates of the Political Reform Act of 1974. (Gov. Code, § 87100 et seq.)

The purpose of the Political Reform Act ("Act") is, in relevant part, to assure that public officials perform their duties impartially, without bias due to personal financial interests or the interests of financial supporters. The Act also requires the disclosure of income and assets that could be affected by official actions and disqualification from participating in decisions when there is a conflict of interest.

To meet the purpose of the Act, each state agency is required to adopt a conflict-of-interest code applicable to certain positions affiliated with the agency. In addi-

tion, Government Code section 87306, subdivision (b), mandates that each state agency submit a biennial report that identifies all new positions that must file a Form 700 Statement of Economic Interests, any changes in the list of reportable sources of income, and relevant changes in the duties assigned to existing positions. The standard for whether an employee must report a particular financial interest is whether the employee is involved in the making or the participation in the making of decisions which may foreseeably have a material effect on any financial interest. (Gov. Code, § 87302, subd. (a).) Financial interests include investments, business positions, interests in real property, and sources of income. (*Ibid.*)

The benefits of the proposed amendments are to ensure that the employee designated positions and disclosure categories accurately reflect the current Energy Commission organizational structure, job duties and relevant financial interests, and to ensure that the disclosure categories for reportable interests are narrowly tailored for each designated position.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
Fruit Growers Supply Company —
Multi Species HCP
(2080–2012–018–01)
Siskiyou County**

The Department of Fish and Game (Department) received a notice on December 17, 2012, that the Fruit Growers Supply Company proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed action involves the Fruit Growers Supply Company commercial timberland harvest operations. The proposed project will occur on 102,055 acres of timberland in three of the Fruit Growers Supply Company management units: the Klamath River, Scott Valley; and portions of the Grass Lake unit in Siskiyou County, California.

The National Marine Fisheries Services (NMFS) issued a “no jeopardy” federal biological opinion (Service File No. 151422SWR2008AR00330)(BO) and incidental take statement (ITS) to the Fruit Growers Supply Company on April 12, 2011, which considered the

effects of the project on the state and federally threatened Coho salmon — Southern Oregon/Northern California Coast ESU (*Oncorhynchus kitsutch*).

Pursuant to California Fish and Game Code section 2080.1, Fruit Growers Supply Company is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed project. If the Department determines the BO and ITS are consistent with CESA for the proposed project, Fruit Growers Supply Company will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

**CESA CONCURRENCE REQUEST FOR
San Joaquin River Restoration Project —
Initial Broodstock Program
(2080–2012–017–04)
Butte, Napa, Yolo, and Fresno Counties**

The Department of Fish and Game (Department) received a notice on November 19, 2012, stating that the U.S. Fish and Wildlife Service (Service) has received an enhancement of survival permit (Incidental Take Permit 14868) pursuant to 16 U.S.C. § 1539(a)(1)(A) of the Federal Endangered Species Act (ESA) from the National Oceanic and Atmospheric Administration (NOAA). The notice included two copies of the permit and NOAA’s October 3, 2012 Biological Opinion issued pursuant to section 7 of the ESA.

NOAA issued Incidental Take Permit 14868 to the Service on October 3, 2012, under Section 1539(a)(1)(A) of Title 16 of the United States Code. The permit authorizes the Service to collect, transport, rear, handle, and tag individuals to establish a broodstock program. More specifically, the permit authorizes the taking of egg and/or juvenile spring run Chinook salmon (*Oncorhynchus tshawytscha*) from the Feather River Fish Hatchery (FRFH) to establish or maintain an experimental population in the San Joaquin River pursuant to subsection (j) of that section and the San Joaquin River Restoration Settlement Act (Part I of Subtitle A of Title X of Public Law 111–11). The proposed project will occur in Butte, Napa, Yolo and Fresno Counties, California.

These activities may adversely affect a species protected by the California Endangered Species Act (CESA). Pursuant to California Fish and Game Code section 2080.3, if the Department determines the 10(a)(1)(A) permit will further the conservation of the species, no further authorization or approval is necessary under CESA for the Service to take spring run Chinook as identified in, and in accordance with, the enhancement of survival permit.

DEPARTMENT OF FISH AND GAME

CALIFORNIA ENDANGERED SPECIES ACT
 FISH & GAME CODE §2080.3
 CONCURRENCE NO. 2080-2012-017-04

Project: San Joaquin River Restoration Project
 Initial Broodstock Program

Location: Butte, Napa, Yolo, and Fresno Counties

Permittee: U.S. Fish and Wildlife Service

Background

On October 11, 2012, the National Marine Fisheries Service (NMFS) issued Enhancement of Survival Permit 14868 (Permit) to the U.S. Fish and Wildlife Service (USFWS), pursuant to section 10(a)(1)(A) of the federal Endangered Species Act (ESA). The Permit authorizes take of ESA-listed Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*) (spring-run Chinook salmon) eggs or juveniles from the Feather River Fish Hatchery (FRFH) to initiate studies associated with holding practices of spring-run Chinook associated with the San Joaquin River Restoration Program (SJRRP). More specifically, the Permit authorizes the collection, transportation, rearing and establishment of a spring-run Chinook broodstock, along with quarantine and pathology activities, for a period of approximately five years.

The Permit that is the subject of this determination, as well as the Permit’s associated biological opinion, arise from the SJRRP. The SJRRP executes a legal settlement from the lawsuit, *NRDC et al. v. Kirk Rodgers et al.* In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC), filed a lawsuit challenging the renewal of long-term water service contracts between the United States and California’s Central Valley Project Friant Division contractors. After more than 18 years of litigation, the Settling Parties reached a Stipulation of Settlement Agreement (Settlement). The Settling Parties, including NRDC, Friant Water Users Authority (now known as the Friant Water Authority), and the U.S. Departments of the Interior and Commerce, agreed on the terms and conditions of the Settlement, which was subsequently approved on October 23, 2006. The Settlement establishes two primary goals:

- **Restoration Goal** — To restore and maintain fish populations in “good condition” in the mainstem San Joaquin River below Friant Dam to the confluence with the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.

- **Water Management Goal** — To reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.

Through a 2006 memorandum of understanding between the Department of Fish and Game (Department or DFG) and other state agencies and the Settling Parties, DFG stated its intention to assist the Settling Parties in implementation of the Settlement consistent with DFG’s authorities, resources, and broader regional resource strategies. Subsequently, President Obama signed the San Joaquin River Restoration Act on March 30, 2009, giving the Department of the Interior full authority to implement the SJRRP. The implementing agencies, consisting of the Department of the Interior, Bureau of Reclamation (Reclamation) and USFWS, NMFS, DFG, and California Department of Water Resources (DWR) organized a Program Management Team (PMT) and associated Technical Work Groups to begin Settlement implementation.

The Settlement requires the reintroduction of spring-run Chinook salmon into the San Joaquin River. The SJRRP’s Hatchery and Genetic Management Plan (2010) for the SJRRP proposes using a Conservation Facility (Interim Facility and proposed future Salmon Conservation and Research Facility (SCARF)) to develop a self-sustaining population of spring-run Chinook salmon for the SJRRP using genetic management and conservation hatchery techniques. The Interim Facility, located in Friant, California in Fresno County, and the proposed SCARF will rely on artificial propagation using broodstock to attain sufficient numbers of spring-run Chinook salmon for SJRRP reintroduction.

Because the Program is expected to result in take of a species designated as threatened under the federal ESA, USFWS consulted with NMFS as required by Section 7 of the ESA. On September 29, 2010 the USFWS submitted its *10(a)(1)(A) Enhancement of the Species Permit Application for the Re-Introduction of Central Valley Spring-run Chinook into the San Joaquin River* (10(a)(1)(A) Application) to NMFS. On December 27, 2011 USFWS submitted a final revised 10(a)(1)(A) Application to NMFS. On October 3, 2012, NMFS issued a Biological Opinion (NMFS file No. 151422SWR2010SA00361) (BO) to USFWS for the collection of eggs or juveniles from the FRFH in order to establish collection, transportation, rearing and spawning methodologies associated with initiating a broodstock program.

NMFS issued the Permit on October 11, 2012. The Permit describes the proposed activities and the authorized take, and requires USFWS to comply with measures to minimize any adverse impacts on listed species during research activities. The associated BO provides

further detail and protocols. These measures include but are not limited to adherence to the guidelines within the 2010 SJRRP Hatchery and Genetic Management Plan (HGMP).

The Permit provides that Spring-run Chinook salmon will not be released into the San Joaquin River unless designated as an experimental population under Section 1539(j) of Title 16 of the United States Code. Nonetheless, the SJRRP proposes and the Permit allows USFWS to implement necessary research and initial testing of collection, transportation, rearing, and spawning procedures, and establishment of a broodstock at the Interim and proposed facilities for a period of approximately five years. This testing phase, as described in the Permit, is needed to ensure the reintroduction will not have an adverse effect on the species. If an experimental population is not designated by the Permit's termination USFWS will work with NMFS to develop a suitable plan for the disposition of the fish. The FRFH has adjusted its operations to supply eggs and juveniles for the broodstock while still meeting the FRFH's other production goals.

On November 19, 2012, the Director of DFG received a letter from the USFWS notifying the Department pursuant to Fish and Game Code section 2080.3 that it had received a 10(a)(1)(A) permit authorizing the taking of spring-run Chinook salmon in order to establish or maintain an experimental population in the San Joaquin River. USFWS' notification requested that DFG: (1) make a determination that the Permit will further the conservation of the species; and (2) publish the notification as required by Fish and Game Code section 2080.3(a)(2).

Project Summary

The activities described in the Permit will result in the intentional take¹ of spring-run Chinook salmon. Spring-run Chinook salmon is designated as a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(2)(C)). Spring-run Chinook salmon will be intentionally taken at the FRFH² as a result of USFWS collecting preferred eyed eggs or juveniles and removing those individuals from the FRFH for the purposes of establishing a broodstock program at the Interim Facility and the proposed SCARF. Collections will only occur after the FRFH has

met its annual production goal of 3 million fertilized eggs, and the number of eggs or juveniles collected annually will be determined by the rearing capacity at the Interim or the proposed SCARF facility at the time of collection. In years 1–3 USFWS may collect a maximum of 560 eyed eggs or 560 juveniles annually for the broodstock program; in years 4–5 USFWS may collect a maximum of 2,760 eyed eggs or 2,760 juveniles annually for the broodstock program.

Out of these totals, a low level of intentional lethal take will also occur. A maximum of 60 eyed eggs or 60 juveniles may be taken annually for pathology analysis prior to transport to the Interim Facility or the proposed SCARF, to ensure that pathogens are not transferred. All collected individuals will be moved to the quarantine facility (Silverado Fisheries Base (SFB) in Yountville CA, or the Center for Aquatic Biology and Aquaculture (CABA), in Davis, CA). The 60 juveniles collected for lethal take will be humanely euthanized once they have reached sufficient size for pathology testing. After pathology clearance, fish can be safely transported to the Interim facility or SCARF.

The Permit includes measures and conditions for the selection of individual eggs and juveniles from the FRFH. As described further in the accompanying BO and USFWS permit application, FRFH staff will segregate a minimum of 50 spring-run Chinook salmon crosses, and USFWS will collect corresponding individual fish data as outlined in the Permit. Eyed eggs will be randomly selected from preferred crosses, guided by the criteria outlined in the Permit. If the FRFH is unable to segregate enough eggs for broodstock because of space constraints, eyed eggs will be randomly selected from the non-segregated FRFH spring-run egg trays, and juveniles will be randomly selected from all available raceways, as outlined in the BO. USFWS will collect and move eggs to the quarantine facility when they are at their most shock resistant. All eggs transported to the quarantine facility will be hatched and transported to the Interim Facility or the proposed SCARF as fry or juveniles.

Indirect mortality of spring-run Chinook salmon may also occur. Indirect mortality may occur during transportation (FRFH to SFB/CABA, and SFB/CABA to the Interim/SCARF Facility), rearing (SFB, CABA, Interim Facility, and SCARF), rearing, and marking/tagging (Interim Facility and SCARF). The Permit outlines measures and conditions to reduce adverse impacts of these research activities on the fish. All rearing and spawning of broodstock will follow protocols outlined in the 2010 HGMP to ensure activities reduce hatchery influence and minimize genetic effects. All juveniles will be adipose fin clipped and tagged with a coded wire tag.

¹ Pursuant to Fish and Game Code section 86, "'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill."

² The FRFH, in Oroville, California, is the only source of hatchery-produced spring-run Chinook salmon in the Central Valley. Spring-run Chinook salmon are spawned at the FRFH in mid- to late-September of each year. The selection and collection of eggs and juveniles for the SJRRP are the only activities at the FRFH regulated under the Permit.

Determination

DFG has determined that the Permit will further the conservation of the species. Specifically, as authorized by Fish and Game Code section 2080.3, DFG finds that: (1) take of spring-run Chinook salmon is for the purposes of establishing or maintaining an experimental population in the San Joaquin River pursuant to Section 1539(j) of Title 16 of the United States Code and the San Joaquin River Restoration Settlement Act; and (2) the measures identified in the 10(a)(1)(A) permit, as well as the accompanying BO and the HGMP, include methods and procedures which are necessary to bring spring-run Chinook to the point at which the protections of CESA are no longer necessary. The measures included in this determination pursuant to Fish and Game Code section 2080.3 are those in the 10(a)(1)(A) Permit. Those Permit conditions include, but are not limited to, the following:

Measures to Reduce Impacts of Research Activities

1. Spring-run Chinook salmon will not be released into the San Joaquin River unless designated as an experimental population under Section 1539(j) of Title 16 of the United States Code.
2. USFWS will integrate the Interim Facility and proposed SCARF into the Emergency Action Plan of San Joaquin River Fish Hatchery and the Friant Fishwater Release Hydroelectric Project (FERC Project No 11068-CA). The Interim Facility and proposed SCARF will be designed to minimize unintended releases to the San Joaquin River during flood events by installing screens on tanks. In the event that an emergency release is necessary due to flooding or other reason, fish will be loaded into fish transport tanks, transported to the river at an appropriate location, and released according to State and Federal rules and requirements.
3. USFWS will handle spring-run Chinook salmon with extreme care, and USFWS will keep spring-run Chinook salmon in water to the maximum extent possible during sampling and processing procedures. Adequate circulation and replenishment of water in holding units is required.
4. USFWS will use dip-nets with knotless nylon mesh to minimize scale and mucus abrasion and shall select the smallest mesh-size dip-net that is appropriate to achieve sampling objectives while reducing the probability that smaller fish will become gilled in the net.
5. USFWS will not handle spring-run Chinook salmon if water temperatures exceed 21 degrees Celsius. Under these conditions, fish shall not be collected.

6. USFWS shall take extreme care when using anesthesia (MS-222, Alka-Seltzer® Gold). USFWS will use the minimum amount of substance necessary to immobilize spring-run Chinook salmon for handling and sampling procedures. It is the responsibility of USFWS to determine when anesthesia is necessary to reduce injuries to spring-run Chinook salmon during handling and sampling activities.
7. USFWS will transport spring-run Chinook in a manner that minimizes fluctuations in water quality and the effects of handling and stress. The holding water will be monitored at all times: enriched dissolved oxygen levels will be at or near saturation, and water temperature may not vary more than two degrees Celsius (+ or -) during holding and/or transport.
8. USFWS will transport juveniles utilizing a 500-gallon transport tank and trailer. The tank will be filled with water from the FRFH (for transport from FRFH to Silverado, or CABA) or from Silverado/CABA (for transport from Silverado/CABA to the Interim Facility or the proposed SCARF) just prior to transport. Before transferring fish, the water will be tempered to within two degrees Celsius of the water temperature at the receiving facility.
9. Permittee will transport all eggs when they are the most shock resistant. All eggs transported to the quarantine facility will be hatched and transported to the Interim Facility or the SCARF as fry or juveniles.
10. Eggs will be placed in a specialized shipping container (*e.g.* specialized Styrofoam cooler) to reduce excessive movement and limit damage to the egg membrane. Eggs will be placed in wet cheesecloth and securely tied, then placed in the shipping container, kept cool and moist using non-chlorinated ice, and transported in a dark environment. Ice will be in a separate compartment of the shipping container, so as not to be in direct contact with the eggs. The ideal temperature for transport is between 5 and 10 degrees Celsius. A standard vehicle will be used to transport eggs.
11. USFWS will randomly select individuals from preferred crosses for broodstock. Corresponding individual fish data will be collected for each cross; including Hallprint tag number, adipose fin status, head tag number, CWT number, gender, fork length, ovarian fluid sample number, tissue sample number and corresponding genetic analysis data. These data will be used to select

- preferred crosses for the SJRRP guided by the following criteria:
- a. Disease Status — Parents of juveniles test negative for major virulent pathogens and in particular, Infectious Hematopoietic Necrosis Virus (IHNV) and Bacterial Kidney Disease (BKD).
 - b. Genetic Variability — The collections accurately represent the genetic diversity of the donor population. Siblings should comprise less than 2 percent of the total collection [based on the goal of 50 crosses from unrelated individuals (i.e. non-siblings)].
 - c. Run Timing — preferably two-generations of spring-run phenotype are identified using CWT data, parentage based tagging (PBT) or otolith microchemistry. Generation-one will be the spawning adults (i.e. parents of the eggs), and generation-two will be the parents of the spawning adults (i.e. grandparents of the eggs).
 - d. Age of Maturing — Two-year-old males and females (based on length data) will comprise less than 5 percent of the parental crosses.
12. Intentional lethal take is only authorized for 60 individuals for pathogen testing purposes; no other intentional lethal take is authorized.
 13. DFG fish pathologists must monitor fish health. Hatchery staff will carry out treatment methods prescribed by DFG fish pathologists for disease outbreaks and treatment protocols. Depending on the nature of an outbreak, treatment methods may vary. However, chemical treatments for external pathogens can include the use of salt, potassium permanganate, formalin or hydrogen peroxide (as allowed by the hatchery discharge permit). Bacterial infections could include the use of oxytetracycline, florfenicol or other approved antibiotic.
 14. All treatments for disease outbreaks will follow veterinary guidance and will be used and monitored according to the National Pollutant Discharge Elimination System wastewater discharge requirements. Diagnostic procedures for pathogen detection will follow American Fisheries Society professional standards, as described in the American Fisheries Society Bluebook.
 15. USFWS will institute natural rearing techniques at the proposed SCARF, and where feasible in the Interim Facility, to increase fitness and decrease domestication selection of fish for the SJRRP. The methods to be employed include the following:
 - a. Promote development of body camouflage coloration in juvenile fish by creating more natural environments in hatchery rearing vessels, for example, overhead cover, and in-stream structures and substrates.
 - b. Condition young fish to orient to the bottom rather than the surface of the rearing vessel by using appropriately positioned feed delivery systems.
 - c. Exercise young fish by altering water-flow velocities in rearing vessels to enhance their ability to escape predators (the ability to adjust water velocities to target optimal swimming speeds for salmonids has been shown to improve growth rates, feed efficiency, oxygen utilization, swimming performance and stamina, and to reduce aggression).
 16. USFWS will tag all individual broodstock reared at the Interim Facility or the proposed SCARF using passive integrated transponder (PIT) tags and Visual Implant (VI) tags after reaching a minimum length of 55 millimeters (mm). All fish that are subjected to tagging will be thoroughly sedated using MS-222 or Alka-Seltzer® prior to tagging, which will expedite tag insertion and reduce the probability of injury to the fish. Sterilized PIT tags will be injected into the peritoneum using an implant gun or syringe-style implanter. PIT tags will be used for monitoring individual fish throughout captivity. Sterilized VI tags will be inserted into the clear tissue behind the eye using a sterilized syringe. VI tags will be used as a “duplicate” tag, since fish may expel PIT tags.
 17. USFWS will tag adult fish prior to spawning. Adults will be tagged intra-muscularly with Petersen disc tags for easy visual identification. The tag will consist of two plastic buttons that are held to the sides of the fish by a stainless steel pin passed through the muscle tissue beneath the dorsal fin. The discs will be colored or marked with letters or numbers. Adult fish will be sedated during all tagging activities using MS-222, CO₂, or Tricaine-S. USFWS will adjust dosage of anesthetics to avoid fish mortality.
 18. USFWS will adipose fin clip and coded wire tag all hatchery juveniles produced. Coded wire tags are small (less than 1 mm) lengths of wire implanted into the snout of each juvenile fish using specialized automated equipment. The tags (visually indicated by the removed adipose fin) will allow fish to be identified as belonging to a

particular Interim Facility or SCARF cohort. Some adipose fin clips will be used for additional genetic analysis.

19. If a Federal 10(j) experimental population is not designated by the time of the termination of the 10(a)(1)(A) permit, USFWS must work with NMFS to develop a suitable plan for the disposition of the fish rearing and being held at the Interim Facility or the proposed SCARF. Although not a condition of the Permit, DFG requests USFWS also work with DFG to develop a suitable plan.
20. USFWS is responsible for the actions of any individual operating under the authority of the Permit. Any personnel operating under the Permit that require Federal or State licenses to practice their profession must be duly licensed under the appropriate law.

Monitoring and Reporting Measures

21. If USFWS exceeds take estimates for the periods identified in the Permit, USFWS shall notify NMFS as soon as possible and no later than two calendar days after the unauthorized take. USFWS will also notify NMFS in the event of any take of ESA-listed species not included in this permit. Pending review of the circumstances of the take, NMFS may suspend research activities. Although not a condition of the Permit, DFG requests USFWS notify DFG as well.
22. NMFS will monitor project activities to ensure that the project is operating satisfactorily as described in the Permit and associated BO. NMFS will monitor actual take of ESA-listed species associated with the proposed Project (as provided in monthly and annual reports or by other means). Authorized take may be reduced if population data indicate that the take described in the Permit are deemed to be excessive, or if cumulative take authorizations for spring-run Chinook salmon are determined to operate to the disadvantage of listed fish. Although not a condition of the Permit, DFG requests USFWS notify DFG when NMFS adjusts annual permitted take levels.
23. USFWS will submit annual reports to NMFS. Although not a condition of the Permit, DFG requests USFWS provide its annual reports to DFG as well. Annual Reports shall include:
 - a. Description of any problems and/or any unforeseen effects and any steps taken (or proposed) to resolve such problems.

- b. Description of what measures were taken to minimize the permitted activities' effects on animals and the effectiveness of these measures.
- c. If animals were unintentionally injured or killed, description of the circumstances. Description of how they were disposed of if it wasn't in the way described in the authorization/permit.
- d. Description of the physical condition of animals taken and used in the permitted activities.
- e. Description of the effects permitted activities had on animals, including any unforeseen responses or effects.
- f. If applicable, description of the method used to estimate take if it differed from your proposed method.
- g. Statement of steps taken to coordinate the permitted activities with other permit holders.
- h. Summary of any preliminary findings.
- i. List of titles of reports or publications resulting from reporting period.
- j. Any additional findings, results, or information for comment.

24. USFWS will preserve all ESA-listed Central Valley salmonid tissue samples as voucher specimens and send to: Dr. Robert Titus, California Department of Fish and Game, Tissue Archive Lab, 1875 Alpine Avenue Suite F, Sacramento, California 95814, (916) 227-6844.

Pursuant to Fish and Game Code section 2080.3, no further take authorization under CESA is required for USFWS to take spring-run Chinook salmon, as identified in, and in accordance with the federal Permit and associated BO and HGMP. The timing and extent of take authorization under this concurrence is limited to the terms in the federal Permit and expires upon the expiration date of the federal Permit. If there are any substantive changes to the Project, including changes to the measures or conditions, or if the NMFS amends or replaces the Permit, BO or associated HGMP, USFWS shall be required to obtain a new concurrence or a CESA permit for the Project from DFG. (See generally Fish & G. Code, §2080.3).

DEPARTMENT OF HEALTH CARE SERVICES

**Health Care Reconciliation Act of 2010
(H.R.) 4872–24 Section 1202 Payments to Primary Care Services**

This notice provides information of public interest with respect to the Patient Protection and Affordable Care Act (PPACA) as amended by the Health Care and Education Reconciliation Act of 2010 (H.R.) 4872–24, section 1202, that requires the Department of Health Care Services to increase payments for primary care services furnished in 2013 and 2014 by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine, as specified in 77 Fed. Reg. 66,670. The increased payments would be at a rate not less than 100 percent of the Medicare rate in effect for calendar years 2013 and 2014, or if greater, the payment rates that would be applicable in those calendar years using the 2009 Medicare physician fee schedule conversion factor.

Primary care services are defined in the H.R. 4872–24, section 1202 as:

- Evaluation and management services that are procedure codes for services in the category designated Evaluation and Management in the Healthcare Common Procedure Coding System as of December 31, 2009. The procedure codes are 99201 through 99499.
- Services related to immunization administration for vaccines and toxoids. The procedure codes are 90460, 90461, 90471, 90472, 90473, and 90474.

The H.R. 4872.24, section 1202 payment increase is effective for dates of service on or after January 1, 2013, through December 31, 2014.

Accordingly, DHCS is required to submit a State Plan Amendment to the Centers for Medicare & Medicaid Services on or before March 31, 2013, to obtain federal approval for the increased payments.

PUBLIC REVIEW AND COMMENTS

The federal law discussed above is available for public review at welfare offices in every county of the State. Written comments may be submitted within 45 days of the publication date of this notice to:

Arlene Sakazaki, Chief, Provider Rate Section
Fee-For-Service Rates Development
Department of Health Care Services; MS 4600
P.O. Box 997417
Sacramento, CA 95899–7417

DEPARTMENT OF HEALTH CARE SERVICES

THE DEPARTMENT OF HEALTH CARE SERVICES IS REVISING THE REIMBURSEMENT METHODOLOGY FOR DURABLE MEDICAL EQUIPMENT

This notice provides information of public interest about the California Department of Health Care Services (Department) revising the reimbursement methodology for durable medical equipment (DME) with no specified maximum allowable rate known as “by report”. Senate Bill 728 (Chapter 451, Statutes of 2012) amends Welfare and Institutions (W&I) Code section 14105.48(d)(4) by revising the manufacturer’s suggested retail purchase (MSRP) price date specified in the DME “by report” reimbursement methodology from June 1, 2006, to a date on or prior to the date of service.

Pursuant to subdivision (d) of section 14105.48 of the W&I Code, the Department reimburses DME “by report” the lesser of (1) the amount billed pursuant to section 51008.1 of Title 22 of California Code of Regulations, (2) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to section 14105.3 plus a percentage markup to be established by the Department, (3) the actual acquisition cost plus a markup to be established by Department, (4) the manufacturer’s suggested retail purchase price on June 1, 2006, and documented by a printed catalog or hard copy of an electronic catalog page showing the price on that date, reduced by a percentage discount not to exceed 20 percent, or not to exceed 15 percent for wheelchairs and wheelchair accessories if the provider employs or contracts with a qualified rehabilitation professional, as defined in paragraph (3) of subdivision (c) of section 14105.485, or (5) a price established through targeted product-specific cost containment provisions developed with providers.

Effective for dates of service on or after January 1, 2013, the Department will require the MSRP price on or prior to date of service instead of on June 1, 2006, for DME “by report”.

PUBLIC REVIEW AND COMMENTS

The California statutory provisions discussed above are available for public review at county welfare offices throughout the State. Written comments (or requests for copies of the statutes) may be submitted to: Arlene Sakazaki, Chief, Provider Rate Section; Fee-For-Service Rates Development; Department of Health Care Services; MS 4600; P.O. Box 997417; Sacramento, CA 95899–7417.

DECISION NOT TO PROCEED

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code Section 11347, the Occupational Safety and Health Standards Board of the State of California decided not to proceed with Title 8, General Industry Safety Orders, Chapter 4, Subchapter 7, Article 4, Article 7, Section 3328(b), Machinery and Equipment, Used and Operated, (**Part of Notice** File No. Z-2012-0619-03, published June 29, 2012, in the California Notice Register 2012, No. 26-Z, page 856); and therefore, withdraws this proposed action.

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# 2012-1102-03
AIR RESOURCES BOARD
 Mandatory Reporting, Fee Regulations, and Cap and Trade

This rulemaking by the Air Resources Board (ARB) adopts one new section and amends existing regulations governing mandatory reporting of greenhouse gas emissions (GHG) promulgated pursuant to the California Global Warming Solutions Act of 2006 (Stats. 2006, c. 488 (A.B. 32)). This rulemaking also makes corresponding conforming amendments to the definition sections of the A.B. 32 regulations regarding cost of implementation fees and cap and trade.

Title 17
 California Code of Regulations
 ADOPT: 95158 AMEND: 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95202, 95802
 Filed 12/19/2012
 Effective 01/01/2013
 Agency Contact: Trini Balcazar (916) 445-9564

File# 2012-1105-02
BOARD OF ACCOUNTANCY
 Fingerprinting and Disclosure Requirements
 This rulemaking action by the Board of Accountancy adds section 37.5 to title 16 of the California Code of Regulations. This new regulation requires all Board licenses for whom an electronic fingerprint record does not exist to successfully complete a state and federal criminal offender record information search as a condition of license renewal.

Title 16
 California Code of Regulations
 ADOPT: 37.5
 Filed 12/18/2012
 Effective 01/17/2013
 Agency Contact: Matthew Stanley (916) 561-1792

File# 2012-1116-01
BUREAU FOR PRIVATE POSTSECONDARY EDUCATION
 Student Tuition Recovery Fund
 This regulatory action reduces the Student Tuition Recovery Fund assessment that each student at Bureau-approved institutions pays from \$2.50 per \$1000.00 of institutional charges to \$0.50 per \$1000.00 of institutional charges.

Title 5
 California Code of Regulations
 AMEND: 76120
 Filed 12/18/2012
 Effective 01/01/2013
 Agency Contact: Laura N. Metune (916) 431-6930

File# 2012-1031-02
CALIFORNIA ARCHITECTS BOARD
 Exam Eligibility Requirements
 The California Architects Board amends these regulations in order to accurately reflect recent changes in the Landscape Architect Registration Examination as well as to rules surrounding the eligibility requirements for candidates to take the Landscape Architect Registration Examination. The California Architects Board also amends these regulations to properly reference the

current accreditation standards publication and delete the outdated reference.

Title 16
 California Code of Regulations
 AMEND: 2615, 2620
 Filed 12/13/2012
 Effective 12/13/2012
 Agency Contact: John Keidel (916) 575-7233

File# 2012-1105-01
 CALIFORNIA EMERGENCY MANAGEMENT AGENCY
 Disaster Service Worker Volunteer Program
 Regulation Revisions

The California Emergency Management Agency amended sections 2570.1, 2570.2, 2571, 2572.1, 2572.2, 2573.1, 2573.2, and 2573.3 of title 19 of the California Code of Regulations providing for the Disaster Service Worker Volunteer Program.

Title 19
 California Code of Regulations
 AMEND: 2570.1, 2570.2, 2571, 2572.1, 2572.2, 2573.1, 2573.2, 2573.3
 Filed 12/17/2012
 Effective 12/17/2012
 Agency Contact: Anita Chant (916) 845-8763

File# 2012-1121-04
 CALIFORNIA GAMBLING CONTROL COMMISSION
 MICS III; Gambling Floor Operations & House Rules

This resubmitted rulemaking action clarifies that Title 4 of the California Code of Regulations, section 12391(a)(2), does not prohibit adverse employment action by employers against employees who refuse to play in controlled games when such employees' duties or the scope of their employment include playing in controlled games.

Title 4
 California Code of Regulations
 AMEND: 12391(a)(2)
 Filed 12/13/2012
 Effective 01/12/2013
 Agency Contact: James Allen (916) 263-4024

File# 2012-1210-01
 CALIFORNIA STATE UNIVERSITY
 Particular Terms

The Board of Trustees of the California State Universities is amending a regulation which defines "comprehensive pattern of college preparatory subjects" in section 40601 of title 5 of the California Code of Regula-

tions. This matter is exempt from OAL review pursuant to Education Code section 89030.1.

Title 5
 California Code of Regulations
 AMEND: 40601
 Filed 12/13/2012
 Effective 12/13/2012
 Agency Contact: Jason T. Taylor (562) 951-4500

File# 2012-1029-04
 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
 Aviation Security Course

This rulemaking by the Commission on Peace Officer Standards and Training (POST) amends the Aviation Security course (Penal Code section 832.1) requirements contained in section 1081(a) of Title 11 of the California Code of Regulations.

Title 11
 California Code of Regulations
 AMEND: 1081
 Filed 12/12/2012
 Effective 01/11/2013
 Agency Contact: Patti Kaida (916) 227-4847

File# 2012-1108-02
 DEPARTMENT OF INSURANCE
 Annuity Nonforfeiture

This rulemaking by the Department of Insurance (DOI) is the adoption of new Article 10.2 to Title 10, Chapter 5, Subchapter 3 of the CCR, titled "Annuity Nonforfeiture." The regulations implement, interpret, and make specific the provisions of Insurance Code section 10168.25, which regulates annuity nonforfeiture amounts.

Title 10
 California Code of Regulations
 ADOPT: 2523, 2523.1, 2523.2, 2523.3, 2523.4, 2523.5, 2523.6
 Filed 12/19/2012
 Effective 12/19/2012
 Agency Contact: Nancy Hom (415) 538-4144

File# 2012-1108-01
 DEPARTMENT OF INSURANCE
 Minimum Reserves for Credit Life and Credit Disability Insurance

This regulatory action updates the manner in which the minimum reserves for credit life insurance and credit disability insurance must be calculated and maintained in order to accurately reflect changed conditions and more recent data.

Title 10
 California Code of Regulations
 AMEND: 2248.14
 Filed 12/17/2012
 Effective 12/17/2012
 Agency Contact: Nancy Hom (415) 538-4144

File# 2012-1106-05
FRANCHISE TAX BOARD
 Notice Required of Receiver, Assignee for the Benefit of Creditors or Other Like Fiduciary

This rulemaking action adopts new section 19089 of Title 18 of the California Code of Regulations to implement Revenue and Taxation Code section 19089 which requires notice to the Franchise Tax Board by receivers and assignees for the benefit of creditors.

Title 18
 California Code of Regulations
 ADOPT: 19089
 Filed 12/18/2012
 Effective 01/17/2013
 Agency Contact: Colleen Berwick (916) 845-3306

File# 2012-1102-01
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
 Proposition 65 — Bromethane NSRL

This regulatory action, pursuant to Proposition 65, establishes a no significant risk level (NSRL) for Bromoethane of 96 micrograms per day. This level is based on a risk assessment document prepared by the Office of Environmental Health Hazard Assessment, which provides details on the relevant potency calculation and mechanism of carcinogenesis.

Title 27
 California Code of Regulations
 AMEND: 25705
 Filed 12/17/2012
 Effective 01/16/2013
 Agency Contact: Monet Vela (916) 323-2517

File# 2012-1031-01
STATE WATER RESOURCES CONTROL BOARD
 Non-Regulatory Amendments to Central Valley Water Board Basin Plans

This change without regulatory effect is the State Water Resources Control Board's approval of the Central Valley Regional Water Quality Control Board's adoption of Resolution No. R5-2011-0075, on October 13, 2011, which made non-regulatory amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins and the Water Quality Control Plan for the Tulare Lake Basin. The State Water

Resources Control Board approved the amendments under Resolution 2012-0038, on July 17, 2012. The amendments provide a cost estimate and identify potential sources of financing for a Long-Term Irrigated Lands Regulatory Program.

Title 23
 California Code of Regulations
 ADOPT: 3949.9
 Filed 12/17/2012
 Agency Contact: Adam Laputz (916) 464-4848

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN July 25, 2012 TO December 19, 2012

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

Title 1

11/13/12 AMEND: 1, Appendix A

Title 2

11/30/12 ADOPT: 7291.4, 7291.7, 7291.14, 7291.18 AMEND: 7291.2, 7291.3, 7291.4 and renumber 7291.5, 7291.5 and renumber 7291.6, 7291.6 and renumber 7291.8, 7291.7 and renumber 7291.9, 7291.9 and renumber 7291.10, 7291.10 and renumber 7291.17, 7291.11, 7291.12, 7291.13, 7291.15, 7291.16 REPEAL: 7291.8, 7291.14

11/29/12 ADOPT: 558.1

11/28/12 AMEND: 54100

11/09/12 ADOPT: 599.945.4 AMEND: Article 27.5 heading

11/08/12 AMEND: 18723

11/06/12 REPEAL: 56600

11/06/12 REPEAL: 52000

11/06/12 REPEAL: 52300

11/01/12 ADOPT: 1859.95.1 AMEND: 1859.2, 1859.95

10/23/12 AMEND: 1859.2, 1859.71.6, 1859.77.4, 1859.107, 1859.193, 1859.194, 1859.197

10/22/12 ADOPT: 599.944, 599.946, 599.947

10/18/12 AMEND: 1575

10/18/12 ADOPT: 577, 578

10/17/12 AMEND: 20804

10/03/12 ADOPT: 18730.1

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 52-Z

10/02/12 AMEND: 1859.2, 1859.71.4, 1859.78.1, 1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.163.5, 1859.193

09/20/12 ADOPT: 59730

09/19/12 AMEND: 1155.250, 1155.350

09/14/12 REPEAL: 52100

09/10/12 ADOPT: 59650

08/30/12 AMEND: 60000, 60010, 60300, 60310, 60323, 60325, 60330, 60400, 60550, 60560, 60600, 60610 REPEAL: 60020, 60025, 60030, 60040, 60045, 60050, 60055, 60100, 60110, 60200

08/16/12 AMEND: 1859.2, 1859.61, 1859.74, 1859.77.1, 1859.79, 1859.79.2, 1859.79.3, 1859.83, 1859.104 REPEAL: 1859.70.3, 1859.71.5, 1859.78.9, 1859.93.2, 1859.93.3

08/13/12 ADOPT: 59720

08/07/12 AMEND: 18640

Title 3

11/15/12 AMEND: 3435(b)

10/29/12 ADOPT: 1352.4 AMEND: 1351, 1358.4

10/23/12 ADOPT: 3639

10/23/12 ADOPT: 3439

09/21/12 AMEND: 3437(b) and (c)

09/18/12 AMEND: 6449.1, 6486.7

09/12/12 AMEND: 3700(c)

09/12/12 AMEND: 3435(b)

08/24/12 AMEND: 3406(b)

08/22/12 AMEND: 6800(b)

08/20/12 AMEND: 3435(b)

08/06/12 AMEND: 3435(b)

Title 4

12/13/12 AMEND: 12391(a)(2)

12/03/12 AMEND: 10032, 10033, 10034, 10035

11/27/12 ADOPT: 4305, 4309 AMEND: 4300, 4302, 4304, 4306, 4307, 4308

10/30/12 AMEND: 5000, 5052

10/29/12 ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060

10/17/12 AMEND: 1656

10/17/12 AMEND: 1656

10/16/12 ADOPT: 1581.2

10/10/12 AMEND: 1867

09/27/12 AMEND: 5000, 5170, 5200, 5230, 5370, 5500, 5540

09/12/12 ADOPT: 12391(a)(1), (3), (4), (b) & (c), 12392 AMEND: 12360

09/04/12 AMEND: 10032, 10033, 10034, 10035

08/30/12 ADOPT: 1489.1

08/29/12 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5190, 5200, 5230, 5370, 5170, 5350 REPEAL: 5133

08/01/12 ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580

08/01/12 AMEND: 5000, 5052

07/26/12 AMEND: 8070

07/26/12 AMEND: 12101, 12202, 12205.1, 12218, 12218.7, 12218.8, 12222, 12225.1, 12233, 12235, 12238, 12309, 12335, 12342, 12350, 12352, 12354

Title 5

12/18/12 AMEND: 76120

12/13/12 AMEND: 40601

11/01/12 AMEND: 18407, 18422

10/31/12 ADOPT: 620, 621, 622, 623, 624, 625, 626, 627

09/27/12 ADOPT: 620, 621, 622, 623, 624, 625, 626, 627

09/27/12 AMEND: 3000, 3010, 3021, 3021.1, 3022, 3023, 3024, 3025, 3027, 3028, 3042, 3051.4, 3051.75, 3051.8, 3051.9, 3051.12, 3051.13, 3051.17, 3051.18, 3052, 3053, 3062, 3063, 3064, 3066, 3067, 3069, 3080, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3088.1, 3088.2, 3089, 3090, 3091, 3092, 3093, 3094, 3096, 3096.1, 3096.2, 3097, 3098, 3098.1, 3098.2, 3099, 3100

09/06/12 AMEND: 1216.1

08/09/12 AMEND: 40403

08/09/12 AMEND: 59400, 59402, 59404, 59406, 59408

08/09/12 AMEND: 40500

08/09/12 ADOPT: 40541

08/09/12 AMEND: 40407.1

08/08/12 ADOPT: 40540

08/08/12 ADOPT: 19824.1, 19841, 19851.1, 19854.1 AMEND: 19816, 19816.1, 19824, 19850, 19851, 19854

07/31/12 AMEND: 19816, 19816.1, 19845.2

Title 8

12/10/12 AMEND: 10210, 10211, 10212, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10228, 10229, 10232, 10232.1, 10232.2, 10245, 10250.1, 10252.1, 10253.1, 10270, 10271, 10273, 10290, 10291, 10293, 10294.5, 10297

10/31/12 ADOPT: 6625.1 AMEND: 6505

10/23/12 AMEND: 1593, 3650

10/18/12 AMEND: 6325

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 52-Z

10/02/12 ADOPT: 1613.11, 1613.12 AMEND:
1600, 1610.1, 1610.3, 1610.4, 1610.9,
1611.1, 1612.3, 1613, 1613.2, 1613.10,
1616.1, 1617.1, 1617.2, 1617.3, 1618.1,
1619.1, 4885, 4999
10/02/12 AMEND: 4297
09/25/12 AMEND: 2950, 3420, 3421, 3422, 3423,
3424, 3425, 3426, 3427 REPEAL: 3428
09/05/12 AMEND: 1512, 2320.10, 2940.10
09/04/12 AMEND: 5189, 5192(a)(3),
5198(j)(2)(D)2., 1532.1(j)(2)(D)2.
08/07/12 ADOPT: 3558 AMEND: 3207, 4184
07/30/12 ADOPT: 32802, 32804 AMEND: 32380,
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12/19/12 ADOPT: 2523, 2523.1, 2523.2, 2523.3,
2523.4, 2523.5, 2523.6
12/17/12 AMEND: 2248.14
12/11/12 AMEND: 3780
12/11/12 AMEND: 649.15
12/06/12 AMEND: 1859.2, 1859.90.2
11/19/12 AMEND: 2698.401
11/13/12 AMEND: 2498.4.9
08/30/12 AMEND: 2468.5
08/27/12 AMEND: 260.204.9
08/22/12 ADOPT: 2327, 2327.1, 2327.2
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11/15/12 AMEND: 1005, 1007, 1008
11/15/12 AMEND: 1005
09/18/12 AMEND: 410, 411, 415, 416, 417, 420,
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12/11/12 AMEND: 2403, 2404, 2407, 2412, 2421,
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2433, 2447, 2783, 2784
12/10/12 AMEND: 423.00
11/13/12 AMEND: 1200, 1239

11/06/12 ADOPT: 2210, 2211, 2212, 2213, 2214,
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10/15/12 ADOPT: 2477.1, 2477.2, 2477.3, 2477.4,
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2477.10, 2477.11, 2477.12, 2477.13,
2477.14, 2477.15, 2477.16, 2477.17,
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10/09/12 AMEND: 2260, 2261, 2264, 2265,
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09/25/12 AMEND: 156.00, 156.01
09/14/12 AMEND: 2479
08/07/12 ADOPT: 1962.2 AMEND: 1962.1,
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08/07/12 ADOPT: 1961.2, 1961.3 AMEND: 1900,
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08/02/12 ADOPT: 426.00
07/30/12 AMEND: 1268, 1270.3

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09/14/12 AMEND: 2299.2, 93118.2

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11/19/12 AMEND: 632
11/07/12 AMEND: 701
11/06/12 ADOPT: 1052.5 AMEND: 895, 916.9,
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11/02/12 AMEND: 163, 164
10/29/12 AMEND: 18660.5, 18660.6, 18660.7,
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18660.22, 18660.30, 18660.31,
18660.32, 18660.33, 18660.34,
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10/18/12 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4,
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10/03/12 AMEND: 300
10/02/12 AMEND: 632
09/27/12 ADOPT: 1667.1, 1667.2, 1667.3, 1667.4,
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09/25/12 AMEND: 18660.40
09/21/12 AMEND: 502
09/12/12 AMEND: 18660.17, 18660.19, 18660.31
09/07/12 AMEND: 300
08/31/12 ADOPT: 671.8 AMEND: 671.1
08/14/12 AMEND: 13055
08/02/12 ADOPT: 2231, 2301 AMEND: 2000,
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 10/22/12 AMEND: 3019, 3044, 3091, 3120
 10/18/12 ADOPT: 3999.13
 10/17/12 ADOPT: 3375.6 AMEND: 3000, 3375
 10/04/12 ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358
 09/25/12 ADOPT: 1712.1, 1714.1, 1730.1, 1740.1, 1748.5 AMEND: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.1, 1747.5, 1748, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788 REPEAL: 1757
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 12/13/12 AMEND: 2615, 2620
 11/29/12 AMEND: 2524, 2579.10
 11/27/12 ADOPT: 1495, 1495.1, 1495.2, 1495.3, 1495.4
 11/14/12 ADOPT: 1139, 1140, 1141, 1142, 1143, 1144
 11/13/12 ADOPT: 2333
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 10/31/12 AMEND: 1425
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 10/25/12 ADOPT: 2.8, 11, 11.1 AMEND: 9.2
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 08/29/12 ADOPT: 4146, 4148, 4149, 4149.1 AMEND: 4100, 4101
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12/19/12 ADOPT: 95158 AMEND: 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95202, 95802
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 11/14/12 AMEND: 6508
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 10/30/12 AMEND: 100060, 100070
 10/03/12 AMEND: 95201, 95202, 95203, 95204, 95205
 09/04/12 ADOPT: 30305.1, 30308.1, 30311.1
 08/30/12 AMEND: 95802, 95812, 95814, 95830, 95831, 95832, 95833, 95834, 95856, 95870, 95892, 95910, 95911, 95912, 95913, 95914, 95920, 95021
 08/29/12 AMEND: 100800
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 10/23/12 AMEND: 313, 321
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12/17/12 AMEND: 2570.1, 2570.2, 2571, 2572.1, 2572.2, 2573.1, 2573.2, 2573.3

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10/26/12 AMEND: 1601, 1602, 1604, 1605.1, 1605.3, 1606, 1607

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08/28/12 AMEND: 6640, 6680

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12/10/12 AMEND: 926-3, 926-4, 926-5
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09/06/12 ADOPT: 66269.2

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12/17/12 ADOPT: 3949.9

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12/17/12 AMEND: 25705

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11/19/12 AMEND: 31-003, 31-021, 31-501

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