A. PUBLICATION OF NOTICE  (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE

2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE
   - Notice of Proposed
   - Regulatory Action
   - Other

4. AGENCY CONTACT PERSON
   - TELEPHONE NUMBER
   - FAX NUMBER (Optional)

OAL USE ONLY
- ACTION ON PROPOSED NOTICE
  - Approved as Submitted
  - Approved as Modified
  - Disapproved/Withdrawn

NOTICE-REGISTER NUMBER

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)

Section 100 Disclosure of Public Records

2. SPECIFY CALIFORNIA CODES OF REGULATIONS TITLE(S) AND SECTIONS (Including title 26, if toxics related)

SECTION(S) AFFECTED
(List all section number(s) individually. Attach additional sheet if needed.)

TITLE(S)

17

3. TYPE OF FILING
   - Regular Rulemaking (Gov. Code §11346)
   - Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11346.2-11347.3)
   - Emergency (Gov. Code, §11346.1(b))

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44, and Gov. Code §11347.1)

N/A

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§11343.9, 11346.1(b); Cal. Code Regs., title 1, §1101):
   - Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
   - Effective on filing with Secretary of State

$100 Changes Without Regulatory Effect

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
   - Department of Finance (Form STD. 399) (SAM §6650)
   - Fair Political Practices Commission
   - State Fire Marshal

Other (Specify) N/A

7. CONTACT PERSON
   - Trini Balcazar, Regulations Coordinator
   - TELEPHONE NUMBER (916) 445-9564
   - FAX NUMBER (916) 322-3928
   - E-MAIL ADDRESS (Optional)
tbalcazar@arb.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE 5/28/13

Typed Name and Title Designee Richard W. Corey, Executive Officer
ATTACHMENT 1

SECTION 100
REGULATION ORDER

DISCLOSURE OF PUBLIC RECORDS

The preexisting regulation text is set forth below in normal type. The amendments are shown in underline to indicate additions and strikeout to indicate deletions. The symbol "*** ***" means that intervening text not being amended is not shown.

Amend subchapter 4, section 91022(e), title 17, California Code of Regulations, to read as follows:

Article 3. Inspection of Public Records

§ 91022. Disclosure of Confidential Data.

* * * * *

(e) The state board shall, within ten (10) days of the date it sought to disclose the data or received the request for disclosure, or within 20 days of that date if the state board determines that there are unusual circumstances as defined in Government Code Section 6254.6 6253, review the request, if any, and supporting documentation, if received within the time limits specified in subsection (b) above, including any extension granted, and determine whether the data is entitled to confidential treatment pursuant to Government Code Section 6254, 6255 or 6254.7 or other applicable provisions of law and shall either:

(1) decline to disclose the data and, if a request was received, provide to the person making the request and to the person claiming the data is confidential a justification for the determination pursuant to Government Code Section 6255; or

(2) provide written notice to the person claiming the data is confidential and, if a request was received, to the person requesting the data that it has determined that the data is subject to disclosure, that it proposes to disclose the data, and that the data shall be released 21 days after receipt of the notice by the person claiming confidentiality, unless the state board is restrained from so doing by a court of competent jurisdiction. The state board shall release the data in accordance with the terms of the notice unless so restrained.

(f) Should judicial review be sought of a determination issued in accordance with subsection (e), either the person requesting data or the person claiming confidentiality, as appropriate, may be made a party to the litigation to justify the determination.

In unusual circumstances, as specified in this section, the time limit prescribed in Section 6256 may be extended by written notice by the head of the agency to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than 10 working days.

As used in this section "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
Government Code Section 6253

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, “unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.