



California Regulatory Notice Register

REGISTER 2013, NO. 9-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

MARCH 1, 2013

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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.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002-931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. "Periodicals Postage Paid in Saint Paul, MN." **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

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TITLE 2. CALIFORNIA CONSERVATION CORPS

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA CONSERVATION CORPS

NOTICE IS HEREBY GIVEN that the California Conservation Corps, pursuant to the authority vested in it by section 87306 of the Government Code proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The California Conservation Corps proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment consolidates employee positions with multiple levels to include “All Levels”, clarifies the language for the disclosure categories and makes other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than April 22, 2013, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person’s representative requests a public hearing, he or she must do so no later than March 8, 2013, by contacting the Contact Person set forth below.

The California Conservation Corps has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the rea-

sons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The California Conservation Corps has determined that the proposed amendments:

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

In making these proposed amendments, the California Conservation Corps must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Sheila Middleton
 1719 24th Street
 Sacramento, CA 95816
 (916) 341-3162
 Sheila.middleton@ccc.ca.gov

TITLE 5. COMMISSION ON TEACHER CREDENTIALING

PROPOSED AMENDMENTS TO TITLE 5, CALIFORNIA CODE OF REGULATIONS SECTION 80303 CLARIFYING A SUPERINTENDENT’S REPORTING REQUIREMENT AS TO A CREDENTIAL HOLDER’S CHANGE IN EMPLOYMENT STATUS

The Commission on Teacher Credentialing (“Commission”) proposes to amend California Code of Regulations, Title 5, Section 80303 (“regulation 80303”) after considering all public comments, objections, and recommendations.¹

¹ All references to regulations are to Title 5, California Code of Regulations unless otherwise indicated.

PUBLIC HEARING

A public hearing on the proposed amendments will be held:

April 19, 2013
8:30 a.m.
Commission on Teacher Credentialing
1900 Capitol Avenue
Sacramento, CA 95811

WRITTEN COMMENT PERIOD

Any interested person may submit written comments as to the proposed amendments via mail, email, or fax to the following agency representative or alternative contact person, in the event that the agency representative is unavailable:

Representative:

Commission on Teacher Credentialing
Division of Professional Practices
Attn: Vanessa C. Whitnell, Attorney
1900 Capitol Avenue
Sacramento, CA 95811
vwhitnell@ctc.ca.gov
Fax: (916) 323-6735

Alternative Contact Person:

Commission on Teacher Credentialing
Division of Professional Practices
Attn: Chastine Gaspar, Senior Attorney
1900 Capitol Avenue
Sacramento, CA 95811
cgaspar@ctc.ca.gov
Fax: (916) 323-6735

The written comment period closes at 5:00 p.m. on April 15, 2013. Comments must be *received* by this time in order to be given consideration by the Commission.

AUTHORITY AND REFERENCE

Pursuant to the authority vested in the Commission by Education Code, Section 44225, subdivision (q), and in order to implement Education Code, Section 44225, the Commission proposes amendments to regulation 80303.² The Commission references Section 44242.5, subdivisions (a) and (b)(3) as the jurisdictional basis for review of reports received by superintendents under the requirements of regulation 80303.

² All references to statutes are to the California Education Code unless otherwise indicated.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Overview of Objectives of Amendments

The proposed amendments to regulation 80303 will clarify the requirement for a superintendent to report when a school district takes an adverse employment action against a credential holder. Additionally, the proposed changes will clarify procedures that may be used by the public to report a superintendent who fails to submit a required report to the Commission within thirty days of the final action by the district.

The current regulation requires notification to the Commission when a credential holder, working in a position requiring a credential is dismissed, resigns, is suspended for more than 10 days, retires, or is terminated as the result of an allegation of misconduct or while an allegation of misconduct is pending. The regulation further requires that the superintendent of the employing school district report the change in employment status to the Commission not later than 30 days after the employment action.

The broad goals of the regulation are to ensure the fitness of credential holders as well as the public safety of students being educated by credential holders. However, the regulation in its current form lacks clarity in some areas and contributes to three ongoing problems.

First, the existing language often results in districts over-reporting, to include such "misconduct" as unsatisfactory teaching performance or such final employment actions as lay-offs or reductions in workforce. This over-reporting consumes valuable Commission resources that should be invested in reviewing final employment actions that arise from genuine misconduct. Second, the current regulation fails to instruct superintendents as to what materials are required for the Commission to adequately investigate a credential holder. Again, this results in a diversion of Commission resources in order to ensure an adequate case file for review. This also delays the Commission's investigation of a credential holder who may be unfit to teach. Finally, the jurisdictional restrictions placed on the Commission by Section 44242.5, subdivisions (a) and (b)(3) have frustrated the purpose of the regulation in the sense that the Commission has little ability to review a superintendent for failure to comply with reporting requirements.

Although these three problems have long existed, they were recently publicly highlighted in the California State Auditor's November 2012 report concerning the Los Angeles Unified School District's handling of allegations of misconduct against its employees. In the report, the State Auditor concluded that the Los Angeles Unified School District reported many cases that did not require reporting, thereby unnecessarily ampli-

fying the workload for the Commission. In addition, the State Auditor advised that the district should take measures to ensure the reporting of complete information to the Commission. Further, the audit emphasized the district's failure to timely report at least 144 cases when required to do so, which resulted in the Commission's inability to review credential holders who may have been unfit for the classroom. These report findings clearly illustrate the concerns that give rise to the need for clarification of regulation 80303.

Accordingly, the Commission is presenting a proposal to amend the regulation 80303 reporting requirement to: 1) ensure that resources are devoted to the review of genuine educator misconduct; 2) secure complete and adequate case files for efficient review of educator misconduct; and 3) clarify for the public information sufficient for the Commission to obtain jurisdiction to commence an investigation as to superintendents who fail to satisfy reporting requirements.

Consistent with Existing State Law

Section 44225, subdivision (q), the authorizing statute for regulation 80303, *requires* the Commission to "propose appropriate rules and regulations" to implement Section 44225. Under Section 44225, the Commission is responsible for meeting the following objectives, among others:

- Establishing professional standards. (See Section 44225, subdivision (a).)
- Reviewing and revising the code of ethics for the teaching profession. (See Section 44225, subdivision (c).)
- Ensuring that public school teachers have the human skills to inspire pupils, have the sensitivity to foster pupils' self-esteem, are able to work effectively across a variety of socioeconomic and cultural backgrounds, and practice equity regardless of pupils' ethnicity, gender, religious background, or disabling condition. (See Section 44225, subdivisions (d)(4)–(d)(8).)

Regulation 80303 currently assists the Commission in accomplishing these objectives in that it requires a superintendent to notify the Commission of a credential holder's change in employment status due to an allegation of misconduct or while an allegation of misconduct is pending. The regulation compels the superintendent of the employing school district to report to the Commission not later than 30 days after the employment action. This notification triggers the Commission's jurisdiction to review a credential holder for the allegations of misconduct. (See Section 44242.5, subdivisions (a) and (b)(3).) Accordingly, regulation 80303 supports the Commission in fulfilling its duty to ensure credential holder compliance with professional and ethical standards as required under Section 44225.

The proposed amendments to regulation 80303 will further aid the Commission in fulfilling this duty. The modifications will clarify the reporting requirement for superintendents. They will also delineate procedures that may be used by the public to report a superintendent who fails to submit a required report to the Commission. Accordingly, the amendments will likely encourage superintendent compliance with reporting requirements and thus timely Commission review of credential holder misconduct. The changes to regulation 80303 will safeguard the professional and ethical standards that are imperative to the profession as emphasized by the authorizing statute.

Consistent with Existing State Regulations

The Commission has determined that the proposed amendments to regulation 80303 are not inconsistent or incompatible with existing regulations.

Rationale for Amendments

The proposed amendments to regulation 80303 satisfy the Necessity Standard. The changes to the regulation are reasonably necessary to effectuate the Commission's duties under Section 44225, the authorizing statute for the regulation. Again, Section 44225 requires the Commission to set "professional standards" and review the "code of ethics" for the profession.

Regulation 80303 aids the Commission in doing so in that it requires superintendents to report final employment actions that arise from misconduct. Nonetheless, the language of regulation 80303 should be clarified in order to address the three problems previously discussed: over-reporting, inadequate case files, and the Commission's inability to review superintendents who fail to report. As mentioned previously, these three concerns were publicly highlighted in a recent report by the California State Auditor.

Unfortunately, there currently is no specific jurisdictional provision that would trigger the Commission's ability to review a superintendent who over-reports, provides inadequate files, or fails to report altogether. If a superintendent decides not to report, it is unlikely that he/she would turn him/herself in to initiate the Commission's jurisdiction for review under Section 44242.5, subdivisions (a) and (b)(3). Therefore, the Commission has little means of enforcing the reporting requirements.

It follows that a superintendent's failure to comply with reporting requirements impedes the Commission's ability to review credential holders who violate the code of ethics befitting of an educator. Thus, the Commission is restrained from complying with its duties under Section 44225.

The reasonable remedy is to modify regulation 80303 to better emphasize and clarify a superintendent's already existing reporting requirements. The modifica-

tions will make it clear that the Commission requires reports as to misconduct, rather than reports as to substandard teaching or lay-offs. The changes will also ensure that a credential holder's case file is complete and accurate by precisely defining the documentation required in a superintendent's report. Further, the changes will clarify procedures that may be used by the public to give the Commission jurisdiction to review a superintendent who fails to submit a required report. These amendments will thereby aid the Commission in maintaining professional standards and a code of ethics for the teaching profession as mandated under Section 44225.

Anticipated Benefits

The proposed amendments to regulation 80303 are anticipated to:

- Ensure that Commission resources are used efficiently.
- Secure complete and adequate case files for fair and efficient Commission review of educator misconduct.
- Clarify for the public the information sufficient for the Commission to obtain jurisdiction to commence an investigation as to superintendents who fail to satisfy reporting requirements.
- Aid the Commission in maintaining professional standards for the teaching profession as mandated under Section 44225.
- Increase protection of the health and welfare of California residents, namely public school children.
- Increase protection of worker safety in California, namely of employees of public schools.

Documents Relied Upon by the Agency in Proposing Amendments

- California State Auditor's Report, Bureau of State Audits, Re: Los Angeles Unified School District's Handling of Allegations Against Employees, November 2012.

STATEMENT OF RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The proposed amendments to regulation 80303 will not:

- Create or eliminate jobs within the State of California;
- Create new businesses or eliminate existing businesses within the State of California;
- Expand businesses currently doing business within the State of California;
- Directly benefit the environment within the State of California.

However, the proposed amendments to the regulation will benefit the health and welfare of California residents and worker safety. Credential holder misconduct that is relevant to the health and welfare of public school children (i.e. withholding nutrition from a student) or to public school employees (i.e. harassment of a co-worker), will be reviewed by the Commission more swiftly if superintendents' reports are timely and complete.

NO REASONABLE ALTERNATIVE

The Commission must conclude that there are no adequate reasonable alternatives to the clarification of regulation 80303. Currently, the Commission sends correspondence to superintendents, reminding them of their reporting requirements under the regulation. Yet, the Commission lacks independent authority to do anything further. Failures to report still occur.

The amendments to regulation 80303 will better explain what is already required of superintendents. In addition, the amendments will define already-existing procedures that may be used by the public to report a superintendent who fails to comply with the regulation. If a member of the public requests information as to a superintendent's failure to report and then submits that information to the Commission for review in the form of an affidavit or declaration, the Commission will have jurisdiction to initiate review of the superintendent under Section 44242.5, subdivision (b)(2). This method has already been utilized by the public to trigger the Commission's jurisdiction to review a non-reporting superintendent under Section 44242.5, subdivision (b)(2). In other words, the jurisdictional provision is already in place. The amendments explain how the public can activate the Commission's jurisdiction in such cases. They impose no additional regulatory burden on superintendents or the public.

No alternative would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected persons than the proposed amended regulation, or would be more cost effective to affected persons and equally effective in implementing statutory policy or other provision of law.

The Commission invites interested persons to present potential alternatives to the proposed amendments to regulation 80303 during the written comment period or at the public hearing.

OTHER DETERMINATIONS REGARDING THE PROPOSED AMENDMENTS

The Commission has made the following initial determinations:

- The proposed amendments impose no mandate on local agencies or school districts that would require reimbursement.
- The proposed amendments do not require a report to be made; rather, the amendments clarify an already existing reporting requirement and clarify an option for noncompulsory public reporting.
- The proposed amendments present no fiscal impact. (See Fiscal Impact Statement.)
 - Cost or savings to any state agency: none.
 - Cost or savings in federal funding to the state: none.
 - Other non-discretionary cost or savings imposed upon local agencies: none.
 - Cost to any local agency or school requiring reimbursement: none.
- The proposed amendments present no effect on housing costs.
- The proposed amendments will not have any significant statewide adverse economic impact.
- 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 amendments.
- The proposed amendments do not affect small businesses.

AVAILABILITY OF RULEMAKING FILE

This notice, along with the express terms of the proposed amendments, the initial statement of reasons, and any substantial changes to the original proposal will be available for public review on the Commission’s website at www.ctc.ca.gov. In addition, this rulemaking file and all information on which the proposed amendments are based will be available upon request for inspection and copying at the address designated in this notice.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantive or grammatical) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be submitted by the Commission to the Office of Administrative Law. When it is available, a copy will be posted on the Com-

mission’s website at www.ctc.ca.gov. The final statement of reasons will also be made available for inspection and copying at the address designated in this notice.

TITLE 5. COMMISSION ON TEACHER CREDENTIALING

Proposed Amendments Pertaining to Teaching and Services Permits

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing on the proposed actions will be held:

April 19, 2013
 8:30 a.m.
 Commission on Teacher Credentialing
 1900 Capitol Avenue
 Sacramento, California 95811

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail relevant to the proposed action. The written comment period closes at 5:00 p.m. on April 15, 2013. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Tammy A. Duggan, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at tduggan@ctc.ca.gov.

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission’s staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

AUTHORITY AND REFERENCE

Education Code section 44225 authorizes the Commission to adopt these proposed regulation amendments. The proposed amendments implement, interpret, and make specific Education Code (EC) sections 44225 subsections (d), (g), (l), and (q) and 44300 pertaining to the issuance of teaching and services permits.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Summary of Existing Laws and Regulations

This rulemaking action proposes amendments to Title 5 of the California Code of Regulations (CCR) related to teaching and services permits as approved by the Commission at the January 2013 meeting. The proposed amendments also include general clean-up of the emergency permit regulation sections.

General Provisions Governing Emergency Permits

Senate Bill (SB) 674 (Chap. 344, Stats. 1997) took effect on January 1, 1998 and limited the number of times an emergency permit may be reissued. 5 CCR §80023.1, as amended to implement the provisions of SB 674, states that an individual issued an emergency permit prior to January 1, 1998 may receive reissuance of that permit for a maximum of five additional one-year periods and an individual issued an emergency permit on or after January 1, 1998 may receive reissuance of that permit for a maximum of four additional one-year periods. Education Code (EC) §44251(c) was subsequently repealed and the maximum of four reissuances on an emergency permit is now solely outlined in 5 CCR §80023.1.

All emergency permits currently issued and reissued by the Commission require possession of a non-emergency document such as a preliminary, clear, or life credential that authorizes the holder to teach in California's public schools. Reissuance of emergency permits requires annual completion of six semester (or nine quarter) units of coursework (or the equivalent number of clock hours) associated with a Commission-approved program, passage of two examination subtests, or a combination of the two.

Emergency permits authorize the holder to provide instruction or services outside the authorization on his/her prerequisite credential while completing the requirements for the associated authorization or certificate. Qualifying for the associated authorization or certificate requires completion of a Commission-approved program, passage of examinations, or a combination of the two depending on the type of emergency permit held.

The proposed amendments seek to reduce the number of reissuances available on an emergency teaching or services permit from four to two effective January 1, 2014. The proposed amendments also provide general clean-up of this section to align with previous regulatory and statutory changes.

Types of and Specific Requirements for Emergency Permits

On December 4, 2003, the Commission took action to discontinue the issuance of multiple subject, single sub-

ject and education specialist emergency permits effective July 1, 2006. In 2005, the Commission approved regulations to establish two teaching permits to address the continuing need for documents to cover unanticipated and anticipated staffing needs. One document is to meet immediate teacher vacancies (Short-Term Staff Permit — 5 CCR §80021) and the other to staff classrooms when, after a diligent search, no appropriately credentialed teacher can be found (Provisional Internship Permit — 5 CCR §80021.1). The two permits, issued in the areas of multiple subject, single subject, and education specialist, replaced the Emergency Multiple Subject, Single Subject and Education Specialist Permits.

In addition, the Commission discontinued initial issuance of Emergency Speech-Language Pathology Services Permits (formerly titled "Emergency Clinical or Rehabilitative Services Permit in Language, Speech and Hearing") with or without the Special Class Authorization effective July 1, 2000, but reissuances are still available. A search of the Commission's computer system revealed that no reissuances of these permit types have been granted since 2006. Therefore, the amendments propose the deletion of the sections that allow reissuance of Emergency Speech-Language Pathology Services Permits with or without the Special Class Authorization.

The proposed amendments to 5 CCR §80023 are to delete the types of emergency permits no longer initially issued or reissued by the Commission. Also proposed is the repeal of 5 CCR §§80024.1, 80024.2, 80024.2.1, 80024.3.2, 80024.4, and 80024.5 that list the specific requirements for the types of emergency permits that are no longer initially issued or reissued by the Commission.

General Requirements for the Initial Issuance of Emergency Permits

The proposed amendments to 5 CCR §80023.2 are to align the basic skills requirement with Education Code §44252 and to update the reference to the types of emergency permits currently initially issued and reissued by the Commission.

PROVISIONAL INTERNSHIP PERMITS

The addition of 5 CCR §80021.1 in 2005 created the Provisional Internship Permit (PIP). The purpose of the PIP is to allow California public school employers to staff classrooms when, after conducting a diligent search, no appropriately credentialed teacher can be found. Individuals employed on a PIP are required to attempt all subject matter examination subtests associated with the authorization(s) listed on the document. The current language of 5 CCR §80021.1 allows for a one-time reissuance of a PIP if the holder attempts

but does not pass all the appropriate subject matter examination subtests.

The numbers of PIP reissuances have steadily decreased over the past five years. The proposed regulation amendments seek to remove the one-time PIP reissuance due to concerns with allowing individuals who have not yet completed a teacher preparation program to continue teaching in California public schools for two years without verification of subject-matter competence.

EMERGENCY DESIGNATED SUBJECTS PERMIT FOR 30-DAY SUBSTITUTE TEACHING

SB 52 (Chap. 520, Stats. 2007) was signed on October 12, 2007. The provisions of SB 52 became effective immediately upon signature due to the inclusion of an urgency clause and created Designated Subjects Career Technical Education (CTE) Teaching Credentials. Subsequently, SB 1104 (Chap. 576, Stats. 2008) was signed on September 29, 2008. The bill took effect on January 1, 2009 and further amended the Education Code sections pertaining to the issuance of CTE credentials.

The Title 5 regulations pertaining to Full-Time/Part-Time Designated Subjects Vocational Education and Career Technical Education Teaching Credentials (§§80035, 80035.1, and 80035.5) were amended and new sections were added (§§80034.1, 80034.2, 80034.3) in February 2010 to implement the provisions of the two bills. The proposed amendments to 5 CCR §80025.5 are to change the title of the “Emergency Designated Subjects Vocational Education Permit for 30-Day Substitute Teaching Service” to the Emergency Designated Subjects Career Technical Education Permit for 30-Day Substitute Teaching Service” and to align the experience requirement with the experience requirement for the Designated Subjects Three-Year Preliminary Career Technical Education Teaching Credential [reference §80034.2(a)(1)].

Objectives and Anticipated Benefits of the Proposed Regulations

The objectives of the proposed regulations amendments are to:

- Reduce from four to two, the number of available reissuances on Emergency CLAD Permits, Emergency Bilingual Permits, Emergency Resource Specialist Permits, and Emergency Teacher Librarian Services Permits;
- Remove the one-time PIP reissuance;
- Repeal the 5 CCR sections related to emergency permits no longer initially issued or reissued by the Commission; and

- General clean-up of sections related to teaching and services permits to align with previous statutory and regulatory changes.

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by limiting the time an individual may teach outside of his/her credentialed area (emergency permits) or teach prior to completing a teacher preparation program and satisfying the subject-matter competence requirement (PIPs). The proposed regulations will promote fairness and prevent discrimination by ensuring uniformity in requirements for individuals serving on teaching and services permits. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulation amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Commission has determined that 5 CCR §80021.1 is the only regulation that allows for reissuance of a PIP and 5 CCR §80023.1 is the only regulation that establishes the reissuance limit for emergency permits. All other proposed regulation amendments are general clean-up to align with previous statute and regulation amendments and, therefore, are not inconsistent or incompatible with existing regulations.

DOCUMENTS INCORPORATED BY REFERENCE

None.

DOCUMENTS RELIED UPON IN PREPARING REGULATIONS

September 2013 Commission agenda item and insert:
<http://www.ctc.ca.gov/commission/agendas/2012-09/2012-09-5C.pdf>
<http://www.ctc.ca.gov/commission/agendas/2012-09/2012-09-5C-insert.pdf>

December 2013 Commission agenda item that included approved recommendations:
<http://www.ctc.ca.gov/commission/agendas/2012-12/2012-12-5B.pdf>

DISCLOSURES REGARDING THE
PROPOSED ACTIONS

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

Other non–discretionary costs or savings imposed upon local agencies: None.

Cost or savings to any state agency: None.

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

Significant effect on housing costs: None.

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

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

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.

Statement of the Results of the Economic Impact Assessment [Govt. Code § 11346.5(a)(10)]: The Commission 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 with the State of California; 4) unlikely that the proposal will eliminate any existing businesses within the State of California; and 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by limiting the time an individual may teach outside of his/her credentialed area (emergency permits) or teach prior to completing a teacher preparation program and satisfying the subject–matter competence requirement (PIPs). The proposed regulations will promote fairness and prevent discrimination by ensuring uniformity in requirements for individuals serving on teaching and services permits. The Commission does not anticipate that the proposed regulations

will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

Effect on small businesses: The proposed regulations will not have a significant adverse economic impact upon business. The proposed regulations apply only to individuals applying for teaching or services permits that authorize service in California’s public schools.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by the agency 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, would be as effective as and less burdensome to affected private persons than the proposed actions, or would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

CONTACT PERSON/FURTHER INFORMATION

General or substantive inquiries concerning the proposed action may be directed to Tammy A. Duggan by telephone at (916) 323–5354 or Tammy A. Duggan, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Janet Bankovich at (916) 323–7140 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission’s website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice Register, the

rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, an economic impact assessment/analysis contained in the Initial Statement of Reasons, Commission agenda item 5C (including the insert) from the September 2012 meeting, and Commission agenda item 5B from the December 2012 meeting. Copies may be obtained by contacting Tammy Duggan at the address or telephone number provided above.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Tammy A. Duggan at (916) 323-5354.

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 the Commission's website at www.ctc.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 **April 18, 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 **April 18, 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 **April 18, 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 Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4

and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders and Ship Building, Ship Repairing, and Ship Breaking Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **April 18, 2013**.

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 7, Article 7, Section 3329
Working on (Dismantling) Pressurized Pipe
2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
 Chapter 4, Subchapter 7, Article 109, Section 5197 — Appendix A, Subsection (c)(1)
Laboratory Accreditation for Diacetyl Analysis
3. **TITLE 8: SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 18, Article 2, Section 8352
Scope and Application — Ship Building

Descriptions of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 7, Article 7, Section 3329
Working on (Dismantling) Pressurized Pipe

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The proposed rulemaking is in response to an Occupational Safety and Health Appeals Board (OSHAB) Decision in the Matter of Irwin Industries, Docket Nos. 08–R6D4–1454 through 1456 (initially dated September 25, 2008, erratum dated July 7, 2011), where an Administrative Law Judge found that Section 3329(d) did not require an employer to control hazardous energy during a project where a liquid–conveying pipe line was being modified. In the matter covered by the OSHAB decision, the employee installed an inflatable plug in the pipe line to isolate himself from the pipe line’s energy (pressure created by superheated water and oil residues) while he worked. Pressure behind the plug dis-

lodged the plug and expelled it out of the pipe, striking the employee and seriously injuring him. The current regulation only requires the employer to control the potential energy inside while opening or dismantling the pipe line. The employee was severely injured during the modification project, but because the injury did not occur while the pipe line was being opened or dismantled, Section 3329(d) did not apply. The proposed rulemaking will require an employer to provide for employee safety throughout the entire process of pipe line maintenance, repair or modification, and not only when the pipe line is initially opened or dismantled.

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 standards, in that there are no federal regulations, which address this hazard. The entirety of the rulemaking action exceeds the protections of federal regulations because there is no federal equivalent for comparison.
- 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: (1) the requirement of the federal government and the Labor Code to the effect that the state regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).
- Is the least burdensome effective alternative. The proposed change is administrative in nature and requires only slight modifications, if any, to an employer’s existing programs. Many companies already comply with the requirements of the proposed change by preventing uncontrolled releases from pipelines while employees are working on the lines. The proposed change clarifies the requirement that employers provide for employee safety, not only when opening or

dismantling a pipe line, but throughout the entire repair, maintenance, or modification project.

Section 3329. Pipe Lines.

Section 3329 provides safety requirements for working on and around pipe lines. The regulation protects employees from the contents of the pipe lines by requiring supports to prevent vibration, proper construction and maintenance to prevent rupture, and protection of employees when exposed to leaking or off-gassing pipes. Subsection (d) requires an employer to take steps to prevent a sudden release of pressure or spraying of liquid when pipe lines are opened or dismantled.

A new subsection (e) will be added, which reads: “At all times during the repair, modification, or maintenance work, energy within the system shall be controlled to prevent an uncontrolled release that could cause injury.”

The proposed addition will require the employer to ensure that the energy within the piping system is sufficiently controlled so that it does not injure an employee. Using the same equipment and procedures required to safely open or dismantle the pipe line, the employer will now need to provide for employee safety throughout the entire work process. Consequently, employee safety will be enhanced by the proposal.

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 proposed change is administrative in nature and requires only slight modifications, if any, to an employer’s existing programs. Many companies already comply with the requirements of the proposed change by preventing uncontrolled releases from pipe lines while employees are working.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessari-

ly 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 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.)

The 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. Moreover, the 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.)

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

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendment may affect small businesses. However, no eco-

conomic impact is anticipated. The proposal would provide businesses, small or large, clear direction in requiring that employers use the same equipment and procedures to safely open or dismantle a pipe line throughout the entire work process to prevent uncontrolled pressurization and struck by accidents, which can result in serious employee injury. This regulatory proposal will promote worker safety and protect employees from the hazards associated with modifying liquid-conveying pipelines.

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**
 Chapter 4, Subchapter 7, Article 109,
 Section 5197 — Appendix A,
 Subsection (c)(1)
**Laboratory Accreditation for
 Diacetyl Analysis**

**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. The Division of Occupational Safety and Health (Division) requests the Board to amend Section 5197, Appendix A — *Diacetyl Sampling and Analytical Protocol (Mandatory)*, subsection (c)(1) regarding the accreditation of laboratories that perform analysis of diacetyl samples.

Currently Section 5197, Appendix A, subsection (c)(1) stipulates that all (diacetyl) samples shall be analyzed by a laboratory accredited in accordance with the program of the American Association for Laboratory Accreditation. The Division was notified by a stakeholder that this requirement omits analytical laboratories accredited by American Industrial Hygiene Association (AIHA) Laboratory Accreditation Programs, LLC that perform diacetyl sample analysis.

The Division reviewed relevant information and recommends that the Board modify the subsection to include laboratories accredited by AIHA Laboratory Accreditation Programs, LLC or other International Laboratory Accreditation Cooperation mutual recognition signatory. The intended effect of the proposed change is to encompass all conforming laboratory accreditation bodies, thereby increasing the number of laboratories that employers can select for diacetyl analysis.

These additional laboratories would be subject to the current requirement in Section 5197, Appendix A, subsection (c)(4) that they participate in an appropriate national sample testing scheme such as the Proficiency Analytical Testing Program (PAT) for organics that is sponsored by the AIHA. 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 occupational exposure to food flavorings containing diacetyl.
- 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: (1) the requirement of the federal government and the Labor Code to the effect that the state regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemakings be

channeled through a single entity (the Standards Board).

- Is the least burdensome effective alternative. The proposal will provide California employers more laboratories to choose from to comply with the analytical requirements specified in Section 5197, Appendix A, subsection (c)(1). 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 an initial 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 will allow California employers to use more laboratories to comply with the analytical requirements specified in Section 5197, Appendix A, subsection (c)(1).

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement

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

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

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

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

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendment may affect small businesses. However, no adverse economic impact is anticipated. The proposal will allow California employers to use more laboratories to comply with the analytical requirements specified in Section 5197, Appendix A, subsection (c)(1). Consequently, it is believed that this regulatory proposal will have minimal impact upon California employers.

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.

3. **TITLE 8: SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 18,
 Article 2, Section 8352
**Scope and Application —
 Ship Building**

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

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking proposal based upon a review of the application language contained in Section 8352 of the Ship Building, Ship Repairing and Ship Breaking Safety Orders. Section 8352 limits the application of Subchapter 18 safety orders to ships of wood or metal construction, while the equivalent federal regulation, 29 CFR 1915.2(a) does not limit the scope of the regulation by the type of construction materials.

This rulemaking action proposes amending Section 8352 to remove the phrase “of wood or metal construction” to bring Section 8352 into line with 29 CFR 1915.2(a). The proposed amendment is intended to be at least as effective as (ALAEA) the Federal standard which does not mention ship building construction materials. 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.
- Aligns Title 8 with the equivalent federal standard by removing the Title 8, wood and metal vessel limitation. The proposal will ensure that Title 8 is ALAEA the equivalent Federal standard.
- 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: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemakings be channeled through a single entity (the Standards Board).

- Is the least burdensome effective alternative. The proposal is consistent with the existing Federal standard which applies to all vessels regardless of the materials of construction.

Section 8352. Application of These Orders.

Existing Section 8352 limits the application of Subchapter 18 to vessels or similar floating structures constructed of wood or metal irrespective of type or description. The equivalent Federal shipbuilding standard is not limited to vessels of wood or metal construction and thereby applies to all vessels regardless of construction material. The proposed amendment will render Title 8, Section 8352 ALAEA the Federal standard as required by Labor Code Section 142.3(a)(2).

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 expands the application of the existing standard by dropping all mention of shipbuilding materials. The amendment is consistent with 29 CFR 1915.2(a) and renders Title 8, Section 8352 ALAEA the Federal standard.

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 amendment may affect small businesses. However, no adverse economic impact is anticipated. The proposal corrects

an oversight in the scope and application of the State’s shipyard safety standards. Discussions with a major California shipyard stakeholder indicate that portions of California shipbuilding, ship repair and ship breaking operations are within the jurisdiction of Federal OSHA and portions are within the jurisdiction of the Division of Occupational Safety and Health. It is apparent from the stakeholder discussions that for the sake of operational efficiency, federal and state shipyard standards are applied uniformly regardless of the material of construction. Consequently, it is believed that this regulatory proposal will have minimal impact upon California shipyard employers and render Title 8 SSO at least as effective as the Federal standard as required by the California Labor Code.

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 **April 12, 2013**. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on **April 18, 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 16. CALIFORNIA STATE BOARD OF OPTOMETRY

NOTICE IS HEREBY GIVEN that the California State Board of Optometry (hereafter "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Department of Consumer Affairs
2420 Del Paso Road, Yosemite Room
Sacramento, California 95834
Monday, April 15, 2013
10:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Monday, April 15, 2013, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such

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

Authority and Reference: Pursuant to the authority vested by Sections 3025, 3044, 3075, 3152, and 3152.5 of the Business and Professions Code, and to implement, interpret or make specific Sections 3075, 3078, 3151, 3151.1, 3152, and 3152.5 of said Code, the Board is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

Informative Digest:

The Board currently regulates about 8,000 licensees. The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants, investigating complaints against licensees, and disciplining licensees for violating the Optometry Practice Act.

Business and Profession Code (BPC) section 3025 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the Optometry Practice Act.

The primary purpose of this proposal is to implement, and make specific the fees established by Senate Bill 1215 (Emmerson, Chapter 359, Statutes of 2012), specifically BPC sections 3151, 3151.1, and 3152. BPC section 3151 creates a retired license status for optometrists, and BPC section 3151.1 creates a retired license status with volunteer designation. BPC section 3152 establishes fee ranges for these retired licenses, and the range for the renewal fee for the retired license with volunteer designation.

Policy Statement Overview/Anticipated Benefits of Proposal:

The fee implementation, established by SB 1215 through these proposed regulations will permit the Board to issue the retired license, and retired license with volunteer designation statuses. Without an established fee, the Board cannot issue the retired licenses.

Previously, when licensed optometrists retired from practice, they could either be placed on inactive status or allow their license to expire. By requesting to be placed on inactive status, licensees had to pay a biennial fee of \$425 and were not permitted to practice in

California. In addition, they were exempt from complying with continuing education requirements. If optometrists allowed their license to expire, they would pay no fee to the Board, and their license would go into delinquent status and be cancelled after three years.

There were two major complaints among licensees regarding the license status options available to them upon retirement. First, renewing under inactive status requires licensees to pay the renewal fee every two years when they have no intention of ever practicing again. Secondly, if licensees choose not to pay the fees and have their license expire, they are considered delinquent until the license is cancelled after three years. Delinquency implies that the licensee is non-compliant with Board requirements, such as past due fees or not fulfilling the continuing education requirements. It is unacceptable that licensees should be given a delinquent status and have their reputations tarnished when they simply are retired.

Licensed optometrists also requested that the Board create a retired license with volunteer designation. This would permit retired optometrists to provide optometric services without compensation at health fairs, vision screenings, and public service eye programs. Many charitable organizations need volunteer optometrists on a temporary or permanent basis, and this license status would make it easier for these organizations to obtain these services. Moreover, simplifying the process of obtaining a retired license with volunteer designation will encourage retired optometrists to volunteer, increasing access to care for many underserved communities.

Consistency and Compatibility with Existing State Regulations:

The Board has evaluated this regulatory proposal, and it is not inconsistent or incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Currently, there are 781 optometrists that are at retirement age. The Board estimates that 25% (about 195) of these optometrists will choose to retire at some point, but it is unknown when. The same estimate applies to optometrists that choose to retire with a volunteer designation. The Board does not anticipate a large number of optometrists suddenly retiring because this option is available. An optometrist's average retirement age is 70 years old.

In order for the Board to absorb the workload associated with processing the requests for these retired licenses and to renew the retired license with volunteer

designation, the Board will need to charge a non-refundable processing fee of \$25 for the retired license, \$50 for the retired license with a volunteer designation, and \$50 for the renewal of a retired license with a volunteer designation. This fee will offset the costs associated with staff's processing of the requests. For licensees who are in a delinquent status (total of 417 at retirement age) that are seeking to retire or retire with volunteer designation, there will be additional delinquency fees that must be paid prior to the issuance of the retired licenses. BPC sections 3151 and 3151.1 require that licensees applying for these licenses hold a current and active optometrist license to apply. These fees are calculated on a case-by-case basis and may go up to \$3,000 once all delinquency and outstanding renewal fees have been calculated pursuant to BPC sections 3146-3147.7.

The Board will experience a possible loss in revenue because optometrists that once kept their license active or inactive for \$425 biennially, who considered themselves retired, can now legally retire and pay a one-time fee of \$25, or \$50 biennially to be a retired volunteer. If 25% of optometrists at retirement age retire or retire with volunteer designation, the potential revenue loss would be \$37,000 to \$41,000 per year for each license status. This is over a span of 20 years.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement:

None.

Business Impact:

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

AND

The following studies/relevant data were relied upon in making the above determination:

These proposed regulations will provide the Board with the means to implement, and make specific BPC sections 3151, 3151.1, and 3152, as they pertain to licensed optometrists interested in retiring, or retiring with volunteer designation.

An optometrist retires because he or she chooses to retire. If the optometrist owns a business, it may either be sold, or closed. If the optometrist works for a business, they will leave that place of employment, and it is

the employer's responsibility to hire a replacement. While a high level of experience and knowledge is lost when an optometrist retires, it is necessary and opens up new opportunities to the incoming workforce and businesses. It is also important to note that prior to SB 1215 and the creation of the retired license status for this profession, optometrists have been considering themselves retired and taking the above steps. The only difference is that in the past, instead of having a retired designation, they were active, inactive or delinquent.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are:

- All optometrists who chose to retire will incur the Board's non-refundable processing fee of \$25 for the retired license, \$50 for the retired license with a volunteer designation, and \$50 for the renewal of a retired license with a volunteer designation.
- For licensees who are in a delinquent status (total of 417 at retirement age) that are seeking to retire or retire with a volunteer designation, there will be additional delinquency fees that must be paid prior to the issuance of the retired licenses. BPC sections 3151 and 3151.1 require that licensees applying for these licenses hold a current and active optometrist license to apply. These fees are calculated on a case-by-case basis and may go up to \$3,000 once all delinquency and outstanding renewal fees have been calculated pursuant to BPC sections 3146-3147.7.
- If the optometrist owns a business, when it is sold, he or she will make a profit that can be used for retirement. The optometrist may incur a cost when transferring records to another practitioner and/or storing records in compliance with the law.
- If the optometrist is an employee, when he or she retires, their employer will be responsible for filling the vacant position.
- An employee of a business sold or closed by a retiring optometrist may lose their job.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. This proposal only establishes the fees needed to implement the

Board's retired licenses created pursuant to SB 1215. Prior to the passage of this legislation, optometrists were considering themselves retired and taking the steps necessary to sell or close their businesses, if they owned one. The only difference is that in the past, instead of having a retired designation, they were active, inactive or delinquent.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

This proposal impacts licensed optometrists at retirement age who are interested in becoming legally retired, or retiring with volunteer designation. That in turn may result in retiring optometrists selling or closing their business, which may result in their employees losing their jobs. If the business is sold to another optometrist or another industry, it could be considered a new opportunity for the new workforce. The reverse would occur if nobody is able to buy the business. If there is an increase in retired volunteer optometrists, charitable organizations that host health fairs, visions screenings, and public eye service programs may expand due to this new resource of volunteers.

Benefits of Regulation:

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

- This regulatory proposal benefits the health and welfare of California residents, specifically uninsured or under-insured individuals. Retired optometrists who decide to obtain the volunteer designation will be able to provide free services at health fairs, visions screenings, and public eye service programs.
- This regulatory proposal does not affect worker safety because the focus of this regulation is to establish appropriate fees so that optometrists can retire pursuant to BPC sections 3151 and 3151.1.
- This regulatory proposal does not affect the state's environment because the focus of this regulation is to establish appropriate fees, so that optometrists can retire pursuant to BPC sections 3151 and 3151.1.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2450 Del Paso Road, Suite 105, Sacramento, California 95834.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Andrea Leiva, Policy Analyst
Address: 2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: 916-575-7182
Fax No.: 916-575-7292
E-mail Address: andrea.leiva@dca.ca.gov

The backup contact person is:

Name: Mona Maggio, Executive Officer
Address: 2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: 916-575-7176
Fax No.: 916-575-7292
E-mail Address: mona.maggio@dca.ca.gov

Website Access: Materials regarding this proposal can be found at <http://www.optometry.ca.gov/lawsregs/propregs.shtml>.

TITLE 16. BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is proposing to take the action described in the Informative Digest. The Board does not intend to hold a hearing in this matter. If an interested party wishes that a hearing be held, he or she must make the request in writing to the Board no later than 5 p.m. on April 1, 2013. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on April 15, 2013.

Authority and Reference: Pursuant to the authority vested by Sections 6716, 7818, and 8710 of the Business and Professions Code, and to implement, interpret, or make specific Sections 123, 123.5, 496, and 7844 of said Code, the Board is considering changes to Divisions 5 and 29 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

It is the intent of the Board to ensure that its laws are clear, concise, efficient, and necessary. To that extent, staff is proposing regulation amendments to the enforcement components of the Professional Engineers Act, Professional Land Surveyors' Act, and Geologist and Geophysicist Act so that they are all similar in content and form. These modifications would make it easier for the consumers of California and the Board's applicants, licensees, and certificate holders to comprehend and follow the laws and regulations. It would also provide consistency with the Board's current procedures and maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

Since October 2011, the Board has utilized computer-based testing (CBT) centers and the National Council of Examiners for Engineering and Surveying (NCEES) for administration of its licensure examinations. As such, Board staff is not in attendance for many of the examinations and must rely on the CBT centers and NCEES to advise the Board of any incidents that may occur during an examination. Those who are not taking their examinations properly or fairly may be committing examination subversion.

AMEND SECTIONS 442 AND 3035 OF TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS

Examination subversion, as detailed in Section 442 of Title 16 of the California Code of Regulations (CCR), can vary from severe to minor violations. Since the Board is not always present to witness the subversion as it happens, the Board must analyze the matter according to the evidence provided to it by the administrator of the examination. In some subversion incidents, avoidance of the examination is not an appropriate action in response to the violation. The Board needs to assess the incident that has taken place and determine the appropriate action. As such, Section 442 needs to be amended to allow the Board to have the discretion to determine the appropriate course of action in response to the subversion action.

Similarly, 16 CCR Section 3035 is being amended to match Section 442 to provide consistency among all of the regulations under the purview of the Board. Section 3035 is also being amended to provide the detail and specifics noted in Section 442. This amendment would put into writing in Section 3035 the detail and specifics the Board currently utilizes for its geology and geophysics examinations.

This proposed rulemaking action will not task the licensees or applicants with any additional work and will not require the licensee to expend any additional money to comply.

POLICY STATEMENT
OVERVIEW/ANTICIPATED BENEFITS
OF PROPOSAL

The purpose and benefit of this proposed regulatory action is to ensure that the examinations are being administered fairly and that all applicants are completing their examinations using their own knowledge and experience. These amendments will help to maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

CONSISTENCY AND COMPATIBILITY WITH
EXISTING STATE REGULATIONS

The Board has evaluated this proposed regulatory action and it is neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

This proposed regulatory action does not result in a fiscal impact to public or state agencies.

Nondiscretionary Costs/Savings to Local Agencies:

This proposed regulatory action does not result in nondiscretionary costs or savings to local agencies.

Local Mandate:

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

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None.

Business Impact:

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

Impact on Jobs/New Businesses:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulations pertain to examination subversion.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

Benefits of Regulation:

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

The purpose and benefit of this proposed regulatory action is to ensure that the examinations are being administered fairly and that all applicants are completing their examinations using their own knowledge and experience. These amendments will help to maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

CONSIDERATION OF ALTERNATIVES

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Larry Kereszt
 Address: 2535 Capitol Oaks Drive,
 Suite 300
 Sacramento, CA 95833
 Telephone No.: (916) 263-2240
 Fax No.: (916) 263-2246
 E-mail Address: Larry.Kereszt@dca.ca.gov

The backup contact person is:

Name: Erin LaPerle
 Address: 2535 Capitol Oaks Drive,
 Suite 300
 Sacramento, CA 95833
 Telephone No.: (916) 263-1847
 Fax No.: (916) 263-2246
 E-mail Address: Erin.LaPerle@dca.ca.gov

WEBSITE ACCESS

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

TITLE 16. BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is proposing to take the action described in the Informative Digest. The Board does not intend to hold a hearing in this matter. If an interested party wishes that a hearing be held, he or she must make the request in writing to the Board no later than 5 p.m. on April 1, 2013. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on April 15, 2013.

Authority and Reference: Pursuant to the authority vested by Sections 6716, 7818, and 8710 of the Business and Professions Code, and to implement, interpret, or make specific Sections commencing with Sections 6715, 6764, 7821, 7852, 7852.1, 8712, and 8750 of said code, the Board is considering changes to Division 5 and Division 29 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

Business and Professions Code (B&P) sections 6716, 7818, and 8710 authorize the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of law relating to the practice of engineering, land surveying, and geology. To that extent, staff is proposing regulation amendments to the Professional Engineers Act, Professional Land Surveyors Act, and Geologist and Geophysics Act so that they are all similar in content and form. These modifications would make it easier for the consumers of California and our Board's licensees and certificate holders to comprehend and follow the laws and regulations and would provide consistency with the Board's current procedures and maintain the Board's mission to safeguard the life, health, prop-

erty, and welfare of the public. The Board is proposing the following:

The main purpose of the proposed language is to ensure that its laws are clear, concise, efficient, and necessary. Proposed changes, by section, are identified as follows:

Seal and Signature

Amend Sections 411 and 3008 — Seal and Signature

Amend section 411 to remove the term 'opaque,' which is vague and unnecessary. Amend section 3008 to match section 411 and provide consistency among all three Acts since section 3008 and section 411 both relate to the information required of, and describe the contents of, a licensee's signature and stamp. The additional information being added to section 3008 will formalize and document policies already utilized by the Geologist and Geophysicist Program, and previously used by the former Board for Geologists and Geophysicists, and will clarify and detail the information that is required to be in the seal. This additional information will not task the licensees with any additional work and will not require the licensees to expend any additional money to comply with the proposed rulemaking.

Address Change

Amend Sections 412 and 3009 — Address Change

Amend section 412 to add language and specify that address "of record" changes must be made "in writing" within 30 days. Having the change be made in writing allows our office to keep documentation of all address changes. Section 3009 would be amended to add language and specify, similar to Section 412, that address "of record" changes must be made "in writing" within 30 days. The timeframe of 30 days is being amended from 60 days to be consistent with Section 412 and because 60 days is an excessive amount of time to notify the licensing Board of an address change, and negatively impacts a consumer's ability to contact the licensee.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The purpose and benefit is to ensure that the seal and signature are displayed accurately and correctly by licensed individuals of the Board. Changes to law are making the definition more clear. Additionally, the address change is being amended to provide commonality between all the Acts. The additions will maintain the Board's mission to safeguard the life, health, property, and welfare of the public.

C. Consistency and Compatibility with Existing State Regulations

This Board has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

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

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None.

Business Impact:

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

AND

The following studies/relevant data were relied upon in making the above determination:

The proposed regulatory 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 Board has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

- Continue to support dissimilar seals, signatures, and address on file between the Acts. This goes against the Board’s mission to safeguard the life, health, property, and welfare of the public.
- Require changes to seal, signature, and address change without regulatory authority. The Board cannot operate without regulatory authority.
- Exemption or partial exemption from the regulatory requirements for licensees. The Board cannot regulate the professions it licenses if those licensed individuals are allowed to be excused from regulatory requirements.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulations pertain to the seal and signature of the licensed individual and the address provided by the individual.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

Benefits of Regulation:

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

The purpose and benefit is to ensure that the seal and signature are displayed accurately and correctly by licensed individuals of the Board. Changes to law are making the definition more clear. Additionally, the address change is being amended to provide commonality between all the Acts. The additional regulations will maintain the Board’s mission to safeguard the life, health, property, and welfare of the public.

CONSIDERATION OF ALTERNATIVES

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

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Jeff Alameida
Address: 2535 Capitol Oaks Drive,
Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2269
Fax No.: (916) 263-2246
E-mail Address: jeff.alameida@dca.ca.gov

The backup contact person is:

Name: Larry Kereszt
Address: 2535 Capitol Oaks Drive,
Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2240
Fax No.: (916) 263-2246
E-mail Address: larry.kereszt@dca.ca.gov

Website Access: <http://www.bpelsg.ca.gov/>. Materials regarding this proposal can be found at <http://www.bpelsg.ca.gov/licensees/laws.shtml>.

**TITLE 16. DENTAL HYGIENE
COMMITTEE OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Dental Hygiene Committee of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the:

Department of Consumer Affairs
1st Floor Hearing Room
2005 Evergreen Street
Sacramento, California on

April 16, 2013

10:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Hygiene Committee of California at its office not later than 5:00 p.m. on April 16, 2013 or must be received by the Committee at the hearing. The Committee, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 315, 315.4, 1905 and 1906 of the Business and Professions Code, and Section 11400.20 of the Government Code and to implement, interpret or make specific Sections 315, 315.2, 315.4, 1947, 1949, 1950 and 1950.5 of the Business and Professions Code and Sections 11400.20, 11425.50(e) of the Government Code, the Committee is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Business and Professions Code Section 1906 authorizes the Dental Hygiene Committee of California (DHCC) to adopt, amend and repeal such rules and regulations as may be reasonably necessary to enable the Committee to effect the provisions of Business and Professions Code sections 1900–1966.6. This proposal would establish uniform standards for substance-abusing licensees developed according to the provisions of Business and Professions Code Section 315 (SB 1441, Ch. 548, Stats. 2008) and disciplinary guidelines for DHCC licensees. The Committee is proposing the following amendments:

- Add Section 1138 of Division 11, Title 16 of the California Code of Regulations

Since its creation in July 2009, the Dental Hygiene Committee of California (DHCC) has continued to use the existing Disciplinary Guidelines of the Dental Board of California (DBC).

Business and Professions Code Section 1906 authorizes the DHCC to adopt, amend and repeal regulations to implement the requirements of its statute. Government Code Section 11400.20 allows an agency to adopt regulations to govern an adjudicative proceeding.

The proposed amendments would place into regulation model language, probationary terms, rationale and factors that may be considered by the Committee and Administrative Law Judges (ALJs) in determining whether a dental hygiene license should be suspended, revoked or placed on probation, and appropriate probationary terms for each violation. This proposal would enhance the Committee's enforcement and administrative processes by establishing regulations specific to California dental hygiene licensees and applicants, thereby increasing the DHCC's enforcement functions and investigation activities for improved consumer protection.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The Dental Hygiene Committee of California's primary mission is protection of California consumers. The Committee does this by issuing licenses to only those applicants who have met the criteria for licensing; investigating complaints against licensees and disciplining licensees for violating the law; and monitoring licensees who are on probation.

Business and Professions Code Section 1906 authorizes the Committee to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable the Committee to carry into effect the provisions of Article 9 of Chapter 4 of Division 2 of the Business and Professions Code.

Business and Professions Code Section 315 established the Substance Abuse Coordination Committee (SACC) within the Department of Consumer Affairs (Department) and required the SACC to formulate uniform and specific standards in sixteen specified areas for each healing arts board to use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program.

Business and Professions Code Section 315.2 specifies that a healing arts board within the Department is required to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program. The section specifies that the cease practice order under this section does not constitute disciplinary action and is not subject to adjudicative hearings.

Business and Professions Code Section 315.4 authorizes healing arts boards within the Department to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted as authorized under Section 315. The section specifies that the cease practice order under this section does not constitute disciplinary action and is not subject to adjudicative hearings.

Business and Professions Code Section 1949 allows the Committee to revoke, suspend or place on probation the license of a licensee who has committed incompetence, gross negligence, unprofessional conduct, or who has received a license by mistake or for any other cause applicable to the profession.

Business and Professions Code Section 1950 allows the Committee to revoke, suspend or place on probation the license of a licensee who has been convicted of a crime substantially related to the licensee's qualifications, functions or duties.

Business and Professions Code Section 1950.5 defines, but does not limit, acts of unprofessional conduct.

Business and Professions Code Section 1951 authorizes the Committee to discipline a license through probation and require specific terms and conditions.

The main purpose for this proposal is to adopt into regulation the DHCC's *Uniform Standards Related to Substance Abuse and Disciplinary Guidelines, April 2012*, that is incorporated by reference in Section 1138. The practice of dental hygiene needs its own regulations under the DHCC's authority to enable the Committee to license, regulate and discipline its licensees. The *Uniform Standards Related to Substance Abuse and Disciplinary Guidelines* provides the Committee and ALJs with a framework of specific minimum and maximum penalties for dental hygienists that are appropriate to each violation, which standardize the disciplinary process with recommended probationary terms

and conditions consistent with each particular violation.

These proposed regulations give licensees and applicants clear and consistent written information regarding potential violations and the resulting penalties for such violations.

This proposal benefits California consumers by protecting the public through revocation, suspension or placing on probation the license of an individual who has violated the law.

C. Consistency and Compatibility with Existing State Regulations

This Committee has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing State regulations.

Incorporation by Reference

The Committee is incorporating by reference the document entitled *Uniform Standards Related to Substance Abuse and Disciplinary Guidelines*, dated April 2012.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None.

Business Impact:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The Committee has determined that the proposed regulations would not have a significant economic impact on small businesses since most dental hygiene licensees do not operate their own business but instead work for a dental office. The proposal would only affect licensees and applicants who have had disciplinary actions taken against them. Small businesses operated by dental hygienists who are in compliance with the law would incur no cost impact. This proposal would not mandate any measures that would have a significant fiscal impact upon small businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

Benefits of Regulation:

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

This regulation will benefit the state's environment and the health of California residents by establishing guidelines for disciplinary action against dental hygiene licensees and applicants who have violated administrative or criminal law, or who have substance-abuse problems, thereby protecting consumers from harm from individuals who have committed offenses or who are impaired by substance abuse.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS
AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Hygiene Committee of California at 2005 Evergreen Street, Suite 1050, Sacramento, California 95815.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Donna Kantner
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-1978
Fax No.: (916) 263-2688
E-mail Address: Donna.Kantner@dca.ca.gov

The backup contact person is:

Name: Lori Hubble, Executive Officer
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-1978
Fax No.: (916) 263-2688
E-mail Address: Lori.Hubble@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Committee's website: www.dhcc.ca.gov.

TITLE 20. CALIFORNIA ENERGY
COMMISSION

ADOPTION OF REGULATIONS ESTABLISHING
ENFORCEMENT PROCEDURES FOR THE
RENEWABLES PORTFOLIO STANDARD FOR
LOCAL PUBLICLY OWNED UTILITIES

California Energy Commission
DOCKET NO. 13-RPS-01
MARCH 1, 2013

The California Energy Commission proposes to adopt new regulations establishing enforcement rules and procedures for the Renewables Portfolio Standard (RPS) for local publicly owned electric utilities (POUs) pursuant to Senate Bill X1-2 (Simitian, Stats. 2011, 1st Ex. Sess., ch. 1). The proposed action is taken under the authority of sections 25213 and 25218(e) of the Public Resources Code and section 399.30 of the Public Utilities Code. These regulations would implement, interpret, and make specific several provisions of Public Resources Code sections 25741 and 25747, and Public Utilities Code sections 399.13, 399.15, 399.16, 399.21, 399.30, 9507 and 9508.

The Energy Commission has prepared this Notice of Proposed Action as specified by Government Code section 11346.5. The Energy Commission has also published the proposed language of the regulations (also referred to as the 45-day language Express Terms), the Initial Statement of Reasons in support of the proposed regulations, and an Economic and Fiscal Impact Statement for the proposed regulations. These documents are discussed below.

Staff Workshop/Hearing

Energy Commission staff will hold a workshop/hearing on the following date and time to receive public comments on the proposed regulations:

March 15, 2013
Beginning 9:30 a.m.
California Energy Commission
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair accessible)

At this workshop/hearing, any person may present oral and written comments on the proposed regulations. Persons may submit written comments as specified below. If possible, please submit written comments to be considered at the staff workshop/hearing by March 8, 2013. The Energy Commission appreciates receiving written comments at the earliest possible date. Energy Commission commissioners may attend this workshop/hearing.

Audio for the March 15, 2013, staff workshop/hearing will be broadcast over the internet via WebEx. To join the meeting online, go to <https://energy.webex.com/>, enter the meeting number **922 167 798**, then enter your name and email address. If a password is required, enter the meeting password: meeting@930. Click "Join". Follow the instructions that appear on your screen to join the teleconference for the workshop/hearing.

To join the audio conference only, call the number below and enter the access code **922 167 798**:

Call-in toll-free number (US/Canada):
1-866-469-3239

Call-in toll number (US/Canada): 1-650-429-3300

Public Hearing

The Energy Commission will hold a public hearing for consideration and possible adoption of the 45-day language Express Terms on the following date and time:

May 8, 2013
Beginning 10 a.m.
California Energy Commission
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair accessible)

At this adoption hearing, any person may present oral or written comments on the proposed regulations. Persons may submit written comments as specified below.

Audio for the May 8, 2013, adoption hearing will be available by telephone and will be broadcast over the internet via WebEx. Further information regarding telephone and WebEx participation for the adoption hearing will be included in the agenda for that hearing, which will be published April 26, 2013.

If you have a disability and require assistance to participate in either the staff workshop/hearing or the Energy Commission adoption hearing, please contact Lou Quiroz at (916) 654-5146 at least five days in advance of the workshop/hearing or the adoption hearing.

Oral and Written Comments and Comment Period

The public comment period for the proposed regulations as written in the 45-day language Express Terms is March 1, 2013, through and including April 16, 2013. Any interested person may submit oral and written comments on the proposed regulations. To provide ample opportunity to evaluate written comments, it is requested that written comments be submitted by April 16, 2013. However, both oral and written comments will be accepted at the May 8, 2013, adoption hearing. The Energy Commission appreciates receiving written

comments at the earliest possible date. E-mail is preferred.

To e-mail comments on behalf of an organization, send a scanned copy of the comments on the organization's letterhead, signed by an authorized representative.

E-mail comments in either Microsoft Word format (.doc) or Adobe Acrobat portable document format (.pdf) to: DOCKET@energy.ca.gov.

All written comments sent by e-mail must indicate **Docket No. 13-RPS-01** in the subject line. Written comments may also be mailed to:

California Energy Commission
Docket No. 13-RPS-01
Docket Unit
1516 Ninth Street, MS-4
Sacramento, CA 95814-5504

Authority and Reference

The Energy Commission proposes to adopt the proposed regulations under the authority of Public Resources Code sections 25213 and 25218(e) and Public Utilities Code section 399.30.

The proposed regulations would implement, interpret, and make specific several provisions of Public Resources Code sections 25741 and 25747 and Public Utilities Code sections 399.13, 399.15, 399.16, 399.21, 399.30, 9507 and 9508.

INFORMATIVE DIGEST AND POLICY OVERVIEW

A. Summary of Existing Laws and Objective and Benefits of Regulations

The proposed regulations establish rules and procedures for the enforcement of California's Renewables Portfolio Standard (RPS) for local publicly owned electric utilities (POU) under the law as amended by Senate Bill (SB) X1-2¹ and Assembly Bill 2227.²

The RPS was established to increase the amount of electricity generated from eligible renewable energy re-

¹ SBX1-2 (Stats. 2011, 1st Ex. Sess., ch. 1). SB X1-2 is effective December 10, 2011, the 91st day following the adjournment of first extraordinary session of 2011-2012 legislative session pursuant to Government Code section 9600(a). SBX1-2 amends pertinent provisions in Public Resources Code sections 25740 through 25751, and amends and/or adds Public Utilities Code sections 399.11 through 399.31.

² AB 2227 (Stats. 2012, ch. 606, sec. 8). AB 2227 repealed some of the reporting requirements for POU's in Public Utilities Code section 399.30 and re-codified these requirements elsewhere in the Public Utilities Code without making substantive changes to the requirements. As a result of this change, subdivisions (h) through (p) of Public Utilities Code section 399.30, as enacted by SBX1-2, have now been renumbered subdivisions (g) through (n).

sources³ that is procured for California retail customers. Increased reliance on the use of electricity from eligible renewable energy resources will reduce the amount of electricity generated and procured from non-renewable energy sources, such as fossil fuel-based electrical power plants, and may ameliorate air quality problems and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.⁴

The RPS was initially established in 2002 as a result of SB 1078.⁵ SB 1078 required retail sellers of electricity (retail sellers),⁶ including electrical corporations, community choice aggregators, and electric service providers, to increase their procurement of electricity from eligible renewable energy resources by at least 1 percent per year so that 20 percent of their retail sales are procured from eligible renewable energy resources by 2017. SB 1078 additionally required each governing body of a POU to be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources.

In September 2006, SB 107⁷ codified an accelerated RPS goal for retail sellers of 20 percent renewables by 2010. SB 107 also required each POU in California to report to the Energy Commission on the POU's status of implementing an RPS program and the progress made toward achieving its RPS goals.

³ "Eligible renewable energy resources" generally refer to electrical generating facilities or power plants that utilize qualifying renewable energy resources, such as wind, solar, biomass, landfill gas, digester gas, geothermal, or small hydroelectric resources, to generate electricity. (Pub. Util. Code, § 399.12, subd. (e); Pub. Res. Code, § 25741, subd. (a).)

⁴ Former Public Utilities Code section 399.11(c), as enacted by SB 1078 (Stats. of 2002, ch. 516, sec.3). Section 399.11 was amended by SBX1-2 in 2011. Under SBX1-2 the intended benefits of the RPS include: (1) displacing fossil fuel consumption within the state, (2) adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service area, (3) reducing air pollution in the state, (4) meeting the state's climate change goals by reducing emissions of greenhouse gases associated with electrical generation, (5) promoting stable retail rates for electric service, (6) meeting the state's need for a diversified and balanced energy generation portfolio, (7) assistance with meeting the state's resource adequacy requirements, (8) contributing to the safe and reliable operation of the electrical grid, including providing predictable electrical supply, voltage support, lower line losses, and congestion relief, and (9) implementing the state's transmission and land use planning activities related to development of eligible renewable energy resources. (Pub. Util. Code, § 399.11, subd. (b)(1)-(9).)

⁵ SB 1078 (Stats. of 2002, ch. 516).

⁶ By statute, the definition of "retailer sellers" includes electrical corporations, community choice aggregators, and electric service providers, but excludes local publicly owned electric utilities. (Pub. Util. Code, § 399.12, subd. (j).)

⁷ SB 107 (Stats. of 2006, ch. 464).

SB X1-2 adjusts the RPS goal of 20 percent by 2010 to an average of 20 percent for the years 2011 through 2013, increases the long-term RPS goal to 33 percent by the end of 2020, and expands these requirements to include POUs as well as retail sellers. (Pub. Util. Code § 399.15, subd. (b), § 399.30, subd. (b) and (c).) SB X1-2 gives the Energy Commission new oversight responsibilities with respect to POUs, including adopting regulations for enforcement of the RPS procurement requirements of POUs. (Pub. Util. Code § 399.30, subd. (l).) SB X1-2 authorizes the Energy Commission to issue a notice of violation and correction for potential penalties to the California Air Resources Board (CARB) for a POU's failure to comply with the RPS requirements. (Pub. Util. Code § 399.30, subd. (m).)

Objective

The problem the Energy Commission is attempting to address with the proposed regulations is the inconsistent application and enforcement of the state's RPS to POUs. Prior to SB X1-2, POUs had discretion to establish and enforce their own RPS requirements. Unlike retail sellers, which were required to meet their RPS procurement requirements with electricity procured from eligible renewable energy resources certified by the Energy Commission, a POU could establish its own eligibility requirements for renewable resources to meet the POU's RPS procurement requirements. Similarly, POUs were not subject to the minimum annual procurement requirements, procurement plan requirements, reporting requirements, or enforcement requirements applicable to retail sellers. Nor were POUs subject to the penalties applicable to retail sellers for noncompliance. POUs had broad discretion to implement and enforce their own self-established RPS procurement requirements. As a result, the RPS requirements for POUs could vary from POU to POU and differ from the requirements applicable to retail sellers and enforced by the California Public Utilities Commission (CPUC).

Under SB X1-2, POUs are now subject to many of the same or similar RPS requirements as retail sellers.

The proposed regulations establish the rules and procedures by which the Energy Commission will assess a POU's procurement actions and determine whether those actions meet the RPS procurement requirements in the law. The proposed regulations determine what POU action is required by the law, so when the Energy Commission evaluates a POU's actions, it may determine whether the POU complied with the law. The proposed regulations require POUs to submit various information and reports to the Energy Commission, so the Energy Commission may verify and determine compliance with the RPS, and, if appropriate, issue a notice of violation and correction for a POU's failure to com-

ply and refer the violation to the ARB for potential penalties.

Anticipated Benefits

The benefits anticipated from this regulatory action are a more consistent application and enforcement of the state's RPS, which will help promote the underlying goals of the RPS, including the reduction of air pollution associated with fossil fuel-based electrical generation and helping the state meet its climate change goals by reducing greenhouse gas emissions associated with electrical generation. The proposed regulations will ensure POUs are subjected to a uniform set of rules for satisfying the RPS requirements. The proposed regulations will also ensure the POU rules are consistent with the rules for retail sellers to the extent appropriate in accordance with SBX1-2. Consistent rules will help provide market uncertainty for stakeholders participating in the California RPS and the renewable energy market. If a POU and retail seller purchase the same electricity product from an eligible renewable energy resource, it makes no sense to characterize the product differently depending on which utility, POU or retail seller, purchases the electricity product. Likewise, it makes no sense to characterize the electricity product differently depending on which of two POUs purchases the electricity product.

Consistency in the application of the rules among POUs and between POUs and retail sellers may also ease the contracting processes for utilities, developers of eligible renewable energy resources, and other market participants, thereby accelerating the development of new eligible renewable energy resources, which in turn helps promote the underlying goals of the RPS.

The proposed regulations will also help the POUs by providing direction and guidance on how the Energy Commission will interpret, apply and enforce the law, so the POUs can plan accordingly in procuring electricity products to meet their RPS requirements.

While POUs still retain discretion under the law to develop and implement procurement rules, plans, and policies that meet their particular needs, they are now required to take certain actions to implement the RPS.

Specifically, SB X1-2 requires the governing board of a POU to take the following actions, unless otherwise exempted by the law. The governing board of a POU shall implement procurement targets for the POU that require the utility to procure a minimum quantity of eligible renewable energy resources for each of the following compliance periods: January 1, 2011, to December 31, 2013, inclusive; January 1, 2014, to December 31, 2016, inclusive; and January 1, 2017, to December 31, 2020, inclusive. (Pub. Util. Code § 399.30, subd. (b).) The governing board of a POU shall ensure that quantities of eligible renewable energy resources pro-

cured for the first compliance period from January 1, 2011, to December 31, 2013, are equal to an average of 20 percent of the POU's retail sales. (Pub. Util. Code § 399.30, subd. (c)(1).) The governing board of a POU shall ensure that the quantities of eligible renewable energy resources to be procured for all other compliance periods reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of eligible renewable energy resources achieves 25 percent of the utility's retail sales by December 31, 2016, and 33 percent of the utility's retail sales by December 31, 2020. The governing board of a POU shall require that the POU procure not less than 33 percent of retail sales from eligible renewable energy resources in all subsequent years. (Pub. Util. Code § 399.30, subd. (c)(2).) The RPS procurement requirements adopted by the governing board of a POU shall be consistent with the procurement requirements for retail sellers in Public Utilities Code section 399.16. (Pub. Util. Code § 399.30, subd. (c)(3).) When adopting a procurement plan, the governing board of a POU may adopt optional compliance measures, including rules permitting the utility to apply excess procurement in one compliance period to subsequent compliance periods, conditions that allow for delaying timely compliance, and cost limitations for procurement expenditures. (Pub. Util. Code § 399.30, subd. (d).) The governing board of a POU shall adopt a program for the enforcement of the RPS procurement requirements. (Pub. Util. Code § 399.30, subd. (e).) A POU must annually notify and provide information to its customers and the Energy Commission when the POU's governing board considers the adoption, status or changes to its procurement plan. (Pub. Util. Code § 399.30, subd. (f).) Lastly, a POU shall annually report information to the Energy Commission on the POU's procurement contracts for eligible renewable energy resources, expenditures of funds for eligible renewable energy resources, the resource mix used to serve its customers, and the utility's status and progress in implementing the RPS. (Pub. Util. Code § 9507, subd. (b), and § 9508, subd. (e).)

SB X1-2 establishes exemptions from various provisions in the statute for certain POUs. These exemptions are addressed in Public Utilities Code section 399.30, subd. (g)-(j).

The proposed regulations will help California realize the intended benefits of the RPS by ensuring POUs are subjected to a uniform set of rules for satisfying and enforcing the RPS requirements.

B. Overview of RPS Implementation

The Energy Commission and the CPUC work collaboratively to implement the RPS; however, the Energy Commission and the CPUC maintain separate roles in administering their respective responsibilities under the

law. Under the RPS, the Energy Commission is charged with certifying eligible renewable energy resources that may be used to satisfy the RPS procurement requirements of retail sellers and POU's and with developing an accounting system to verify the RPS compliance of retail sellers and POU's. (Pub. Util. Code, §399.25.) Under SB X1–2, these Energy Commission responsibilities will continue for retail sellers and be expanded to include the POU's. The CPUC is responsible for establishing the RPS procurement requirements for retail sellers, determining compliance for retail sellers, and imposing penalties for non-compliance of retail sellers. (Pub. Util. Code, §§ 399.13–399.17.)

The Energy Commission implements its responsibilities for certifying eligible renewable energy resources and verifying RPS compliance through guidelines that were originally adopted in April 2004, with subsequent revisions adopted in May 2004, August 2004, May 2005, April 2006, March 2007, December 2007, December 2010, May 2012, and August 2012. The adoption of these guidelines is expressly exempt from the formal rulemaking requirements of the Administrative Procedure Act pursuant to Public Resources Code section 25747(a). These guidelines are set forth in the following Energy Commission guidebooks:

The *Renewables Portfolio Standard Eligibility Guidebook*⁸ explains the requirements and process for certifying eligible renewable energy resources for California's RPS. The *Renewables Portfolio Standard Eligibility Guidebook* also describes how the Energy Commission tracks and verifies RPS-eligible generation for the RPS.

The *Overall Program Guidebook for the Renewable Energy Program*⁹ governs the Energy Commission's Renewable Energy Program, describes how this program and the program elements are administered, and includes information on requirements that apply to all Renewable Energy Program elements, including elements related to the RPS. The Overall Program Guidebook provides general information on applying for RPS certification and appealing the Energy Commission's decisions regarding RPS certification, as well as a glossary of terms that are used by the RPS and other Renewable Energy Program elements.

The Energy Commission recognizes the need to revise the guidebooks periodically to reflect changes in the law and market and regulatory developments, and to incorporate the lessons learned from experience implementing the RPS. These guidebooks will work in tan-

dem with the proposed regulations. The Energy Commission intends to update these guidebooks in 2013.

Consistency and Compatibility with Existing State Regulations

The proposed regulations are consistent with the aforementioned Energy Commission guidelines. In developing the proposed regulations, the Energy Commission considered the effects of the proposed regulations on the guidelines to ensure the two were consistent and could be used in tandem to implement the RPS. In addition, the Energy Commission worked with the CPUC to ensure the proposed regulations were consistent with the rules developed by the CPUC for the retail sellers. As noted earlier, POU's are now subject to many of the same or similar RPS requirements as retail sellers. For example, both POU's and retail sellers may procure electricity products only from eligible renewable energy resources to meet their respective RPS requirements. (Pub. Util. Code, §399.15, subd. (a), and §399.30, subd. (a).) POU's and retail sellers are subject to the same RPS compliance periods ending on December 31, 2013, December 31, 2016, and December 31, 2020, and for each year thereafter. (Pub. Util. Code, §399.15, subd. (b), and §399.30, subd. (b).) POU's must adopt RPS procurement requirements "consistent" with the requirements for retail sellers under Public Utilities Code section 399.16. (Pub. Util. Code, §399.30, subd. (c)(3).) When adopting a procurement plan, the POU may adopt rules permitting the utility to apply excess procurement in one compliance period to subsequent compliance periods "in the same manner" as allowed for retail sellers under Public Utilities Code section 399.13. (Pub. Util. Code, §399.30, subd. (d)(1).) The POU may also adopt conditions that allow for delaying timely compliance "consistent with" the requirements for retail sellers under Public Utilities Code section 399.15 (b). (Pub. Util. Code, §399.30, subd. (d)(2).) The POU may also adopt cost limitations for RPS procurement expenditures "consistent with" the requirements for retail sellers under Public Utilities Code section 399.15(c). (Pub. Util. Code, §399.30, subd. (d)(3).)

The proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

C. Related CPUC Proceedings

Under SB X1–2, the CPUC continues its role in the administration and oversight of the RPS for retail sellers of electricity. The CPUC issued an Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program on May 5, 2011 (Rulemaking 11–05–005).¹⁰

On December 1, 2011, the CPUC adopted a decision setting procurement quantity requirements for retail

⁸ California Energy Commission, CEC–300–2010–007–CMF, August 2012. <http://www.energy.ca.gov/2012publications/CEC-300-2012-006/CEC-300-2012-006-CMF.pdf>.

⁹ California Energy Commission, CEC–300–2010–008–CDT, December 2010. <http://www.energy.ca.gov/2012publications/CEC-300-2012-005/CEC-300-2012-005-ED5-CMF.pdf>.

¹⁰ http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/134980.htm.

sellers for the RPS, and on December 15, 2011, the CPUC adopted a decision implementing Portfolio Content Categories for the RPS. On June 21, 2012, the CPUC adopted a decision setting compliance rules for the RPS.¹¹

Incorporation by Reference

The proposed regulations do not incorporate documents by reference. However, the proposed regulations do reference the Energy Commission’s RPS guidelines, which are set forth in the *Renewables Portfolio Standard Eligibility Guidebook* and the *Overall Program Guidebook for the Renewable Energy Program*. As noted earlier, these guidelines are revised from time to time pursuant to Public Resources Code section 25747(a).

Federal Law

The Energy Commission is aware of no comparable federal regulations or statutes establishing procedures for the enforcement of California’s RPS on POU’s. Furthermore, no federally mandated regulation or amendment is being proposed.

Other Statutory Requirements

As noted earlier, the Energy Commission is charged with certifying eligible renewable energy resources that may be used to satisfy the RPS procurement requirements of retail sellers and POU’s, and with developing an accounting system to verify the RPS compliance of retail sellers and POU’s pursuant to Public Utilities Code section 399.25.

Availability of the Initial Statement of Reasons, Express Terms, Economic and Fiscal Impact Statements, and Information upon which the Proposed Rulemaking is Based

The Energy Commission has prepared an Initial Statement of Reasons for the proposed regulations and an Economic and Fiscal Impact Statement for the proposed regulations. To obtain a copy of the Initial Statement of Reasons, Economic and Fiscal Impact Statement, the Express Terms of the proposed regulations, or other information upon which the proposed rulemaking is based, please visit the Energy Commission’s website at: <http://www.energy.ca.gov/portfolio/documents/index.html>, or contact the Energy Commission’s Docket Office or designated contact persons at the addresses noted below.

Fiscal Impacts

Cost to any Local Agency or School District Requiring Reimbursement Pursuant to Government Code 17500 et seq.

If adopted, the proposed regulations would impose a mandate on local agencies. Pursuant to Government Code section 17556(d), the costs would not be required to be reimbursed because the local agencies have the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. Public Utilities Code sections 10001, et seq., 11501, et seq., and 15501 et seq., and Water Code section 20500, et seq. provide revenue sources for the affected POU’s to recoup any costs incurred through compliance with these proposed regulations.

Costs or Saving for State Agencies

Implementation of the proposed regulations would result in minor costs to one state agency — the California Energy Commission. It is estimated that implementation of these regulations would cost the Energy Commission approximately \$376,000 per year. This cost is incurred mainly in reviewing POU filings and annual reports, verifying POU compliance with the RPS requirements, issuing determinations of non-compliance, and referring violations to the California Air Resources Board. The proposed regulations could impose costs to local agencies in the amount of up to \$2,176,058 annually. Pursuant to Government Code section 17500 et seq. these costs would not be required to be reimbursed.

Other Non-Discretionary Costs or Savings on Local Agencies

Implementation of the proposed regulations would not result in other non-discretionary costs or savings on local agencies.

Costs or Savings in Federal Funding to the State

Implementation of the proposed regulations would not result in any costs or savings in federal funding.

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

The Energy Commission has made an initial determination that there will be no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination also applies to small businesses, which, as defined in Government Code section 11342.610, are limited to business activities that are “independently owned and operated” and “not dominant in its field of operation.”(Govt. Code, § 11342.610, subd. (a)(1) and (2).)

¹¹ <http://delaps1.cpuc.ca.gov/CPUCProceedingLookup/f?p=401:37:1037584482664301::NO>.

The Energy Commission is unaware of any legitimate cause and effect relationship between the proposed regulations and a significant statewide adverse economic impact directly affecting businesses. No business, including a small business, is legally required to comply with or enforce the proposed regulations. Nor will any business derive a direct benefit or detriment from the implementation of the proposed regulations. The proposed regulations would apply to a POU, which is a local agency and not an independently owned and operated business.

Cost Impact on Representative Person or Business

The Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations. The proposed regulations would not directly apply to private individuals or businesses. The proposed regulations would apply only to POUs, which are local agencies and not independently owned and operated businesses. The proposed regulations would require the governing boards of POUs to take certain actions to implement the RPS, as specified in statute, and to report various information to the Energy Commission on the POU’s implementation efforts, including procurement contracts for eligible renewable energy resources, expenditures of funds for eligible renewable energy resources, the resource mix used to serve its customers, and the POU’s status and progress in implementing the RPS, so the Energy Commission can verify and determine the POU’s compliance with the RPS.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

Impacts to Jobs and Business

New Jobs and Businesses

The proposed regulations are not expected to directly create a significant number of new jobs or businesses. The proposed regulations may result in some of the POUs having to hire new full or part time employees in order to satisfy the various information and reporting requirements included in the proposed regulations. In addition, the proposed regulations may result in the creation of new consulting businesses that are developed to help POUs comply with the information and reporting requirements included in the proposed regulations. The Energy Commission does not expect jobs or businesses to be eliminated as a result of the proposed regulations.

Expansion of Existing Businesses

The proposed regulations are not expected to directly result in the expansion of existing businesses. However, if existing consulting businesses currently provide ser-

vices to POUs for compliance reporting, such businesses may need to hire new staff to help with any increased POU reporting requirements as a result of the proposed regulations.

Benefits of the Regulation

Health and Welfare of California Residents, Worker Safety, or the Environment

The proposed regulations are not expected to directly impact the health and welfare of California residents, worker safety, or the state’s environment. However, the proposed regulations may have an indirect effect on the state’s environment if the proposed regulations result in a more consistent application of the state’s RPS with respect to POUs, and in turn help facilitate the underlying goals of the RPS, including reducing air pollution associated with fossil fuel-based electrical generation and helping to meet the state’s climate change goals by reducing greenhouse gas emissions associated with electrical generation.

Business Reporting

The proposed regulations will not require businesses, including small businesses, to submit any new reports. However, the proposed regulation will require POUs, which are local agencies, to prepare and submit annual and periodic reports to the Energy Commission for purposes of verifying and determining compliance with the RPS requirements.

Small Business

The Energy Commission has determined that the proposed regulations will not negatively impact small businesses. The proposed regulations apply only to POUs, which are local agencies and not independently owned and operated small businesses. No small business is legally required to comply with or enforce the proposed regulations. Nor will any small business derive a direct benefit or detriment from the implementation of the proposed regulations.

Effect on Housing Costs

The Energy Commission has determined, based on the nature of the proposed regulations, that the proposed regulations will have no significant effect on housing costs.

Consideration of Alternatives

In accordance with Government Code section 11346.5, subdivision (a)(13), the Energy Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Energy 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. The Energy

Commission is not aware of any alternatives that would be as effective as and less burdensome than the proposed regulations. The proposed regulations are not expected to have any effect on private persons.

The Energy Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

Designated Contact Persons

For general information about the proceeding, contact:

Angela Gould
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS-45
Sacramento, California 95814-5512
(916) 654-488
angela.gould@energy.ca.gov

The designated backup for general information about the proceeding is:

Emily Chisholm
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS-45
Sacramento, California 95814-5512
(916) 654-4006
emily.chisholm@energy.ca.gov

For legal questions about this proceeding, contact:

Gabriel Herrera
Staff Counsel
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, California 95814-5512
(916) 654-5141
gabe.herrera@energy.ca.gov

For documents related to the proceeding, go to: <http://www.energy.ca.gov/portfolio/documents/index.html>, or contact

Docket Office
Docket No. 13-RPS-01
California Energy Commission
1516 Ninth Street, MS-4
Sacramento, California 95814-5504
(916) 654-5076
docket@energy.ca.gov

Public Advisor

The Energy Commission's Public Advisor's Office provides public assistance in participating in Energy Commission proceedings. If you would like information on how to participate in this proceeding, please

contact the Public Adviser's Office at (916) 654-4489 or toll-free in California at (800) 822-6228, or by email at PublicAdviser@energy.ca.gov.

Media Inquiries

Media inquiries should be sent to the Media and Public Communications Office, at (916) 654-4989 or mediaoffice@energy.ca.gov.

Availability of Modified Amendments (15-Day Language)

At the May 8, 2013, adoption hearing, the Energy Commission may adopt the proposed regulations as described in this NOPA. If substantial, sufficiently-related modifications are made to the original 45-day language Express Terms, the modified text with changes in underline/strikeout will be made available to the public for at least 15 days before the Energy Commission adopts the final version of the regulations.

A notice of availability of the modified text of the proposed regulations will be placed on the Energy Commission's website. The "15-day language" text will also be mailed and sent by e-mail to all persons who submitted comments with contact information during the public comment period or at a hearing, and all persons who requested to receive notices regarding the proposed regulations. In addition, copies of the modified text of the proposed regulations may be requested from the Docket Office. Adoption of the 15-day language will be considered at a public hearing scheduled in the notice of availability.

The proposed regulations could be substantively modified as a result of public comment, staff recommendation, or recommendations from Commissioners. In addition, modifications to the proposed regulations could be considered if the modifications improve the clarity or effectiveness of the regulations.

Final Statement of Reasons

The Energy Commission will prepare a final statement of reasons to support the final version of the proposed regulations. The final statement of reasons will also contain summaries and responses to relevant public comments received by the Energy Commission during the comment period.

The final statement of reasons will be posted on the Energy Commission's website at: <http://www.energy.ca.gov/portfolio/documents/index.html>.

Hard copies of the final statement of reasons may be also be obtained by the Docket Office.

Internet Access

The Energy Commission maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the Energy Commission for this rulemaking, including this Notice of Proposed Action, the Express Terms, the initial statement of reasons, and the

economic and fiscal impact statements, and many other documents in the rulemaking file, have been posted at: <http://www.energy.ca.gov/portfolio/documents/index.html>.

GENERAL PUBLIC INTEREST

CALIFORNIA FISH AND GAME COMMISSION

NOTICE OF FINDINGS

White Shark
(*Carcharodon carcharias*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its February 6, 2013, meeting in Sacramento, California, accepted for consideration the petition submitted to list the Northeastern Pacific Ocean population of white shark as a threatened or endangered species. Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Wildlife shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the February 6, 2013, Commission meeting, are on file and available for public review from Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

WITHDRAWAL OF NOTICE OF INTENT TO LIST STYRENE BY THE LABOR CODE MECHANISM

March 1, 2013

[NOTE: This notice was posted on the OEHHA web site on February 15, 2013]

On January 4, 2013, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) issued a Notice of Intent to List styrene as a chemical known to the State to cause cancer via the Labor Code mechanism contained in Health and Safety Code section 25249.8(a). OEHHA is withdrawing the Notice at this time.

SUSPENSION OF ACTION REGARDING UNDERGROUND REGULATIONS

**OFFICE OF ADMINISTRATIVE LAW
SUSPENSION OF ACTION REGARDING
UNDERGROUND REGULATIONS
(Pursuant to Title 1, section 280, of the California Code of Regulations)**

CTU2012-1022-01

On October 21, 2012, the Office of Administrative Law (OAL) received a petition challenging as an underground regulation a memorandum issued by the California Department of Corrections and Rehabilitation, dated April 19, 2005, titled "Priority Endorsements for Camp Placement."

On February 14, 2013, OAL received a certification from the California Department of Corrections and Rehabilitation that it would not issue, use, enforce or attempt to enforce the rule expressed in the memorandum. Pursuant to Title 1, section 280 of the California Code of Regulations, therefore, OAL must suspend all action on this petition.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION

February 14, 2013
Debra M. Cornez, Director
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Dear Ms. Cornez:

This letter is in response to a Petition for Determination recently received by your office on October 22, 2012. The petition was dated October 16, 2012 authored by Bismark Martinez and challenges a policy put forth in various memoranda excluding Cuban, Vietnamese, Cambodian, and Laotian inmates from participation in the California Department of Corrections and Rehabilitation's (CDCR) fire camp program.

CDCR has reviewed the relevant memoranda and California Code of Regulations (CCR), Title 15, Division 3, Section 3375.2(a)(4), as well as obtained information from the United States Immigration and Customs Enforcement regarding deportation operations. As a result, CDCR will no longer enforce the exclusion of Cuban, Vietnamese, Cambodian, and Laotian inmates; and henceforth determine fire camp eligibility utilizing the same criteria being used with all other foreign-born CDCR inmates.

I make this certification in accordance with Section 280 of Title 1, CCR. A copy of this certification has been sent to Mr. Martinez as required by Section 280(a) of Title 1, CCR.

If you have any questions or concerns, please contact Daniel Cueva, Special Assistant to the Undersecretary, at 916-323-4548, or Tim Lockwood, Chief, Regulation and Policy Management Branch (RPMB), at 916-445-2212.

Sincerely,

/s/
TERRIMCDONALD
Undersecretary, Operations
California Department of Corrections and
Rehabilitation

Enclosures

cc: Jeffrey A. Beard, PhD, Secretary, California
Department of Corrections and Rehabilitation
Tim Lockwood, Chief, Regulation and Policy
Management Branch

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# 2013-0108-01
BOARD OF OCCUPATIONAL THERAPY
Supervision Regulations

This rulemaking by the California Board of Occupational Therapy makes substantive changes to Title 16 of the California Code of Regulations, by adopting section 4187 and amending section 4184, with regard to occupational therapy assistants serving in administrative positions and making a non-substantive change to the title of Article 9.

Title 16
California Code of Regulations
ADOPT: 4187 AMEND: 4184
Filed 02/13/2013
Effective 04/01/2013
Agency Contact: Heather Martin (916) 263-2294

File# 2013-0102-03
DEPARTMENT OF GENERAL SERVICES
Disabled Veteran Business Enterprise Certification and
Participation

This rulemaking by the Department of General Services (DGS) adopts, amends and repeals several sections in the California Code of Regulations, Title 2, Division 2, Chapter 3, Subchapter 10.5, Sections 1896.60-1896.99.120, as applicable, known as the Disabled Veteran Business Enterprise (DVBE) Participation regulations. Modifications to these sections are necessary to be in compliance with chaptered legislation including:

" AB 669 (2003)
" SB 1008 (2003)
" AB 4X 21 (2009)
" SB 548 (2009)
" AB 177 (2010)
" AB 2249 (2010)

Legislation chaptered in years 2003 through 2010 requires the addition or deletion of regulatory content. This revision restructures and rennumbers the regulations. The revisions are necessary since code references, terms, and definitions have become obsolete. These regulations provide direction for state departments, stakeholders and the public in understanding program requirements.

Title 2
 California Code of Regulations
 ADOPT: 1896.71, 1896.76, 1896.77, 1896.78, 1896.81, 1896.82, 1896.83, 1896.84, 1896.88, 1896.91, 1896.92, 1896.95, 1896.96, 1896.97
 AMEND: 1896.60, 1896.61, 1896.62, 1896.70, 1896.72, 1896.73, 1896.74, 1896.75, 1896.80, 1896.90, 1896.99.100, 1896.99.120 REPEAL: 1896.63, 1896.64, 1896.85, 1896.98
 Filed 02/14/2013
 Effective 04/01/2013
 Agency Contact: Diana T. Alfaro (916) 375-4919

File# 2013-0107-02
 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 Mobilehome/Special Occupancy Parks and Manufactured Housing Program

This regulatory action amends definitions, revises references in some instances from the CA Building Code to the CA Residential Code, adds extension procedures for some permits, clarifies resident and park management responsibilities within parks, clarifies plan approvals by local government, and revises or removes outdated references for the alteration, addition or conversion of a mobile/manufactured home.

Title 25
 California Code of Regulations
 ADOPT: 1142, 1336.4, 2142, 4041.5 AMEND: 1002, 1018, 1020.9, 1034, 1038, 1048, 1102, 1180, 1317, 1320, 1333, 1335.5, 1336.2, 1422, 1438, 1462, 1606, 1750, 2002, 2018, 2020.9, 2034, 2038, 2048, 2102, 2112, 2317, 2327, 2328, 2422, 2438, 2496, 2750, 4011, 4040, 4050
 Filed 02/19/2013
 Effective 04/01/2013
 Agency Contact: Ruth Ibarra (916) 327-2796

File# 2013-0208-02
 DEPARTMENT OF PUBLIC HEALTH
 Cardiac Catheterization Laboratory

This emergency rulemaking by the California Department of Public Health (DPH) adopts new section

70438.2 in title 22 of the California Code of Regulations relating to cardiac catheterization laboratory services. In adopting new section 70438.2, DPH is implementing California Health and Safety Code section 1255 as amended by Statutes 2012, chapter 772 (A.B. 491).

Title 22
 California Code of Regulations
 ADOPT: 70438.2
 Filed 02/19/2013
 Effective 02/28/2013
 Agency Contact: Linda M. Cortez (916) 440-7807

File# 2013-0104-01
 FISH AND GAME COMMISSION
 Recreational Groundfish Regulations for 2013-2014

This regulatory action by the Fish and Game Commission amends regulations pertaining to recreational groundfish fishing, including modifications to season lengths, depth restrictions, size limits, bag limits, and retention allowances. The changes align state and federal groundfish regulations for the 2013-2014 fishery management cycle.

Title 14
 California Code of Regulations
 AMEND: 27.25, 27.30, 27.35, 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.49, 28.54, 28.55, 28.56, 28.58
 Filed 02/14/2013
 Effective 03/01/2013
 Agency Contact: Sherrie Fonbuena (916) 654-9866

File# 2013-0104-02
 NATURAL RESOURCES AGENCY
 The California Environmental Quality Act — Infill Streamlining

This regulatory action establishes a process for documenting and applying the streamlining of CEQA review for qualifying infill projects pursuant to SB 226 (Chapter 469, Statutes of 2011). It provides for when and to what extent environmental review is required for this process. As directed by SB 226, this action also establishes performance standards compliance with which is required for a project to be eligible for infill streamlining.

Title 14
 California Code of Regulations
 ADOPT: 15183.3, Appendix M, Appendix N
 Filed 02/14/2013
 Effective 02/14/2013
 Agency Contact: Heather Baugh (916) 653-8152

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN September 26, 2012 TO
February 20, 2013**

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

02/14/13 ADOPT: 1896.71, 1896.76, 1896.77, 1896.78, 1896.81, 1896.82, 1896.83, 1896.84, 1896.88, 1896.91, 1896.92, 1896.95, 1896.96, 1896.97 AMEND: 1896.60, 1896.61, 1896.62, 1896.70, 1896.72, 1896.73, 1896.74, 1896.75, 1896.80, 1896.90, 1896.99.100, 1896.99.120 REPEAL: 1896.63, 1896.64, 1896.85, 1896.98

01/31/13 AMEND: 649.28

01/09/13 ADOPT: 18756

01/08/13 AMEND: 18723, 18730

01/07/13 AMEND: 18545, 18703.4, 18940.2

01/07/13 AMEND: 18705.5

01/02/13 AMEND: 22500, 22501, 22502, 22503, 22505, 22506, 22508, 22509 REPEAL: 22504, 22507, 22510, 22511, 22512, 22513, 22514, 22515, 22516, 22517, 22518, 22519

12/31/12 ADOPT: 1859.97 AMEND: 1859.2, 1859.90.2

12/28/12 AMEND: 18410, 18425, 18435, 18465.1, 18550 REPEAL: 18539

12/27/12 AMEND: 649.7

12/26/12 ADOPT: 7294.0, 7294.2 AMEND: 7293.5, 7293.6, 7293.7, 7293.8, 7293.9, 7294.0 (renumbered to 7294.1), 7294.1(renumbered to 7294.3), 7294.2 (renumbered to 7294.4)

12/24/12 REPEAL: 60020, 60025, 60030, 60040, 60045, 60050, 60055, 60100, 60110, 60200

12/11/12 AMEND: 649.15

12/06/12 AMEND: 1859.2, 1859.90.2

11/30/12 ADOPT: 7291.4, 7291.7, 7291.14, 7291.18 AMEND: 7291.2, 7291.3, 7291.4 and renumber 7291.5, 7291.5 and

renumber 7291.6, 7291.6 and renumber 7291.8, 7291.7 and renumber 7291.9, 7291.9 and renumber 7291.10, 7291.10 and renumber 7291.17, 7291.11, 7291.12, 7291.13, 7291.15, 7291.16 REPEAL: 7291.8, 7291.14

11/29/12 ADOPT: 558.1

11/28/12 AMEND: 54100

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

11/08/12 AMEND: 18723

11/06/12 REPEAL: 56600

11/06/12 REPEAL: 52000

11/06/12 REPEAL: 52300

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

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

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

10/18/12 AMEND: 1575

10/18/12 ADOPT: 577, 578

10/17/12 AMEND: 20804

10/03/12 ADOPT: 18730.1

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

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

Title 4

02/11/13 AMEND: 10325

02/11/13 AMEND: 8072

02/07/13 ADOPT: 7100, 7101, 7102, 7103, 7104, 7105, 7106, 7107, 7108, 7109, 7110, 7111, 7112

02/04/13 AMEND: 8070, 8071, 8072, 8078, 8078.2

01/28/13 ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060

01/24/13 ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580

01/08/13 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133

12/21/12 ADOPT: 5342, 5343, 5344, 5345, 5346, 5347, 5348

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

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

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

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10/30/12 AMEND: 5000, 5052
 10/29/12 ADOPT: 10050, 10051, 10052, 10053,
 10054, 10055, 10056, 10057, 10058,
 10059, 10060
 10/17/12 AMEND: 1656
 10/16/12 ADOPT: 1581.2
 10/10/12 AMEND: 1867
 09/27/12 AMEND: 5000, 5170, 5200, 5230, 5370,
 5500, 5540

Title 5

02/12/13 AMEND: 19816, 19816.1, 19839
 02/11/13 AMEND: 40405.1, 40405.4, 40500,
 40501, 40505, 40506, 40507, 40508
 02/07/13 ADOPT: 40203
 02/07/13 ADOPT: 42740
 02/06/13 ADOPT: 9517.3
 01/17/13 ADOPT: 80053.1 AMEND: 80024.6,
 80053
 01/14/13 ADOPT: 80048.3.2 AMEND: 80048.3.1
 12/27/12 AMEND: 58108
 12/27/12 AMEND: 55000, 55023, 55040, 55041,
 55043, 58161, 58162, 58166 REPEAL:
 55030
 12/24/12 ADOPT: 18224.6, 18227, 18227.1
 AMEND: 18078, 18409, 18411, 18424,
 18426
 12/18/12 AMEND: 76120
 12/13/12 AMEND: 40601
 11/01/12 AMEND: 18407, 18422
 10/31/12 ADOPT: 620, 621, 622, 623, 624, 625,
 626, 627
 09/27/12 ADOPT: 620, 621, 622, 623, 624, 625,
 626, 627
 09/27/12 AMEND: 3000, 3010, 3021, 3021.1,
 3022, 3023, 3024, 3025, 3027, 3028,
 3042, 3051.4, 3051.75, 3051.8, 3051.9,
 3051.12, 3051.13, 3051.17, 3051.18,
 3052, 3053, 3062, 3063, 3064, 3066,
 3067, 3069, 3080, 3082, 3083, 3084,
 3085, 3086, 3087, 3088, 3088.1, 3088.2,
 3089, 3090, 3091, 3092, 3093, 3094,
 3096, 3096.1, 3096.2, 3097, 3098,
 3098.1, 3098.2, 3099, 3100

Title 8

01/28/13 ADOPT: 4993.1 AMEND: 1610.3,
 1616.3, 4885, 4999, 5001
 01/24/13 AMEND: 3210, 3900
 12/31/12 ADOPT: 10206, 10206.1, 10206.2,
 10206.3, 10206.4, 10206.5, 10206.14,
 10206.15, 10207, 10208 AMEND:
 10205, 10205.12
 12/31/12 ADOPT: 15209 AMEND: 15201, 15210,
 15210.1, 15475, 15477, 15481, 15484,
 15496, 15497

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

Title 9

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

Title 10

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

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11/19/12	AMEND: 2698.401	11/06/12	ADOPT: 1052.5 AMEND: 895, 916.9, 1052, 1052.1, 1052.2
11/13/12	AMEND: 2498.4.9	11/02/12	AMEND: 163, 164
Title 11		10/29/12	AMEND: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11, 18660.12, 18660.13, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.30, 18660.31, 18660.32, 18660.33, 18660.34, 18660.35, 18660.36, 18660.37, 18660.38, 18660.39, 18660.41, 18660.43
12/12/12	AMEND: 1081	10/18/12	ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8
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