

May 23, 2014

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS OF SCHOOLS, CHARTER SCHOOLS, AND OTHER INTERESTED PARTIES

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND  
REGULATION SECTIONS 1859.90.2, 1859.90.3,  
1859.193, AND 1859.197,  
TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO  
LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced Regulation Sections, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Section 17070.35 of the Education Code. The existing Regulation sections noted above operate under the authority of 17078.72(k), and 17078.72(l) of the Education Code, and makes specific reference Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42, 17077.45, 17078.72, and 17250.30 of the Education Code, and Section 1771.3 of the Labor Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The SAB, at its March 26, 2014 meeting, adopted proposed regulatory amendments to the SFP Regulations that require certain programs administered under the SFP to participate in the Priority Funding process. They are as follows:

- Overcrowding Relief Grant (ORG) Program,
- Career Technical Education Facilities Program (CTEFP), and
- Charter School Facilities Program (CSFP) [excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment].

The projects associated with these programs are subject to the non-participating regulations outlined in SFP Regulation Section 1859.90.3, which provide if any of these projects receive two occurrences of non-participation, the bond authority associated with the project will be rescinded and returned to the specific program.

In addition to participating in the Priority Funding process, CTEFP projects must obtain and submit to the OPSC California Department of Education (CDE) plan approvals as well as Division of the State Architect-approved plans and specifications within 12 months from the date of a Priority Funding apportionment. As noted above, CTEFP projects are subject to the non-participating regulations, which means if any of these projects receive two occurrences of non-participation, the bond authority associated with the project will be rescinded and returned to the CTEFP. If the required submittal(s) is not received within 12 months, the apportionment will be rescinded without further SAB action and the CTEFP bond authority associated with the project(s) will return to the program for reallocation, which is an existing program requirement.

This helps to carry out the Legislative and voter intent that the school bonds build and modernize California classrooms, create jobs in construction-related trades and industries, and stimulate the State's economy. This is in direct alignment with the Governor's directive.

#### *Bond Funds Impacted*

- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47),
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55),
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)

Attached to this Notice is the specific regulatory language of the proposed regulatory action. You may also review the proposed regulatory language on the OPSC Web site at [www.dgs.ca.gov/opsc](http://www.dgs.ca.gov/opsc). Copies of the amended regulatory text will be mailed to any person requesting this information by using the OPSC contact information set forth below. The proposed regulations amend the SFP Regulations under the CCR, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

#### *Background and Problem Being Resolved*

The proposed regulatory amendments resolve the problem of bond authority being tied up in school district construction projects that have ceased moving forward for reasons such as declining enrollment, lack of funds for the local matching share, or other reasons. There is currently no incentive for school districts to voluntarily withdraw their projects from the Unfunded List (Lack of AB 55 Loans) because school district inaction keeps a project's place in line on this List. Therefore, school districts with approved projects could tie up bond authority indefinitely. The proposed regulatory amendments meet the need for a fair mechanism to reallocate the remaining bond authority to school districts ready to move their projects forward to construction.

#### *Legislative History*

Assembly Bill (AB) 16. The proposed regulatory amendments help to apportion school construction projects under AB 16, Chapter 33, Statutes of 2002 (Hertzberg), for CSFP projects because this is the statute which established the CSFP as a pilot program to determine the optimum method for providing school facilities funding for charter schools under the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004 (Propositions 47 and 55). The following funding amounts were established under Propositions 47 and 55, respectively:

- \$100 million, and
- \$300 million

AB 127. The proposed regulatory amendments will help to apportion school construction projects under AB 127, Chapter 35, Statutes of 2006 (Perata/Nunez). AB 127 continued to provide funding for the CSFP and provided new bond funding to relieve severely overcrowded public school sites (ORG Program), and to enhance educational opportunities for pupils in existing high schools in order to provide them with the skills and knowledge necessary for the high-demand technical careers (CTEFP). The following funding amounts were established under Proposition 1D for the CSFP, ORG and CTEFP, respectively:

- \$500 million
- \$1 billion, and
- \$500 million

### History of the Priority Funding Rounds

The Priority Funding Process re-prioritizes SFP apportionments for school construction projects that are “construction-ready,” meaning capable of submitting fund release requests within a short period of time (90 days) following approval of an apportionment by the SAB. Applicants must certify that their projects are construction-ready prior to receiving State bond funds. The purpose is to provide available State bond proceeds to the construction projects that can most readily commence construction, thereby helping to create jobs and stimulate the economy, which is in direct alignment with the Governor’s directive.

There have been eight very successful Priority Funding rounds:

1. The first Priority Funding round was established by the SAB through emergency regulations at its May 26, 2010 meeting, and allowed the SAB to fund **\$408.14 million** for 78 construction-ready school construction projects at its August 4, 2010 meeting. [There were 14 ORG applications that received bond proceeds through the Priority Funding process.]
2. The second Priority Funding round resulted in the SAB approving 488 project apportionments from December 2010 through February 2011, totaling **\$1.630 billion**. [There were 26 ORG projects and two CSFP projects that received bond proceeds through the Priority Funding process.]
3. The third Priority Funding round resulted in the SAB approving, at its December 2011 meeting, **\$923.8 million** in State apportionments to 154 school districts representing 377 construction-ready school construction projects. [There were six ORG projects, two CSFP projects, and 26 CTEFP projects that received bond proceeds through the Priority Funding process.]
4. The fourth Priority Funding round resulted in the SAB approving, at its June 2012 meeting, **\$637.6 million** in State apportionments representing 198 construction-ready projects. [There were 25 ORG projects, one CSFP project, and 13 CTEFP projects that received bond proceeds through the Priority Funding process.]
5. The fifth Priority Funding round resulted in the SAB approving, at its December 2012 meeting, **\$383.8 million** in State apportionments representing 196 construction-ready projects. [There were ten ORG projects and 11 CTEFP projects that received bond proceeds through the Priority Funding process.]
6. The sixth Priority Funding round resulted in the SAB approving, at its May 2013 meeting, **\$519.9 million** in State apportionments representing 231 construction-ready projects. [There were four ORG projects, two CTEFP projects, and six CSFP advance site/design projects that received bond proceeds through the Priority Funding process.]

7. The seventh Priority Funding round resulted in the SAB approving, at its October 2013 meeting, **\$285.0 million** in State apportionments representing 112 construction-ready projects. [There were 16 ORG projects, seven CTEFP projects, and ten CSFP advance site/design projects that received bond proceeds through the Priority Funding process.]

As of April 1, 2014, for the above-noted programs, there is \$241.8 million of bond authority reserved for a total of 78 projects on the Unfunded List (Lack of AB 55 Loans). These were previously approved by the SAB without apportionments. On April 7, 2014, the SAB held a meeting that provided Priority Funding apportionments, in the amount of **\$372.2 million**, to projects on the Unfunded List (Lack of AB 55 Loans). Of these 78 projects, 25 of the above-noted program projects received Priority Funding apportionments representing roughly \$97.0 million.

The State has relied upon the SFP as a means to provide an economic stimulus to construction-related trades and businesses while meeting the classroom needs of the K-12 student population. There has been \$5.16 billion apportioned by the SAB through the Priority Funding process for school construction projects from August 2010 through April 2014 for these vital purposes. However, without these regulatory amendments, the SAB would not have a mechanism to rescind the bond authority tied up in a growing number of projects for these affected programs under the SFP.

#### Anticipated Benefits of the Proposed Regulations

The proposed regulations promote fairness and assists in the State's general welfare by helping to reallocate school bond authority from school construction projects that are not participating in or not requesting State apportionments through the Priority Funding process, and reallocating that bond authority to other projects to carry out the Legislative intent of AB 16, AB 127, and Propositions 47 (2002), 55 (2004), and 1D (2006).

The proposed regulatory amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of these regulatory amendments will have a positive impact on public health and safety at public K-12 schools by allowing construction-ready projects to move forward toward construction or reallocating school bond authority from construction projects that have not met the requirements of the Priority Funding process.

Reallocating the bond authority to SFP projects that are ready to move forward toward construction will benefit construction-related trades and businesses, stimulate the State's economy, and relieve school pupil housing needs for classrooms. The dollars associated with these regulatory amendments will also benefit the school district communities by stimulating the local economies.

#### Summary of the proposed regulatory amendments are as follows:

Existing Regulation Section 1859.90.2 sets forth the Priority Funding Process and allows the SAB to establish 30-calendar day request filing periods for school districts to request apportionments of available school bond funds. It includes projects under the CSFP that may apply for advance release of design funds from a Preliminary Charter School Apportionment and projects under the Critically Overcrowded School Facilities Program that may apply for advance release of environmental hardship site acquisition funds. These applicants must provide a written statement signed by the authorized district representative within the 30-calendar day filing period that acknowledges specific requirements for participation and funding. Applicants must also submit the Form SAB 50-05, with an original signature, to be received by the OPSC within 90-calendar days of the SAB's approval of the apportionment. Additionally, projects under the CSFP may apply for advance release of site acquisition funds from a Preliminary Charter School Apportionment. These

projects are subject to a timeline of 180 calendar days to file Form SAB 50-05, with the specific requirement to provide a written statement signed by an authorized representative within the 30-calendar day filing period that acknowledges specific requirements for participation and funding. Participants meeting the priority funding process requirements but for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Participants failing to meet required criteria have their apportionment or approved advance release of funds returned to unfunded approval status with a specified unfunded approval date.

The proposed regulatory amendments to Regulation Section 1859.90.2(a)(2) clarify that the process for CTEFP projects will be explained later in this Section because the mechanics of this particular Program works differently compared to other programs under the SFP. Subsections (a)(5)(A) and (a)(5)(B) set forth the specific mechanics of the process by which CTEFP projects shall follow when participating in the Priority Funding process. This will ensure that the process is applied consistently and fairly to all CTEFP applicants while ensuring integrity for the Priority Funding process. Since the Priority Funding process is the primary manner by which all SFP administered programs are funded, process integrity must be maintained. There are minor grammatical changes throughout this Section that are considered non-substantive changes.

Existing Regulation Section 1859.90.3 applies to new construction, modernization, facility hardship pursuant to Section 1859.82 and rehabilitation pursuant to Section 1859.83(e). This Section provides for the rescission of an Apportionment and/or unfunded approval for SFP projects on the Unfunded List (Lack of AB 55 Loans) that twice choose not to participate in or not to request State apportionments through the Priority Funding process. Two ways are specified for a district to choose not to participate or not to request is apportionment:

- Not participating in the 30-calendar day filing period for the Priority Funding process, or
- Participating in the process and receiving an Apportionment but failing to submit a valid Form SAB 50-05 to request the release of funds.

The first occurrence of abstaining from participating in the 30-calendar day request filing period allows a project to keep its place on the Unfunded List (Lack of AB 55 Loans). The first occurrence of receiving a Priority Funding Apportionment but failing to submit a valid Form SAB 50-05 to request the release of funds would result in rescission of the Apportionment and the application returns to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 days from the date of Apportionment.

A subsequent occurrence of abstaining from participating in the 30-calendar day request filing period for the priority funding process or receiving a Priority Funding Apportionment but failing to submit a valid Form SAB 50-05 to request the release of funds shall mean that:

- the application is removed from the Unfunded List (Lack of AB 55 Loans) without further Board action,
- the bond authority associated with the Apportionment and/or unfunded approval returns to the appropriate SFP bond authority source for reallocation,
- the application is returned to the applicant, and
- the pupils assigned to the project would be added back to the district's baseline eligibility for new construction or modernization, if applicable.

The proposed regulatory amendments remove language that is no longer applicable and include the following programs under the SFP that must participate in the Priority Funding Process:

- ORG
- CTEFP

- CSFP (excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment).

The proposed regulatory amendments in subsection (a) specify an effective date of when these proposed amendments would affect the projects under their respective programs (i.e., ORG, CTEFP, and CSFP [excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment]). There are minor grammatical changes throughout this Section that are considered non-substantive changes.

Existing Regulation Section 1859.193 specifies that CTEFP projects may be allowed to construct a new facility or modernize or Reconfigure an existing facility. Grant determinations shall not exceed \$3 million for new construction projects or \$1.5 million for modernization/reconfiguration projects. An additional grant for the HP BIG may be added to the CTEFP grant determination regardless of the \$3 million or \$1.5 million per-project maximum CTEFP amounts. The proposed regulatory amendments are minor grammatical changes and are considered non-substantive changes.

Existing Regulation Section 1859.197 sets forth the criteria for CTEFP fund releases. The proposed regulatory amendments in subsections (c), (c)(1) and (c)(2) set forth the required approvals and timeline by which CTEFP projects must submit for purposes of the Priority Funding process. This ensures integrity is maintained for the Priority Funding process. The proposed amendments also specify the resulting impact to CTEFP projects should the required approvals and timeline not be met. This is an existing program requirement. There are minor grammatical changes and corrected lettering for subsections throughout this Section that are considered non-substantive changes.

#### *Determination of Inconsistency or Incompatibility with Existing State Regulations:*

The proposed regulatory amendments resolve the problem of bond authority being tied up in school district construction projects that have ceased moving forward. There is currently no incentive for school districts to voluntarily withdraw their projects from the Unfunded List (Lack of AB 55 Loans) because school district inaction keeps a project's place in line on this List. Therefore, school districts with approved projects could tie up bond authority indefinitely. The proposed regulatory amendments meet the need for a fair mechanism to reallocate the remaining bond authority to school districts ready to move their projects forward to construction.

The State's economy will be stimulated because school districts receiving State apportionments based on these additional SAB programs participating in the Priority Funding process will award their construction contracts. Such construction projects will create and maintain professional and trades jobs such as architects, engineers, surveyors, planners, equipment operators, installers of all types of building materials, framers, plumbers, roofers, electricians, installers of electronics, painters, finishers, landscapers, and administrators. Jobs are also created and sustained in manufacturing all building materials and components, including green technology and energy-saving components.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendments are within the SAB's authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of

Division 4 of the Government Code. It will not require school districts to incur additional costs in order to comply with the proposed regulations.

### DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulations create no costs to any local agency or school district requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any state agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

#### *Impact to Businesses and Jobs in California*

Proceeding with the implementation of these regulatory amendments will have a positive impact on California businesses, such as local businesses, manufacturing, “green” technology and construction industries (i.e., architects, engineers, trades and municipalities), along with maintaining or creating an unspecified number of jobs. This will result when school bond authority reserved for these program projects [i.e., ORG, CTEFP, and CSFP (excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment)] that are not moving forward is reallocated to projects that are ready to move forward to construction.

The State has relied upon the SFP as a means to provide an economic stimulus to construction-related trades and businesses while meeting the classroom needs of the K-12 student population. The SAB established the Priority Funding process in May 2010 and has held eight Priority Funding periods (from August 2010 through April 2014), which apportioned a total of \$5.16 billion to projects on the Unfunded List (Lack of AB 55 Loans). The Priority Funding process re-prioritizes SFP apportionments for school construction projects that are “construction-ready.” Priority Funding apportionments are accomplished through authorized bond sales by the State Treasurer’s Office, the return of bond funds from rescinded projects, and/or other sources.

The proposed regulatory amendments will help the OPSC, on behalf of the SAB, to continue to comply with the Department of Finance (DOF) Budget Letter #10-09, which stipulates that cash need estimates will be submitted to the DOF and the State Treasurer’s Office twice a year prior to each spring and fall bond sale period. The Budget Letter also stipulates that State bond funds previously received should be expended prior to the sale of additional bonds. This means that the OPSC must effectively and efficiently manage available bond proceeds by expediting SAB apportionment approvals.

This will carry out the Legislative and voter intent to build and modernize classrooms, create jobs in construction-related trades and industries, and stimulate the State's economy. This is in direct alignment with the Governor's directive.

Therefore, the proposed regulations provide a positive impact to the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

### *Benefits to Public Health and Welfare, and the State's Environment*

- The proposed regulatory amendments benefit the health and safety of pupils, staff, and others on California school sites, and to the State's environment because the amendments will facilitate and accelerate the construction of schools. SFP-approved school sites are approved by the CDE and the Department of Toxic Substances Control. The SFP funds projects that, in some cases, meet the needs of non-severely and severely disabled pupils. The SFP also funds projects that improve energy and water efficiency, indoor environmental quality, and natural lighting, low toxin materials, and improved acoustics for schools.
- The proposed regulatory amendments promote fairness and the State's general welfare by helping to reallocate school bond authority from school construction projects that are not participating in or not requesting State apportionments through the Priority Funding process, and reallocating that bond authority to other projects to carry out the Legislative intent of AB 16, AB 127, and Propositions 47 (2002), 55 (2004), and 1D (2006)
- The proposed regulatory amendments have a direct benefit to California businesses because once State bond funding has been released school districts are able to use the funds for construction projects; thus, expanding construction-related trades and businesses and stimulating the State's economy. These actions are in direct alignment with the Governor's directive. In addition, the dollars associated with these regulatory amendments will benefit the school district communities by stimulating the local economies.
- The proposed regulatory amendments increase the investment in the State because new school facilities are constructed and existing school buildings modernized for the students' health and safety, and overall academic success.
- The proposed regulatory amendments provide incentive for innovation because more school districts are constructing new school facilities that include high performance components such as natural lighting, energy and water efficiency, and air quality that enhance the learning environment.

### EFFECT ON SMALL BUSINESSES

It has been determined that the amendments to the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The regulations only apply to school districts and charter schools for purposes of funding school facility projects.

### SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than July 7, 2014, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction  
707 Third Street, 9<sup>th</sup> Floor  
West Sacramento, CA 95605

E-mail Address: [lisa.jones@dgs.ca.gov](mailto:lisa.jones@dgs.ca.gov)

Fax No.: (916) 375-6721

### AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ron Koepl at (916) 375-2032. If Mr. Koepl is unavailable, these questions may be directed to the backup contact person, Ms. Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.

### ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

### SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

### RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.

4. The factual information upon which the SAB is relying in proposing the adoption. As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.dgs.ca.gov/opsc> under "Resources," then click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

#### ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered 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 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.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulations coordinator named in this notice or may be accessed on the Web site listed above.