



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON  
REGULATIONS**

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**TITLE 2. DEPARTMENT OF FINANCE**

**NOTICE OF INTENTION TO AMEND THE  
CONFLICT-OF-INTEREST CODE OF THE  
DEPARTMENT OF FINANCE**

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

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

This amendment includes the addition of the following positions: Chief, Information Technology Operations and Consulting; Data Processing Manager I-V, Information Technology Consulting Unit; Assistant Program Budget Manager, Health and Human Services. Also includes the addition of the Financial Information System for California (FI\$Cal) Project with the following positions: Project Executive, Project Director, Deputy Director, Administration; Deputy Director, Technology; Deputy Director, Business Team; and Deputy Director, Change Management; Data Processing Manager I-IV, Supervising Administrative Analyst (Accounting Systems), Staff Services Manager II (Supervisor), Business Services Manager; and Associate Business Management Analyst, Business Services.

This amendment includes the deletion of the following positions: Principal Program Budget Analyst I-III, Office of State Audits and Evaluations; Principal Program Budget Analyst I-III, Senior Finance Program Evaluator, Performance Review; School Apportionments Specialist, Education Systems; Chief, Technology Investment Review, Data Processing Manager I-IV, Office of Technology Review, Oversight and Security

Unit; Program Budget Manager, Data Processing Manager III, Budget Systems Development Unit.

Additionally, there are other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the contact person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than May 11, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or person's representative requests a public hearing, he or she must do so no later than April 27, 2009, by contacting the contact person set forth below.

The Department of Finance has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the contact person set forth below.

The Department of Finance has determined that the proposed amendments:

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

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

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

Marion Springer  
915 L Street, 6<sup>th</sup> Floor  
(916) 445-3368 x 3051  
marion.springer@dof.ca.gov

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

### CONFLICT OF INTEREST CODES

#### ADOPTION

STATE: OFFICE OF THE STATE CHIEF INFORMATION OFFICER (OCIO)

A written comment period has been established commencing on **March 27, 2009**, and closing on **May 11, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **May 11, 2009**. If a

public hearing is to be held, oral comments may be presented to the Commission at the hearing.

### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**TITLE 2. OFFICE OF THE STATE  
CHIEF INFORMATION OFFICER**

**NOTICE OF INTENTION TO ADOPT A  
CONFLICT-OF-INTEREST CODE OF THE  
OFFICE OF THE STATE CHIEF INFORMATION  
OFFICER (OCIO)**

NOTICE IS HEREBY GIVEN that the Office of the State Chief Information Officer (OCIO), pursuant to the authority vested in it by section 87300 of the Government Code, proposes its Conflict-of-Interest Code.

The OCIO proposes to adopt its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. A written explanation of why each position was selected and the reasons for the disclosure categories is available.

The OCIO is responsible for the state of California's information technology strategic plan. The strategic plan provides vision and strategies to leverage technology to enhance government services for California's residents and businesses while maintaining personal privacy. Copies of the proposed code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed code by submitting them in writing no later than May 11, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than March 27, 2009, by contacting the Contact Person set forth below.

The OCIO has determined that the proposed code:

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

All inquiries should be directed to:

Barbara Noack, Associate Personnel Analyst  
Employment Development Department (EDD),  
Human Resource Service Division  
800 Capitol Mall, MIC 54  
Sacramento, CA 94280-0001

(916) 653-9231  
BNOACK@EDD.CA.GOV

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

**HEARINGS FOR INDEMNIFICATION OF  
CITIZENS BENEFITING THE PUBLIC AND  
INDEMNIFICATION OF VICTIM OF CRIME**

Article 5.2, §§ 647.1-647.38  
[Notice Published March 27, 2009]

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

**PUBLIC HEARING**

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

**WRITTEN COMMENT PERIOD**

Any interested individual, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on May 11, 2009. The Board will consider only comments received at the Board's office by that time. Submit comments to:

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

Comments may also be submitted by facsimile (FAX) at (916) 491-6439 or by e-mail to [regulations@vcgcb.ca.gov](mailto:regulations@vcgcb.ca.gov).

AUTHORITY AND REFERENCE

Government Code sections 11400.20, 13920, and 13974 authorize the Board to adopt these proposed regulations. The proposed regulations implement, interpret and make specific sections 6254.17, 11125.8, 11126(c)(3), 11420.10(c), 11425.10(a), 11425.50, 11440.30, 11445.10(a), 11445.20(c), 11445.30, 11465.70(c), 13952, 13954, 13956, 13957.2(a), 13957.7(g), 13958, 13959, 13960, 13965, 13973, and *Graham v. State Board of Control* (1995) 33 Cal.App.4th 253, 39 Cal.Rptr.2d 146.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Currently, hearings for Victim Compensation Program and Indemnification of Citizens Benefiting the Public (hereafter referred to as VCP hearings)<sup>1</sup> are governed by Title 2, Article 5.2 and the General Hearing Procedures found in Title 2, Article 2.5 (General Hearing Procedures). Section 647.2 provides that if there is any conflict between the General Hearing Procedures and these regulations, these regulations apply to the VCP hearings. Because the manner that VCP hearings<sup>2</sup> are conducted is unique when compared to other hearings by the Board, the existing regulations created confusion for applicants and representatives regarding which provisions under the General Hearing Procedures apply to the conduct of the VCP hearings.

This rulemaking action seeks to include the most relevant information that applicants and applicant representatives need to know to participate in these hearings in one location for easier reference. The rulemaking action includes new and amended regulations that adapt several provisions of the General Hearing Procedures to VCP hearings, including commonly used terminology for these hearings, proper citations, and current Board practices.

The Board is proposing the repeal of Section 647.25, because all VCP hearings are informal. For clarity for applicants and representatives, the rulemaking action specifies that the provisions of the General Hearing Procedures that the formal hearing provisions, alternative dispute procedures, and declaratory decision of the

Administrative Procedures Act provisions do not apply to VCP hearings.<sup>3</sup> It includes four new regulations that describe the Board's current practices in handling VCP hearings, including duty to furnish correct address, hearings by electronic means, proposed decision by hearing officer, and action of proposed decision by the Board. In addition, it clarifies the hearing officer's authority in overseeing the conduct of VCP hearings.

The draft hearing regulations specify that all VCP hearings are not open to the public, unless the applicant or authorized applicant representative requests that the hearing be public. Government Code section 13959 states that a victim may request a hearing to be closed if it involves a minor, sexual assault or domestic violence. However, VCP records and information are, by law, not public records and necessarily involve highly confidential and privileged information. Thus, all VCP hearings should be closed to the public unless the applicant requests otherwise.

The hearing procedure regulations also seek to repeal section 647.34. Copies of Submitted Materials, which requires applicants to provide five copies of written materials at hearings because it is no longer necessary. The staff does not need nor want applicants to submit multiple copies of written materials. The Program now uses an electronic filing system and multiple copies of written materials are unnecessary.

The draft hearing regulations also include numerous suggestions for clarity, including revisions to reflect the commonly used program name "Victim Compensation Program" and other terms used by the VCP staff.

DISCLOSURES REGARDING THE PROPOSED ACTION

*The Board has made the following initial determinations:*

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

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

<sup>1</sup> These include hearings for the victims of crime, minor witnesses, and indemnification by persons benefiting the public. (Cal. Code Regs., tit. 2, § 647.1.) Because all applications are handled by the Victim Compensation Program, these hearings will be referred to as "VCP hearings" in this rulemaking action.

<sup>2</sup> Some provisions in the General Hearing Procedures that relate to all hearings by the Board, including the VCP hearings, regarding the assignment of hearing officers and prohibited conduct, still apply to VCP hearings and are not affected by this rule-making action.

<sup>3</sup> Cal. Code Regs., tit. 2, § 615.1.

Adoption of these regulations will not:

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

Significant effect on housing costs: None

#### SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulations do not affect small businesses because the regulations address the manner in which the Board conducts VCP hearings and only affect applicants to the Victim Compensation Program as victims or minor witnesses and applicants for Indemnification of Citizens Benefiting the Public.

#### CONSIDERATION OF ALTERNATIVES

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

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

#### CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

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

The backup contact person for these inquiries is:

Roslyn Mack  
Victim Compensation and Government Claims  
Board  
400 R Street, Suite 500  
Sacramento, CA 95811  
Telephone: (916) 491-3605

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

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies may be obtained by contacting Geoff Feusahrens at the address or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding a hearing, if any, and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text available to the public at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Geoff Feusahrens at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

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

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3406(b) of

the regulations in Title 3 of the California Code of Regulations pertaining to the Mediterranean Fruit Fly Interior Quarantine as an emergency action that was effective on November 26, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than May 26, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3406(b) of the regulations in Title 3 of the California Code of Regulations pertaining to the Mediterranean Fruit Fly Interior Quarantine as an emergency action that was effective on December 18, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than June 16, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3406(b) of the regulations in Title 3 of the California Code of Regulations pertaining to the Mediterranean Fruit Fly Interior Quarantine as an emergency action that was effective on February 13, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than August 12, 2009.

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 contact no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 180 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before May 11, 2009.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code, Section 5322).

These amendments established a new quarantine area for Mediterranean fruit fly which now totals approximately 198 square miles surrounding the El Cajon and Spring Valley areas of San Diego County. The effect of the amendment was to implement the authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and from the 198 square mile area under quarantine in San Diego County to prevent artificial spread of the fly to noninfested areas in order to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the San Diego County Agricultural Commissioner requested that this area become the area under quarantine; therefore, there are no mandated costs associated with the addition of this area to the regulation.

The Department also has determined that the regulation will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

#### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. A representative person or

business could incur costs of approximately \$90 per year in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture 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.

AUTHORITY

The Department amended Section 3406(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3406(b) to implement, interpret and make specific Sections 5301, 5302 and 5322, Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

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 Liz Johnson at (916) 654-1017. Questions regarding

the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

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)).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department 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 officer (contact) named herein.

**TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION**

**NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA GAMBLING CONTROL COMMISSION**

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

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

This amendment makes several substantive changes and other technical changes to reflect the current orga-

nizational structure of the Commission. Appendix A has been amended to add titles of new positions not covered in the current Code for each respective division within the Commission, and assigns disclosure categories for each of the designated positions.

Disclosure category 2 has been amended to capture the additional entities, organizations, and individuals for which the Commission has the licensing or licensing and regulatory oversight responsibilities due to the enactment of the Remote Caller Bingo Act. Disclosure Category 2 also includes additional licensing and registration categories not previously covered in the Code that were added by regulation.

Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than May 21, 2009 or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than May 6, 2009 by contacting the Contact Person set forth below.

The Commission has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Commission has determined that the proposed amendments:

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

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

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

Pam Ramsay  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833  
916-263-8111  
pramsay@cgcc.ca.gov

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

#### NOTICE OF PROPOSAL TO AMEND RULE 1663 ENTRY OF CLAIMED HORSE

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1663, Entry of Claimed Horse, to provide that a horse claimed in a California claiming race is ineligible to race in any state other than California until 60 days after the date of the race in which it was claimed except in a stakes race.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, May 19, 2009**, or as soon after that as business before the Board will permit, at the **Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on May 11, 2009**. The Board must receive all comments at that time; however,

written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
 California Horse Racing Board  
 1010 Hurley Way, Suite 300  
 Sacramento, CA 95825  
 Telephone: (916) 263-6397  
 Fax: (916) 263-6022  
 E-mail: [HaroldC@chrb.ca.gov](mailto:HaroldC@chrb.ca.gov)

**AUTHORITY AND REFERENCE**

Authority cited: Sections 19420 and 19440, Business and Professions Code. Reference: Section 19562, Business and Professions Code.

Business and Professions Code sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific section 19562, Business and Professions Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings in this state where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to: Licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with pari-mutuel wagering. Business and Professions Code section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this state.

The California horse racing industry has asked the Board to amend Rule 1663 to reduce the number of days a horse is not eligible to race in another state after it is claimed from 60 days after the close of the meeting at which it was claimed, to 60 days after the date of the race in which it was claimed. The industry believes the current rule, which prohibits a horse from running in another state until 60 days after the close of the meeting at which it was claimed, is unreasonable in today's environment. Recent changes in California horse racing, including the closure of the Bay Meadows racetrack, have resulted in some thoroughbred race meetings that run

up to six months. (The quarter horse meeting at Los Alamitos Race Course will run approximately 201 days in 2009.) An owner who claims a horse in the beginning of a meeting may have to wait up to eight months to run the horse. Changing the "jail time" to 60 days after the date of the race from which the horse was claimed keeps the horse in California for a reasonable amount of time while not restricting owner opportunities.

The proposed amendment calls for a period of "jail time" that renders horses claimed in California ineligible to race (except as specified in the regulation) in another state until 60 days after the date of the race from which it was claimed. This is not unique. Many horse racing jurisdictions have such regulations (Sixty days from date of claim: Arizona, Delaware, Illinois, Louisiana, Massachusetts, Michigan, Minnesota, Ohio and West Virginia) and all United States horse racing jurisdictions honor them on a reciprocal basis. If a horse claimed in another jurisdiction is shipped to California and there are questions regarding its eligibility to race, the jurisdiction from which it was claimed is contacted to make a determination.

The amended subsection 1663(b) provides that a horse claimed out of a claiming race in California is ineligible to race in any state other than California until 60 days from the date of the race in which it was claimed except in a stakes race. The 60-day "jail-time" for claimed horses does not preclude an owner from racing his horse in California, nor does the language stop an owner from racing in stakes races. Instead, it is designed to slow the practice of "raiding" wherein an out-of-state owner or trainer will claim multiple horses at a meeting and immediately take them out of state.

Subsection 1663(b)(1) has been stricken, as the proposed change to subsection 1663(b) eliminates the need for the California Fair Circuit to be considered one race meeting for the purposes of claiming. The revised 60-day "jail time" provision in subsection 1663(b) keeps horses in California for a reasonable period of time while not restricting owner opportunities.

**DISCLOSURE REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: none.  
 Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

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

The Board has made an initial determination that the proposed amendment to Rule 1663 will not have a significant statewide adverse economic impact directly af-

fecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1663 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1663 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1663 states the conditions under which a horse claimed out of a claiming race may start in a subsequent race, and may be run back in a claiming race or run out-of-state. The regulation also provides the conditions under which a claimed horse may be removed from the grounds of the racing association where it was claimed.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would 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 proposed action.

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

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [Haroldc@chr.ca.gov](mailto:Haroldc@chr.ca.gov)

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst  
Telephone: (916) 274-6049

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person at the address, phone number or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's website address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

**TITLE 4. CALIFORNIA HORSE  
RACING BOARD**

TITLE 4, DIVISION 4, CALIFORNIA CODE  
OF REGULATIONS

NOTICE OF PROPOSAL TO REPEAL  
RULE 1950.1. REBATES ON WAGERS

The California Horse Racing Board (Board) proposes to repeal the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to repeal Rule 1950.1, Rebates on Wagers, to remove the prohibition that prevents racing associations and simulcast organizations from entering into agreements with any off track betting facilities that allow rebates on wagers.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, May 19, 2009**, or as soon after that as business before the Board will permit, at the **Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on May 11, 2009**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6022  
E-Mail: [haroldc@chr.ca.gov](mailto:haroldc@chr.ca.gov)

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440 and 19602, Business and Professions Code. Reference: Section 19420, 19440 and 19602, Business and Professions Code.

Business and Professions Code sections 19420, 19440 and 19602 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific section 19424, 19440 and 19602, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Business and Professions Code section 19420 states jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control for horse racing and pari-mutual wagering. Business and Professions Code section 19602 states notwithstanding any other provision of law, any racing association located in this State may authorize betting systems located outside of this State to accept wagers on a race or races conducted or disseminated by that association and may transmit live audiovisual signals of the race or races and their results to those betting systems, except that any authorization is subject to the consent of the host association and applicable federal laws, including, but not limited to, Chapter 57 (commencing with section 3001) of Title 15 of the United States Code.

The Board proposes to repeal Rule 1950.1 to remove the prohibition on offering rebates to patrons who wager on horse races at off-track wagering facilities. Rule 1950.1 was adopted in 1996 in reaction to industry concerns over rebating that was taking place in Nevada. The Board believed that horse racing fans who regularly placed large wagers would leave California race-tracks to wager at locations that offered rebates. At that time, the Board determined this would harm the California handle, and encourage the practice of offering rebates.

Rule 1950.1 was adopted when advance deposit wagering (ADW) was not available. After the introduction of ADW in California there has been some confusion regarding the application of the rule to that method of wagering. ADW, which includes telephone and Internet

wagering, has dramatically changed how horse racing patrons may place wagers. Persons who wish to wager on horse races can open wagering accounts with off-track providers, which routinely offer rebates, or "player reward programs" that offer merchandise or "player points" that can be converted into cash deposits to the racing fan's account. This has caused the industry to re-examine the issue. At racetracks across the nation various types of rebate programs are now commonly offered. With these changes, competition for the wagering dollar has increased, and patron loyalty is more important. Much of the industry now sees "player rewards" programs as a component in cultivating such loyalty. Casinos, off track wagering facilities, ADW providers and racetracks across the nation now use sophisticated technology to track patrons, and to offer programs that reward loyal customers. After examining the issue and listening to industry concerns, the Board has determined that strict enforcement of Rule 1950.1 might place California simulcast operators and racetracks at a disadvantage, and encourage California horse racing fans to wager with out-of-state providers who offer rebates. The Board has determined that if it wishes to encourage horse racing fans to wager on the California product, it must provide the industry with the tools to stay competitive. Repealing Rule 1950.1 will remove an outdated prohibition to the benefit of California racetracks and simulcast organizations.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

Other non-discretionary costs or savings imposed upon local agencies: none.

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

The Board has made an initial determination that the proposed repeal of Rule 1950.1 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.

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

Significant effect on housing costs: none.

The adoption of the proposed repeal of Rule 1950.1 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing busi-

nesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to repeal Rule 1950.1 does not affect small businesses because horse racing is not a small business under Government Code section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be as effective and less burdensome on affected private persons than the proposed action.

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

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [haroldc@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst  
Telephone: (916) 274-6049  
E-mail: [colleeng@chrb.ca.gov](mailto:colleeng@chrb.ca.gov)

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

**AVAILABILITY OF MODIFIED TEXT**

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**AVAILABILITY OF STATEMENT OF REASONS**

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

**BOARD WEB ACCESS**

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

**TITLE 5. BOARD OF EDUCATION**

**NOTICE OF PROPOSED RULEMAKING**

**ADDITION TO CALIFORNIA CODE OF  
REGULATIONS, TITLE 5  
REGARDING SB 319 GENERAL-PURPOSE  
FUNDING ENTITLEMENTS**

[Notice Published March 27, 2009]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing beginning at **1:00 p.m. on May 21, 2009**, at 1430 N Street, Room 1101, Sacramento, California. The room is wheelchair accessible. 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 SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

**WRITTEN COMMENT PERIOD**

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

Debra Strain, Regulations Coordinator  
LEGAL DIVISION  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov). Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on May 21, 2009**.

**AVAILABILITY OF CHANGED  
OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Authority: Section 33031, Education Code.  
Reference: Sections 47605, 47630, and 47660, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Various provisions of the Education Code provide for the establishment of charter schools upon the approval of charter petitions that meet specified requirements. Education Code section 47605(a)(2) provides specifically for the conversion of an existing public school to charter status. Subdivisions (c) through (e) of Education Code section 47660, added by Senate Bill (SB) 319 (Chapter 344, Statutes of 2005), provide specifically for the creation of a general-purpose funding entitlement for a conversion charter school established in a unified school district.

Through this rulemaking process, the SBE proposes to add Article 1.7 to Subchapter 19 of Chapter 11 of Division 1 of California Code of Regulations, Title 5. The proposed regulations elaborate upon and make more specific the provisions of Education Code section 47660 regarding general-purpose funding entitlements. Proposed Article 1.7 contains four sections intended to:

- Identify which school districts and proposed charter schools are impacted and provide general guidance on the necessary calculations.
- Indicate that nothing in the regulations prevents affected charter school petitioners and school districts from mutually agreeing to alternatives to specific compliance with the regulations.
- Require consideration by affected districts of certain district-level expenditures in determining SB 319 general-purpose funding entitlements, as well as overarching legislative intent.
- Require disclosure of information pertaining to the determination of SB 319 general-purpose funding entitlements, as well as preparation of preliminary estimates of the entitlements, to allow petitioners to develop necessary financial information.

DISCLOSURES REGARDING  
THE PROPOSED REGULATION

*The SBE has made the following initial determinations:*

Mandate on local agencies or school districts: None

Cost or savings to state agencies: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

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

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

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because they relate only to charter schools, school districts, and the CDE, and not to small business practices.

CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, 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.

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

CONTACT PERSONS

Inquiries concerning the content of the proposed regulations may be directed to:

Carol Barkley, Division Director  
Charter Schools Division  
California Department of Education  
1430 N Street, Room 5401  
Sacramento, CA 95814  
Telephone: 916-319-0662

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at 916-319-0860.

INITIAL STATEMENT OF  
REASONS AND INFORMATION

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

TEXT OF PROPOSED REGULATION AND  
CORRESPONDING DOCUMENTS

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 upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr>.

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 Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

REASONABLE ACCOMMODATION FOR  
ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Carol Barkley, Charter School Division, 1430 N Street, Sacramento, CA, 95814; telephone, 916-319-0662. It is recommended that assistance be requested at least two weeks prior to the hearing.

**TITLE 5. BOARD OF EDUCATION**

**NOTICE OF PROPOSED RULEMAKING**

**AMENDMENT TO CALIFORNIA CODE OF  
REGULATIONS, TITLE 5  
REGARDING SUPPLEMENTAL  
EDUCATIONAL SERVICES**

[Notice published March 27, 2009]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations

described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing beginning at **9:00 a.m. on May 12, 2009**, at 1430 N Street, Room 6102, Sacramento, California. The room is wheelchair accessible. 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 SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

**WRITTEN COMMENT PERIOD**

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

Debra Strain, Regulations Coordinator  
LEGAL DIVISION  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov). Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on May 12, 2009**.

**AVAILABILITY OF CHANGED  
OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Authority: Sections 12001 and 33031, Education Code.

Reference: Section 33031, Education Code; 20 U.S.C. Section 6316, Individuals with Disabilities Education Act, section 614.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed revisions to the Title 5 Regulations for Supplemental Educational Services (SES) stem from the need to address issues that have emerged in the implementation of the program for the past three years. The current Title 5 Regulations for SES were approved by the State Board of Education (SBE) in January, 2005.

SES, a program required by Title I, Part A, Section 1116(e) of NCLB, is academic tutoring provided by State-approved providers outside the regular school day for students in Title I schools in their second year or beyond of Program Improvement (PI). The purpose of the SES program is to augment the PI schools' programs of instruction to help eligible students achieve proficiency on California's state content standards.

The SES program has been growing rapidly in terms of the number of schools in PI, the number of eligible students, the number of approved SES providers, and the number of issues stemming from implementation. In addition to the issues that came with the growth of SES, implementing a successful SES program involves the coordination and cooperation of all parties involved: LEAs, approved SES providers, parents, students, and the SEA. The proposed changes in the regulations will address the issues arising from rapid growth and implementation gaps.

The revised regulations will be addressing new issues but will also modify the existing regulations. The areas addressed include student safety, tutor qualifications, cost of the program, record-keeping, termination of providers, debarment of providers, conflict of interest, use of school facilities, and distribution of information by SES providers directly to parents and students.

DISCLOSURES REGARDING THE PROPOSED REGULATION

*The SBE has made the following initial determinations:*

Mandate on local agencies or school districts: None

Cost or savings to state agencies: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

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

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

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not affect small businesses because the regulations apply only to school districts and not to business practices.

CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, 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.

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

CONTACT PERSONS

Inquiries concerning the content of this regulation may be directed to:

Martin Miller, Consultant  
Accountability and Improvement Division  
California Department of Education  
1430 N Street, Suite 6208  
Sacramento, CA 95814  
Telephone: 916-324-3455  
E-mail: [mamiller@cde.ca.gov](mailto:mamiller@cde.ca.gov)

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at 916-319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSED REGULATION AND  
CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <http://www.cde.ca.gov/re/lr/rr>.

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 Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

REASONABLE ACCOMMODATION FOR ANY  
INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Martin Miller, Consultant, Accountability and Improvement Division, 1430 N Street, Sacramento, CA, 95814; telephone, 916-324-3455. It is recommended that assistance be requested at least two weeks prior to the hearing.

**TITLE 9. DEPARTMENT OF MENTAL  
HEALTH**

**TITLE 9, CALIFORNIA CODE  
OF REGULATIONS  
ADOPT CHAPTER 15 REGARDING  
ASSESSMENT OF SEXUALLY  
VIOLENT PREDATORS**

**NOTICE OF PROPOSED RULEMAKING**

**NATURE OF PROCEEDING**

NOTICE IS HEREBY GIVEN that the Department of Mental Health (DMH) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal will be held on May 11, 2009, in the California Room at the Department of Motor Vehicles Offices located at 2120 Broadway in Sacramento, California. It will start at 9:00 a.m.

and end when all comments have been received or at 5:00 p.m. whichever comes first.

Following the public hearing the Department of Mental Health may thereafter adopt the proposals substantially as described below or may modify the proposals if the 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 comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Sections 4005.1 and 4027 of the Welfare and Institutions Code, and to implement, interpret or make specific sections 6600 and 6601 of the Welfare and Institutions Code, the Department of Mental Health (DMH) is seeking changes to Division 1 of Title 9 of the California Code of Regulations as follows: Adoption of Chapter 15.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

Welfare and Institutions Code Section 6601(c) requires DMH to develop and update as necessary a standardized assessment protocol to be used to evaluate whether a person is a sexually violent predator, as such term is defined in Welfare and Institutions Code Section 6600(a)(1). The proposed regulation seeks to permanently establish into law the evaluator requirements as part of the standardized assessment protocol to determine whether a person should be deemed to be a sexually violent predator.

Emergency regulations containing the identical language of the proposed regulation was filed with the Office of Administrative Law (OAL) on January 30, 2009, and was accepted for filing by the OAL on February 6, 2009. To make the emergency regulation language permanent after the expiration of the 180-day period where the language has the force and effect of law, DMH needs to complete this regular, noticed rulemaking action, and submit it, along with a certification that it has complied with the procedures for a regular, noticed rulemaking action no later than August 5, 2009.

**LOCAL MANDATE**

This proposal does not impose a mandate on local agencies or school districts.

**FISCAL IMPACT ESTIMATES**

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any costs or savings in federal funding to the state.

**COSTS OR SAVINGS TO STATE AGENCIES**

No additional costs or savings to state agencies are anticipated.

**BUSINESS IMPACT/SMALL BUSINESSES**

The Department of Mental Health has made a 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. The proposal does not affect small businesses as defined by section 11342.610. The impact is limited to state employed and contract psychiatrists and psychologists who perform the assessment, and does not require any significant change in their business practices.

**ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES**

The Department of Mental Health 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 IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

The Department of Mental Health 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

**CONSIDERATION OF ALTERNATIVES**

The Department of Mental Health has determined that no reasonable alternative which it has considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

**CONTACT PERSONS**

Inquiries concerning the proposed adoption of these regulations and written comments may be directed to:

Jon Cordova  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

Backup Contact:

Matthew Garber  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-3851

Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to [regulations@dmh.ca.gov](mailto:regulations@dmh.ca.gov). Comments must be submitted prior to 5:00 p.m. on May 11, 2009.

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The Department of Mental Health has prepared an initial statement of the reasons for the proposed action and has available all of 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 upon request from the Department of Mental Health at 1600 9th Street room 435, Sacramento, CA 95814. These documents may also be viewed and downloaded from the DMH website at [www.dmh.ca.gov](http://www.dmh.ca.gov).

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 above.

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 above.

WEBSITE ACCESS

Materials regarding this proposal may be found at [www.dmh.ca.gov](http://www.dmh.ca.gov).

**TITLE 10. MANAGED RISK MEDICAL  
INSURANCE BOARD**

**NOTICE OF PROPOSED RULEMAKING  
ER-9-01**

**TITLE 10: CALIFORNIA CODE  
OF REGULATIONS  
CHAPTER 5.8 HEALTHY  
FAMILIES PROGRAM**

**AMEND SECTION 2699.6805**

**NATURE OF PROCEEDING**

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal will be held on May 11, 2009, at 1:30 p.m., at 1000 G Street, Suite 450, Sacramento, CA 95814.

Following the public hearing MRMIB may thereafter adopt the proposal substantially as described below or may modify the proposal if the 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 comments related to this proposal, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the:

Managed Risk Medical Insurance Board  
Attn: Dianne Knox  
1000 G Street, Suite 450  
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 445-0898 or by e-mail to [dknox@mrmib.ca.gov](mailto:dknox@mrmib.ca.gov). Comments must be received by no later than 5:00 p.m. on May 11, 2009.

AUTHORITY AND REFERENCE

Authority: Insurance Code section 12693.21  
Reference: Insurance Code sections 12693.21 and 12693.37

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Policy Statement:

The objectives of the proposed regulations are to (1) provide the Board with the ability to comply with regulations to determine, by county, the plan that has the most Traditional and Safety Net providers in its network in order to designate the Community Provider Plan, (2) provide Healthy Families Program (HFP) applicants and members with a choice of low cost plans, (3) avoid disruption to families, and (4) avoid needless and excessive programmatic costs.

Existing Law:

In August 1997, the Federal Government established a new program, the State Children's Health Insurance Program (SCHIP), by adding Title XIX to the Social Security Act. The program provides health care services to uninsured, low-income children. The program is targeted to serve children whose family's income, although low, is too high to qualify for the Title XIX Medicaid Program, called Medi-Cal in California. The Legislature passed and the Governor signed AB 1126, resulting in Chapter 623, Statutes of 1997 (AB 1126). Under that law, California took the option of both expanding its Medi-Cal Program and establishing a new stand alone children's health insurance program, the Healthy Families Program (HFP). HFP currently provides health insurance for more than 900,000 low-income children. The Department of Health Care Services (DHCS) administers the Medi-Cal expansion through its own Regulations. The Managed Risk Medical Insurance Board (MRMIB) administers the HFP. The basic structure of the HFP is set out in regulations approved by the Office of Administrative Law, which established Chapter 5.8 of Title 10 of the California Code of Regulations.

MRMIB administers the HFP to provide health insurance coverage for low-income uninsured children. The

coverage is provided by contracting with health plans. By statute, MRMIB must take steps to assure a range of choices are available to applicants and it must include plans whose provider networks include contracts with traditional and safety net providers. In each county, the Board must designate a community provider plan. Applicants selecting a community provider plan are given a family contribution discount.

#### LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

#### FISCAL IMPACT ESTIMATES

This proposal does not impose a mandate on local agencies or school districts for which reimbursement would be required pursuant to Part 7 commencing with Section 17500 of Division 4 of the Government Code. This proposal does not impose other nondiscretionary cost or savings on local agencies, or cost or savings in federal funding to the state.

#### COSTS OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

#### BUSINESS IMPACT/SMALL BUSINESS

The proposed regulation will not have a significant statewide adverse economic impact directly affecting business/small business, including the ability of California businesses to compete with businesses in other states, since it would simply give the Managed Risk Medical Insurance Board flexibility as to when the Community Provider Plan designation must occur.

#### ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The MRMIB 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 IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

sarily incur in reasonable compliance with the proposed action.

#### EFFECT ON HOUSING COSTS

None

#### ALTERNATIVES

The MRMIB must determine that no reasonable alternative considered by the agency, or that has been otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the adoption of this regulation is proposed.

#### CONTACT PERSONS

Inquiries concerning the proposed adoption of this regulation and written comments may be directed to:

Dianne Knox  
Managed Risk Medical Insurance Board  
1000 G Street, Suite 450  
Sacramento, CA 95814  
(916) 324-0592

or

Randi Turner  
Managed Risk Medical Insurance Board  
1000 G Street, Suite 450  
Sacramento, CA 95814  
(916) 327-8243

#### INITIAL STATEMENT OF REASONS

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

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which this proposal is based, may be obtained upon request from the Managed Risk Medical Insurance Board at 1000 G Street, Suite 450, Sacramento, CA 95814. These documents may also be viewed and downloaded from the MRMIB website at [www.mrmib.ca.gov](http://www.mrmib.ca.gov).

#### 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 above.

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 above.

WEBSITE ACCESS

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

**TITLE 14. DEPARTMENT OF CONSERVATION**

NOTICE OF PROPOSED ACTION

RECYCLING CENTER  
PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES  
DIVISION 2. DEPARTMENT OF CONSERVATION  
CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 6, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, regarding the reduction of load limits for plastic and aluminum beverage containers, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 6. RECYCLING CENTERS

Article 3. Accounting and Reporting Requirements

§ 2530. REPORTING

Subsection § 2530(i): This subsection has been amended to change the list that recycling centers maintain and report of purchases of aluminum beverage containers from 250 pounds to 100 pounds and adds a list of purchases of more than 75 pounds of plastic beverage containers.

§ 2535. PAYMENTS TO CONSUMERS, CURBSIDE PROGRAMS, COMMUNITY SERVICE PROGRAMS AND DROPOFF OR COLLECTION PROGRAMS

Subsection 2535(f): This subsection has been amended to change the daily load limits for material received from any person, operation or entity for aluminum beverage containers from 500 to 150 pounds and

the load limits for plastic beverage containers from 500 to 100 pounds.

INFORMATION IS AVAILABLE UPON REQUEST

Copies of the text, the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request and at our website: [www.conservation.ca.gov](http://www.conservation.ca.gov). The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 "K" Street, 19th Floor, Sacramento, California. Please contact the agency contact person, Sharon Siozon at (916) 322-1760. General or substance questions regarding this file may also be directed to Sharon Siozon. The backup agency contact person for this rulemaking file is Karen Denz, who may be contacted at (916) 322-1899. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on May 11, 2009. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Sharon Siozon, Load Limits Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: [DORRegulations@consrv.ca.gov](mailto:DORRegulations@consrv.ca.gov), or faxed to (916) 327-8668.

PUBLIC HEARING

A public hearing has not been 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.

**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 the 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. Requests 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.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

On October 23, 2008, the Department received a petition from a certified recycling center pursuant to Government Code Section 11340.6 requesting that the Department undertake a rulemaking proceeding to amend the current daily consumer load limits for aluminum and plastic beverage containers. The recycling center believes that lowering the daily load limits will help solve a problem recycling centers face identifying out-of-state containers being presented for redemption. The Department has granted the petition for this rulemaking.

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of littered beverage containers in the State. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

The current consumer daily limits for the redemption of aluminum and plastic beverage containers at recycling centers is 500 pounds per person per day, which is set in California Code of Regulations Section 2535(f). Certified recycling centers must also report to the Division any loads of aluminum over 250 lbs. that are purchased from consumers, as required in California Code of Regulations Section 2530(i). The Division proposes to reduce the consumer daily limit for the redemption of aluminum beverage containers to 150 pounds and 100 pounds for plastic beverage containers. The Division also proposes to change the reporting requirement weight for transactions of 100 pounds or more for aluminum beverage containers and set the reporting requirement weight to 75 pounds or more for plastic beverage containers.

In investigations of recycling centers, the Division has identified a substantial number of people buying containers from other states to transport them into California and collect California Refund Value (CRV). The problem grew increasingly worse when the redemption value increased in 2007 from four cents to five cents for beverage containers greater than twenty-four ounces and from eight cents to ten cents for beverage containers greater than twenty-four ounces. Investigations by the Division and the Department of Justice have revealed that large loads (greater than 5,000 pounds) of aluminum and plastic beverage containers are being transported into California and split into loads of 300–500 pounds. These loads are then taken to recycling centers in vans and pick-up trucks to illegally claim and receive CRV on them. This is fraud and importers have taken drastic measures to avoid being detected, such as performing counter surveillance, using auxiliary roads, coming in late at night and trying to hide the material from view when transporting or storing it. Only beverage containers sold in California are eligible for CRV and the action of these importers is illegal and draining the California recycling fund of millions of dollars each year. It is also a threat to the businesses of honest recyclers who refuse to purchase out-of-state containers.

By cutting the allowable consumer limit from 500 pounds to 150 pounds for aluminum and 100 pounds for plastic beverage containers and requiring the reporting of loads of aluminum over 100 pounds and plastic over 75 pounds, the Division will be able to limit fraudulent activity and monitor it more effectively. It will make it much more difficult for the importers to sell the larger loads of containers and require them to do more work, which is not cost effective for them to do. It will assist recycling centers in properly inspecting loads because the loads will be smaller. Reducing the weight limits for reporting will also make it easier for the Division to identify recycling centers that are part of fraudulent load splitting through the alteration of receipts and logs.

The lower load limits will also benefit stores in convenience zone centers who pay on vouchers. Dealers are now paying a minimum of \$785 for a 500 pound load of aluminum containers, based on the coupons presented to them at the cash registers by people who have recycled at a convenience zone center. This is extremely hard on their cash reserves and causes them cash flow problems. The Division has received complaints from dealers about these large loads and the strain it is causing on their cash reserves. A 150 pound load of aluminum would only command around \$236 from the store and take the strain off of their cash reserves.

From data collected by the Division, the typical consumer redeems an average load of 8.7 pounds in aluminum cans and 14.9 pounds for PET plastic. It is truly rare that a consumer will recycle a legitimate load of

aluminum that weighs 500 pounds which would amount to 14,800 containers. The average family consumes 235.2 cans per family per month or 95 pounds of aluminum beverage containers per year. 500 pounds of PET Plastic is 7,300 containers. The average household consumption is 128 PET bottles per family per month or 105 pounds of PET bottles per year. The proposed daily limits would allow real consumers to redeem their containers without a problem. This allows the daily limit to be adjusted to a more realistic level that is large enough to allow bona fide California consumers to recycle their California containers and at the same time, act as a deterrent for fraudulent activity.

#### AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5 (b) and 14536.

#### REFERENCE

Public Resources Code Sections 14520, 14538, 14552, 14572, and 14572.5.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations does not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency: No savings or additional expenses to state agencies are identified because the implementation of the statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630: The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Costs or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the

adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

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

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will not affect small businesses. These proposed regulations do not mandate actions upon private persons or businesses.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers 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. The Department has not identified any adverse impacts resulting from these proposed regulations.

#### FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

#### ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: [www.conservation.ca.gov](http://www.conservation.ca.gov).

**TITLE 14. DEPARTMENT OF PARKS  
AND RECREATION**

**NOTICE OF PROPOSED RULEMAKING  
AMENDMENT TO TITLE 14, CA CODE OF  
REGULATIONS  
REGARDING SECTION 5093.36 OF THE  
PUBLIC RESOURCES CODE**

**NATURE OF PROCEEDING**

NOTICE IS HEREBY GIVEN that the Department of Parks and Recreation (DPR) is proposing to take the action described in the Informative Digest.

**PUBLIC HEARINGS**

The Department will hold two public hearings on the proposed rulemaking. The hearings will be held:

Date: April 14, 2009

Time: 5:00 p.m.–7:00 p.m.

Location: California Citrus State Historic Park  
9400 Dufferin Avenue  
Riverside, CA

–and–

Date: May 12, 2009

Time: 1:00 p.m.–3:00 p.m.

Location: Resources Building — Room 905, 9<sup>th</sup> Floor  
1416 9<sup>th</sup> Street  
Sacramento, CA

At the hearings, any interested person, or his or her authorized representative, may present oral or written statements, arguments or contentions relevant to the proposed action described in the Informative Digest. The Department may impose reasonable limits on oral presentations. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the conclusion of their remarks. Additionally, pursuant to Government Code section 11125.1, any information presented to the Department during the open hearings in connection with the matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Department and shall be made available upon request.

Written comments other than those presented at the public hearings may be submitted to the Department as described below.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed rulemaking to the Department. The written comment period ends at 5:00 p.m., on May 11, 2009. The Department will consider only written comments (in addition to those comments received at the public hearings) received at the Department's office by that time. All written comments shall be submitted to the following address:

Department of Parks and Recreation  
Natural Resources Division  
Attn: Keith Demetrak  
P.O. Box 942896  
Sacramento, CA 94296–0001

Written comments may also be submitted by facsimile (FAX) at (916) 657–3355 or by email to [kdeme@parks.ca.gov](mailto:kdeme@parks.ca.gov). Comments must be submitted prior to 5:00 p.m. on May 11, 2009.

**AUTHORITY AND REFERENCE**

Pursuant to authority vested by Assembly Bill 2945 (Chapter 689 of 2008) and Sections 5001, 5001.8 and 5003 of the Public Resources Code, and to implement, interpret or make specific section 5093.36 of the Public Resources Code, the Department of Parks and Recreation is considering changes to Division 3 of Title 14 of the California Code of Regulations as follows: Amendment of Chapter 2, section 4351 and adoption of Chapter 2, section 4351.1, to modify procedures by which the Department of Parks and Recreation administers state wildernesses within the California State Park System.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

For many years, the California Department of Parks and Recreation has grappled with ambiguities in the California Wilderness Act (Public Resources Code Section 5093.30 *et seq.*) on how best the Department could undertake what it deemed to be needed management actions in State Wilderness area while protecting wilderness values and character. Recently, Assembly Bill 2945 (Chapter 689 of 2008) amended PRC Sections 5093.32 and 5093.36 to allow “a state agency with jurisdiction over a wilderness area may authorize measures that address environmental damage or degradation affecting wilderness character and resources if those measures are consistent with the minimum management requirements and only the minimum tools are used.” The bill further requires that the “guidelines for the determination of the minimum management re-

quirements and the minimum tool shall be adopted by regulation.”

Current California Code of Regulations (CCR) section 4351 prohibits driving, operating, leaving, placing, landing, taxiing, taking off or stopping a motor vehicle, motorboat or aircraft within the boundaries of a state wilderness or natural preserve. The proposed amendment of CCR section 4351 would delete reference to state wildernesses from this CCR section but leave the remainder of the section unchanged. The types of activities listed in CCR section 4351 would be regulated within state wildernesses in proposed CCR section 4351.1.

Proposed CCR section 4351.1 would require there be no use of motorized vehicles, motorized equipment or motorboats, landing or hovering of aircraft, flying of aircraft lower than 2,000 feet above the ground, other form of mechanical transport, and no permanent structure or installation within any state wilderness unless the Director of the Department of Parks and Recreation, or his/her designee, makes specified findings in writing (Findings), except in cases where it is necessary in an emergency involving the health and safety of persons within the wilderness area.

The specified Findings to be made include:

- the use of motorized vehicles, motorized equipment or motorboats, the landing, hovering, or flying of aircraft lower than 2,000 feet above the ground, the use of any other form of mechanical transport, or the placement of a temporary structure or installation must be temporary and meet a minimum management requirement. A minimum management requirement is defined in AB 2945 as “the minimum wilderness management actions that are necessary to administer a wilderness for the purposes of this chapter.”
- the approach proposed to perform the minimum management requirement will make use of the “minimum tool” to best preserve wilderness values under the given circumstances. The “minimum tool” is defined in AB 2945 as “the least intrusive tool, equipment, device, regulation, action, or practice that will achieve the minimum management requirements.”
- the result of the work will be a condition as near as natural as possible and shall leave no permanent trace or permanent structure.

In coming to these Findings, the Department will be guided by the comparable policies of the National Park Service:

*“All management decisions affecting wilderness must be consistent with a minimum requirement concept... When determining minimum requirement, the potential disruption of wilderness character and resources will be considered before, and given significantly more weight than, economic efficiency and convenience. If a compromise of wilderness resource or character is unavoidable, only those actions that preserve wilderness character and/or have localized, short-term adverse impacts will be acceptable.”*

*NPR Management Policies: 6.3.5 Minimum Requirement*

Only when the above Findings are made would the Director be able to authorize employees or agents of the Department of Parks and Recreation to occupy or use a state wilderness within the State Park System on a case-by-case basis to undertake a minimum management requirement.

Prior to the Director making the Findings, Department staff would be required to make a recommendation on the proposed findings to the Director that would provide sufficient background, analysis, data and research to allow the Director to evaluate the material considerations for the Findings. The recommendation made by Department staff would be required to include:

- an analysis as to whether a wilderness management need exists;
- a description of the proposed minimum management requirement and minimum tools to be used, including when, where and the time frame for the proposed action;
- the alternative approaches considered, including a discussion of the pros and cons of the alternatives; and
- any measures that could reasonably be taken to minimize the effects of proposed activities.

Proposed CCR section 4351.1 also states that the process described in this proposed regulation will not replace or supplant any required analysis under the California Environmental Quality Act.

The proposed regulation would require that an analysis be conducted of all minimum management requirement actions being considered for state wildernesses that propose to implement one of the California Wilderness Act’s prohibited uses. Examples of minimum management requirement actions include but are not limited to habitat restoration, invasive species removal, scientific research, and monitoring. These types of management actions would be assessed to determine if they are

necessary and, if so, how they can be implemented through use of the minimum tools and with the least impact on the wilderness values and character.

**COMPARABLE FEDERAL REGULATION  
OR STATUTE**

This proposed regulation applies only to California state wildernesses as designated by the California Wilderness Act and does not duplicate or conflict with Federal regulations. This proposed regulation does mimic well-established Federal regulations (Code of Federal Regulations (CFR), Title 36, Volume 1, Chapter I, parts 1-199; CFR, Title 36, Volume 2, Chapter II, parts 200-299; CFR, Title 43, Volume 1, Chapter I, Subtitle B, parts 200-499; CFR, Title 43, Volume 2, Chapter II, parts 1000-9999) that apply only to wilderness areas designated by the federal Wilderness Act, (16 USC, Chapter 23, sections 1131 to 1136).

**LOCAL MANDATE**

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

**FISCAL IMPACT ESTIMATES**

This regulatory proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code. This proposal does not impose other non-discretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

**COSTS OR SAVINGS TO STATE AGENCIES**

The Department of Parks and Recreation estimates there would be no direct costs to any State agency in complying with this proposed regulation. Any analysis, recommendation, and Findings regarding proposed minimum required management actions in a state wilderness would be preliminary to and would become a part of any subsequent compliance by the Department of Parks and Recreation with the California Environmental Quality Act, therefore, no additional cost would be incurred by the Department to comply with this proposed regulation.

**BUSINESS IMPACTS/SMALL BUSINESS**

The Department of Parks and Recreation has made an initial determination that this regulatory proposal

would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by Government Code section 11342.610.

**ASSESSMENT REGARDING EFFECT  
ON JOBS/BUSINESSES**

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

**COST IMPACTS ON REPRESENTATIVE  
PERSON OR BUSINESS**

The Department of Parks and Recreation 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

**ALTERNATIVES**

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

**AVAILABILITY OF CHANGED  
OR MODIFIED TEXT**

Following the close of the public comment period, the Department of Parks and Recreation may adopt the proposed regulations substantially as described in this notice. If the Department of Parks and Recreation makes modifications which are sufficiently related to the originally proposed text, the modified text with changes clearly indicated shall be available to the public for at least 15 days before the Department of Parks and Recreation adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the contact person or designated back-up contact person listed below. The Department of Parks and

Recreation will accept written comments on the modified regulations for 15 days after the date on which the modified regulations are made available. Once the final statement of reasons is prepared in accordance with subdivision (a) of Section 11346.9 of the Government Code, copies may be obtained at <http://www.parks.ca.gov> or by contacting Keith Demetrak, who is listed below as the contact person, or Jim Trumbly, who is listed below as the designated back-up contact person.

#### CONTACT PERSONS

Inquiries concerning the proposed adoption of this regulation and written comments may be directed to:

Keith Demetrak  
Department of Parks and Recreation  
Natural Resources Division  
P.O. Box 942896  
Sacramento, CA 94296-0001  
(916) 657-1151

or backup contact:

Jim Trumbly  
Department of Parks and Recreation  
Natural Resources Division  
P.O. Box 942896  
Sacramento, CA 94296-0001  
(916) 653-6725

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Department of Parks and Recreation 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 upon request from the Department of Parks and Recreation, Natural Resources Division at P.O. Box 94296, Sacramento, CA 94296-0001. These documents may also be viewed and downloaded from the Department of Parks and Recreation website at [www.parks.ca.gov](http://www.parks.ca.gov).

#### 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(s) named above. 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(s) named above.

#### WEBSITE ACCESS

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

### TITLE 15. BOARD OF PAROLE HEARINGS

#### NOTICE OF PROPOSED RULEMAKING

### TITLE 15. CRIME PREVENTION AND CORRECTIONS DIVISION 2. BOARD OF PAROLE HEARINGS (formerly known as "Board of Prison Terms") CHAPTER 3. Parole Release ARTICLE 3. Prisoner Rights

#### Amendment to Section 2253 Voluntary Waivers, Stipulations of Unsuitability, Postponements, and Continuances

**NOTICE IS HEREBY GIVEN** that the Board of Parole Hearings (board) proposes to amend California Code of Regulations (CCR), title 15, section 2253 concerning life parole consideration hearings and the circumstances under which they may be delayed.

#### AUTHORITY AND REFERENCE

Government Code section 12838.4 and Penal Code sections 3052 and 5076.2 authorize the board to amend the proposed regulation. The proposed amended regulation implements changes to Penal Code sections 3041.5, 3043 pursuant to Proposition 9 (*Marsy's Law*) as adopted by the voters on November 4, 2008.

#### PUBLIC HEARING

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

The purpose of a public hearing is to receive oral comments about the proposed regulation. It is not a forum to debate the proposed regulation. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period have the same significance and influence as oral comments presented at a public hearing. The board members will not be present at the public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the board. **THE WRITTEN COMMENT PERIOD ON THIS PROPOSED REGULATORY ACTION WILL COMMENCE ON MARCH 27, 2009, AND WILL CLOSE AT 5:00 P.M. ON MAY 11, 2009.** In order for the comments to be considered by the board, they must be submitted in writing (by mail, fax or e-mail) to the board's Contact Person identified in this Notice no later than the close of the comment period.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the circumstances under which a life parole consideration hearing may be delayed. The proposed amended regulation implements portions of *Marsy's Law*, including but not limited to the new extended periods for scheduling a hearing after parole denials as it relates to stipulations of unsuitability. In addition, it amends the language pertaining to victims and their rights at parole hearings.

Through the passage of *Marsy's Law*, Penal Code section 3041.5(b) is amended to eliminate the distinction between prisoners convicted of murder and prisoners convicted of other life offenses when setting the next hearing after a parole denial. *Marsy's Law* further amends Penal Code section 3041.5(b) by changing the period for scheduling a prisoner's next hearing after a parole denial from up to two years for non-murderers and up to five years for murderers to fifteen, ten, seven, five, or three years for all prisoners. In addition, *Marsy's Law* defines who has the right to appear at a parole consideration hearing and express their views about the prisoner and the case.

Subsection 2253(b)(1) of the amended regulation removes the distinction between prisoners with a commitment offense of murder and those with a commitment

offense other than murder as it relates to the period of time for which a voluntary waiver may be requested.

Subsection 2253(b)(4) of the amended regulation reflects the statutory change by affording the victim, victim's next of kin, members of the victim's immediate family, and two victim's representatives the opportunity to give a statement on the record if a voluntary waiver is accepted during the week of the scheduled hearing.

Subsection 2253(c)(1) of the amended regulation removes the distinction between prisoners with a commitment offense of murder and those prisoners with a commitment offense other than murder as it relates to the period of time for which a stipulation to unsuitability may be requested. Further, this regulation revises the time periods for a stipulation to unsuitability to three, five, seven, ten, or fifteen years from the date of the scheduled hearing, to comport with the new statutory language of *Marsy's Law*. In addition, this amended regulation reflects the statutory changes by including a victim, victim's next of kin, members of the victim's immediate family, and two victim's representatives, in addition to the District Attorney, as those persons who may provide written statements to be reviewed by the board prior to its consideration of a prisoner's offer to stipulate to unsuitability.

Subsection 2253(c)(2) of the amended regulation reflects the statutory change by affording victims, victim's next of kin, members of the victim's immediate family, and two victim's representatives the opportunity to make a statement on the record if a stipulation to unsuitability is offered during the week of the scheduled hearing.

Subsection 2253(d)(4) of the amended regulation reflects the statutory changes affording victims, victim's next of kin, members of the victim's immediate family, and two victim's representatives the opportunity to give a statement on the record if a postponement is granted during the week of the scheduled parole consideration hearing.

Subsection 2253(e)(3) of the amended regulation reflects the statutory change by affording victims, victim's next of kin, members of the victim's immediate family, and two victim's representatives the opportunity to give a statement on the record if a continuance is granted during the scheduled parole consideration hearing.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandates: The board has determined that the proposed action imposes no mandate upon local agencies or school districts.

**Fiscal Impact Statement:** The board has made the following initial determinations:

- o Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: **None**
- o Cost or savings to any state agency: **None**
- o Other non-discretionary cost or savings imposed on local agencies: **None**
- o Cost or savings in federal funding to the state: **None**

**Significant Statewide Adverse Economic Impact on Business:** The board has determined that there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**Cost Impacts on Representative Private Persons or Businesses:** The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Assessment of Effects on Job and/or Business Creation, Elimination or Expansion:** The board has determined that adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

**Effect on Housing Costs:** The board has made an initial determination that the proposed action will have no significant effect on housing costs.

**Small Business Determination:** The board has determined that the proposed regulation does not have a significant adverse economic impact on small business because small businesses are not affected by the internal management of State prisons.

#### CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested parties are accordingly invited to present statements or arguments with respect to any alternatives to the proposed changes during the public comment period.

#### CONTACT PERSON

Please direct requests for copies of the Initial Statement of Reasons, the proposed amended text of the reg-

ulation, or other information upon which the rulemaking is based to:

Elizabeth Geiger, Regulations Coordinator  
 Board of Parole Hearings  
 PO Box 4036  
 Sacramento, CA 95812-4036  
 Telephone: (916) 324-6434  
 Facsimile: (916) 445-4086  
 E-mail: [Elizabeth.Geiger@cdcr.ca.gov](mailto:Elizabeth.Geiger@cdcr.ca.gov)

In any such inquiries, please identify the action by using the board's regulation control number RN 09-01.

**Note:** In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above: Phil Reiser at (916) 650-6409 or [Philip.Reiser@cdcr.ca.gov](mailto:Philip.Reiser@cdcr.ca.gov).

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

The board will make the rulemaking file available to the public throughout the rulemaking process at its offices located at 1515 K Street, Suite 600, Sacramento, California. As of the date this Notice is published in the Office of Administrative Law's Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulations), the proposed text of the regulation, Initial Statement of Reasons and Form 399 (Fiscal Impact Statement). Copies of these documents may be obtained by contacting the board's Contact Person at the address or phone number listed above or by visiting the board's Web site at:

[http://www.cdcr.ca.gov/Divisions\\_Boards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/Divisions_Boards/BOPH/reg_revisions.html)

#### AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this Notice. If the board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the board adopts the regulations as revised. Please send requests for copies of any modified regulation text to the attention of the Contact Person identified in this Notice or by visiting the board's Web site at [http://www.cdcr.ca.gov/Divisions\\_Boards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/Divisions_Boards/BOPH/reg_revisions.html). The board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained from the board's Regulation Coordinator or by visiting the board's Web site at:

[http://www.cdcr.ca.gov/Divisions\\_Boards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/Divisions_Boards/BOPH/reg_revisions.html)

**TITLE 16. CALIFORNIA BOARD OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy 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 Fairmont Newport Beach, 4500 MacArthur Blvd., Newport Beach, California 92660, telephone (866) 840-8402, at 1:00 p.m. on July 24, 2009. 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 California Board of Accountancy at its office not later than 5:00 p.m. on July 21, 2009 or must be received by the California Board of Accountancy at the hearing. The California Board of Accountancy, 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 5010 and 5018 of the Business and Professions Code, and to implement, interpret or make specific Sections 138 and 5018 of said Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

**1. Adopt Section 50.1 Title 16 of the California Code of Regulations.**

Section 5018 of the Business and Professions Code authorizes the California Board of Accountancy to adopt regulations to implement, interpret, or make spe-

cific the statutory provisions related to the rules of professional conduct. Section 138 of the Business and Professions Code requires that licensees provide notice to their clients that the practitioner is licensed by the State of California.

This proposal would adopt section 50.1 to clarify that an attest client or prospective attest client must be notified about the ownership composition of an accountancy firm if none of the licensee owners are authorized to sign reports on attest engagements.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Require Reimbursement: None

Business Impact:

The California Board of Accountancy 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 California Board of Accountancy 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:

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The California Board of Accountancy has determined that the proposed regulations would affect small businesses.

**CONSIDERATION OF ALTERNATIVES**

The California Board of Accountancy must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons 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 California Board of Accountancy has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

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

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

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

**CONTACT PERSON**

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

Name: Matthew Stanley  
 Address: California Board of Accountancy  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95815  
 Telephone No.: 916-561-1792  
 Fax No.: 916-263-3678  
 E-Mail Address: mstanley@cba.ca.gov

The backup contact person is:

Name: Dan Rich  
 Address: California Board of Accountancy  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95815  
 Telephone No.: 916-561-1713  
 Fax No.: 916-263-3675  
 E-Mail Address: drich@cba.ca.gov

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

**TITLE 16. CALIFORNIA BOARD OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy 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 Fairmont Newport Beach, 4500 MacArthur Blvd., Newport Beach, California 92660, telephone (866) 840-8402, at 1:30 p.m. on July 24, 2009. 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 California Board of Accountancy at its office not later than 5:00 p.m. on July 21, 2009 or must be received by the California Board of Accountancy at the hearing. The California Board of Accountancy, 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 5010, 5095 and 5096.9 of the Business and Professions Code, and to implement, interpret or make specific Sections 5095 and 5096.5 of said Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

**1. Adopt Section 2.6 Title 16 of the California Code of Regulations.**

Sections 5010, 5095, and 5096.9 of the Business and Professions Code authorize the California Board of Accountancy to adopt regulations to implement, interpret, or make specific the statutory provisions related to attest services and attest reports. Sections 5095 and 5096.5 of the Business and Professions Code set forth the requirements for a licensee to be authorized to sign attest reports.

This proposal would adopt Section 2.6 to clarify and define “attest services” and “attest report” as an audit, a review of financial statements, or an examination of prospective financial information, but would exclude the issuance of compiled financial statements.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

Business Impact:

The California Board of Accountancy 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 California Board of Accountancy 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:

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The California Board of Accountancy has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The California Board of Accountancy must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons 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 California Board of Accountancy has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

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

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

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

CONTACT PERSON

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

Name: Matthew Stanley  
 Address: California Board of Accountancy  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95815

Telephone No.: (916) 561-1792  
 Fax No.: (916) 263-3678  
 E-Mail Address: mstanley@cba.ca.gov

The backup contact person is:

Name: Dan Rich  
 Address: California Board of Accountancy  
 2000 Evergreen Street, Suite 250  
 Sacramento, CA 95815

Telephone No.: (916) 561-1713  
 Fax No.: (916) 263-3675  
 E-Mail Address: drich@cba.ca.gov

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

**TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**

NOTICE IS HEREBY GIVEN that the Board of Vocational Nursing and Psychiatric Technicians (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

Date: May 12, 2009  
 Time: 10:00 a.m.  
 Department of Consumer Affairs  
 El Dorado Room  
 1625 North Market Blvd., #220  
 Sacramento, California 95834

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 **Tuesday, May 11, 2009**, 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 section 144, 2841.1, 2854, 4501.1, 4503 and 4504 of the Business and Professions (B&P) Code; and to implement, interpret or make specific sections 144, 700, 701, 703, 704, 2841.1, 2847, 2854, 2867.5, 2875, 2878, 2878.6, 2878.7, 2892.1, 2892.3, 2892.5, 2895, 2895.1 and 2895.5 (Vocational Nursing Practice Act); 125.9, 152.6, 700, 701, 703, 704, 4503, 4510, 4511, 4515, 4517, 4521, 4521.2, 4523, 4544, 4545, and 4548 (Psychiatric Technicians Law); Government Code section 6157; and Penal Code section 11105 the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT  
 OVERVIEW

Business and Professions Code section 2854 (VN Program) and 4504 (PT Program) authorize the BVNPT to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Practice Act and the Psychiatric Technicians Law. The BVNPT is proposing the following changes:

**(1) Amend section 2504.1 (VN Program) and section 2564.1 (PT Program)**

The existing regulation, adopted as an emergency, provides that the board may require a licensee to provide criminal history information and respond to the board within 30 days, provide accurate responses and make available documents and other records requested.

This proposal will amend the emergency regulation to require a licensee to respond to any inquiry made by the Board of Vocational Nursing and Psychiatric Technicians (Board) or its appointed representatives within 30 days, including inquiries regarding a licensee's criminal history. The licensee must provide true and accurate information and responses and must provide all files, working papers and other records requested. The licensee is prohibited by this section from taking actions specifically for the purpose of obstructing the Board's efforts to gather information, investigate, or to hold hearings or other proceedings. Each of the provisions in this section will enable the Board to more effectively carry out the provisions of the Vocational Nursing Practice Act and the Psychiatric Technician Law.

To conduct an investigation on whether a conviction is substantially related to a licensee's scope of practice, the Board must review "certified" police reports, "certified" court documents and review documentation that substantiates compliance with probationary terms and rehabilitation efforts. Without this information the Board cannot make a final determination as to the ap-

appropriate action. In the past, licensees have ignored Board requests for information and purposely delayed the Board's ability to make a final decision. The emergency regulations enable and this proposal would continue to allow the Board to issue a citation and fine for failure to provide the necessary documentation in a timely manner.

The changes to this section from the emergency regulation expand on the scope of those inquiries to the entire range of matters within the board's jurisdiction. By the revisions, the Board will be able to more effectively compel the responses and information in any matter within its jurisdiction, including criminal activity, continuing education audits or other types of investigations within its jurisdiction. Preventing a licensee from intentionally obstructing a court proceeding is designed to make the Board's efforts run more smoothly — the Board is better able to protect the public if licensees cooperate with the board. This proposal would enable the Board to issue a citation and fine for failure to follow its provisions, making it more likely that licensees will work with the Board to collect information.

**(2) Amend section 2517.5 (VN Program) and section 2575.5 (PT Program)**

Business and Professions Code Sections 2892 and 4544 provide that a licensee shall apply for renewal and pay a fee for renewal. This regulation will make permanent provisions of the emergency regulations that require, as a condition of renewal for licenses that expire on or after April 1, 2009, a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, to: (a) furnish to the Department of Justice (DOJ) a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal criminal offender record information search conducted through the DOJ; (b) certify compliance with that requirement at the time of renewal; (c) disclose whether he or she has been convicted of any violation of the law in this state or any other state since he or she last applied for renewal; (d) disclose whether he or she has had a license denied or had a license disciplined by another licensing authority of California, another state, another agency of the federal government, or of another country.

**(3) Amend section 2537 (VN Program) and section 2590 (PT Program)**

VN Program — Section 2537

Existing law, B&P Code, sections 2892.6 and 2895, specify the current fees and fee ranges for the VN Program.

The BVNPT is proposing to make permanent the fee changes made in the emergency regulation to ensure sufficient funds are available to implement retroactive

fingerprinting. The VN Program is adopting as permanent amendments to Sections 2537 to reflect the following fee changes:

**VN Program**

- > Initial License Fees — From \$120 to \$150
- > Biennial License Renewal Fees — From \$120 to \$150
- > Delinquent Renewal Fees — From \$60 to \$75

All of the other fees will remain the same as they were prior to the emergency regulations. The fee change is needed to ensure the fiscal solvency of the VN Program as it implements retroactive fingerprinting.

**PT Program — Section 2590**

Existing law, B&P Code, Section 4548, specifies the fees and fee ranges for the PT Program. The fee regulations (as they existed prior to the emergency) had been superseded by statutory amendments that set the new fees. Consequently, the fee amounts cited in the prior regulation were obsolete as of January 1, 2000.

The PT Program is making permanent the amendment to regulation Section 2590. The prior fee regulations became obsolete December 31, 1999, when statutory fee amounts were established on January 1, 2000. The Board proposes to adopt as permanent the emergency fee changes to ensure that sufficient funds are available to implement retroactive fingerprinting. The fee changes are:

- > Initial License Fees — From \$200 (statutorily) to \$300
- > Biennial License Renewal Fees — From \$200 (statutorily) to \$300
- > Delinquent Renewal Fees — From \$100 (statutorily) to \$150

All of the other fees established by the current statute will remain the same in this regulatory proposal.

**(4) Amend section 2540.6 (VN Program) and 2592.6 (PT Program)**

Prior to the emergency, the existing regulations specified that if a licensee wants to activate an inactive license, the licensee must submit a written request and evidence of 30 hours of approved continuing education taken during the two-year period immediately preceding the request for activation. This proposal would require, in addition to the above-mentioned requirement, that a licensee who was never fingerprinted by the Board or for whom a fingerprint record no longer exists furnish a full set of fingerprints as a condition of activating an inactive license. A change was made from the emergency regulation to make it clearer that a licensee need only comply with the fingerprint requirement once and not each time the license goes from inactive to active.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Processing approximately 55,000 fingerprint records and the applicable disciplinary actions will necessitate adding 14.5 positions to the VN program and 2.5 positions to the PT program, as well as the related costs for the Office of the Attorney General and Office of Administrative Hearings. The current estimated cost per fiscal year is:

	<u>VN Program</u>	<u>PT Program</u>
FY 2009–10 =	\$2,068,000	\$518,000
FY 2010–11 =	\$3,260,000	\$896,000
FY 2011–12 =	\$1,642,000	\$398,000

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.

Impact on Jobs/New Businesses: The Board has determined that this proposed regulatory action 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 Representative Private Person or Business: VNs and PTs, who have not previously been fingerprinted for the BVNPT or for whom a fingerprint record no longer exists, will be required to be fingerprinted at the time of license renewal, reactivation, or reinstatement. The one-time cost for a person to get fingerprinted is approximately \$65.00. The fee breakdown includes \$51.00 to the DOJ for conducting the background check and providing the criminal record report for DOJ and FBI, and the remaining \$14.00 to the vendor for fingerprinting the individual. The vendor's fee ranges from \$5.00 to \$45.00 with the average fee being \$14.00. Additionally, the VN and PT licensing fees will be raised to ensure that sufficient funds are available to fund this consumer protection action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The regulations will not have a significant adverse economic impact on businesses. There are approximately 750 vendors statewide, including small businesses that provide fingerprinting services. There should not be any cost impact on vendors because they are already equipped to provide the service. This regulation will generate revenue for the vendors of Live Scan.

CONSIDERATION OF ALTERNATIVES

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

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 at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

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

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

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

CONTACT PERSON

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

Name: Sophia Cornejo, Administrative Analyst  
Address: 2535 Capitol Oaks Drive, Suite 205  
Sacramento, CA 95833  
Telephone No.: (916) 263-7845  
Fax No.: (916) 263-7859  
E-Mail Address: sophia\_cornejo@dca.ca.gov

The backup contact person is:

Name: Marina Okimoto, Assistant Executive Officer  
Address: 2535 Capitol Oaks Drive, Suite 205  
Sacramento, CA 95833  
Telephone No.: (916) 263-7845  
Fax No.: (916) 263-7859  
E-Mail Address: marina\_okimoto@dca.ca.gov

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

## **TITLE 24. BUILDING STANDARDS COMMISSION**

### **NOTICE OF PROPOSED CHANGES TO BUILDING STANDARDS OF THE DIVISION OF THE STATE ARCHITECT — STRUCTURAL SAFETY (DSA-SS)**

#### **REGARDING AMENDMENTS TO THE 2007 CALIFORNIA ADMINISTRATIVE CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1**

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division of the State Architect — Structural Safety (DSA-SS) proposes to amend the 2007 edition CA Administrative Code and adopt, approve, codify, and publish changes to administrative building standards contained in the California Code of Regulations (CCR), Title 24, Part 1.

The administrative building standards proposed by DSA-SS for adoption would be applicable to public elementary and secondary schools, and community colleges.

#### **PUBLIC COMMENT PERIOD**

A public hearing has not been scheduled; however, written comments will be accepted from March 27,

2009, until 5:00 p.m. on May 11, 2009. Please address your comments to:

California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Attention: E. David Walls, Executive Director

Written comments may also be faxed to (916) 263-0959, or E-mailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Pursuant to Government Code Section 11346.5(a)(17), any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

#### **POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modification.

#### **AUTHORITY AND REFERENCE**

The California Building Standards Commission proposes to adopt these building standards on behalf of DSA-SS under the authority granted by Health and Safety Code Section 18928. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 16000-16023 and Education Code Sections 17280-17317 and 81130-81147. The Division of the State Architect is proposing this regulatory action based on Health and Safety Code Section 16022 and Education Code Sections 17310 and 81142.

#### **INFORMATIVE DIGEST**

##### Summary of Existing Laws

Education Code Section 17310 authorizes the State Architect to establish administrative building standards for public elementary and secondary schools, and Education Code Section 81142 authorizes the State Ar-

chitect to establish administrative building standards for community colleges. There are no specific statutory requirements pertaining to this specific code change proposal (plan approval extension and expiration).

Summary of Existing Regulations

Administrative building standards applicable to public schools are contained in Chapter 4 of Part 1, Title 24 (California Building Standards Administrative Code). These administrative building regulations include provisions pertaining to project plan approval and expiration.

With regard to this proposal, existing regulations (Sec. 4-330, Part 1) do not allow DSA to extend project plan approval beyond four years from the initial date of approval (for projects that have not commenced with construction). The school district may request an extension of plan approval on an annual basis, and can obtain up to three yearly extensions. Per existing regulations, DSA can not extend the plan approval beyond four years from the date of initial approval.

The purpose of this provision is to prohibit the indefinite plan approval status of projects for which construction has not commenced, as codes are periodically updated to address public safety, health and welfare.

Summary of Effect

The effect of this code change proposal would permit DSA to extend the plan approval for projects which would otherwise expire due to the bond freeze. These projects would include only those which have not commenced construction and for which the four year anniversary of initial approval occurs during the bond freeze period.

Comparable Federal Statutes or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain building regulations in conformance with current state law and administrative procedures.

**OTHER MATTERS PRESCRIBED BY  
STATUTE APPLICABLE TO THE AGENCY OR  
TO ANY SPECIFIC REGULATION OR  
CLASS OF REGULATIONS**

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

**MANDATE ON LOCAL AGENCIES  
OR SCHOOL DISTRICTS**

The Division of the State Architect has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

**ESTIMATE OF COST OR SAVINGS**

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

**INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES**

The Division of the State Architect has made an initial determination that the amendment of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

**DECLARATION OF EVIDENCE**

No facts, evidence, documents, testimony or other evidence has been relied upon to support the initial determination of no effect.

**FINDING OF NECESSITY FOR THE PUBLIC'S  
HEALTH, SAFETY, OR WELFARE**

The proposed action does not require a report by any business or agency, so the Division of the State Architect has not made a finding of necessity for public's health, safety or welfare.

**COST IMPACT ON REPRESENTATIVE PRIVATE  
PERSON OR BUSINESS**

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

**ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION**

The Division of the State Architect has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.  
The Division of the State Architect has determined that the proposed action has no effect.
- The creation of new businesses or the elimination of existing businesses within the State of California.  
The Division of the State Architect has determined that this proposal has no effect.
- The expansion of businesses currently doing business with the State of California.  
The Division of the State Architect has determined that the proposed action has no effect.

#### INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The Division of the State Architect has made an initial determination that this proposal WOULD NOT have a significant effect on housing costs. The CBSC contact designated below will make the Division of the State Architect's evaluation of the effect of the proposed regulatory action on housing costs available upon request.

#### CONSIDERATION OF ALTERNATIVES

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

#### AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review by contacting the person named below. This notice, the express terms, and initial statement of reasons can be accessed from the California Building Standards Commission website (<http://www.bsc.ca.gov>).

Interested parties 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 at the California Building Standards Commission website.

#### CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

**Russ Frank** [russell.frank@dgs.ca.gov](mailto:russell.frank@dgs.ca.gov)  
**Jane Taylor** [jane.taylor@dgs.ca.gov](mailto:jane.taylor@dgs.ca.gov)  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Telephone No: (916) 263-0916  
Facsimile No: (916) 263-0959

#### PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

**Howard "Chip" Smith, Jr.**  
Ph. (916) 327-8008  
[howard.smith@dgs.ca.gov](mailto:howard.smith@dgs.ca.gov)

**Richard Conrad**  
Ph. (916) 324-7180  
[richard.conrad@dgs.ca.gov](mailto:richard.conrad@dgs.ca.gov)

**Division of the State Architect**  
1102 Q Street, Suite 5100  
Sacramento, CA 95811  
DSA Facsimile No: (916) 327-3371

### GENERAL PUBLIC INTEREST

#### TITLE 14. FISH AND GAME COMMISSION

##### Notice of Proposed Changes in Regulations

#### Continuation of California Notice Register 2009, No. 8-Z, and Meetings of February 5 and March 5, 2009

(NOTE: See Updated Informative Digest changes shown in **bold face type**.)

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the au-

thority vested by sections 8841 and 8495, of the Fish and Game Code and to implement, interpret or make specific sections 8392, 8494, 8495, 8496, 8497, 8830, 8831, 8837, 8840, 8841 and 8843, of said Code, proposes to amend Section 124, Title 14, California Code of Regulations, relating to commercial halibut trawl fishing.

#### UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Fish and Game Commission (Commission) has stated its intent to provide for a sustainable trawl fishery within the California Halibut Trawl Grounds (CHTG), which are located in certain sections of state waters between one and three nautical miles from the mainland shore between Point Arguello and Point Mugu. Existing law establishes the open season for trawling within the CHTG from June 16 to March 14, inclusive. In addition, existing law establishes the minimum mesh size (7.5 inches), length (29 meshes), and circumference (47 meshes) of the cod end of any trawl net used within the CHTG. Existing law also allows the use of a double cod end only if it is hung and tied to each rib line of the trawl so that the knots of each layer coincide, knot for knot, for the full length of the double layers. The double mesh section shall not measure over 25 meshes or 12 feet in length, whichever is greater. These laws contribute to the sustainability of the fishery and they will continue to apply whether or not additional new gear restrictions are adopted.

The Commission has also stated its intent to minimize the impact from trawling on the soft-bottom habitats in which the fishery operates. The Southern California Trawlers Association (SCTA) has proposed a definition for "light touch" trawl gear which would meet the stated intentions of the Commission. The proposed regulations, **including a definition of "rollers" and "bobbins"**, are as follows:

(b) Gears. Special gear requirements apply while trawling for California halibut in the California Halibut Trawl grounds. Each trawl net, including trawl doors and footrope chain, shall meet the following requirements:

(1) Each trawl net shall have a headrope not exceeding 90 feet in length. The headrope is defined as a chain, rope, or wire attached to the trawl webbing forming the leading edge of the top panel of the trawl net. Headrope shall be measured from where it intersects the bridle on the left side of the net to where it intersects the bridle on the right side of the net.

(2) The thickness of the webbing of any portion of the trawl net shall not exceed 7 millimeters in diameter.

(3) Each trawl door shall not exceed 500 pounds in weight.

(4) Any chain attached to the footrope shall not exceed one quarter inch in diameter of the link material. The footrope is defined as a rope or wire attached to the trawl webbing forming the leading edge of the bottom panel of the trawl net.

(5) The trawl shall have no rollers or bobbins on any part of the net or **footrope. Rollers or bobbins are devices made of wood, steel, rubber, plastic, or other hard material that encircle the trawl footrope. These devices are commonly used to either bounce or pivot over seabed obstructions, in order to prevent the trawl footrope and net from snagging on the seabed.**

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Wine and Roses Country Inn, Garden Ballroom, 2505 West Turner Road, Lodi, California, on Thursday, April 9, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California, on Thursday, May 14, 2009, 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 May 8, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on May 12, 2009. All comments must be received no later than May 14, 2009 at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., 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 John Carlson, Jr., or Sherrie Fonbuena at the preceding address or phone number. **Ms. Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and Game, (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice

of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. 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 agency program staff.

Impact of Regulatory Action

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation will only apply to approximately 12–15 commercial halibut trawl vessel operators.

- (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: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that 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. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

**RULEMAKING PETITION  
DECISION**

**DEPARTMENT OF CONSERVATION**

March 16, 2009

Mr. Leonard Lang  
Upper Room Consulting  
4103 Larwin Avenue  
Cypress, CA 90630

Dear Mr. Lang:

**PETITION CONCERNING THE ALLOWABLE  
SHRINKAGE PERCENTAGE**

Thank you for your petition dated February 17, 2009 regarding allowable moisture content of loads of recyclables presented for payment.

Pursuant to Government Code Sections 11340.6 and 11340.7 of the California Administrative Procedures Act, your petition to amend Chapter 5 of Division 2 of Title 14 of the California Code of Regulations is denied.

This denial is based on the fact that the petition was unclear on what specifically was being requested of the Department of Conservation. Further clarification of the topic will assist the Department in determining if there is a necessity for regulations to be promulgated regarding this issue.

If you have any questions regarding the rulemaking process, please contact Kent Harris, Manager, Office of Policy and Legislation, at (916) 324–3209.

Sincerely,

/s/  
Stephen M Bantillo  
Assistant Director  
for Recycling

**OAL REGULATORY  
DETERMINATIONS**

**OFFICE OF ADMINISTRATIVE LAW**

**DETERMINATION OF ALLEGED  
UNDERGROUND REGULATION  
(Summary Disposition)**

**(Pursuant to Government Code Section 11340.5  
and  
Title 1, section 270, of the  
California Code of Regulations)**

**DEPARTMENT OF CORRECTIONS AND  
REHABILITATION**

Date: March 13, 2009  
 To: D. Dustin  
 From: Chapter Two Compliance Unit  
 Subject: **2009 OAL DETERMINATION NO. 2(S)  
(CTU2009-0209-01)**  
 (Summary Disposition issued pursuant to  
 Gov. Code, sec. 11340.5; Cal. Code Regs.,  
 tit. 1, sec. 270(f))

Petition challenging as an underground regulation Operational Procedure #605 titled Inmate Mail.

On February 9, 2009, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether Operational Procedure #605, titled Inmate Mail constitutes an underground regulation. Operational Procedure #605 contains provisions relating to the receipt, delivery, and content of mail sent to inmates. It was issued by the warden of High Desert State Prison.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,<sup>1</sup> which should have been, but was not adopted pursuant

<sup>1</sup> “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

to the Administrative Procedure Act (APA).<sup>2</sup> Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rule challenged by your petition applies solely to the inmates of High Desert State Prison. It was issued by T. Felker, Warden of High Desert State Prison. Inmates housed at other institutions are controlled by those other institution’s criteria for inmate mail. The rule you challenged was issued by the High Desert State Prison, and applies only to inmates at High Desert State

<sup>2</sup> Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

Prison. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1).<sup>3</sup>

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/  
Susan Lapsley  
Director

/s/  
Kathleen Eddy  
Senior Counsel

Copy: Matthew Cate  
John McClure

**DEPARTMENT OF CORRECTIONS AND REHABILITATION**

Date: March 13, 2009  
To: Daniel Perez  
From: Chapter Two Compliance Unit  
Subject: **2009 OAL DETERMINATION NO. 3(S)**  
**(CTU2008-1223-01)**  
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation a pamphlet designating visiting times for the Secure Housing Unit.

<sup>3</sup> The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

- (f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.
- (2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:
  - (A) The challenged rule has been superseded.
  - (B) The challenged rule is contained in a California statute.
  - (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
  - (D) The challenged rule has expired by its own terms.
  - (E) **An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

On December 23, 2008, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether the Visitor Information Pamphlet (Supplement) revised April, 2006, constitutes an underground regulation. Specifically, you challenge the provisions dealing with visiting hours for inmates in the Secure Housing Unit (SHU). This pamphlet was issued by the acting warden at Pelican Bay State Prison.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,<sup>1</sup> which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).<sup>2</sup> Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058 establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

- (1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility:

<sup>1</sup> “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

<sup>2</sup> Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

ty (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rule challenged by your petition applies solely to the inmates of Pelican Bay State Prison. It was issued by M.D. Casellaw, Acting Warden of Pelican Bay State Prison. Inmates housed at other institutions are controlled by those other institution's rules for visiting times for the SHU. The rule you challenged was issued by Pelican Bay State Prison, and applies only to inmates at Pelican Bay State Prison. Therefore, the rule is a "local rule" and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1).<sup>3</sup>

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/

Susan Lapsley  
Director

/s/

Kathleen Eddy  
Senior Counsel

Copy: Matthew Cate  
John McClure

<sup>3</sup> The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

**(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

## DISAPPROVAL DECISION

### EMERGENCY MEDICAL SERVICES AUTHORITY

#### STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

In re:

EMERGENCY MEDICAL SERVICES  
AUTHORITY

REGULATORY ACTION:

Title 22, California Code of Regulations

ADOPT SECTIONS 100101.2, 100102.1, 100102.2,  
100103.1, 100106.1, 100106.2, AND 100107.1

AMEND SECTIONS 100101, 100102, 100103, 100105,  
100106, 100107, 100108, 100109, 100111, 100112,  
100113, 100114, 100115, 100116, 100117, 100118,  
100119, 100120, 100121, 100122, 100123, 100124,  
100125, 100126, 100127, 100128, 100129, AND  
100130

DECISION OF DISAPPROVAL  
OF REGULATORY ACTION

(Gov. Code, sec. 11349.3)

OAL File No. 2009-0126-03S

#### SUMMARY OF REGULATORY ACTION

The Emergency Medical Services Authority proposed to amend Title 22 of the California Code of Regulations pertaining to Emergency Medical Technician II (EMT-II) training, certification, medical control, and scope of practice and also adding the Advanced Emergency Medical Technician classification.

#### DECISION

On March 11, 2009, the Office of Administrative Law disapproved the above referenced regulatory action for the following reasons: failure to make changes to the regulations available to the public; failure to include an adequate response to all public comments; failure to include all required documents in the rulemaking file; defective statement of mailing; and failure to comply with the "clarity" standard of Government Code section 11349.1.

Date: March 18, 2009

/s/  
CRAIG S. TARPENNING  
Senior Staff Counsel

for: SUSAN LAPSLEY  
Director

Original: R. Steven Tharatt, MPVM, Director  
cc: Laura Little

**AVAILABILITY OF INDEX OF  
PRECEDENTIAL DECISIONS**

**VICTIM COMPENSATION AND  
GOVERNMENT CLAIMS BOARD**

Title 2, Division 2, Rule 619.7(f) states that the Victim Compensation and Government Claims Board (VCGCB) shall maintain an index of significant and legal policy determinations contained in precedent decisions.

As authorized by Government Code section 11425.60, the VCGCB has designated several administrative decisions as precedent decisions. Members of the public may obtain the Index of Precedent Decisions by calling (916) 491-3863 or by sending a written request to the Victim Compensation and Government Claims Board, Attn: Geoff Feusahrens, 400 R Street, Suite 500, Sacramento, CA 95811. In addition, the Index of Precedent Decisions may also be found on the VCGCB website at <http://www.vcgcb.ca.gov>.

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-0129-01  
AIR RESOURCES BOARD  
Oceangoing Incineration

This action updates the version of one National Oceanic and Atmospheric Administration Nautical Chart incorporated by reference in 17 CCR 93119, subdivision (c), for the purpose of showing the location of the line three nautical miles seaward from the California coast.

Title 17  
California Code of Regulations  
AMEND: 93119  
Filed 03/11/2009  
Agency Contact: Trini Balcazar (916) 445-9564

File# 2009-0202-03  
AIR RESOURCES BOARD  
Zero-Emission Vehicle Regulations

This rulemaking amends the Zero Emission Vehicle (ZEV) program in a number of ways. It lessens the projected number of required Zero Emission Vehicles (ZEVs) required of large volume manufacturers from 25,000 during model years 2012-2014 to 7,500, and from 50,000 during model years 2015-2017 to 25,000. It offers manufacturers an alternative path toward compliance with the ZEV program by awarding credits for production of various categories of Partial Zero Emission Vehicles (PZEVs) in satisfaction of a portion of large manufacturers' market-share-based ZEV production obligations. The rulemaking also includes phase-in credit multipliers for introduction of certain new vehicles, credits for ZEV or PZEV production that is part of transportation systems involving shared use of vehicles and linkages to mass transit, provisions for sale of credits by small manufacturers to large manufacturers, provisions for how total production is calculated, carry-forward and carry-back credit provisions, credits for Advance Technology PZEVs placed in other states which have adopted the California ZEV program, and requirements for publication of production data and ZEV credit bank balances, among other things.

Title 13  
California Code of Regulations  
ADOPT: 1962.1 AMEND: 1900, 1962, 1962.1 re-number as 1962.2  
Filed 03/18/2009  
Effective 04/17/2009  
Agency Contact: Amy Whiting (916) 322-6533

File# 2009-0126-01  
BOARD OF EQUALIZATION  
Miscellaneous Services Enterprises

This rulemaking amends Title 18 sections 1506 and 1524 to clarify how tax applies to charges made by

cleaners for their cleaning and dyeing services and when they are required to hold a seller's permit. This rulemaking also clarifies how tax applies to a cleaner's alteration charges.

Title 18  
 California Code of Regulations  
 AMEND: 1506, 1524  
 Filed 03/11/2009  
 Effective 04/10/2009  
 Agency Contact:  
 Richard Bennion (916) 445-2130

File# 2009-0126-05  
 BOARD OF EQUALIZATION  
 Relief from Liability

This action affords relief from liability for failure to report and pay sales and use taxes to the state, for a franchisee that relies upon written advice given by the Board of Equalization to its franchisor when the franchisor requested the advice on behalf of franchisees and specifically named the franchisee as a subject of the request.

Title 18  
 California Code of Regulations  
 AMEND: 1705  
 Filed 03/11/2009  
 Effective 04/10/2009  
 Agency Contact:  
 Richard Bennion (916) 445-2130

File# 2009-0211-01  
 BOARD OF PHARMACY  
 Section 100 Changes

This action makes non-substantive changes to three incorporated-by-reference forms and updates the version date of those forms both on the forms and in the relevant sections of the California Code of Regulations.

Title 16  
 California Code of Regulations  
 AMEND: 1715, 1784, Form 17M-13, Form 17M-14, Form 17M-26  
 Filed 03/11/2009  
 Agency Contact: Carolyn Klein (916) 574-7913

File# 2009-0126-04  
 CALIFORNIA HORSE RACING BOARD  
 Altering of Sex of Horse

The California Horse Racing Board proposes amendment of title 4, California Code of Regulations, sec. 1865, which governs registration and race entry requirements of gelded or castrated race horses. Amendments specify that horse trainers are responsible for ensuring that the true sex of a horse is indicated on the race

entry certificate of registration and impose a minimum \$1,000 fine on a horse trainer if a horse is not correctly identified in the official program for the race in which the horse is entered, absent mitigating circumstances.

Title 4  
 California Code of Regulations  
 AMEND: 1865  
 Filed 03/11/2009  
 Effective 04/10/2009  
 Agency Contact: Harold Coburn (916) 263-6397

File# 2009-0129-02  
 DELTA PROTECTION COMMISSION  
 Amend Appeal Procedure Regulations

Any person who is aggrieved by any action taken by a local government or other local agency in implementing the resource management plan, or otherwise taken pursuant to the Delta Protection Act, may file an appeal with the Delta Protection Commission. This regulatory action amends the appeal procedures for aggrieved persons and establishes new procedures for appeals initiated by the Commission. It also establishes the procedures for withdrawing an appeal.

Title 14  
 California Code of Regulations  
 ADOPT: 20004.1, 20009.1, 20009.2 AMEND:  
 20000, 20001, 20002, 20003, 20004, 20005, 20008,  
 20009  
 Filed 03/16/2009  
 Effective 04/15/2009  
 Agency Contact: Linda Fiack (916) 776-2290

File# 2009-0313-01  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Asian Citrus Psyllid Interior Quarantine

This action adds the central southern portion of Riverside County to the area quarantined to help prevent the spread of the Asian Citrus Psyllid, associated bacteria, and Citrus Greening disease.

Title 3  
 California Code of Regulations  
 AMEND: 3435(b)  
 Filed 03/18/2009  
 Effective 03/18/2009  
 Agency Contact:  
 Stephen S. Brown (916) 654-1017

File# 2009-0127-02  
 DEPARTMENT OF HEALTH CARE SERVICES  
 Hearing Aid Procedures Codes

Department of Health Care Services submitted this action to amend title 22, California Code of Regulations, sec. 51517 by making nonsubstantial revisions pursuant to title 1, California Code of Regulations, sec.

100, and by making revisions to related Medi-Cal reimbursement rates and billable codes for hearing aids that are exempt from the rulemaking provisions of the Administrative Procedure Act and to the review and approval of the Office of Administrative Law. Both non-substantial and exempt revisions were submitted to provide clarity and consistency of section 51517 with Welf. & Inst. Code sec. 14105.49, enacted in AB 1762 (Stats. 2003, ch. 230) and amended in AB 1807 (Stats. 2006, ch. 74), and publication of reimbursement rates and billable codes for hearing aids as provided in that section.

Title 22  
 California Code of Regulations  
 AMEND: 51517  
 Filed 03/12/2009  
 Agency Contact: Lori Manieri (916)445-5277

File# 2009-0202-01  
**FISH AND GAME COMMISSION**  
 Marine Protected Areas—Morro Bay and Dana Point

The Fish and Game Commission is authorized to implement the Marine Life Protection Act (MLPA, Stats. 1999, ch. 1015). These amendments make the following changes to the Marine Protected Areas pursuant to the MLPA: 1. Allow dredging for the purpose of harbor and channel operations (pursuant to required and valid permits and approvals) in Morro Bay; 2. Allow for the “taking” of living marine resources for the purpose of harbor operations and maintenance and cleaning of hulls and other man-made structures in Morro Bay; 3. And correct non-substantive errors with respect to the designation of “Dana Point State Marine Conservation Area” in lieu of “Marine Park” (pursuant to a previous rulemaking 2006-0925-01 S).

Title 14  
 California Code of Regulations  
 AMEND: 632  
 Filed 03/18/2009  
 Effective 04/17/2009  
 Agency Contact: Sheri Tiemann (916)654-9872

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN October 15, 2008 TO  
 March 18, 2009**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person

listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**  
 01/20/09 AMEND: 260  
 01/20/09 AMEND: Appendix A, Std. Form 400

**Title 2**  
 03/05/09 AMEND: 18704  
 02/17/09 AMEND: 51.3  
 02/02/09 AMEND: 18402, 18450.3  
 01/30/09 ADOPT: 18427.5  
 01/30/09 ADOPT: 18421.8, 18521.5 AMEND: 18401  
 01/27/09 AMEND: 2294  
 01/26/09 AMEND: 1859.104.1  
 01/21/09 ADOPT: 1859.184.1 AMEND: 1859.2, 1859.103, 1859.184  
 01/12/09 AMEND: div. 8, ch. 24, secs. 45100, 45127, 45128  
 01/08/09 ADOPT: 18420.1  
 01/08/09 ADOPT: 18944.3 AMEND: 18944.1  
 12/30/08 AMEND: 714  
 12/29/08 ADOPT: 2298  
 12/15/08 AMEND: 17463, 17470, 17519  
 12/09/08 ADOPT: 25100  
 12/08/08 AMEND: 1700  
 11/03/08 AMEND: 647.1, 647.2, 647.3, 647.20, 647.20.1, 647.21, 647.22, 647.23, 647.24, 647.25, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.36, 648.1, 648.3, 648.5, 649.20, 649.21  
 10/31/08 AMEND: 18545, 18703.4, 18730, 18940.2, 18942.1, 18943  
 10/31/08 ADOPT: 18402.1 AMEND: 18427  
 10/22/08 ADOPT: 59600  
 10/21/08 ADOPT: 1859.41.1, 1859.42.1 AMEND: 1859.2, 1859.41, 1859.42, 1859.43, 1859.51, 1859.147, Form SAB 50-01, Form SAB 50-03  
 10/20/08 ADOPT: 20120, 20121, 20122, 20123, 20124, 20125, 20126, 20127

**Title 3**  
 03/18/09 AMEND: 3435(b)  
 03/10/09 AMEND: 3434  
 03/05/09 AMEND: 3591.20(a)  
 03/04/09 AMEND: 3435  
 02/27/09 AMEND: 3434(b)  
 02/26/09 AMEND: 850  
 02/19/09 AMEND: 3434(b)  
 02/13/09 AMEND: 3406(b)  
 02/10/09 AMEND: 3060.4(a)(1)(C)(1), 3652(k)  
 02/05/09 AMEND: 3434(b)  
 02/02/09 AMEND: 3406(b)

**CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 13-Z**

01/21/09	ADOPT: 3591.22(a), 3591.22(b), 3591.22(c), 3591.22(d)	3591.22(b),	11/17/08	AMEND: 1505
01/21/09	ADOPT: 3591.21(a), 3591.21(c)	3591.21(b),	10/30/08	AMEND: 1606
01/20/09	REPEAL: 3664, 3665, 3666, 3667, 3668, 3669		10/16/08	ADOPT: 12047, 12048, 12050, 12348 AMEND: 12002
01/14/09	AMEND: 3434(b)		<b>Title 5</b>	
01/13/09	AMEND: 3434(b)		03/05/09	AMEND: 80225
01/12/09	AMEND: 3589(a)		02/17/09	AMEND: 80413, 80487
12/30/08	AMEND: 3417(b)		02/04/09	ADOPT: 9800, 9810, 9820, 9830
12/18/08	AMEND: 3417(b)		01/20/09	ADOPT: 9517.1
12/18/08	AMEND: 3406(b)		01/05/09	AMEND: 80004
12/16/08	AMEND: 1358(b)		12/09/08	ADOPT: 18131.1 AMEND: 18131
12/12/08	AMEND: 3434(b)		11/06/08	AMEND: 42723
12/10/08	AMEND: 3589		10/17/08	ADOPT: 100000, 100001, 100002, 100003, 100004, 100005, 100006, 100007, 100008, 100009, 100010, 100011, 100012, 100013, 100014, 100015
12/04/08	AMEND: 3435(b)		<b>Title 8</b>	
11/26/08	AMEND: 3406(b)		03/04/09	AMEND: 3248
11/20/08	ADOPT: 6400		03/02/09	ADOPT: 15475.1, 15475.2, 15475.3, 15482, 15482.1, 15482.2, 15483, 15484, 15485, 15486, 15486.1, 15487, 15488, 15489, 15489.1, 15490, 15490.1, 15491, 15496, 15497, 15497.1, 15498, 15499, 15499.5 AMEND: 15201, 15203, 15203.1, 15203.2, 15203.3, 15203.4, 15203.5, 15203.6, 15203.7, 15203.8, 15203.9, 15203.10, 15204, 15205, 15210, 15210.1, 15210.2, 15210.3, 15211, 15211.1, 15211.2, 15215, 15230, 15251, 15353, 15360, 15405, 15470, 15471, 15472, 15473, 15474, 15475, 15476, 15477, 15478, 15479, 15480, 15481, 15601.7
11/12/08	AMEND: 3591.5(a)		03/02/09	AMEND: 3209, 3299, 4885, 5049, 5085, 5152, 5193, 5207, 5215, 5297, 5299, 5302, 5304, 5449, 6402, 6503, 6600
11/12/08	AMEND: 3434(b)		02/25/09	REPEAL: 10116.4, 10122, 10122.1, 10123, 10123.2, 10123.3, 10124, 10124.1, 10125, 10125.1, 10125.2, 10125.3, 10126, 10127, 10127.1, 10127.2, 10127.3, 10128, 10129, 10129.1, 10130, 10131, 10131.1, 10131.2, 10132, 10132.1, 10133, 10133.2, 10133.4, 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.15, 10133.16, 10133.17, 10133.18, 10133.19, 10133.20, 10133.21, 10133.22
11/07/08	AMEND: 3433(b)		02/18/09	AMEND: 3664, 3732, 3737, 3944, 4186, 4307.1, 4345, 4353, 4354
10/30/08	ADOPT: 1430.142 AMEND: 1430.43 REPEAL: 1430.44.5		02/13/09	AMEND: 3336, 3650, 3653
10/29/08	AMEND: 3435(b)		02/09/09	AMEND: 3231, 3277, Appendix B Following Section 3299, Appendix A
10/28/08	ADOPT: 3408			
10/22/08	AMEND: 3700(c)			
10/20/08	AMEND: 3433(b)			
10/20/08	AMEND: 3434(b)			
10/17/08	AMEND: 3423(b)			
10/15/08	AMEND: 3433(b)			
<b>Title 4</b>				
03/11/09	AMEND: 1865			
03/10/09	ADOPT: 12388, 12410			
03/05/09	ADOPT: 2066			
03/05/09	ADOPT: 1504.5 AMEND: 1481, 1486			
03/04/09	AMEND: 2073			
02/23/09	ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101 REPEAL: 8102.10			
02/13/09	ADOPT: 12362			
02/11/09	ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078			
01/13/09	ADOPT: 4027, 4027.1, 4027.2, 4027.3, 4027.4, 4027.5			
12/29/08	AMEND: 12482			
11/24/08	ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101			

**CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 13-Z**

following Section 3326, 3340, 3341, 3575, Appendices A, B, C, D, E, F, G following Section 3583

01/29/09 AMEND: 4994

01/28/09 AMEND: 4999

01/20/09 AMEND: Appendix B following sections 1529, 5208, 8358

01/15/09 AMEND: 2500.7

01/13/09 ADOPT: 29, 31.1, 31.3, 31.7, 32.6, 36.5, 41.5, 41.6, 41.7, 63, 120, 121, 122, 123, 124 AMEND: 1, 10, 11, 11.5, 12, 13, 14, 15, 16, 17, 18, 19, 20, 30, 30.5, 31, 31.5, 32, 33, 34, 35, 35.5, 36, 38, 39, 39.5, 40, 41, 43, 44, 45, 46, 46.1, 47, 49, 49.2, 49.4, 49.6, 49.8, 49.9, 50, 51, 52, 54, 55, 56, 57, 60, 61, 62, 65, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159 REPEAL: 10.5, 32.5, 37, 53, 70, 71, 72, 73, 74, 75, 76, 76.5, 77, 101, 114, 115

12/22/08 ADOPT: 16404, 16430, 16435.5 AMEND: 16421, 16422, 16423, 16424, 16425, 16426, 16427, 16428, 16429, 16431, 16432, 16434, 16435, 16436, 16437, 16439

12/02/08 AMEND: 2940.6, Appendix C

12/01/08 AMEND: 5198(f)(2)(A)

11/19/08 AMEND: 1658(p)

11/17/08 ADOPT: 10116, 10116.1, 10116.2, 10116.3, 10116.5, 10116.6, 10116.7, 10116.8 AMEND: 10123.1 renumbered to 10116.4, 10001 renumbered to 10116.9, 10002 renumbered to 10117, 10003 renumbered to 10118, 10004 renumbered to 10119, 10005 renumbered to 10120, 10123, 10127, 10127.1, 10128, 10133.13, 10133.14, 10133.16, 10133.22, 10133.53, 10133.54, 10133.55, 10133.56, 10133.57, 10133.58 REPEAL: 10133.3, 10133.50

11/17/08 ADOPT: 10210, 10211, 10212, 10213, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10227, 10228, 10229, 10230, 10232, 10232.1, 10232.2, 10233, 10236, 10240, 10241, 10243, 10244, 10245, 10246, 10250, 10250.1, 10251, 10253, 10253.1, 10254, 10256, 10260, 10270, 10271, 10272, 10273, 10275, 10280, 10281, 10290, 10291, 10293, 10294, 10294.5, 10295, 10296, 10297 AMEND: 10252, 10252.1 REPEAL: 10250

11/17/08 ADOPT: 10150.1, 10150.2, 10150.3, 10150.4, 10151, 10151.1, 10166.1 AMEND: 10150, 10160, 10160.1, 10160.5, 10161, 10161.1, 10162, 10164, 10165, 10166, 10167 REPEAL: 10168

11/17/08 ADOPT: 10397, 10403, 10409, 10508, 10550, 10593, 10603, 10629, 10770.5, 10770.6, 10782, 10785, 10844, 10845 AMEND: 10301, 10302, 10324, 10346, 10400, 10410, 10411, 10412, 10450, 10500, 10505, 10507, 10510, 10541, 10561, 10589, 10608, 10616, 10626, 10750, 10751, 10753, 10754, 10755, 10770, 10779, 10840, 10842, 10843, 10846, 10848, 10850, 10860, 10865, 10866, 10946, 10950, 10953 REPEAL: 10306, 10308, 10347, 10390, 10391, 10392, 10395, 10396, 10414, 10415, 10416, 10417, 10514, 10520, 10548, 10555, 10563, 10590, 10591, 10592, 10610, 10630, 10758, 10762, 10771, 10867, 10890, 10952, 10955, 10957, 10995, 10996

11/12/08 AMEND: 15600, 15601, 15602, 15603, 15604, 15605, 15606, 15607, 15611

11/06/08 AMEND: 2540.8, 2540.9, 2548.23, 2719, 2740, 2741, 2880, 2980

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02/06/09 ADOPT: 4000, 4005

01/07/09 AMEND: 7400

11/18/08 ADOPT: 9550

**Title 10**

02/26/09 AMEND: 2699.6805

02/23/09 AMEND: 2318.6, 2353.1

02/23/09 AMEND: 2498.6

02/19/09 AMEND: 5000, 5110, 5111, 5112, 5113, 5114, 5116, 5117 REPEAL: 5119

02/05/09 ADOPT: 2308.1, 2308.2, 2308.3

01/15/09 AMEND: 2699.6707, 2699.6711, 2699.6721, 2699.6723, 2699.6725, 2699.6809

01/14/09 AMEND: 2698.100, 2698.200, 2698.201, 2698.206, 2698.300, 2698.301

01/12/09 AMEND: 2498.5

12/31/08 ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55

12/02/08 AMEND: 2652.1

11/12/08 AMEND: 2498.4.9

11/12/08 AMEND: 2498.4.9

11/07/08 AMEND: 2498.5

11/03/08 AMEND: 2498.5

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03/03/09 AMEND: 9070, 9077

02/18/09 REPEAL: 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327

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01/28/09	AMEND: 51.19	12/31/08	AMEND: 957 REPEAL: 957.11, 957.12
12/31/08	AMEND: 1005(d)	12/29/08	AMEND: 243, 245 REPEAL: 241
12/02/08	AMEND: 1005, 1007, 1008	12/17/08	ADOPT: 1032 AMEND: 895, 895.1, 929.1, 949.1, 969.1, 1032.7, 1032.9, 1037.3, 1054.5, 1055.3, 1056.3, 1090.1, 1090.2, 1090.4, 1090.6, 1090.17, 1092.03, 1092.04, 1092.06, 1092.18, 1104.3 REPEAL: 1032
11/07/08	AMEND: 1005, 1081	12/11/08	AMEND: Division 5, Appendix M
10/27/08	AMEND: 1005, 1007, 1008, 1052	12/10/08	ADOPT: 120.1, 120.2 AMEND: 120, 120.3 REPEAL: 120.01
10/16/08	AMEND: 1081	11/26/08	AMEND: 1257
<b>Title 12</b>		11/24/08	AMEND: 749.3
02/26/09	ADOPT: 800, 800.1, 801, 802, 803, 804, 805, 806, 807, 808, 809	11/13/08	ADOPT: 18660.40
01/27/09	AMEND: 501	11/07/08	AMEND: 895.1, 919.9, 939.9
01/12/09	AMEND: 503	11/07/08	AMEND: 1038(i)
<b>Title 13</b>		11/07/08	AMEND: 895.1, 898, 914.8, 916, 916.2, 916.9, 916.11, 916.12, 923.3, 923.9, 934.8, 936, 936.2, 936.9, 936.11, 936.12, 943.3, 943.9, 954.8, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963
03/18/09	ADOPT: 1962.1 AMEND: 1900, 1962, 1962.1 renumber as 1962.2	10/30/08	AMEND: 29.85
03/10/09	ADOPT: 1160.6 AMEND: 1160.3, 1160.4	10/23/08	AMEND: 163, 164
02/26/09	ADOPT: 29.00	10/22/08	AMEND: 1052.4
02/05/09	ADOPT: 20.05 AMEND: 20.04	10/21/08	AMEND: 15387 Appendix C
02/05/09	AMEND: 25.08	<b>Title 15</b>	
01/20/09	AMEND: 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2708, 2709, 2710	02/05/09	ADOPT: 3077, 3077.1, 3077.2, 3077.3, 3077.4 AMEND: 3000, 3043.6, 3375
12/22/08	AMEND: 553.70	02/02/09	ADOPT: 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1856, 1857,
12/05/08	AMEND: 110.04		
12/01/08	AMEND: 1956.8		
11/24/08	ADOPT: 2027		
11/03/08	AMEND: 25.06, 25.07, 25.08, 25.09, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21, 25.22		
10/20/08	ADOPT: 346.00, 346.02, 346.04, 346.06, 346.08, 346.10, 346.12, 346.14, 346.16		
<b>Title 13, 17</b>			
12/03/08	AMEND: 2299.3, 93118.3		
10/20/08	ADOPT: 2299.5, 93118.5		
<b>Title 14</b>			
03/18/09	AMEND: 632		
03/16/09	ADOPT: 20004.1, 20009.1, 20009.2 AMEND: 20000, 20001, 20002, 20003, 20004, 20005, 20008, 20009		
03/04/09	AMEND: 2000, 2090, 2516, 2530, 2620, 2630, 2660, 2670, 2720, 2730		
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03/02/09	AMEND: 791.7(a), Form FG OSPR-1924, Form FG OSPR-1925, Form FG OSPR-1972		
02/25/09	AMEND: 1038, 1052		
02/23/09	ADOPT: 749.4		
01/28/09	AMEND: 701		
01/13/09	AMEND: 300		

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- 12/19/08 REPEAL: 4826, 4985
- 12/16/08 ADOPT: 3099
- 12/15/08 ADOPT: 3334 AMEND: 3000
- 12/11/08 AMEND: 3323
- 12/09/08 AMEND: 3000, 3001, 3041.3, 3075.3,  
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- 11/26/08 ADOPT: 1700, 1706, 1712, 1714, 1730,  
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- 10/30/08 AMEND: 3000, 3375, 3376.1, 3379
- 10/28/08 ADOPT: 3999.7
- 10/23/08 ADOPT: 1417 AMEND: 1029, 1206,  
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- 10/15/08 ADOPT: 3999.6
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- 03/11/09 AMEND: 1715, 1784, Form 17M-13,  
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- 03/04/09 AMEND: 4181
- 03/04/09 AMEND: 1351.5, 1352
- 03/04/09 ADOPT: 389
- 03/04/09 AMEND: 998
- 03/04/09 AMEND: 950.2
- 03/03/09 AMEND: 305 REPEAL: 306.1
- 02/11/09 AMEND: 950.3
- 02/03/09 ADOPT: 2068.7
- 01/28/09 AMEND: 950.2
- 01/28/09 ADOPT: 1832.5
- 01/09/09 ADOPT: 2504.1, 2517.5, 2564.1, 2575.5  
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- 12/30/08 AMEND: 1387
- 12/18/08 AMEND: 3340.28, 3340.29
- 12/17/08 AMEND: 4170
- 12/11/08 AMEND: 1336
- 12/09/08 AMEND: 1399.25 REPEAL: 1399.26
- 11/24/08 AMEND: 1419, 1419.1, 1419.3
- 10/30/08 AMEND: 1399.571
- 10/17/08 ADOPT: 1399.610, 1399.612 AMEND:  
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- Title 17**
- 03/11/09 AMEND: 93119
- 02/03/09 ADOPT: 100701
- 01/29/09 ADOPT: 33060 AMEND: 33007, 33010,  
33020, 33025, 33030, 33040
- 01/28/09 AMEND: 950.2
- 01/28/09 ADOPT: 1832.5
- 12/30/08 AMEND: 30195.1
- 12/26/08 ADOPT: 100501
- 12/02/08 ADOPT: 95100, 95101, 95102, 95103,  
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- 10/30/08 AMEND: 100407, 100408
- Title 18**
- 03/11/09 AMEND: 1506, 1524
- 03/11/09 AMEND: 1705
- 02/05/09 AMEND: 1620
- 01/02/09 AMEND: 1702.5
- 12/01/08 AMEND: 1602.5
- 11/14/08 AMEND: 1591, 1602
- Title 19**
- 11/14/08 AMEND: 2900, 2910, 2915, 2920, 2930,  
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- Title 21**
- 11/26/08 AMEND: 6633.2
- Title 22**
- 03/12/09 AMEND: 51517
- 03/03/09 ADOPT: 63000.48, 63051, 63052  
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- 02/04/09 ADOPT: 66260.201, 66260.202,  
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66273.81, 66273.82, 66273.83,  
66273.84, 66273.85, 66273.86,

- 66273.87, 66273.88, 66273.89, and 66273.90 Articles Affected: Amend article 3; Adopt new article 4; Renumber old article 4 to article 5; Renumber old article 5 to article 6; Repeal old article 6; Repeal old article 7 and adopt new article 7.
- 01/29/09 AMEND: 97174
- 01/28/09 AMEND: 41508, 41509, 41510, 41511, 41512, 41514, 41515, 41515.1, 41515.2, 41516, 41516.1, 41516.3, 41517, 41517.3, 41517.5, 41517.7, 41518, 41518.2, 41518.3, 41518.4, 41518.5, 41518.7, 41518.8, 41518.9, 41519, 41610, 41611, 41670, 41671, 41672, 41700, 41800, 41811, 41815, 41819, 41823, 41827, 41831, 41832, 41835, 41839, 41844, 41848, 41852, 41856, 41864, 41866, 41868, 41872, 41900, 42000, 42050, 42075, 42110, 42115, 42120, 42125, 42130, 42131, 42132, 42140, 42160, 42180, 42305, 42320, 42321, 42326, 42330, 42400, 42401, 42402, 42403, 42404, 42405, 42406, 42407, 42420, 42700, 42701, 42702, 42703, 42705, 42706, 42707, 42708, 42709, 42710, 42711, 42712, 42713, 42714, 42715, 42716, 42717, 42718, 42719, 42720 REPEAL: 42800, 42801
- 01/26/09 AMEND: 51313.6, 51320, 51476, 51510, 51510.1, 51510.2, 51510.3, 51511, 51513, 51520 REPEAL: 51513.5, 51520.1, 51520.2, 59998
- 01/23/09 AMEND: 51000.6.1, 51000.8, 51000.16, 51000.20, 51000.20.1, 51000.24.1, 51000.25.2, 51000.30, 51000.50, 51000.51, 51000.52, 51000.53, 51000.55, 51000.60
- 01/22/09 ADOPT: 72038, 72077.1, 72329.1  
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- 01/15/09 AMEND: 101115
- 01/06/09 AMEND: 66270.60, 67450.30
- 12/09/08 AMEND: 51521
- 12/09/08 AMEND: 100031, 100032, 100033, 100034, 100035, 100036, 100037, 100038, 100039, 100040, 100042, 100043 REPEAL: 100041
- 11/24/08 AMEND: 2706-1
- 11/20/08 AMEND: 3254(i)-2
- 11/13/08 ADOPT: 97234, 97267 AMEND: 97215, 97225, 97226, 97227, 97241, 97244, 97248
- 11/06/08 AMEND: 2706-2, 3302-1, 3303.1(c)-1
- 10/29/08 AMEND: 64413.1, 64414, 64431, 64432, 64432.2, 64432.8, 64433.3, 64445.1, 64447.2, 64482
- 10/28/08 AMEND: 87102, 87105
- 10/15/08 AMEND: 2051-3
- Title 23**
- 02/19/09 ADOPT: 3939.35
- 02/03/09 AMEND: 3989
- 01/07/09 ADOPT: 3939.34
- 01/05/09 ADOPT: 3006
- 12/09/08 ADOPT: 3939.33
- 12/01/08 ADOPT: 3949.6
- 11/06/08 AMEND: 2200, 2200.4, 2200.5, 2200.6
- 11/06/08 ADOPT: 3939.32
- 11/05/08 AMEND: 1062, 1064, 1077, 3833.1
- 10/22/08 ADOPT: 3989.7
- Title 25**
- 02/11/09 ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
- 01/21/09 ADOPT: 1322, 1426, 2426 AMEND: 1000, 1002, 1004, 1005, 1006, 1018, 1020, 1020.1, 1020.6, 1032, 1183, 1210, 1211, 1212, 1216, 1312, 1320, 1333, 1429, 1432, 1438, 1468, 1474, 1504, 1612, 1752, 1756, 2002, 2004, 2005, 2006, 2018, 2183, 2210, 2211, 2212, 2216, 2312, 2327, 2429, 2438, 2474, 2504, 2612, 2752, 2756
- 12/05/08 ADOPT: 7150, 7151, 7152, 7153, 7154, 7155, 7156, 7157, 7158, 7159, 7160
- 10/08/08 AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A  
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- Title 27**
- 02/18/09 AMEND: 20921
- 01/05/09 AMEND: 27001
- 01/05/09 AMEND: 27000
- 12/02/08 AMEND: 25805(b)
- Title MPP**
- 02/09/09 AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-182
- 02/05/09 ADOPT: 40-037, 70-101, 70-102, 70-103, 70-104, 70-105 AMEND: 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201, 69-202, 69-205

**2009 RULEMAKING CALENDAR**

*Special Note*

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