



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON REGULATIONS**

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

**TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

**NOTICE CONCERNING A CHANGE IN THE DATE FOR RECEIVING WRITTEN COMMENTS PERTAINING TO THE OAK MORTALITY DISEASE CONTROL**

Notice was published in the California Regulatory Notice Register on February 20, 2004 that the Department of Food and Agriculture amended Section 3700, subsection (c), of the regulations in Title 3 of the California Code of Regulations pertaining to the Oak Mortality Disease Control as an emergency action that was effective on January 5, 2004. The Department proposes to continue the regulations as amended and to complete the amendment process by submission of a Certificate of Compliance no later than May 5, 2004.

The notice was mailed on February 25, 2004. In the published notice it stated that any person interested could present statements or arguments in writing relevant to the action proposed to the agency officer on or before April 5, 2004. This notice is to inform you of a change in that date. Any person interested may now present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before April 26, 2004.

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 Department no later than 15 days prior to the close of the written comment period.

The amendment of Section 3700(c) established that leaves of *Sasanqua camellia*, *Camellia sasanqua*; plants and plant parts (except seed) of *Mariessii-doublefile* *Viburnum*, *Viburnum plicatum* var. *tomentosum*; leaves and stems of Brouwer's beauty andromeda, *Pieris floribunda x japonica*, forest flame andromeda, *Pieris formosa x japonica*, variegated and flaming silver andromeda, *Pieris japonica*, and witch hazel, *Hamamelis virginiana*, are included as regulated articles and commodities. The effect of the amendment is to establish the authority for the State to regulate the movement of these new hosts or potential

carriers of the disease from the regulated area to prevent the artificial spread of the disease caused by *Phytophthora ramorum*.

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov).

In his absence, you may contact Kris Peeples at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdfa.ca.gov/cdfa/pendingregs](http://www.cdfa.ca.gov/cdfa/pendingregs)).

**TITLE 10. DEPARTMENT OF INSURANCE**

**NOTICE OF PROPOSED ACTION  
Communications Equipment  
Insurance Agent License**

**RH02026113  
February 23, 2004**

**SUBJECT OF PROPOSED RULEMAKING**

Insurance Commissioner John Garamendi proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to add sections 2194 through 2194.8 of Article 11 to Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations.

**PUBLIC HEARING**

**A public hearing has been scheduled in connection with this proposed action for Wednesday, May 5, 2004 starting at 1:00 PM at the Department of Insurance, 45 Fremont Street, San Francisco, CA in the 22<sup>nd</sup> Floor Hearing Room. Should there be no persons arriving by one-half hour from the start of the public hearing or additional persons arriving by one-quarter hour from the last commentor, the public hearing will close.** The sole purpose of this hearing is to address the merits of the proposed regulations. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department of Insurance

("Department") requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at hearing.

**AUTHORITY AND REFERENCE**

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code sections 1758.6 through 1753.693. Section 1 of A.B. 2856 (Stats. 2002, ch. 437) provides the Insurance Commissioner with authority for this rulemaking.

**WRITTEN COMMENT PERIOD**

Any interested person or authorized representative may submit written comments on the proposed regulations to the Commissioner during the public comment period. **The public comment period will close at 5:00 PM on May 5, 2004.** The Commissioner will only consider comments received at the Department of Insurance offices by that time. Send comments to the contact person below.

**CONTACT PERSON**

All written comments or inquiries concerning the proposed regulations and requests for copies of the proposed text may be directed to:

Julie D. Soo, Staff Counsel  
California Department of Insurance  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4429

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Karen Switzer, Associate Analyst  
California Department of Insurance  
320 Capitol Mall, 1<sup>st</sup> Floor  
Sacramento, CA 95814  
Telephone: (415) 492-3014

**COMMENTS TRANSMITTED BY  
E-MAIL OR FACSIMILE**

The Commissioner will accept written comments transmitted by e-mail provided that they are sent to the following e-mail address: [sooj@insurance.ca.gov](mailto:sooj@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided that they are directed to the attention of Julie D. Soo and sent to the following facsimile number: (415) 904-5490. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

Existing law makes it a crime to act or assume to act in a capacity for which a production agency license is required without having such a license. Assembly Bill 2856 (Chavez) of 2002 (Chapter 437, Statutes of 2002), effective January 1, 2003, added Article 16.1, commencing with section 1758.6, to Chapter 5 of Part 2 of Division 1 of the Insurance Code, creating a new category of production agency license and expanding the scope of activities for which a license is required. Thus, this addition to the Insurance Code expands the scope of an existing crime. Regulations are necessary to advise applicants of the requirements for the Communications Equipment Insurance Agent License and to establish the guidelines and fees necessary for the acceptance of applications by the Department of Insurance ("Department").

Emergency regulations were first adopted and approved by OAL to be effective July 11, 2003. These emergency regulations were re-adopted and received approval by OAL to be effective November 10, 2003. During the phase of these permanent regulations, the Department will seek a second re-adoption of the emergency regulations.

Critical operational concerns have resulted in unanticipated delays in promulgating permanent regulations. The lower than expected number of applications and the consequent revenue shortfall has caused the Department's Licensing Services Division to re-evaluate the application process, along with a continued assessment of internal and State budget concerns.

Additionally, telephone inquiries from the public concerning the regulations appear to attempt to expand the statute and regulation outside the intended scope, including roadside service. Roadside service is construed to be part of a motor club service and those intending to do such business have been advised to look into motor club licensing currently required by the Department of Insurance. Those attempting to cover communications equipment under the guise of membership clubs have been advised to apply for the Communications Equipment Insurance License because the effect and scheme fall directly under the elements of insurance.

While the Department anticipates that many issues will be resolved through public hearing, the public hearing may also raise additional problem areas. The Department also anticipates that it may have to forecast some problem areas in order to incorporate additional consumer protections and licensing requirements into the permanent regulations.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

*The Commissioner has made the following initial determinations:*

MANDATES ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO ANY STATE AGENCY

Except for cost to the Department of Insurance for implementing the Communications Equipment Insurance Agent License program, the Commissioner has determined that the proposed regulations will result in no cost or savings to any State agency. As disclosed in the Economic and Fiscal Impact Estimate/Form 399, the Budget Office for the Department of Insurance anticipates that the Department will be able to absorb the costs associated with implementing the mandates of this licensing program. Most of the costs will be offset by the licensing fee. Original estimates since the initial adoption of the Emergency Regulations effective July 11, 2003 are currently relied upon even though applications received to date reflect a shortfall of estimated applications and consequently, a shortfall of revenue. The Department's Licensing Bureau has recently received an increase in the number of inquiries concerning the Communications Equipment Insurance Agent License and the Department anticipates that the number of applications will likely reach original estimates, particularly in light of additional publicity surrounding promulgation of permanent regulations.

COST TO ANY LOCAL AGENCY  
OR SCHOOL DISTRICT

The Commissioner has determined that the proposed regulations will result in no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

OTHER NON-DISCRETIONARY COST OR  
SAVINGS IMPOSED UPON LOCAL AGENCIES

The Commissioner has determined that the proposed regulations will result in no other non-discretionary cost or savings imposed on local agencies.

COST OR SAVINGS IN FEDERAL FUNDING  
TO THE STATE

The Commissioner has determined that the proposed regulations will result in no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESS  
AND THE ABILITY OF CALIFORNIA  
BUSINESSES TO COMPETE

To the extent that these regulations provide for an optional insurance product line to vendors that choose to market Communications Equipment Insurance, the economic impact is a cost-benefit choice to be made by an individual business. The Commissioner has determined that the proposed regulations 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.

POTENTIAL COST IMPACT ON PRIVATE  
PERSONS OR ENTITIES/BUSINESSES

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

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the health, safety, or welfare of the people of this State that proposed section 2194.6, which requires record maintenance and retention subject to production for examination by the Commissioner, apply to businesses.

EFFECT ON JOBS AND BUSINESSES  
IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently doing business within the State. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

SMALL BUSINESS DETERMINATION

The Commissioner has not identified any alternatives that would lessen any adverse impact on small business. To the extent that these regulations provide for an optional insurance product line to vendors that

choose to market Communications Equipment Insurance, the economic impact is a cost-benefit choice to be made by an individual business.

#### CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), the Commissioner must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose of the proposed regulations, and that no alternative would be as effective or less burdensome to private persons or businesses directly affected that these regulations.

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

#### COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

#### AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above San Francisco address, between the hours of 9:00 AM and 4:30 PM, Monday through Friday. As of the date of publication in the Notice Register, the rulemaking file consists of this Notice, the Text of the proposed regulations, and the Initial Statement of Reasons.

#### AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

#### WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's Website at [www.insurance.ca.gov](http://www.insurance.ca.gov); click 'Legal Information' located on the right hand side column of 'Quick Links' of the opening screen. At the top of the 'Legal Information' page, click the 'Proposed Regulations' link. Enter "RH02026113" or "Communications Equipment Insurance Agent License" as the search term. For those without Web access, documents are available from the contact person at the fax number listed.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

If modifications are made to the text of the proposed regulations, the modified text, with changes indicated, will be made available to the public for at least 15 days

prior to the date on which the Commissioner adopts the amendments. Requests for copies of any modifications should be sent to the contact person at the address indicated above. The Commissioner will accept written comments on the modified text for 15 days after the date on which they are made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

When available, a copy of the Final Statement of Reasons can be obtained from the Department's Website at [www.insurance.ca.gov](http://www.insurance.ca.gov). For those without Web access, documents are available from the contact person at the fax number listed.

### TITLE 13. DEPARTMENT OF MOTOR VEHICLES

#### NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Chapter 1, Division 1, Article 2.5, Driving Under the Influence Program, Sections 124.92 and 124.93 of Title 13, California Code of Regulations, concerning termination of Suspension or Revocation.

#### PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested persons or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

#### DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m. on April 26, 2004, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

#### AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code sections 12505, 13100, 13352, 13352.4, 13353.4, 13353.5, 14904, 15024, and 16430.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

Vehicle Code section 13353.5 permits the department to terminate an action of suspension or revocation of an individual's driver license if that person resides in another state and the mandatory suspension or revocation period has expired. Satisfactory evidence of residency must be provided to the department. The department proposes to amend Title 13, Article 2.5, Section 124.92 and 124.93 of the California Code of Regulations.

The intent of the proposed language is to identify documents that are acceptable as proof of residency and to limit the issuance of a termination of a suspension or revocation to one time only. Additionally, the department has developed new forms to be used when requesting termination of suspension actions. References to required forms have been amended.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- 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. No studies or data were relied upon in support of this proposal.
- The adoption of this regulation will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will neither reduce nor expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.

- The proposed regulatory action will not affect small businesses since it pertains to individuals.

ALTERNATIVE CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Ann Myrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8857, or [amyrick@dmv.ca.gov](mailto:amyrick@dmv.ca.gov). In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or [dbaity@dmv.ca.gov](mailto:dbaity@dmv.ca.gov). The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the initial statement of reasons and final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Notice, Initial Statement of Reasons and Express Terms) may be accessed at [www.dmv.ca.gov](http://www.dmv.ca.gov), Other Services, Legal Affairs Division, Public Comments web page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the

resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

## **TITLE 14. FISH AND GAME COMMISSION**

### **NOTICE OF PROPOSED CHANGES IN REGULATIONS**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 2070 and 2075.5 of the Fish and Game Code and to implement, interpret or make specific sections 1755, 2055, 2062, 2067, 2070, 2072.7, 2075.5 and 2077 of said Code, proposes to amend Section 670.5, Title 14, California Code of Regulations, relating to animals of California declared to be endangered or threatened.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

At its August 30, 2002 meeting in Oakland, California, the Fish and Game Commission (Commission) made a finding that coho salmon north of San Francisco warrants listing pursuant to the California Endangered Species Act (CESA). Specifically, the Commission determined that the coho salmon populations between San Francisco and Punta Gorda should be listed as an Endangered Species and the populations between Punta Gorda and the northern border of California should be listed as a Threatened Species.

The Commission therefore proposes to amend Section 670.5 of Title 14, CCR, to add the coho salmon populations between San Francisco and Punta Gorda to the list of Endangered Species and the coho salmon populations between Punta Gorda and the northern border of California to the list of Threatened Species.

This proposal is based upon the documentation of population declines and threats to the habitat of this species to the point that it meets the criteria for listing by the Commission as set forth in CESA. The Commission is fulfilling its statutory obligation in making this proposal which, if adopted, would afford coho salmon north of San Francisco with the recognition and protection available under CESA.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held the Elk Valley Rancheria, 2500 Howland Hill Road, in Crescent City, California, on Friday, June 25, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written

comments be submitted on or before June 18, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than June 25, 2004 at the hearing in Crescent City, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Gail Newton, Department of Fish and Game, phone (916) 327-8841, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm/](http://www.dfg.ca.gov/fg_comm/).

### **AVAILABILITY OF MODIFIED TEXT**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

### **IMPACT OF REGULATORY ACTION**

The Administrative Procedure Act (APA) requires state agencies to assess the potential for adverse economic impacts whenever they propose to adopt, amend, or repeal any administrative regulation (see generally Gov. Code, §§ 11346.3, 11346.5). The APA also requires state agencies to adhere to the economic assessment requirements to the extent such requirements do not conflict with other provisions of state or federal law (*Id.*, § 11346.3, subd. (a)).

CESA does not specifically prohibit consideration by the Commission of potential economic impacts that may result from a decision to list a species as threatened or endangered under state law. Yet, the information and criteria by which the Commission is required to determine whether a species should

be listed under CESA as threatened or endangered are limited to biological considerations (see, e.g., Fish & G. Code, §§ 2062, 2067, 2074.6). The Office of the Attorney General, as a result, has consistently advised the Commission that it should not consider economic impacts in making findings in the CESA listing context. This recommendation is also based on the fact that CESA is modeled after its federal counterpart and the federal Endangered Species Act specifically prohibits consideration of economic impacts during the listing process. The recommendation is also informed by state case law indicating that economic considerations may not be considered by the Commission when designating a species as a candidate for listing under CESA (*Natural Resources Defense Council v. California Fish and Game Comm.* (1994) 28 Cal.App.4<sup>th</sup> 1104, 1117, fn. 11).

Therefore, the Commission does not believe it is authorized to take economic impacts into account when considering listings under CESA. However, despite this belief, an analysis of potential economic impacts that may result from the proposed regulatory action on businesses and private individuals is provided below. The analysis is intended to provide disclosure, which is one of the basic premises of the APA.

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

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

The proposed regulatory action to designate coho salmon between San Francisco and Punta Gorda as endangered and between Punta Gorda and the northern border of California as threatened will afford the species the protections of CESA, which prohibit take, possession, purchase, and sale (herein collectively referred to as “take”) of threatened and endangered species, except as authorized by the Department. To the extent businesses are engaged in activities that will take coho salmon, the proposed regulatory action may result in adverse economic impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states. However, the majority of such activities are already subject to federal take prohibitions under the federal ESA, and therefore, have incurred economic consequences as a result since the federal listings (1996 and 1997).

Where the Department authorizes take of coho salmon that is incidental to an otherwise lawful activity, impacts of the taking must be minimized and fully mitigated, and any such mitigation must be monitored for effectiveness under CESA. Permitting under CESA for incidental take of coho salmon would result in some increased costs when compared to the status quo, which includes the federal take prohibition under the federal ESA.

Potential costs of recovery of coho salmon were identified in the Response to Comments on the Draft Recovery Strategy for California Coho Salmon (*Onchorhynchus kisutch*), Report to the California Fish and Game Commission (January 2004). A currently unquantifiable fraction of these potential costs can be attributed to the listing of the species, as opposed to recovery, if practices result in take of coho salmon under CESA. (Existing practices that result in take under the federal ESA may have already incurred economic impacts.) With regard to potential impacts to timber businesses, costs of proposed policies to guide the issuance of incidental take authorizations were estimated to be \$151–373 million, or stated another way, a reduction in timberland values by an estimated 2.8 to 6.9 percent; a reduction in timberland values, which are valued at \$1,400 per acre on average, by between \$39 and \$97 per acre. However, these estimates assume that all of the recommended timberland management provisions would be applied to every timber harvesting plan. The Department does not anticipate this will be the case because the proposed policies would be recommended as necessary on a site-specific basis when take of the species would occur or if the California Department of Forestry and Fire Protection were to require them in order to mitigate significant adverse effects on the environment pursuant to the California Environmental Quality Act. Therefore, the Commission estimates that although economic impacts to timber businesses may be significant, they will likely be only a fraction of the estimates described above.

With regard to other businesses engaged in activities such as agriculture, in-stream sand and gravel extraction, construction of roads and bridges, suction dredging, and municipal and domestic water use, there may be some economic impacts if these activities would result in the take of coho salmon under CESA; however, again, a portion of these impacts may have already occurred as a result of the federal ESA listing of coho salmon.

Presently, California ocean and inland non-Indian fisheries are closed by federal and state regulators to the direct harvest of coho salmon. Therefore, there would be no adverse effect from the proposed listing on sectors associated with coho salmon fisheries.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Given the potential for additional economic impacts as identified above, there may be the potential for adverse impacts on new or existing jobs; however, these impacts are unlikely to cause the elimination of existing businesses in California. Whether these potential impacts actually occur depends upon the extent to which commercial activities result in take of coho salmon under CESA, the level of compliance with the federal ESA, and the costs, if any, of minimizing and mitigating for take under CESA. Therefore, these impacts are difficult to estimate at this time.

In addition, there is the potential for creation of jobs and businesses, or expansion of businesses in California. The public sector may create new jobs as a result of mitigations such as road treatment, culvert replacement, and habitat enhancement. These jobs would likely be created largely in rural counties with high levels of unemployment. Increased public education could result in increased contributions to the State's Rare and Endangered Species Tax Check-off program, which would in turn provide further funding for management and recovery activities for all listed species.

Private tour operators could also potentially benefit economically from increased tourism, interpretation, and educational activities.

Additionally, private environmental consulting firms could benefit economically from assisting in the development and implementation of mitigation measures.

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

A representative private person or business may experience economic impacts as described in section (a) above.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State:

As a project applicant, a state agency may realize costs associated with projects involving the incidental take of coho salmon as described in section (a) above.

The proposed regulatory action is not expected to affect federal funding to the state.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

As a project applicant, a local agency may realize costs associated with projects involving the incidental take of coho salmon as described in section (a) above.

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

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

- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

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

### TITLE 16. BUREAU OF ELECTRONIC AND APPLIANCE REPAIR

NOTICE IS HEREBY GIVEN that the Bureau of Electronic and Appliance Repair ("Bureau") 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 two hearings to be held on:

#### SOUTHERN CALIFORNIA

**April 27, 2004**

**10:00 a.m.**

**South Coast Air Quality**

**Management District**

**21865 E. Copley Drive**

**Diamond Bar, California 91765**

#### NORTHERN CALIFORNIA

**April 29, 2004**

**10:00 a.m.**

**Department of Consumer Affairs**

**400 R Street, Hearing Room, Ste 1030**

**Sacramento, California 95814**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received in the Bureau's office not later than 5:00 p.m. on April 29, 2004, or must be received by the Bureau at the hearings. The Bureau, 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 Section 9814 of the Business and Professions Code, and to implement, interpret or make specific Sections 9830.5, 9855.2, and 9855.7 of said Code, the Bureau is considering changes to Division 27 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Business and Professions Code section 9814 authorizes the director to establish and enforce regulations as may be reasonable for the conduct of service dealers

Business and Professions Code section 9855.2 specifies the requirements for a service contract seller.

Adopt 2755. This proposed regulation would define the term "home health care products" for the purposes of general consumer usage and purchases as amended by AB 1553, Chapter 775, Stats. 2004.

Amend 2756. This regulatory amendment would update the revision date on the service contract application. The new application would provide accurate and complete information to potential registrants in order to bring them into compliance with the new law (AB 1553, Chapter 775, Stats. 2004). In addition, the proposed regulations would add as one of the requirements for registration as a service contractor submission of the most recent audited financial statement reflecting a net worth of not less than \$100,000,000 as proof of financial responsibility.

**FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Saving 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 Section 17561 Requires Reimbursement: None

Business Impact: The Bureau 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.

There were no studies or relevant data relied upon in making the above determination. The Bureau currently regulates businesses offering service contracts for other products. This amendment provides regulation for service contracts on additional products. The registration fee is \$75 annually, which is not considered a significant economic impact.

Impact on Jobs/New Businesses: The Bureau has determined that his 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.

Cost Impact on Representative Private Person or Business: The Bureau 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 Bureau has determined that the proposed regulations would not affect small businesses. The type of regulation is already in place for other retailers (small and large) which provides a more level playing field by placing the same requirements on a larger population of retailers. This is considered a reasonable fee and cost of doing business to offer an adequate amount of consumer protection.

**CONSIDERATION OF ALTERNATIVES**

The Bureau must determine that no reasonable alternative it considered or that has otherwise been adopted 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 that the proposal described in this Notice.

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

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The Bureau 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 hearings or prior to the hearings upon request from the Bureau of Electronic and Appliance Repair at 3485 Orange Grove Avenue, North Highlands, California 95660.

**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 web site listed below.

**CONTACT PERSON**

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

Linda Shaw  
Bureau of Electronic and Appliance Repair  
3485 Orange Grove Avenue  
North Highlands, California 95660  
(916) 574-2069  
FAX (916) 574-2120  
Linda\_Shaw@dca.ca.gov

The back-up contact person is:

Karen Skelton  
Bureau of Electronic and Appliance Repair  
3485 Orange Grove Avenue  
North Highlands, California 95660  
(916) 574-2069  
FAX (916) 574-2120  
Karen\_Skelton@dca.ca.gov

Web Site Access: Materials regarding this proposal can be found at [www.bear.ca.gov](http://www.bear.ca.gov).

**TITLE 16. MEDICAL BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Medical Board 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 Radisson Hotel Newport Beach, 4545 MacArthur Blvd., Newport Beach, CA 92660, at 10:00 A.M., on Friday, May 7, 2004. 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 26, 2004 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 2018 of the Business and Professions Code, and Section 11400.20 of the Government Code, and to implement, interpret or make specific Sections 2227, 2228, 2229, and 2234 of the Business and Professions Code, and Sections 11400.20 and 11425.50(e) of the Government Code, the board is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Adopt section 1358.1

Existing regulation, i.e., Condition 17 of the board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" (9th Edition, 2003), provides for an ethics course, but does not address minimum requirements for the provider or course content.

The proposed regulation would specify all the criteria for an ethics course to include: duration; faculty; educational objective; method of instruction; content (background assessment, baseline assessment, participant's expectations, didactic presentation, experiential exercises, and a longitudinal follow-up); class size; evaluation; records; program completion; and change in course content or instructor.

**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 Section 17561 Requires 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: None.

Impact on Jobs/New 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.

Cost Impact on Representative Private Person or Business: This regulation will not have a significant adverse economic impact on businesses since we are aware of only one business (a non-profit) which offers this type of course. Any additional costs would be passed on through increased tuition costs. Those increased tuition costs would only be applicable to physicians and surgeons who are disciplined by the board, placed on probation, and ordered to take an ethics course as a condition of probation. (There are various colleges and universities across the United States which also offer ethics seminars and courses; however, changes to our regulations will not impact those providers.)

Effect on Housing Costs: None

**EFFECT ON SMALL BUSINESS**

The board has determined that the proposed regulation would not affect small businesses because the regulation is applicable only to physicians and surgeons who are disciplined by the board, placed on probation, and ordered to take an ethics course as a condition of probation.

**CONSIDERATION OF ALTERNATIVES**

The board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

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 of the initial statement of reasons, and all of the information upon which the proposal is

based, may be obtained prior to, at or after the hearing upon request from the Contact Person Or by accessing the website listed below.

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

All the information upon which the proposed regulation is 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 concerning the substance of the proposed regulations may be directed to:

Name: Ana Facio  
Address: Medical Board of California  
1430 Howe Avenue, Suite 84  
Sacramento, CA 95825  
Telephone No.: (916) 263-2532  
Fax No.: (916) 263-2530  
E-Mail Address: [afacio@medbd.ca.gov](mailto:afacio@medbd.ca.gov)

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

Name: Kevin A. Schunke  
Address: Medical Board of California  
1430 Howe Avenue, Suite 92  
Sacramento, CA 95825  
Telephone No.: (916) 263-2368  
Fax No.: (916) 263-2387  
E-Mail Address: [kschunke@medbd.ca.gov](mailto:kschunke@medbd.ca.gov)

The backup contact person is:

Name: Linda Whitney  
Address: Medical Board of California  
1430 Howe Avenue, Suite 92  
Sacramento, CA 95825  
Telephone No.: (916) 263-2389  
Fax No.: (916) 263-2387  
E-Mail Address: [lwhitney@medbd.ca.gov](mailto:lwhitney@medbd.ca.gov)

Website Access: Materials regarding this proposal can be found at [www.medbd.ca.gov](http://www.medbd.ca.gov).

**TITLE 16. MEDICAL BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Division of Licensing of the Medical Board 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 Radisson Hotel Newport Beach, at 4545 MacArthur Boulevard, Newport Beach, California, 92660, on May 7<sup>th</sup>, 2004, at 9:00 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 Medical Board of California at its office not later than 5:00 p.m. on April 26, 2004 or must be received by the Medical Board at the hearing. The Medical Board of California, 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 or any changes of the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 2565, 2566 and 2566.1 of the Business and Professions Code, and to implement, interpret or make specific Sections 2565, 2566, and 2566.1 of the Business and Professions Code, the Medical Board of California is considering changes to Division 13.5 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### Registered Dispensing Opticians—Fees

Business and Professions Code sections 2565, 2566 and 2566.1 set forth the fee amounts prescribed in connection with the registration of dispensing opticians, contact lens dispensers, and spectacle lens dispensers. The statutes authorize the Medical Board of California, Division of Licensing, to set the fees not to exceed \$100.00 in regulation.

This proposal sets the registration and renewal fees for registered dispensing opticians, contact lens dispensers, and spectacle lens dispensers at the maximum amount of \$100.00.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The fees collected are deposited in the Dispensing Optician Fund of the board, which funds the administration of the program, including processing applications and various staff functions. In projecting revenue for the next 3 years the costs to support the program each year will exceed what the

current revenue brings the program. By increasing the fees to \$100.00 the program will be self supporting and by 2005/06 the surplus will be 5.1 months of reserve.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The board has determined that the proposed regulatory action would have minimal economic impact on California business enterprises and individuals. The fee for registered dispensing optician, contact lens dispenser and spectacle lens dispenser will be increased from \$75.00 to \$100.00 every 2 years, which is the maximum allowed in statute. This is an increase of \$25.00 over the 2 year renewal period.

Impact on Jobs/New Businesses: The board has determined that this regulatory proposal would have no impact on the creation of jobs or businesses or elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Medical Board of California estimates the potential cost impact of the proposed regulations on directly affected private persons or entities to be an increase from \$75.00 every 2 years to \$100.00 every 2 years for initial registration and renewal. This is an increase of \$25.00 over the 2 year renewal period.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulation would affect small business because it specifies the registration and renewal fee amounts to be increased from \$75.00 to \$100.00 every 2 years, which is the maximum amount allowed in statute. This is an increase of \$25.00 over the 2 year renewal period.

The express terms of the proposed action written in plain English are available from the agency contact the proposed action.

#### CONSIDERATION OF ALTERNATIVES

The board must determine that no alternative which it considered would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome on affected private persons than the proposal described in this Notice.

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 a 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 the information upon which the proposal is based, may be obtained prior to, or after the hearing upon request from the person designated in this Notice under Contact Person or by accessing the website listed below.

**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 designated in this Notice under Contact Person or by accessing the website listed below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the person designated in this Notice under Contact Person or by accessing the website listed below.

**CONTACT PERSON**

Inquiries concerning the substance of the purposed regulations may be directed to:

Name: Linda Morris, Licensing Section  
 Address: Medical Board of California  
 1428 Howe Avenue, Suite 56  
 Sacramento, CA 95825  
 Telephone No.: (916) 263-2382  
 Fax No.: (916) 263-2387  
 email [lmorris@medbd.ca.gov](mailto:lmorris@medbd.ca.gov)

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

Name: Kevin A. Schunke  
 Address: Medical Board of California  
 1430 Howe Avenue, Suite 92  
 Sacramento, CA 95825  
 Telephone No.: (916) 263-2368  
 Fax No.: (916) 263-2387  
 e-mail [kschunke@medbd.ca.gov](mailto:kschunke@medbd.ca.gov)

The backup contact person is :

Name: Linda Whitney  
 Address: Medical Board of California  
 1430 Howe Avenue, Suite 92  
 Sacramento, CA 95825

Telephone No.: (916) 263-2389  
 Fax No.: (916) 263-2387  
 email [lwhitney@medbd.ca.gov](mailto:lwhitney@medbd.ca.gov)

Website Access: Materials regarding this proposal can be found at [www.medbd.ca.gov](http://www.medbd.ca.gov).

**TITLE 16. PHYSICAL THERAPY  
BOARD OF CALIFORNIA**

**NOTICE IS HEREBY GIVEN** that the Physical Therapy Board 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 Burbank Airport Hilton and Convention Center, 2500 Hollywood Way, Burbank, CA 91505, (818) 843-6000 at 9:30 AM on Tuesday, May 11, 2004. 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 Physical Therapy Board of California at its office not later than 5:00 p.m. on April 26, 2004, or must be received at the hearing. The Physical Therapy Board of California, 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 Section 2615 of the Business and Professions Code, and to implement, interpret or make specific section 2650, 2651 and 2653, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

**1) Amend section 1398.30**

Business and Professions (B&P) Code section 2650 establishes that each applicant for licensure as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board. B&P Code section 2655 establishes educational requirements for the profession of physical therapy. B&P Code section 2651 provides that the physical therapy education programs accredited by the

Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association are approved. The educational requirement to graduate from an approved physical therapy educational program in the United States is now a post-baccalaureate degree. B&P Code section 2653 requires foreign educated graduates to complete, in addition to other requirements, the equivalent professional degree to that issued by a United States accredited physical therapy educational program in a physical educational program that entitles them to practice in the country where the diploma was issued. The new requirement of a post-baccalaureate degree could adversely impact applicants for licensure who graduated from United States and foreign physical therapy educational programs that were approved at the time of their graduation.

As currently written, Section 1398.30 could be interpreted to mean graduates of previously approved educational programs must obtain additional education in order to meet the licensure requirements in California. Amending section 1398.30 to include language that educational programs meeting the requirements of Section 1398.31 at the time applicants graduated will clarify the Board's intent.

#### 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

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires 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 businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New 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.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California 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 Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since the responsibility of compliance is placed with the individual licensee.

#### CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered 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 on affected private persons than the proposal described in this Notice.

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 of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

#### 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 that 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 concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Arlyce Ten Broeck  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 561-8200  
(916) 263-2560—Fax Number  
[concept1@comcast.net](mailto:concept1@comcast.net)

The backup contact person is:

Steve Hartzell  
 1418 Howe Avenue, Suite 16  
 Sacramento, CA 95825  
 (916) 561-8200  
 (916) 263-2560—Fax Number  
[Steve\\_Hartzell@dca.ca.gov](mailto:Steve_Hartzell@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Arlyce Ten Broeck at (916) 561-8252.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**TITLE 16. PHYSICAL THERAPY  
 BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board 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 Burbank Airport Hilton and Convention Center, 2500 Hollywood Way, Burbank, California 91505, (818) 843-6000 at 9:30 a.m. on Tuesday, May 11, 2004. 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 Physical Therapy Board of California at its office not later than 5:00 p.m. on April 26, 2004 or must be received at the hearing. The Physical Therapy Board of California, 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 Section 2696 of the Business and Professions Code, and to implement, interpret or make specific section 2630, 2655, 2655.7, 2695 of said Code, and section 13401 of the Corporations Code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY  
 STATEMENT OVERVIEW**

1) Adopt section 1399.37.1

Business and Professions Code sections 2630, 2655, 2655.7, 2695 and section 13401 of the Corporations Code authorize the Board to establish guidelines for who may practice physical therapy and form a professional corporation.

The Physical Therapy Board of California has determined that the Physical Therapy Practice Act does not prohibit the offering of physical therapy services by a corporation, which is not organized as a professional corporation. This is interpreted to mean that such a non-professional corporation may employ or retain licensed physical therapists to provide physical therapy services and that laypersons may own all or part of the shares of such a corporation. The Physical Therapy Board of California has since found this determination to be problematic when it is misinterpreted and the practice of physical therapy is being controlled by laypersons.

A partner or other person having ownership interest in a professional practice has the right to manage and control the actions of his or her partner or employee. Such a person who is not professionally licensed may not control decisions that effect the professional discretion of the licensee and adversely affect the care of the patient. A layperson that is a shareholder in a corporation providing physical therapy services also may not manage or control the professional actions or practice decisions of a physical therapist in the employ of such a corporation.

The Physical Therapy Board of California proposes to adopt section 1399.37.1 to prohibit a person other than a licensed physical therapist, a physical therapy corporation as specified in section 2690 of the Code, or any other person authorized by law, from directing or controlling the professional practice of physical therapy. The proposed adoption of 1399.37.1 would also specify that a licensed physical therapist who authorizes or permits his or her professional practice to be directed or controlled to be in violation of this section and subject to disciplinary action.

**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 Section 17561 Requires 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 businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New 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.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California 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 Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since compliance is placed with the individual licensee.

#### CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered 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 on affected private persons than the proposal described in this Notice.

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 of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

#### 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 that 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 concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Rebecca Marco  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 263-2550  
(916) 263-2560—Fax Number  
[Rebecca\\_Marco@dca.ca.gov](mailto:Rebecca_Marco@dca.ca.gov)

The backup contact person is:

Steve Hartzell  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 263-2550  
(916) 263-2560—Fax Number  
[Steve\\_Hartzell@dca.ca.gov](mailto:Steve_Hartzell@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Rebecca Marco at (916) 263-2550.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

### TITLE 16. PHYSICAL THERAPY BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Physical Therapy Board 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 Burbank Airport Hilton & Convention Center, 2500 Hollywood Way in Burbank, California 91505 on May 11, 2004 at 9:30 a.m. The telephone number to the Burbank Airport Hilton & Convention Center is (818) 843-6000.

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 Physical Therapy Board of California at its office not later than 5:00 p.m. on April 26, 2004 or must be received at the hearing. The Physical Therapy Board of California, 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 Section 2615 of the Business and Professions Code, and to implement, interpret or make specific sections 2650 and 2653, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

1) Amend section 1398.38

Business and Professions Code section 2653 authorizes the Board to establish criteria for approval and to approve physical therapy facilities supervising the period of clinical service of foreign educated applicants.

The existing regulation section 1398.38 establishes criteria for approval of the facility providing supervision of foreign educated physical therapists while commencing their period of clinical service.

The Physical Therapy Board of California proposes to amend Section 1398.38 by deleting subsections (a) through (d) which are not clear and have resulted in differing interpretations and inconsistent application of the requirements necessary to be approved by the Board to supervise foreign educated physical therapists during their clinical service.

The Board proposes to utilize two (2) forms, the *Clinical Site Information Form (CSIF)* developed by the American Physical Therapy Association Department of Physical Therapy Education as revised 11-01-99, and the Board's *Notice of Intent to Supervise a Foreign Educated Physical Therapist*, form F1B, revised August of 2003, to make clear what is required to become a facility approved to supervise foreign educated physical therapists during their period of clinical service.

**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 Section 17561 Requires 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 businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New 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.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California 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 Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since the responsibility of compliance is placed with the individual licensee.

**CONSIDERATION OF ALTERNATIVES**

The Physical Therapy Board of California must determine that no reasonable alternative which it considered 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 on affected private persons than the proposal described in this Notice.

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 of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

**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 that 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 concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Christina Metzen  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 561- 8200  
(916) 263-2560—Fax Number  
[Christina\\_Metzen@dca.ca.gov](mailto:Christina_Metzen@dca.ca.gov)

The backup contact person is:

Arlyce Ten Broeck  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 561-8200  
(916) 263-2560—Fax Number  
[concept1@comcast.net](mailto:concept1@comcast.net)

Inquiries concerning the substance of the proposed regulations may be directed to Christina Metzen at (916) 561-8271.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**TITLE 16. PHYSICAL THERAPY  
BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board 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 Burbank Airport Hilton and Convention Center, 2500 Hollywood Way, Burbank, California 91505, (818) 843-6000 at 9:30 a.m. on Tuesday, May 11, 2004. 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 Physical Therapy Board of California at its office not later than 5:00 p.m. on April 26, 2004 or must be received at the hearing. The Physical Therapy Board of California, 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 section 2615 of the Business and Professions Code to implement, interpret or make specific Sections 2615 and 2620.5, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

(1) Add section 1399.70

A report was prepared to comply with the requirements of Section 2620.5(d) of the Business and Professions Code (code) which was added to the code by Chapter 991, Statutes of 1998, as a result of the Sunset Review of the Physical Therapy Board of California (Board) by the Legislature.

The new sub-section of the Business and Professions Code directed the Board to undertake a study assessing the need for, and potential alternatives to, the certification requirement for physical therapists to perform tissue penetration for the purpose of evaluating neuromuscular performance.

The Board found that the performance of electromyography by certified physical therapists has not resulted in any injury to the public. Consequently, the Board could not identify any valid reason to end the ability of physical therapists that specialize in the practice of electromyography to perform the studies.

However, during the course of the study the Board did identify three complaints regarding the performance of electromyography that have been filed against physical therapists. None of the complaints included allegations that a patient had been injured or that the physical therapist was negligent or incompetent. Physician and surgeons filed two of these complaints alleging the report of findings that they received represented a diagnosis. The Board's investigation of these complaints determined that the report of findings did not include a diagnosis, and that the physical therapist had submitted the report to the physician and surgeon in order that a diagnosis could be made.

The report consequently prompted the need for regulation requiring all certified electromyographers include in their reports to the diagnosing physician and surgeon that the findings reported to the patient's physician shall include the following statement:

“This study has been performed in accordance with the California Business and Professions Code, and with the California Code of Regulations. The findings in this report do not represent diagnostic interpretations or medical diagnosis. The results of the electromyographic examination by the certified electromyographer are intended for integration by the physician and surgeon with the patient’s history, clinical examination, and the results of any other tests performed in establishing a medical diagnosis.”

This regulatory requirement would provide with certainty that the purpose of the evaluative report is solely to assist the physician and surgeon in providing a medical diagnosis to the patient.

**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 Section 17561 Requires 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 businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses: The board has determined that this regulatory proposal would not have an impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Housing Costs: None

**EFFECT ON SMALL BUSINESS**

The Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses and would only effect individual licensees certified to perform electromyography.

**CONSIDERATION OF ALTERNATIVES**

The Physical Therapy Board of California must determine that no reasonable alternative which it considered 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 on affected private persons than the proposal described in this Notice.

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 of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

**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 that 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 concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Rebecca Marco  
1418 Howe Avenue, Suite 16  
Sacramento, CA 5825  
(916) 561-8260  
(916) 263-2560—Fax Number  
[Rebecca\\_Marco@dca.ca.gov](mailto:Rebecca_Marco@dca.ca.gov)

The backup contact person is:  
Steve Hartzell  
1418 Howe Avenue, Suite 16  
Sacramento, C 95825  
(916) 561-8200  
(916) 263-2560—Fax Number  
[Steve\\_Hartzell@dca.ca.gov](mailto:Steve_Hartzell@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Rebecca Marco at (916) 561-8260.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

## TITLE 16. PHYSICAL THERAPY BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Physical Therapy Board 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 Burbank Airport Hilton and Convention Center, 2500 Hollywood Way in Burbank, California 91505, on May 11, 2004 at 9:30 a.m. The telephone number to Burbank Airport Hilton and Convention Center is (818) 843-6000.

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 Physical Therapy Board of California at its office not later than 5:00 p.m. on April 26, 2004 or must be received at the hearing. The Physical Therapy Board of California, 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 Section 2615 of the Business and Professions Code, and to implement, interpret or make specific sections 2650 and 2653, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

- 1) Amend section 1398.26 and
- 2) Adopt section 1398.26.5

Business and Professions Code section 2653 authorizes the Board to establish the educational qualifications of applicants for licensure as physical therapists from foreign schools.

Existing regulations establish criteria for approval of foreign educated physical therapists while commencing their period of clinical service.

The Physical Therapy Board of California proposes to amend Section 1398.26 by deleting the clinical service criteria in section 1398.26 subsections (c) and (d) and proposes to add section 1398.26.5. Section 1398.26.5 specifies how, and by whom, the period of clinical service is to be certified and clarifies the

means by which waivers may be granted by the Board. Further, the Board proposes to add subsection (e) to 1398.26.5 to make clear the Board's authority to enforce the provisions of this regulation.

### 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 Section 17561 Requires 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 businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New 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.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California 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 Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since the responsibility of compliance is placed with the individual licensee.

### CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered 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 on affected private persons than the proposal described in this Notice.

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 of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

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 that 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 concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Christina Metzen  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 561- 8200  
(916) 263-2560—Fax Number  
[Christina\\_Metzen@dca.ca.gov](mailto:Christina_Metzen@dca.ca.gov)

The backup contact person is:  
Arlyce Ten Broeck  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 561-8200  
(916) 263-2560—Fax Number  
[concept1@comcast.net](mailto:concept1@comcast.net)

Inquiries concerning the substance of the proposed regulations may be directed to Christina Metzen at (916) 561-8271.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**TITLE 16. PHYSICAL THERAPY  
BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board 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 Burbank Airport Hilton and Convention Center, 2500 Hollywood Way, Burbank, CA 91505, (818) 843-6000 at 9:30 AM on Tuesday, May 11, 2004. 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 Physical Therapy Board of California at its office not later than 5:00 p.m. on April 26, 2004, or must be received at the hearing. The Physical Therapy Board of California, 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 Section 2615 of the Business and Professions Code, and to implement, interpret or make specific section 2633, and 2655, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

1) Adopt section 1398.12

Business and Professions Code section 2633 authorizes the Board to establish the use of an initial indicating possession of an earned academic degree. Business and Professions Code section 2655 establishes educational requirements for the profession of physical therapy.

There are varying levels of education achieved amongst those licensed in the physical therapy profession since the academic levels of physical therapy education have advanced from the Baccalaureate degree. Therefore, licensure cannot be assumed to be synonymous with the academic degree.

The PhD, doctorate in philosophy and now the DSc, doctorate in Science, as well as professional doctoral degrees in medicine, dentistry, nursing, education, physical therapy, etc. are all individuals with advanced degrees and are entitled to be referred to as "Doctor." Equally entitled, the consumer should have the freedom to choose their physical therapist based on academic preparation. Therefore, the physical therapist earning the academic title should be identified to the consumer as such by prefixing his or her name

with “Doctor in written communication, including a badge bearing the licensee’s name, if the name is followed by an unabbreviated specification of the applicable doctorate degree held by the licensee or, in spoken communication, the speaker specifies he or she is a physical therapist.

**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 Section 17561 Requires 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 businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New 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.

Cost Impact on Private Persons or Entities: The Physical Therapy Board of California 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 Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since the responsibility of compliance is placed with the individual licensee.

**CONSIDERATION OF ALTERNATIVES**

The Physical Therapy Board of California must determine that no reasonable alternative which it considered 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 on affected private persons than the proposal described in this Notice.

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 of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

**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 that 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 concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Arlyce Ten Broeck  
1418 Howe Avenue, Suite 16  
Sacramento, CA 95825  
(916) 561- 8200  
(916) 263-2560—Fax Number  
[concept1@comcast.net](mailto:concept1@comcast.net)

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Steve Hartzell  
1418 Howe Avenue, Suite 16  
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(916) 561-8200  
(916) 263-2560—Fax Number  
[Steve\\_Hartzell@dca.ca.gov](mailto:Steve_Hartzell@dca.ca.gov)

Inquiries concerning the substance of the proposed regulations may be directed to Arlyce Ten Broeck at (916) 561-8252.

Website Access: Materials regarding this proposal can be found at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND GAME**

PUBLIC INTEREST NOTICE

PROPOSED RESEARCH ON TWO  
FULLY-PROTECTED SPECIES:

Conducting Surveys for the California Black Rail  
and the Yuma Clapper Rail

The Department of Fish and Game (Department) is evaluating a proposal received from Stephen J. Myers, AMEC Earth and Environmental, Inc., Riverside, California, for authorization to take, for research purposes and consistent with conservation and recovery of the species, the California black rail (*Laterallus jamaicensis coturniculus*) (black rail) and the Yuma clapper rail (*Rallus longirostris yumanensis*) (clapper rail), each of which is a Fully Protected species of bird. The proposed activity consists of searching for vocalizing individuals of the black rail and the clapper rail, employing playback of tape-recorded, species-specific vocalizations, to determine distribution and status of local populations. The researcher would collect data by interpreting calls received from marsh birds responding to the tape and by observing individual birds. There would be no attempt to capture individuals of the black rail or the clapper rail or to approach nests of the black rail or the clapper rail.

The researchers for AMEC Earth And Environmental, Inc. have the required State scientific collecting permits (SCP) to take native wildlife. SCP conditions require that each holder of this permit obtain additional, special authorization from the Department to take a Fully Protected species. The Department would provide the special authorization to take the black rail and the clapper rail to AMEC Earth and Environmental, Inc. through specific written conditions in a Memorandum of Understanding (MOU). Because the clapper rail is a federally-listed species, holders of a State MOU also must possess a valid Federal Threatened and Endangered Species permit for this species.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of a Fully Protected species of bird after a notice of 30 days has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research by AMEC Earth And Environmental, Inc. is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after April 12, 2004, for a term not to exceed three years. Contact the Habitat Conservation

Planning Branch, Department of Fish and Game, 1416 Ninth Street, 12th Floor, Sacramento, California 95814, attention: Dale Steele.

**DEPARTMENT OF FISH AND GAME**

PUBLIC INTEREST NOTICE

PROPOSED RESEARCH ON TWO  
FULLY-PROTECTED SPECIES:

Conducting Surveys for the California Black Rail  
and the Yuma Clapper Rail

The Department of Fish and Game (Department) is evaluating a proposal received from Courtney J. Conway, Arizona Cooperative Fish and Wildlife Research Unit, Tucson, Arizona, for authorization to take, for research purposes and consistent with conservation and recovery of the species, the California black rail (*Laterallus jamaicensis coturniculus*) (black rail) and the Yuma clapper rail (*Rallus longirostris yumanensis*) (clapper rail), each of which is a Fully Protected species of bird. The proposed activity consists of searching for vocalizing individuals of the black rail and the clapper rail, employing playback of tape-recorded, species-specific vocalizations, to determine distribution and status of local populations. The researcher would collect data by interpreting calls received from marsh birds responding to the tape and by observing individual birds. There would be no attempt to capture individuals of the black rail or the clapper rail or to approach nests of the black rail or the clapper rail.

The researchers for the Arizona Cooperative Fish and Wildlife Research Unit, before beginning work, will have the required State scientific collecting permits (SCP) to take native wildlife. SCP conditions require that each holder of this permit obtain additional, special authorization from the Department to take a Fully Protected species. The Department would provide the special authorization to take the black rail and the clapper rail to the Arizona Cooperative Fish and Wildlife Research Unit through specific written conditions in a Memorandum of Understanding (MOU). Because the clapper rail is a federally-listed species, holders of a State MOU also must possess a valid Federal Threatened and Endangered Species permit to take this species.

Pursuant to California Fish and Game Code (FGC) Section 3511(a) (1), the Department may authorize take of a Fully Protected species of bird after a notice of 30 days has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research by the Arizona Cooperative Fish and Wildlife Research Unit is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would

issue the authorization on or after April 12, 2004, for a term not to exceed three years. Contact the Habitat Conservation Planning Branch, Department of Fish and Game, 1416 Ninth Street, 12<sup>th</sup> Floor, Sacramento, California 95814, attention: Dale Steele.

## DEPARTMENT OF FISH AND GAME

### PUBLIC INTEREST NOTICE

#### PROPOSED RESEARCH ON A FULLY-PROTECTED SPECIES:

##### Conducting Surveys for the Yuma Clapper Rail

The Department of Fish and Game (Department) is evaluating a proposal received from Arthur E. Davenport, Davenport Biological Services, Barstow, California, for authorization to take, for research purposes and consistent with conservation and recovery of the species, the Yuma clapper rail (*Rallus longirostris yumanensis*) (rail), a Fully Protected species of bird. The proposed activity consists of searching for vocalizing individuals of the rail, employing playback of tape-recorded, species-specific vocalizations, to determine distribution and status of local populations. The researcher would collect data by interpreting calls received from marsh birds responding to the tape and by observing individual rails. There would be no attempt to capture individual rails or to approach nests of the rail.

The researcher for Davenport Biological Services has the required State scientific collecting permit (SCP) to take native wildlife. SCP conditions require that the holder of this permit obtain additional, special authorization from the Department for research on Fully Protected species. The Department would provide the special authorization to take the rail to Davenport Biological Services through specific written conditions in a Memorandum of Understanding (MOU). Because the rail is a federally-listed species, holders of a State MOU also must possess a valid Federal Threatened and Endangered Species permit.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of a Fully Protected species of bird after a notice of 30 days has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research by Davenport Biological Services is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after April 12, 2004, for a term not to exceed three years. Contact the Habitat Conservation Planning Branch, Department of Fish and Game, 1416 Ninth Street, 12<sup>th</sup> Floor, Sacramento, California 95814, attention: Dale Steele.

## DEPARTMENT OF FOOD AND AGRICULTURE

### NOTICE CONCERNING A CHANGE IN THE DATE FOR RECEIVING WRITTEN COMMENTS PERTAINING TO INSECTS WHICH CAN BE SHIPPED OR IMPORTED WITHIN CALIFORNIA WITHOUT A PERMIT

Notice was published in the California Regulatory Notice Register on February 20, 2004 that the Department of Food and Agriculture proposed to amend Section 3558, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Insects Which May Be Imported or Shipped Within California Without a Permit.

The notice was mailed on February 25, 2004. In the published notice it stated that any person interested could present statements or arguments in writing relevant to the action proposed to the agency officer on or before April 5, 2004. This notice is to inform you of a change in that date. Any person interested may now present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before April 26, 2004.

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 Department no later than 15 days prior to the close of the written comment period.

The proposed amendment of Section 3558(a) would identify additional types of beneficial or useful insects that do not require a permit authorized by the Secretary or the United States Department of Agriculture to move into or within the State. The effect of the proposed amendment is to remove the requirement for persons to obtain a permit from the Secretary or the United States Department of Agriculture for the additional listed beneficial or useful insects; thus reducing an unnecessary regulatory burden upon such persons moving such insects.

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: [sbrown@cdfa.ca.gov](mailto:sbrown@cdfa.ca.gov).

In his absence, you may contact Kris Peebles at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdffa.ca.gov/cdfa/pendingregs](http://www.cdffa.ca.gov/cdfa/pendingregs)).

**DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL**

**HOUSEHOLD HAZARDOUS WASTE UNIT,  
REGULATORY AND PROGRAM  
DEVELOPMENT DIVISION, PUBLIC NOTICE  
FOR VARIANCE ISSUANCE**

On February 23, 2004, the Regulatory and Program Development Division of the Department of Toxic Substances Control (DTSC) issued a variance to the Kings County Department of Agriculture. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued to conduct a one-day regional agricultural chemical collection event on February 25, 2004. This variance authorizes the Kings County Department of Agriculture, through their contractor, to collect banned, unregistered, and outdated agricultural chemicals from generators who store not more than 500 kilograms of agricultural chemical wastes. Wastes are to be collected in accordance with Health and Safety Code 25207 et seq. Specific standards exempted are contained in the Health and Safety Code, section 25201 and California Code of Regulations, title 22, division 4.5, chapter 20. The collections are subject to strict operating standards specified in the variance. For additional information contact William Beckman at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (916) 324-8293.

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**NOTICE TO INTERESTED PARTIES**

**Announcement of a Public Comment Period and  
Workshops on the Draft Report, "Proposed  
Methodology for Calculating Advisory  
Human-Exposure-Based Screening Numbers  
Developed to Aid Estimation of Cleanup Costs  
for Contaminated Soil"**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the availability of the draft report, "**Proposed Methodology for Calculating Advisory Human-Exposure-Based Screening Numbers Developed to Aid Estimation of Cleanup Costs for Contaminated Soil,**" and two workshops to present the methodology to the interested public for review and comment. This draft report is required by

the California Land Environmental Restoration and Reuse Act (Escutia, Chapter 764, Statutes of 2001) as part of the effort to develop soil screening numbers for a specific set of contaminants. The Act identifies a screening number as solely an **advisory number**, and has no regulatory effect. The screening numbers are intended to enable citizen groups, community organizations, property owners, developers, and local government officials to estimate the degree of effort that may be necessary to remediate a contaminated property. This document does not discuss how the public and government agencies might apply these screening numbers, once they are developed. The document is limited to the technical basis that will be used to compute the screening numbers.

Two workshops will be held to describe the proposed methodology to derive screening numbers and take comments. Examples are presented in the document to show how the screening numbers are derived by the methodology and are not being presented as the final screening numbers. These workshops will be held on the dates and at the times and locations below:

**April 6, 2004**

1:30 PM to 3:30 PM  
California Environmental Protection Agency  
Headquarters Building  
Sierra Hearing Room, Second Floor  
1001 I Street  
Sacramento, California

**April 7, 2004**

1:00 PM to 3:00 PM  
Ronald Reagan State Building  
Auditorium, First Floor  
300 South Spring Street  
Los Angeles, California

Comments on the proposed methodology are welcomed by mail and at the workshops. To ensure we have an accurate record of all comments, we request your oral comments at the workshops also be provided in writing. The comment period will be from March 12 to April 16, 2004. Please have all comments mailed or faxed by 5:00 PM on April 16, 2004. Comments should be sent to:

Mr. Leon Surgeon  
Integrated Risk Assessment Section  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
1001 I Street  
Sacramento, California 95812-4010  
FAX: (916) 322-9705

If you would like to receive further information on this announcement or have questions, please contact our office at (916) 324-2829 or the address above.

**PROPOSITION 65**

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

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

**NOTICE TO INTERESTED PARTIES**

**ACRYLAMIDE WORK PLAN**

Acrylamide is listed under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65; Health and Safety Code Section 25249.5 et seq.) as a chemical that is known to the state to cause cancer. A No Significant Risk Level (NSRL) for acrylamide of 0.2 micrograms/day was established in regulation in 1990 (Title 22, California Code of Regulations (CCR), Section 12705(c)). Recent research has shown that acrylamide can form during the cooking of certain foods at high temperatures. Accordingly, interested parties have asked the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA), as the lead agency for the implementation of Proposition 65, to interpret the applicability of Proposition 65 regulations to acrylamide in foods.

This notice lays out a work plan for developing additional regulations to assist in Proposition 65 compliance for acrylamide exposures. In preparation of this plan, OEHHA held a public workshop on May 12, 2003, to explore appropriate Proposition 65 regulatory options regarding acrylamide created by cooking foods. Subsequent to the workshop, OEHHA developed a draft work plan, which reflected input received at the workshop, public health considerations, and the need for clear guidance to facilitate Proposition 65 compliance concerning acrylamide in foods. The draft work plan was released to the public for comment August 1, 2003 (*California Regulatory Notice Register*; Register 2003, No. 31-Z).

**CONSULTATION WITH THE CARCINOGEN  
IDENTIFICATION COMMITTEE (CIC)**

The evaluation of potential acrylamide risks in foods is challenging due to the chemical's pervasiveness and the degree of exposure to it in the diet. Therefore, OEHHA assigned a consultative role to the Carcinogen Identification Committee (CIC) in the draft work plan. This is consistent with the CIC's role as the State's Qualified Experts and its general powers and duties as set forth in Title 22, CCR, Section

12305(a)(5), and noted in Title 22, CCR, Section 12302(e). At a CIC meeting held October 17, 2003, OEHHA sought input from the CIC on the draft work plan, and specifically, its opinion on updating the NSRL. Opportunity for public comment on the proposed work plan was provided at this meeting, and through written submission prior to the meeting.

**CIC AND PUBLIC COMMENT ON  
PROPOSED WORK PLAN**

The final acrylamide work plan presented below reflects CIC and public comments received on the proposed work plan released August 1, 2003. The draft work plan proposed to develop a series of four regulations: 1) Update the NSRL for acrylamide (pursuant to 22 CCR 12705) and review data on foods causing exposure below the NSRL; 2) identify acrylamide levels in foods below the limit of detection (pursuant to 22 CCR 12901); 3) identify alternative acrylamide exposure levels for certain foods based on public health considerations (pursuant to 22 CCR 12703(b)); and 4) identify the appropriate form and content of Proposition 65 warnings required for foods due to acrylamide (pursuant to 22 CCR 12601(b)). Consistent with regulations, OEHHA also proposed to provide regulatory levels and advice regarding whether certain food items required warnings under Proposition 65, by application of 22 CCR Sections 12705, 12901, and 12721. The CIC and some members of the public strongly advised OEHHA not to undertake this activity, and this is reflected in the final work plan presented here. Objections raised included the level of state effort, resources and time required to ascertain which foods might require a warning under Proposition 65, the lack of specific exposure data, variability in acrylamide concentrations for given foods, and the numerous foods involved.

**1) NSRL Update**

The CIC recommended that OEHHA proceed with the work to update the NSRL. The CIC, at its October 2003 meeting, and the public through written and oral comments, recommended a number of factors to consider in updating the NSRL, including: the work of other national and international bodies generating and analyzing data pertinent to acrylamide dose-response; variability in susceptibility within the human population; the formation of DNA adducts subsequent to acrylamide intake; and the use of human data to obtain an upper bound estimate on the acrylamide dose-response relationship. It was also recommended that OEHHA consider the information being provided at the April 13-15, 2004 workshop, "Update: Scientific Issues, Uncertainties, and Research Strategies on

Acrylamide in Food,” held in Chicago under the sponsorship of the Food Industry Coalition and JIFSAN (Joint Institute for Food Safety and Applied Nutrition). In updating the NSRL, OEHHA will take into consideration the factors raised by the public and CIC and information presented at the Food Industry Coalition/JIFSAN workshop.

Information on the April 2004 Food Industry Coalition/JIFSAN workshop is provided on the webpage

[http://www.jifsan.umd.edu/acrylamide2004\\_anmt.htm](http://www.jifsan.umd.edu/acrylamide2004_anmt.htm).

In October 2002, the food industry in conjunction with the JIFSAN, convened a workshop that resulted in the identification of a series of scientific research projects relevant to the assessment of the cancer risks of acrylamide in food. At the April 2004 workshop, the status and results of scientific research conducted globally on acrylamide in food since 2002 will be discussed and further research needs identified. Information pertinent to the development of the NSRL is likely to be presented at the April 2004 workshop.

## 2) Limits of Detection

OEHHA proposed to develop a regulation addressing the limit of detection of acrylamide in food per 22 CCR 12901. OEHHA heard about technical aspects of measuring acrylamide in food and the potential for detection limits to vary with different types of foods (e.g., solid versus liquid, high vs. low fat content). Because of the specificity that may be involved in determining the limit of detection for particular foods, and ongoing research and development in this area, OEHHA will not develop a general regulation regarding methods of detection at this time. To provide assistance in the near term, however, OEHHA invites requests for regulatory guidance via the Safe Use Determination (SUD) process, pursuant to 22 CCR 12204. A SUD involves the analysis of data provided by the requestor on specific products, chemical concentrations and exposures circumstances to determine whether such use results in exposures below the Proposition 65 regulatory threshold. While OEHHA has decided not to proceed at this time with a regulatory specification of methods and limits of detection for acrylamide, a SUD may entail the evaluation of a limit and method of detection for specific items and uses. Information required for OEHHA to evaluate safe use of an acrylamide-containing product under this provision will be specific to the particular food product. Those wishing to submit a request for a SUD are referred to the regulatory guidance for submission, processing and determination (22 CCR 12204).

## 3) Alternative Risk Levels

The third area of regulatory activity proposed by OEHHA involved the identification of foods for which sound considerations of public health may support alternative regulatory levels for acrylamide exposure (22 CCR 12703(b)). OEHHA heard strong objections to this proposal from the CIC and some members of the public and will not pursue it at this time. Objections raised included the potentially large expenditure of state resources required to determine alternative risk levels for specific foods and complexities in making an alternative risk determination given the large variability of acrylamide concentration in certain foods, difficulties in measuring acrylamide in food, and the challenge of factoring in the differing nutritional content of food in the analysis. In addition, some objecting spoke to the public's right to know about the cancer hazard of acrylamide in food, the lack of a scientific basis for establishing alternative risk levels, and the possible confusion that may result if findings were inconsistent with those of the U.S. Food and Drug Administration.

## 4) Safe Harbor Warnings

With regard to the fourth area of regulation, a number of suggestions were received from the CIC and public regarding the form and content of Proposition 65 warning messages. These included general public health messages broadcast by, for example, television on the formation of acrylamide during food preparation, acrylamide risks and the importance of a healthy diet, as well as periodic modification of such messages as the scientific information on acrylamide risks evolves. Suggestions and precautions regarding food product labeling were also heard. Several comments were also received regarding addressing other toxicity endpoints such as neurotoxicity and reproductive toxicity in conveying information on acrylamide risks.

### FINAL ACRYLAMIDE WORK PLAN

OEHHA will take the following actions to address the acrylamide issue:

1. Acrylamide NSRL Update (Regulation). The NSRL for acrylamide (0.2 micrograms per day) was adopted in regulation in 1990. Since its adoption, additional scientific data have been published relevant to the cancer dose-response assessment. Pursuant to Title 22, CCR, Section 12705, OEHHA will review these data and, as appropriate, adopt an updated NSRL into regulation.

In developing a revised NSRL, OEHHA will review available scientific information on dose-response, including cancer bioassay, biomarker, and pharmacokinetic studies. OEHHA will also consider comments previously received from the CIC and public regarding

factors to consider in updating the NSRL and information discussed at the April 2004 Food Industry Coalition/JIFSAN workshop on acrylamide discussed above.

OEHHA anticipates initiating the formal regulatory process by releasing in summer 2004 a proposed updated NSRL for acrylamide. As required by the Administrative Procedure Act (APA), this will be followed by a written 45-day public comment period, and a public hearing will be scheduled during that comment period.

After review and response to the public comments, OEHHA may adopt the NSRL and complete the regulatory process. In the alternative, OEHHA may revise the proposed NSRL. A revision would require an additional comment period (minimum 15-day), or request for further input through the scheduling of additional public comment periods and hearings. OEHHA anticipates adopting a revised NSRL in spring 2005, assuming only one comment period and hearing is required.

2. Form and Content for Proposition 65 Warnings Required Due to Acrylamide in Foods (Regulation). Without prejudging which foods may require a warning under Proposition 65, OEHHA is initiating the development of a regulation on the form and content of warnings for acrylamide in food where a warning is required. The goal of any such regulation would be to clarify the appropriate communication, in the appropriate context for warning consumers about the presence of acrylamide in the food in compliance with Proposition 65 and to avoid the dissemination of indiscriminate, misleading, confusing, or inappropriately alarming warnings.

OEHHA anticipates releasing a proposed safe harbor warning regulation in summer 2004. This will be a proposed addition to the regulation identifying the "safe harbor" form and content of a warning, and will specifically provide warning language for acrylamide in food that will be included in Title 22, CCR, Section 12601. This would initiate a formal APA regulatory process as described above. OEHHA anticipates adopting the regulation in summer 2005, assuming only one comment period and hearing is required.

#### CONCLUSION

OEHHA will give the development of the NSRL and warning regulations first priority in providing guidance for acrylamide in foods. As science develops or the need arises, additional regulatory activities may be undertaken by OEHHA to assist Proposition 65 compliance efforts. OEHHA will separately provide public notice for each of the regulatory actions described above.

If you wish to be on the list for notice of Proposition 65 regulatory actions on acrylamide, please contact:

Cynthia Oshita  
Office of Environmental Health Hazard Assessment  
Proposition 65 Implementation  
P.O. Box 4010 1001 I Street, 19th floor  
Sacramento, California 95812-4010  
FAX (916) 323-8803  
(916) 445-6900  
email: [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov)

### **CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

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

#### NOTICE TO INTERESTED PARTIES

#### **Availability of Final Data Summaries and Priorities for Chemicals With Respect to Their Evaluation by the OEHHA Science Advisory Board's Carcinogen Identification Committee**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA), as lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), has developed a procedure for prioritizing chemicals for consideration under Proposition 65 by the "State's qualified experts." Two committees of the Science Advisory Board (SAB), known as the Carcinogen Identification Committee (CIC) and the Developmental and Reproductive Toxicant (DART) Identification Committee, serve as the State's qualified experts for rendering an opinion whether a chemical is known to the State to cause cancer or reproductive toxicity.

The procedure used by OEHHA to identify, prioritize and select candidate chemicals for evaluation by the SAB Committees is described in, "Procedure for Prioritizing Candidate Chemicals for Consideration Under Proposition 65 by the States Qualified Experts," May 1997, and is available on the Internet at [www.oehha.ca.gov](http://www.oehha.ca.gov). On October 17, 2003, OEHHA announced the release of draft priority assignments and draft data summaries for 47 of 50 chemicals selected for prioritization with respect to their potential to cause cancer. Draft data summaries and priorities were not released last October on three

postponed substances: chromium picolinate, toxins derived from *Fusarium moniliforme* (*Fusarium verticillioides*), and sodium nitrite. Chromium picolinate was postponed pending the results of a bioassay expected from the National Toxicology Program. "Toxins derived from *Fusarium moniliforme*" was postponed because it is a candidate for listing via the authoritative bodies mechanism. The draft data summary and priority status for sodium nitrite is under development.

The October 17, 2003, announcement initiated a 60-day public comment period on 47 draft priority assignments and draft data summaries for the 50 "Batch #4" chemicals. The public comment period included a public workshop held November 19, 2003. After review and careful consideration of the comments received, the priority assignments have been finalized for 45 of the 47 chemicals, as indicated in the table below. OEHHHA is evaluating comments received and finalizing data summaries on the two remaining chemicals: nucleoside analogues, titanium dioxide. The priority status of these chemicals will remain "draft" until that process is completed.

In accordance with OEHHHA's prioritization procedure, all chemicals with final priority assignments of "high" carcinogenicity concern are placed on the final Candidate List (see table below). All other final prioritized chemicals will be placed in Category II, which means they will not be subject to further consideration at this time. Chemicals are selected from the Candidate List for the development of draft hazard identification documents and subsequent consideration for listing by the CIC of OEHHHA's Science Advisory Board. The final priority assignments for the 45 chemicals are given below.

**Final Priority Assignments**

On Candidate List due to HIGH CARCINOGENICITY CONCERN	
Name of Chemical	CAS Reg. No.
4-Amino-N-(4,6-dimethyl-2-pyrimidinyl)benzene sulfonamide (sulfamethazine)	57-68-1
2-Chloro-1,1,1-trifluoroethane	75-88-7
Ciprofibrate	52214-84-3
Diallate	2303-16-4
Diflalone	21626-89-1
3,6-Dinitrobenzo[a]pyrene	128714-76-1
1,2-Epoxybutane	106-88-7
4-Hydroxybenzenediazonium and its salts	19089-85-1
Methimazole	60-56-0
4-Methylbenzenediazonium and its salts	57573-52-1
Molybdenum trioxide	1313-27-5
4-Nitrotoluene (p-nitrotoluene)	99-99-0
Propoxur (Baygon)	114-26-1
1,2,4-Trichlorobenzene	120-82-1
Verapamil	52-53-9

Category II (Not HIGH CARCINOGENICITY CONCERN)	
Name of Chemical	CAS Reg. No.
Acephate	30560-19-1
Acetoxymethylphenylnitrosamine	81943-37-5
trans-Anethole	4180-23-8
Aspartame	22839-47-0
1-Benzoyl-2,6-dimethyl-4-nitrosopiperazine	61034-40-0
Chloroacetic acid	79-11-8
Chloromethane (methyl chloride)	74-87-3
Cholestyramine	11041-12-6
Clofentezine	74115-24-5
Cycloate	1134-23-2
3,4-Dihydrocoumarin	119-84-6
Dimethipin (Harvade)	55290-64-7
Flutamide	13311-84-7
Indolidan	100643-96-7
Isomazole and isomazole hydrochloride	86315-52-8; 87359-33-9
Isoniazid	54-85-3
Levobunolol and its salts	47141-42-4
Mecoprop and its salts	7085-19-0
Methyl methacrylate	80-62-6
Mineral fibers, man-made; now referred to as Synthetic vitreous fibers: Rockwool (stonewool) Slagwool Continuous glass filaments	— — —
Nicotine	54-11-5
3-Nitrofluoranthene	892-21-7
Orlistat	96829-58-2
Oxyfluorfen (Goal)	42874-03-3
Pimozide	2062-78-4
Pyrimethamine (Daraprim)	58-14-0
Triethanolamine	102-71-6
Tralkoxydim	87820-88-0
Triflusaluron-methyl	126535-15-7
Vitamin K (by intramuscular injection in neonates)	12001-79-5

Copies of the final data summaries and priority assignments for these chemicals are available from the Proposition 65 Implementation Office at the address and telephone number indicated below, or from the Internet at the following address: [www.oehha.ca.gov](http://www.oehha.ca.gov).

Cynthia Oshita  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
Sacramento, California 95812-4010  
FAX: (916) 323-8803  
Telephone: (916) 445-6900

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

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

NOTICE TO INTERESTED PARTIES

**Request for Information on Chemicals to be  
Considered by the OEHHA Science Advisory  
Board's Carcinogen Identification Committee**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65; Health and Safety Code Section 25249.5 *et seq.*).

The Carcinogen Identification Committee of OEHHA's Science Advisory Board identifies chemicals for addition to the list of chemicals known to the State to cause cancer, which pursuant to Proposition 65 must be updated annually. The Committee serves as the State's qualified experts for rendering an opinion whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer.

OEHHA has developed a procedure for prioritizing candidate chemicals for consideration under Proposition 65 by the State's qualified experts. The process is described in "Procedure for Prioritizing Candidate Chemicals for Consideration Under Proposition 65 by the State's Qualified Experts," May 1997, and is available on the Internet at [www.oehha.ca.gov](http://www.oehha.ca.gov). On October 17, 2003, OEHHA released for public comment draft priority assignments and draft data summaries for 47 "Batch #4" chemicals with respect to their potential to cause cancer. Today OEHHA announced the final priority assignments for 45 of these chemicals in a separate notice published elsewhere in this issue of the *California Regulatory Notice Register*.

In accordance with OEHHA's prioritization procedure, all chemicals with final priority assignments of "high" carcinogenicity concern are placed on the final Candidate List, which is available on the OEHHA website ([www.oehha.ca.gov](http://www.oehha.ca.gov)). Chemicals are then selected from the Candidate List for the development of draft cancer hazard identification documents and subsequent consideration for listing by the Carcinogen Identification Committee of OEHHA's Science Advisory Board.

The table below lists the chemicals added today to the candidate list, along with level of exposure concern.

**TABLE 1. March 2004 Additions to the Candidate List**

CHEMICAL	CAS No.	LEVEL OF EXPOSURE CONCERN
4-Amino-N-(4,6-dimethyl-2-pyrimidinyl)benzene sulfonamide (sulfamethazine)	57-68-1	high
3,6-Dinitrobenzo[a]pyrene	128714-76-1	high
1,2-Epoxybutane	106-88-7	high
Methimazole	60-56-0	high
Molybdenum trioxide	1313-27-5	high
4-Nitrotoluene ( <i>p</i> -nitrotoluene)	99-99-0	high
Propoxur (Baygon)	114-26-1	high
1,2,4-Trichlorobenzene	120-82-1	high
Verapamil	52-53-9	high
2-Chloro-1,1,1-trifluoroethane	75-88-7	medium
4-Hydroxybenzenediazonium and its salts	19089-85-1	medium
4-Methylbenzenediazonium and its salts	57573-52-1	medium
Ciprofibrate	52214-84-3	low
Diallate	2303-16-4	n.i.c.
Diftalone	21626-89-1	n.i.c.

Consistent with OEHHA's current (May 1997) prioritization procedure, chemicals with the highest level of exposure concern will be selected first from the Candidate List. At this time, therefore, OEHHA requests information relevant to the assessment of the evidence of carcinogenicity on the chemicals with high exposure concern listed in the table below.

**TABLE 2. Chemicals for which OEHHA requests information relevant to carcinogenicity assessment**

CHEMICAL	CAS No.
4-Amino-N-(4,6-dimethyl-2-pyrimidinyl)benzene sulfonamide (sulfamethazine)	57-68-1
3,6-Dinitrobenzo[a]pyrene	128714-76-1
1,2-Epoxybutane	106-88-7
Methimazole	60-56-0
Molybdenum trioxide	1313-27-5
4-Nitrotoluene ( <i>p</i> -nitrotoluene)	99-99-0
Propoxur (Baygon)	114-26-1
1,2,4-Trichlorobenzene	120-82-1
Verapamil	52-53-9

Interested parties or members of the public wishing to provide information relevant to the assessment of carcinogenicity for any of these chemicals should forward such information including, but not limited to,

cancer bioassays, cancer epidemiological studies, genotoxicity testing, and other pertinent data on pharmacokinetics, biomarkers, and effects on biochemical and physiological processes in humans, to the address given below. The publication of this notice marks the start of a 60-day data call-in period. This period will end on **Tuesday, May 11, 2004**. The information received during this data call-in period will be reviewed and considered by OEHHA as it develops the draft cancer hazard identification documents on these compounds.

Notification of the availability of the hazard identification documents and of the time, date, location, and agenda of the meeting(s) of the Carcinogen Identification Committee where these chemicals will be considered will be provided in subsequent notices published in the *California Regulatory Notice Register* and posted on the Internet at the same web site address. It is anticipated that the draft hazard identification documents will be made available for a 60-day comment period prior to the Committee meetings at which these chemicals will be considered.

Relevant information on these chemicals should be sent in triplicate by mail or fax to:

Cynthia Oshita  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
Sacramento, California 95812-4010  
FAX: (916) 323-8803  
Telephone: (916) 445-6900

**Relevant information may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov). In order to be considered, the relevant information must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered, sent by FAX, or transmitted electronically) by 5:00 p.m. on Tuesday, May 11, 2004.**

## 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.

#### AIR RESOURCES BOARD Zero Emission Vehicle Amendments 2003

This action updates the Zero Emission Vehicle regulations, deleting provisions related to promoting fuel economy, adding a new alternative compliance option, and adjusting the classifications of low emission vehicles and the credits they will earn during specified periods for the purpose of promoting the development of ZEV technology and for use in determining compliance with the ZEV mandate.

Title 13  
California Code of Regulations  
AMEND : 1900, 1960.1(k), 1961(a)(d), 1962  
Filed 02/25/04  
Effective 03/26/04  
Agency Contact:  
W. Thomas Jennings (916) 322-2884

#### BOARD OF BEHAVIORAL SCIENCES Restructuring MFT and LCSW Examination Process

This emergency regulatory action replaces the oral examination for the licensed clinical social worker and the marriage and family therapist with a written clinical vignette examination, reduces the charge for this examination from \$200 to \$100, and makes other related changes.

Title 16  
California Code of Regulations  
ADOPT: 1829 AMEND : 1816.2, 1816.3, 1877  
REPEAL: 1815  
Filed 03/03/04  
Effective 03/03/04  
Agency Contact:  
Julie McAuliffe (916) 445-4933 x1142

#### BOARD OF EDUCATION No Child Left Behind Teacher Requirements (NCLB)

This action implements federal mandates in the No Child Left Behind Act (NCLB) by adopting California's requirements for qualifying as a "highly qualified teacher" under that act.

Title 5  
California Code of Regulations  
ADOPT: 6100, 6101, 6102, 6103, 6014, 6110, 6111, 6112, 6115  
Filed 02/27/04  
Effective 02/27/04  
Agency Contact: Debra Strain (916) 319-0641

#### BOARD OF PRISON TERMS Conflict of Interest Code

The Board of Prison Terms is amending its conflict of interest code found at title 15, California Code of

Regulations, section 2005. The amendment was approved for filing by the Fair Political Practices Commission on December 18, 2003.

Title 15  
California Code of Regulations  
AMEND : 2005  
Filed 03/03/04  
Effective 04/02/04  
Agency Contact: Lori Manieri (916) 445-5277

**CALIFORNIA GAMBLING CONTROL COMMISSION**

Initial and Renewal License Applications;  
Required Forms

The regulatory action is the emergency readoption of an emergency filing that dealt with the required forms and processing times for initial and renewal license applications. (Prior OAL files 03-1024-05E and 03-0926-02E; California Gambling Control Commission File GCA 2004-E-2.)

Title 4  
California Code of Regulations  
ADOPT: 12270, 12271, 12272  
Filed 02/27/04  
Effective 02/27/04  
Agency Contact: Herb Bolz (916) 263-0700

**CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

Specifying the Amounts of Civil Penalties Against Waste Tire Haulers

This filing is the readoption of emergency regulations that dealt with civil penalties that may be imposed administratively. (Prior OAL files 03-0227-03E, 03-0627-01EE and 03-1030-02EE.)

Title 14  
California Code of Regulations  
AMEND : 18464, 18465  
Filed 03/02/04  
Effective 03/02/04  
Agency Contact: Wendy Breckon (916) 341-6068

**DEPARTMENT OF MOTOR VEHICLES**

Vehicle Classification

This emergency action adopts a rule for the depreciation vehicles to take the place of Revenue and Taxation Code section 10753.2, a statute covering the same subject, that became inoperative on March 1, 2004.

Title 13  
California Code of Regulations  
ADOPT: 159.00  
Filed 03/01/04  
Effective 03/01/04  
Agency Contact:  
Bonnie DeWatney (916) 657-8954

**DEPARTMENT OF SOCIAL SERVICES**  
Anticipating Income and Changes in the Food Stamp Program

This emergency regulatory action conforms state regulations concerning anticipating income and changes in the food stamp program to recent federal changes. (Previous OAL file # 03-1021-01E)

Title MPP  
California Code of Regulations  
AMEND : 63-503, 63-504, 63-505  
Filed 02/25/04  
Effective 03/01/04  
Agency Contact:  
Maureen Miyamura (916) 653-1925

**DEPARTMENT OF SOCIAL SERVICES**  
Budgeting of Food Stamp Standard Utility Allowance

The United States Department of Agriculture, Food and Nutrition Service (FNS), released Administrative Notice (AN) 02-23, dated February 2, 2002, clarifying existing federal regulations at 7 Code of Federal Regulations (CFR) section 273.9(d)(6)(iii)(F) that provides that states do not have the option to prorate the Standard Utility Allowance (SUA) when household members share utility expenses (heating and cooling) with excluded individuals (e.g., ineligible noncitizens). This regulatory filing aligns the state regulations with the federal regulations for budgeting of the SUA. Also, throughout these regulations, the term "alien" is being changed to "noncitizen" for clarity and consistency with terminology now used in the federal regulations.

Title MPP  
California Code of Regulations  
ADOPT: 63-502.371 AMEND : 63-502.371, 63-502.372, 63-502.373, 63-502.374, 63-502.375, 63-502.376 REPEAL: 63-502.371(c)  
Filed 02/26/04  
Effective 03/27/04  
Agency Contact:  
Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

Land Disposal Restriction

This filing is submitted as a change without regulatory effect to correct typographical errors, revise technical terms for clarity, and correct an outdated reference. These changes were requested by the U.S. Environmental Protection Agency as part of its review of the Department of Toxic Substances Control regulations related to land disposal restrictions.

Title 22  
California Code of Regulations  
AMEND : 66260.10, 66268.7, 66268.8, 66268.42

Filed 02/26/04  
 Effective 02/26/04  
 Agency Contact: Joan Ferber (916) 322-6409

**MANAGED RISK MEDICAL INSURANCE BOARD**  
 Managed Risk Medical Insurance Program—  
 AB 1401

This Certificate of Compliance adopts provisions restructuring the Medical Risk Medical Insurance Program (MRMIP) pursuant to Chapter 794, Statutes of 2002 (AB 1401).

Title 10  
 California Code of Regulations  
 ADOPT: 2698.102, 2698.600, 2698.602, 2698.604  
 AMEND : 2698.100, 2698.200, 2698.201,  
 2698.202, 2698.203, 2698.204, 2698.205,  
 2698.206, 2698.207, 2698.208, 2698.300,  
 2698.301, 2698.302, 2698.303, 2698.401,  
 2698.403, 2698.405, 2698.407, 2698.500,  
 2698.501,  
 Filed 03/01/04  
 Effective 03/01/04  
 Agency Contact:  
 Donald G. Minnich (916) 327-7978

**SECRETARY OF STATE**  
 Conflict of Interest Code

This is a Conflict of Interest Code amendment that has previously been approved by the Fair Political Practices Commission and is submitted for filing with the Secretary of State and printing only.

Title 2  
 California Code of Regulations  
 Filed 02/26/04  
 Effective 03/27/04  
 Agency Contact: Mike Green (916) 653-6354

**STATE ALLOCATION BOARD**  
 Leroy F. Greene School Facilities Act of 1998—  
 April 2003 UOG

This emergency regulatory action readopts provisions governing the processing of New Construction Grant Fund requests for projects accepted by the Division of State Architect on or before January 22, 2003 and parallel provisions for projects accepted after January 22, 2003. This action readopts provisions adopted in OAL file numbers 03-0627-06E and 03-1024-06EE.

Title 2  
 California Code of Regulations  
 ADOPT: 1859.77.3 AMEND : 1859.2, 1859.77.2  
 Filed 03/02/04  
 Effective 03/02/04  
 Agency Contact: Lisa Jones (916) 322-1043

**STATE ALLOCATION BOARD**  
 Leroy F. Greene School Facilities Act of 1998—  
 SAB Membership

This Certificate of Compliance conforms the membership of the Board and the number of members required for a quorum to recent legislative changes. (Previous OAL file #03-0205-03E, 03-0610-01EE, and 03-1008-06EE).

Title 2  
 California Code of Regulations  
 AMEND : 1555  
 Filed 03/01/04  
 Effective 03/01/04  
 Agency Contact: Lisa Jones (916) 322-1043

**STATE WATER RESOURCES CONTROL BOARD**  
 Water Quality Control Plan, Los Angeles Region

Los Angeles Regional Water Quality Control Board Resolution No. 03-009, adopted on July 10, 2003, establishes a Total Maximum Daily Load (TMDL) for nitrogen compounds and related effects in the Los Angeles River and its tributaries. Via memos dated September 19, 2003 and October 9, 2003, the regional board executive officer made minor, nonsubstantive corrections to the language of the basin plan amendment adopted by the board. The TMDL specifies concentration-based targets for ammonia, nitrate, nitrite, and combined nitrate and nitrite, which must be fully attained five years after the effective date of the TMDL. The TMDL includes a margin of safety with both implicit and explicit components.

Numeric targets will primarily be achieved by limiting the amount of nitrogen compounds discharged from three major wastewater treatment plants (Donald C. Tillman Water Reclamation Plant, Los Angeles-Glendale Water Reclamation Plant, and Burbank Water Reclamation Plant). To provide these major permitted dischargers time to meet wasteload allocations, higher interim limits will be allowed for ammonia and combined nitrite and nitrate for a period not to exceed 3.5 years from the effective date of the TMDL. Compliance with the separate nitrate and nitrite wasteload allocations is not required during this interim period. Minor permitted point source dischargers are also assigned wasteload allocations which must be met immediately. Load allocations for nonpoint sources may be developed if it is determined that they are necessary after wasteload allocations have been implemented.

Workplans for monitoring nitrogen compounds and related effects must be submitted by municipal separate storm sewer systems permittees and major National Pollutant Discharge Elimination System permittees within one year after the effective date of the TMDL. A special studies workplan to evaluate site-specific objectives, seasonal allocations, and point

of compliance must be submitted by the City of Los Angeles within one year after the effective date of the TMDL, and the results of the studies within two and a half years after the effective date of the TMDL. Three and a half years after the effective date of the TMDL, if monitoring and study results indicate it is appropriate, the Regional Board will consider adopting site specific objectives for ammonia, nitrate, and nitrite and revising the TMDL. Five years after the effective date of the TMDL, the Regional Board will consider whether the numeric targets and wasteload allocations specified in the TMDL are sufficient to protect the Los Angeles River and its tributaries from the nutrient effects of discharged nitrogen compounds or whether the TMDL must be revised.

Title 23

California Code of Regulations

ADOPT: 3939.7

Filed 02/27/04

Effective 02/27/04

Agency Contact: Joanna Jensen (916) 657-1036

**STATE WATER RESOURCES CONTROL BOARD  
Water Quality Control Plan: Los Angeles Region**

Los Angeles Regional Water Quality Control Board (Regional Board) Resolution No. 2003-011, adopted on August 7, 2003, with minor modifications by the executive officer via memo dated October 3, 2003, establishes a Total Maximum Daily Load (TMDL) for nitrogen compounds in the Santa Clara River.

Numeric targets will primarily be achieved by limiting the amount of nitrogen compounds discharged from four major permitted wastewater treatment plants (Saugus Water Reclamation Plant (WRP), Valencia WRP, Fillmore Publicly Owned Treatment Work (POTW), and Santa Paula POTW). These major point sources are assigned wasteload allocations for ammonia, nitrite, nitrate, and combined nitrite and nitrate. At the Regional Board's discretion, the Saugus and Valencia WRPs may be allowed higher interim loads for nitrate, nitrite, and combined nitrate and nitrite for a period as short as possible, but not to exceed eight years from the effective date of the TMDL. The Fillmore and Santa Paula POTWs may be allowed higher interim loads for combined ammonia, nitrate and nitrate for a period also not to exceed eight years after the effective date of the TMDL. Receiving water monitoring is required weekly of these major point sources.

Minor point sources (including stormwater sources) in Reaches 3 and 7 are assigned concentration-based wasteload allocations for ammonia and combined nitrite and nitrate. Wasteload allocations for minor point sources will be implemented through effluent limits or Best Management Practices (BMPs) for stormwater. Load allocations for nonpoint sources for

combined ammonia, nitrite, and nitrate are implemented through State Water Resources Control Board BMPs.

The County Sanitation District of Los Angeles County (CSDLAC) must submit the results from a water effects ratio study for ammonia when the TMDL takes effect. Within one year after the effective date of the TMDL, the following workplans must be submitted to the Regional Board for approval: (1) a workplan for estimating nitrogen loading from stormwater sources which includes triggers for conducting source identification and implementing BMPs must be submitted by affected major National Pollutant Discharge Elimination System permittees; (2) a workplan for monitoring nitrogen-related effects and evaluate progress in meeting targets must be submitted by affected major National Pollutant Discharge Elimination System permittees; and (3) a special studies workplan to evaluate site-specific objectives for nitrate must be submitted by CSDLAC. If monitoring and study results indicate it is appropriate, the Regional Board will consider adopting site-specific objectives for ammonia within one year after the effective date of the TMDL, and site-specific objectives for nitrate, and combined nitrite and nitrate within four years after the effective date of the TMDL. If site-specific objectives are adopted, the TMDL will be revised through a Basin Plan Amendment. Five years after the effective date of the TMDL, the Regional Board will consider whether the numeric targets and wasteload allocations specified in the TMDL are sufficient to protect the Santa Clara River from nutrient effects of discharged nitrogen compounds or whether the TMDL must be revised

Title 23

California Code of Regulations

ADOPT: 3939.6

Filed 02/27/04

Effective 02/27/04

Agency Contact: Joanna Jensen (916) 657-1036

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN OCTOBER 29, 2003 TO  
MARCH 03, 2004**

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

**Title 2**

03/02/04 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2  
 03/01/04 AMEND: 1555  
 02/26/04  
 02/23/04 AMEND: 1181.1  
 02/23/04 AMEND: 59150  
 02/20/04 AMEND: Div. 8, Ch. 4, Sec. 25001  
 02/20/04 ADOPT: 58600  
 02/09/04 ADOPT: 599.893, 599.898, 599.906, 599.907, 599.909  
 AMEND: 599.894, 599.895, 599.896, 599.898 (renumbered to 599.897), 599.903, 599.904, 599.905, 599.906 (renumbered to 599.908), 599.910  
 02/05/04 AMEND: 20107  
 01/23/04 ADOPT: 18531.6 AMEND: 18531.61  
 01/22/04 AMEND: 18707.5  
 01/15/04 AMEND: 2270, 2271  
 01/15/04 ADOPT: 599.516  
 01/14/04 AMEND: 18427.1  
 12/29/03 REPEAL: Division 8, Chapter 20, Sections 41001, 41002, 41003, 41004, 41005, 41006, 41007, 41008, 41009, 41010, 41011, 41012, 41013  
 12/22/03 AMEND: 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153  
 12/19/03 ADOPT: 1859.70.1, 1859.71.3, 1859.78.5, 1859.78.6, 1859.78.7, 1859.93.1, 1859.120, 1859.121, 1859.122, 1859.122.1, 1859.122.2, 1859.123, 1859.124, 1859.124.1, 1859.125, 1859.125.1, 1859.126, 1859.127, 1859.128, 1859.129, 1859.130, 1859.140, 1859.141, 185  
 12/01/03 ADOPT: 22100, 22110, 22120, 22130  
 12/01/03 ADOPT: Division 8, Chapter 106, Section 59500  
 11/20/03  
 11/10/03 ADOPT: 18728.5 AMEND: 18703.3  
 11/03/03 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2

**Title 3**

02/17/04 AMEND: 3430(b)  
 02/05/04 AMEND: 3417(b)  
 01/27/04 ADOPT: 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857  
 01/14/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784  
 01/05/04 AMEND: 3700(c)  
 12/26/03 AMEND: 3417(b)  
 11/06/03 AMEND: 3700 (d)  
 11/06/03 AMEND: 2303, 2309, 2311

11/03/03 ADOPT: 6148, 6148.5, 6216, 6217  
 AMEND: 305, 6168, 6170, 6386, 6500, 6502, 6505, 6508, 6512

**Title 4**

02/27/04 ADOPT: 12270, 12271, 12272  
 02/20/04 ADOPT: 12300, 12301, 12301.1, 12302, 12303, 12304, 12305, 12306, 12307, 12308, 12309, 12310 AMEND: 12300, 12301, 12302, 12303, 12304, 12305, 12309 REPEAL: 12303, 12307  
 02/05/04 AMEND: 12202, 12212, 12213, 12220, 12221, 1222, 12223, 12224, 1225, 12226, 12227, 12228, 12229, 12230, 12231, 12232  
 02/05/04 ADOPT: 12370, 12371  
 01/22/04 AMEND: 1371 REPEAL: 1373.1  
 12/15/03 ADOPT: 12250 AMEND: 12101, 12122  
 11/06/03 ADOPT: 12200, 12201, 12202, 12203, 12204, 12205, 12206, 12207, 12208, 12209, 12210, 12211, 12212, 12213, 12214, 12220, 12221, 12222, 12223, 12224, 12225, 12226, 12227, 12228, 12229, 12230, 12231, 12232  
 10/30/03 ADOPT: 12270, 12271, 12272

**Title 5**

02/27/04 ADOPT: 6100, 6101, 6102, 6103, 6014, 6110, 6111, 6112 6115  
 02/10/04 AMEND: 11960  
 02/03/04 ADOPT: 853.5 AMEND: 850, 852, 853, 589  
 12/29/03 ADOPT: 18074, 18074.1, 18074.2, 18074.3, 18075, 18075.1, 18075.2, 18076, 18076.1, 18076.2 AMEND: 18413, 18428 REPEAL: 18021  
 12/01/03 AMEND: 30950, 30953, 30954, 30958, 30959  
 11/21/03 AMEND: 50500  
 11/20/03 ADOPT: 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611  
 11/06/03 AMEND: 51025  
 11/06/03 ADOPT: 1068, 1069, 1070, 1071, 1072, 1073, 1074  
 11/05/03 AMEND: 53001, 53021  
 11/04/03 ADOPT: 15060, 15070, 15071  
 10/29/03 ADOPT: 13075

**Title 8**

02/03/04 AMEND: 1712  
 02/02/04 ADOPT: 32017, 32018, 51096, 71010, 71026, 71027, 71030, 71035, 71040, 71050, 71055, 71060, 71070, 71080, 71090, 71095, 71100, 71110, 71115, 71120, 71130, 71140, 71200, 71210, 71225, 71230, 71235, 71300, 71310, 71320, 71330, 71340, 71680, 71685, 71700, 71

**CALIFORNIA REGULATORY NOTICE REGISTER 2004, VOLUME NO. 11-Z**

01/02/04 ADOPT: 9789.10, 9789.11, 9789.20,  
9789.21, 9789.22, 9789.23, 9789.24,  
9789.30, 9789.31, 9789.32, 9789.33,  
9789.34, 9789.35, 9789.36, 9789.37,  
9789.38, 9789.40, 9789.50, 9789.60,  
9789.70, 9789.80, 9789.90, 9789.100,  
9789.110  
12/31/03 ADOPT: 10250  
12/22/03 AMEND: 341.17  
12/18/03 ADOPT: 15611 AMEND: 15600, 15601,  
15601.7, 15602, 15603, 15604, 15605,  
15606, 15607, 15608 REPEAL: 15610  
11/20/03  
11/13/03 AMEND: 32120, 32125, 32135, 32603,  
32605, 32620, 32635, 32798, 32980,  
61000, 61090, 31240, 61380, 61420,  
61480  
11/12/03 ADOPT: 15220, 15220.1, 15220.2,  
15220.3, 15200.4, 15220.5, 15220.6,  
15220.7, 15220.8 AMEND: 15201,  
15210, 15210.1, 15210.2, 15216, 15430  
10/30/03 ADOPT: 3663(g), 3663(h)  
10/30/03 AMEND: 4968

**Title 9**

11/18/03 ADOPT: 1840.112 AMEND: 1830.215

**Title 10**

03/01/04 ADOPT: 2698.102, 2698.600, 2698.602,  
2698.604  
AMEND: 2698.100, 2698.200, 2698.201,  
2698.202, 2698.203, 2698.204, 2698.205,  
2698.206, 2698.207, 2698.208, 2698.300,  
2698.301, 2698.302, 2698.303, 2698.401,  
2698.403, 2698.405, 2698.407, 2698.500,  
2698.501,  
01/16/04 AMEND: 260.102.14  
01/02/04 AMEND: 2698.30, 2698.31, 2698.32,  
2698.33, 2698.34, 2698.35, 2698.36,  
2698.37, 2698.38, 2698.39, 2698.40,  
2698.41, 2698.42 REPEAL: 2698.40,  
2698.41, 2698.42, 2698.43, 2698.44,  
2698.45  
12/31/03 AMEND: 2318.6, 2353.1, 2354  
12/31/03 AMEND: 2318.6, 2353.1  
12/30/03 ADOPT: 2699.6612, 2699.6827  
AMEND: 2699.6500, 2699.6600,  
2699.6607, 2699.6611, 2699.6705,  
2699.6715, 2699.6717, 2699.6725,  
2699.6813, 2699.6815, 2699.6819  
12/26/03 REPEAL: 4025, 4026, 4027, 4028, 4029,  
4030, 4031, 4032  
12/26/03 REPEAL: 4081, 4081.1, 4081.2, 4081.3,  
4081.4, 4081.5, 4081.6, 4081.7, 4081.8  
12/26/03 REPEAL: 6200, 6201, 6202, 6203, 6204,  
6205, 6206, 6207  
12/26/03 REPEAL: 4300, 4301, 4302, 4303, 4305

12/26/03 REPEAL: 4081, 4081.1, 4081.2, 4081.3,  
4081.4, 4081.5, 4081.6, 4081.7, 4081.8  
12/26/03 REPEAL: 4035, 4036, 4037, 4038  
12/26/03 REPEAL: 5300, 5310, 5311, 5312, 5313,  
5314, 5315, 5316, 5317, 5318, 5319,  
5320, 5321, 5322, 5323, 5324, 5326,  
5327, 5328, 5329, 5330, 5340, 5341,  
5342, 5343  
12/26/03 AMEND: 4070, 4071, 4072, 4073, 4074  
REPEAL: 4070, 4071, 4072, 4073, 4074  
12/26/03 REPEAL: 4620  
12/26/03 REPEAL: 4610, 4611, 4612, 4613, 4614,  
4615, 4616, 4617, 4618, 4619  
12/26/03 REPEAL: 4550, 4551, 4552, 4553  
12/23/03 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4,  
2192.5, 2192.6, 2192.7, 2192.8, 2192.9,  
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