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

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**PROPOSED ACTION ON
REGULATIONS**

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

**TITLE 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 AGENCY:

Baldwin Hills Conservancy

A written comment period has been established commencing on **April 12, 2002** and closing on **May 27, 2002**. Written comments should be directed to the Fair Political Practices Commission, Attention Wayne Imberi, 428 J Street, Suite 450, 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 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 or 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 or 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 writ-

ten comments must be received no later than **May 27, 2002**. 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 Wayne Imberi/ Kevin Moen, Fair Political Practices Commission, 428 J Street, Suite 450, 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 Wayne Imberi, Fair Political Practices Commission, 428 J Street, Suite 450, Sacramento, California 95814, telephone (916) 322-5660.

**TITLE 2. STATE
ALLOCATION BOARD**

**THE STATE ALLOCATION BOARD PROPOSES
THE ADOPTION OF ALL REGULATION
SECTIONS 1859.200 THROUGH 1859.220 OF
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, RELATING TO THE FEDERAL
SCHOOL RENOVATION PROGRAM**

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to adopt the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the OPSC may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulations.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to adopt these regulations under the authority provided by Section 12300 of the Education Code and Sections 15502 and 15503 of the Government Code. The proposal interprets and makes specific reference to Sections 17076, 17584, 17585, 17591, 33190 through 33193, 47605 through 47608, 47636 of the Education Code, Section 15504 of the Government Code, Section 321 of Public Law 106-554, Section 14101(18) of the Elementary and Secondary Education Act of 1965, Sections 23701 and 23701(d) of the Revenue and Taxation Code, and the Office of Management and Budget Circular A-87 (dated August 27, 1997).

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Federal Government has appropriated, through Public Law 106-554, \$103 million to California for the urgent renovation and repair of existing school facilities. Currently, the SAB does not have regulations that implement a federally funded program.

Article 1. General Provisions and Definitions

This article defines the purpose of these regulations, which provide for the implementation and administration of the Federal School Repair and Renovation Program. Public Law 106-554 establishes a grant program by which the SAB will award the federal funds on a competitive basis.

This article contains the definitions or terms that are essential for interpreting these regulations.

Article 2. FRP Application Procedure

This article provides specificity in defining what constitutes a Local Educational Agency (LEA) when applying for Federal Renovation Program (FRP) grant funds.

This article specifies that charter schools can apply for FRP funding through a LEA where the LEA approved the school's charter, and defines additional criteria when the State Department of Education has approved the school's charter.

This article specifies that non-profit private schools can apply for FRP funding through a LEA, and delineates certain criteria further defining qualifying non-profit private schools.

This article specifies that a LEA seeking funding for a FRP grant shall complete and file an application form and submit it to the OPSC.

This article specifies that the SAB shall determine appropriate dates by which the OPSC will accept applications for FRP grants in order for the SAB to award the grants in a timely manner.

Article 3. Permissible and Impermissible Uses of FRP Grants

This article provides specific criteria relative to the uses of the FRP grants: for public and charter schools, the urgent repair or renovation to public school facilities to ensure the health and safety of students and staff. For charter schools, in addition to the urgent repair or renovation of existing school buildings, the land acquisition needs related to the placement or buildings (i.e., modular/relocatable) in order to immediately house students. For non-profit private schools, asbestos abatement or removal, repair and renovation modifications to comply with the Rehabilitation Act and the Americans with Disabilities Act. For impacted LEA's, construction of school facilities.

This article provides that the LEA's will have no restrictions on construction-related activities, and must meet specific federal compliance on how the grant funds will be utilized. This article provides a limitation on the amount of the FRP funding to be used for administrative costs.

This article denotes specific facility-related items that are deemed ineligible for purposes of this Program.

This article specifies the permissible costs that LEA's expend or commit prior to receiving FRP funds in order to be reimbursed.

Article 4. Funding Availability

This article sets forth the funding categories in order to distribute the FRP grants to the LEA's and specifies that the SAB can transfer dollars from Category C to Categories A and/or B under certain circumstances.

This article provides specific criteria determining what the maximum grant amount an LEA can request and receive based upon eligible enrollment.

Article 5. Apportionment of Funds

This article delineates the manner in which the SAB will award the grants. However, if the total dollar amount of accepted applications exceed the funding in those categories, the implementation of priority points shall occur. This article makes specific the methodology in order to calculate priority points.

Article 6. Miscellaneous

This article sets forth the process and criteria for releasing the FRP grants to the LEA after submitting a fund release form to the OPSC.

This article provides the means for the OPSC to ensure that progress has been made to complete the project(s).

This article stipulates that LEA's shall submit an expenditure report that reflects funds utilized in conjunction with the grant (i.e., local funding) within a specified period of time and describes the method of non-compliance.

This article delineates how the OPSC will handle the audit process and sets forth specific deadlines for the OPSC and LEA's to adhere to for audit completion. This article requires the LEA's to maintain appropriate records in the event of an audit, and describes the method of non-compliance.

This article specifies that interest earned on FRP grant funds shall be returned to the SAB, and the SAB will forward all interest earned to the appropriate federal agency.

This article provides a method to prevent applications from receiving FRP grant funds for the same work requested under existing programs administered by the SAB (i.e., School Facility and Deferred Maintenance Programs).

**DOCUMENTS INCORPORATED
BY REFERENCE**

1. Application for Federal Grant, Form SAB 60-01 (New 01/02)
2. Fund Release Authorization, Form SAB 60-02 (New 01/02)
3. Expenditure Report, Form SAB 60-03 (New 01/02)

These forms are too cumbersome or impractical to publish in Title 2 of the CCR. Therefore, it is proposed to incorporate the forms by reference. Copies of these forms are available for review during normal business

hours at the OPSC located at 1130 K Street, Suite 400, Sacramento, CA 95814. They are also available on the Internet at: <http://www.opsc.dgs.ca.gov>.

**IMPACT ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations. In addition, these regulations do not require a school district to file an application.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no 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.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs or savings in federal funding to the State.
- There will be no savings to the State; however, there may be increased costs for the administration of the new program.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of these regulations will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts, county superintendent of schools, charter schools, and non-profit private schools for purposes of funding existing school facility projects.

**SUBMISSION OF COMMENTS, DOCUMENTS
AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than May 27, 2002 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

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

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-Mail Address: lisa.jones@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

Questions regarding this Notice of Proposed Regulatory Action may be direct to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, questions may be directed to the backup contact person, Dennis Boydston, at (916) 322-0327.

ADOPTION OF REGULATIONS

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

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

**SUBSTANTIAL CHANGES WILL
REQUIRE A NEW NOTICE**

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

RULEMAKING FILE

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

1. A copy of Public Law 106-554 authorizing the SAB to adopt regulations in order to implement the Federal School Repair and Renovation Program.
2. A copy of the text of the regulations for which the adoption is proposed.
3. A copy of this notice.
4. A copy of the Initial Statement of Reasons for the proposed adoption.
5. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments is received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 2 through 4 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

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

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

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

**TITLE 4. CALIFORNIA HEALTH
FACILITIES FINANCING AUTHORITY**

NOTICE IS HEREBY GIVEN that the California Health Facilities Financing Authority (the "Authority"), organized and operating pursuant to Sections

15430 through 15462.5 of the California Government Code (the "Act"), proposes to adopt certain regulations. The Authority proposes to replace emergency regulations Sections 7000 through 7017 of the California Code of Regulations implementing the Cedillo-Alarcón Community Clinic Investment Act of 2000 Grant Program with permanent regulations.

PUBLIC HEARING

No public hearing regarding this proposed action has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Authority at least 15 days before the end of the Public Comment period. Such request should be addressed to the Authority Contact Person identified in this Notice and should specify the Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations for which the hearing is being requested.

AUTHORITY AND REFERENCE

These Regulations implement, interpret and make specific Sections 15438(q) and 15438.6 of the Government Code. The Authority has the implied power to adopt these Regulations as permanent regulations, based on the following express statutory powers:

1. The Authority has the express statutory power by virtue of Stats. 2000, c. 801, § 2, to adopt, and did adopt, these Regulations as emergency regulations;
2. Section 15438.6(d) of the Government Code provides that "the authority, in consultation with representatives of primary care clinics and other appropriate parties, shall develop selection criteria and a process for awarding grants under this section;" and
3. Section 15438(o) of the Government Code provides that "the authority may. . . [e]nter into any and all agreements or contracts . . . execute any an all instruments, and *do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly granted by this part.*" (Emphasis added.)

The adoption of these Regulations as permanent regulations is necessary to carry out the express power of the Authority to develop selection criteria and a process for awarding grants under Section 14538.6 of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Section 15438.6 of the Government Code (the "Act") the Authority is authorized to award grants to any eligible participating primary care clinic for purposes of financing capital outlay projects and to

develop selection criteria and a process for awarding the grants. The Act requires the Authority to take into account at least certain factors when selecting recipients and determining grant amounts. In order to award all \$50 million in funds earmarked for this program, there will be a first and second funding round.

1. Government Code Section 15438.6 defines certain terms and words, but does not define other terms and words, which are necessary to carry out and accomplish the purposes, objectives and provisions of the Act.

California Code of Regulations (CCR) 7000 clarifies the applicability of certain terms and words which shall be interpreted and applied in a uniform manner when used in any application related to the implementation and administration of Act.

2. Government Code Section 15438.6(c) defines eligible clinics and Government Code Section 15438.6(d) authorizes the Authority to develop selection criteria and a process for awarding grants under the Act, including at least certain factors when selecting recipients and determining grant amounts.

CCR 7001 makes specific the eligibility criteria for primary care clinics. The provisions authorize the Authority to require clinics to be licensed, adhere to all existing licensing requirements, exhibit financial stability, and propose an eligible project.

3. Government Code Section 15438.6(c) provides that grants may be used for purposes of financing capital outlay projects.

CCR 7002 makes specific which capital outlay projects may be funded.

4. Government Code Section 15438.6 (e) establishes the maximum individual grant award and Government Code Section 15438.6(f) specifies that no grant can exceed the total cost of the project. Government Code Section 15438.6(d)(4) requires broad distribution of grant awards throughout the state.

CCR 7003 implements and makes specific these provisions by authorizing the Authority to grant maximum awards of \$250,000 in total from both funding rounds for eligible projects that do not exceed the dollar amount of the grant award. In addition, this provision limits grant awards to consortiums of clinics to a maximum of \$1,000,000 for first funding round to ensure broad distribution of grant awards.

5. Government Code Section 15438.6 (e) establishes the maximum individual grant award and Government Code Section 15438.6(d)(4) requires broad distribution of grant awards throughout the state. In

addition, Government Code Section 15438.6(d) authorizes the Authority to develop a process for awarding grants under the Act, including at least certain factors when selecting recipients and determining grant amounts.

CCR 7003.5 implements and makes specific these provisions by authorizing the Authority to grant maximum awards of \$250,000 in total from both funding rounds and limits grant awards to consortiums of clinics to a maximum of \$1,300,000 from both funding rounds to ensure broad distribution of grant awards. In addition, this provision specifies that consortiums of clinics applying for more than \$1,000,000 will not be awarded grants unless there are funds remaining after all other requests for \$1,000,000 or less are allocated.

6. Government Code Section 15438.6(d) provides that the Authority shall develop selection criteria and a process for awarding grants under the Act, including, at least, certain factors, as specified, when selecting recipients and determining grant amounts. The following provisions implement, interpret or make specific these requirements.
 - a. CCR 7004 establishes that all eligible clinics interested in applying for a grant must complete an application.
 - b. CCR 7005 specifies the time and manner of submitting an application to the Authority.
 - c. CCR 7006 details the information required to be submitted in an application for a grant including financial information, organizational information, legal information, and an agreement and certification.
 - d. CCR 7007 details the manner in which applications will be reviewed, scored and ranked by staff.
 - e. CCR 7008 details the selection criteria that will be used in evaluating applications including population served, proposed services, financial capacity, sources and uses of funds and project readiness and feasibility.
 - f. CCR 7009 details the initial allocation schedule for awarding funds after applications have been scored and ranked and in the event that total funds requested exceed total funds available.
 - g. CCR 7010 interprets and makes specific the requirement that geographic location of the applicants be taken into account in order to maximize broad geographic distribution of funding.
 - h. CCR 7011 provides for notifying applicants of their scores and the proposed amount of initial allocation.
 - i. CCR 7012 establishes an appeals process for applicants including the circumstances under which an appeal may be filed, the timing of the appeal, the review of the appeal by the staff and Authority, and the securing of funds for a successful appellant by amending the initial allocation.
 - j. CCR 7013 provides for approval by the Authority of grant awards and notification of approval to recipients.
 - k. CCR 7013.1 specifies when the Authority, at its discretion, can award grants, in the event there are remaining grant funds after the second funding round.
 - l. CCR 7013.5 specifies when that the Authority or the Authority staff may have the discretion to consider a change in use of the grant funds.
7. Government Code Section 15438.6(g) requires that no funds shall be released by the Authority until the applicant demonstrates project readiness to the Authority's satisfaction and that funds must be used within a reasonable period of time. CCR 7014 specifies the information that must be provided to satisfy this requirement, establishes an eighteen month period for use of the funds after release, and requires that recipients must provide certification and supporting documentation when a project is completed.
8. Government Code Section 15438.6(g) provides that if a clinic fails to complete projects under the terms specified in awarding the grant, the Authority may require that all or a portion of the grant be returned. CCR 7015 specifies that forfeited grant funds are to be distributed to the next highest scoring applicant not receiving a grant allocation or if no such applicant exists or the applicant's project has been abandoned, then distribution will be made at the Authority's discretion in a manner consistent with the goals and spirit of the Act and these regulations.
9. Government Code Section 15438.6(i) requires the Authority to report certain specific information about the recipients of the grants to the Joint Legislative Budget Committee. CCR 7016 makes specific these requirements and by requesting demographic information to be submitted at the discretion of the applicant.
10. Government Code Section 15438.6(h) requires a clinic to operate the clinic for the purposes for which the grant was awarded for the duration of the expected life of the project. CCR 7017 interprets and makes specific this provision by requiring recipients to retain all program and financial data and to provide audited information to the Authority upon request.

OTHER MATTERS PRESCRIBED BY STATUTES
APPLICABLE TO THE SPECIFIC STATE
AGENCY OR TO ANY SPECIFIC REGULATION
OR CLASS OF REGULATIONS

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulations or to the Authority.

MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS

The Executive Director of the Authority has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

The Executive Director of the Authority has determined that the Emergency Regulations do not impose any additional cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the California Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600–6670. There will be no cost or savings to any State Agency pursuant to Government Code Section 11346.1(b) or 11346.5(a)(6).

ALTERNATIVES

The Authority must determine that no reasonable alternative to the Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations considered by the Authority 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 Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations.

PLAIN ENGLISH REQUIREMENTS

See the Informative Digest above for a plain English discussion of the broad and specific objectives of the Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations.

The express terms of the Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations written in plain English are available from the agency contact person named in this Notice.

SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON CALIFORNIA
BUSINESSES AND DIRECTLY AFFECTED
PRIVATE PERSONS AND BUSINESSES

The Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. In fact, adoption of the regulation should result in improved large and small business fiscal operations since the intent of the Program is to reward health clinics that are expanding into new services or improving health services with grants up to \$250,000.

The Authority 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 ON JOBS
AND BUSINESS EXPANSION,
ELIMINATION OR CREATION

The Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations will have a positive effect on jobs and new and existing businesses within the State of California. The Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations will help the Authority to give financing assistance to more businesses, which will lower the cost of doing business in California.

COST IMPACT ON HOUSING

The Permanent Cedillo-Alarcón Community Clinic Investment Act of 2000 Regulations will not have any effect on housing costs.

AUTHORITY CONTACT PERSON

Written comments and any general or substantive inquiries regarding this regulatory action shall be submitted or directed to either Sumi Sousa or Mary Bates, California Health Facilities Financing Authority, 915 Capitol Mall, Suite 590, Sacramento, California 95814, or (916) 653-2799.

PUBLIC COMMENT PERIOD

The public comment period on the proposed regulatory action as described in this Notice will end on May 27, 2002. All comments must be submitted in writing to the Authority Contact Person by that time in order for them to be considered by the Authority. In the event that necessary changes are made to the Cedillo-Alarcón Community Clinic Investment Act of 2000 during the public comment period, the Authority will also accept additional written comments limited to any changed or modified Cedillo-Alarcón Community Clinic Investment Act of 2000, for 15 calendar days after the date on which such Cedillo-Alarcón Commu-

nity Clinic Investment Act of 2000, as changed or modified, are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Authority Contact Person identified above in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF THE PROPOSED CEDILLO-ALARCÓN COMMUNITY CLINIC INVESTMENT ACT OF 2000 PERMANENT REGULATIONS

Pursuant to the California Government Code, the Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall, Suite 590, Sacramento, California, 95814, during normal business hours. A copy of the Initial Statement of Reasons proposed in connection with the Cedillo-Alarcón Community Clinic Investment Act of 2000 and a copy of the express terms of the Cedillo-Alarcón Community Clinic Investment Act of 2000 using underline or italics to indicate additions to, and strikethrough to indicate deletions from the prior regulations can be viewed on our website at www.treasurer.ca.gov/chffa/chffa.htm and are each available, upon request, from the Authority Contact Person designated in this Notice. The address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action.

15-DAY AVAILABILITY OF CHANGES

After the public comment period ends and following a public hearing, if any is requested, the Authority may adopt the proposed regulatory action substantially as described in this Notice, without further notice, or may do so with modifications which are sufficiently related to the originally proposed text.

As required by Title 1, Chapter 1, Section 44, of the California Code of Regulations, the full text of any proposed Regulation that is changed or modified from the express language of originally proposed text, except nonsubstantial or solely grammatical changes, will be made available to the public with the change clearly indicates, for at least fifteen (15) calendar days before the Authority adopts the proposed the Cedillo-Alarcón Community Clinic Investment Act of 2000, as modified. All changes shall be noted using a uniform method which shall illustrate accurately all changes to the original text. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Authority Contact Person identified above in this Notice.

TITLE 10. TECHNOLOGY, TRADE AND COMMERCE AGENCY

RURAL INVESTMENT TAX EXEMPTION

**NOTICE OF PROPOSED RULEMAKING
April 12, 2002**

Notice is hereby given that the California Technology, Trade and Commerce Agency proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Agency proposes to add sections 5480.1–5480.8 of Title 10 of the California Code of Regulations in order to implement, interpret and make specific Revenue and Taxation Code section 6378.1, relating to tax exemptions for gross receipts from the sale of tangible personal property purchased by eligible entities.

No public hearing is scheduled; however, any interested person or his or her duly authorized representative may request a public hearing no later than fifteen (15) days prior to the close of the public comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Agency. Written comments will be accepted by the Agency until **5:00 p.m. on May 27, 2002**. Submit comments to:

Terri Toohey, Regulations Coordinator
California Technology, Trade and Commerce Agency
1102 Q Street, Suite 6000
Sacramento, CA 95814
E-Mail: ttoohey@commerce.ca.gov.

AUTHORITY AND REFERENCE

The proposed regulation has been adopted under the authority of Government Code section 11152 and in order to implement, interpret, and make specific Revenue and Taxation Code section 6378.1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Agency proposes to adopt new sections 5480–5480.8 to Title 10 of the California Code of Regulations. The purpose of the proposed revision is to enact the Revenue and Taxation Code section 6378.1, the Rural Investment Tax Exemption added by AB 511, Statutes of 2000, chapter 107, which provides for an exemption from the state portion of the sales or use taxes (hereafter “partial exemption”) for an

eligible entity as determined by the Board of the California Infrastructure and Economic Development Bank.

The proposal will provide the procedure used by the California Infrastructure and Economic Development Bank Board for designating an entity as eligible for a partial tax exemption. The proposal provides the required qualifications, the application requirements, the request for exemption amount process, the approval process and the reporting requirements.

Section 5480.1 provides definitions used in the regulations, as follows:

“Attainment Date” is the date used to define when the eligible entity has met the investment level and the jobs requirements for the partial exemption.

“Certification Letter” is a letter from the eligible entity to the CIEDB Board stating that they have reached the required investment level and/or the direct job attainment

“Commencement Date” provides the earliest date that qualifies towards the investment requirements

“Direct Jobs” means the jobs that are established in the new facility and are included as part of the job level attainment requirements.

“Eligible Entity” provides the criteria that the entity needs to meet to qualify for the partial exemption.

“Eligible Facility” is the physical location of a facility that is in a county that meets the unemployment criteria established in the definition of “qualified county.”

“Eligibility Letter” is a written document provided by the CIEDB Board stating that the entity meets the requirements and is designated as an “eligible entity”.

“Eligible Tangible Personal Property” provides a general definition of “Tangible Personal Property” as provided by the Board of Equalization.

“FTE Employee” defines a full time employee and is used to determine how to calculate the minimum job requirements that must be attained.

“Intent of Revocation Letter” is a written document issued by the CIEDB Board revoking the eligible entity designation.

“Investment” is defined as the money spent by the applicant on specified items that are applicable to the required investment level.

“Partial Exemption Use Date” is the date the eligible entity actually uses the tax credit.

“Qualified County” is a county that has an average annual unemployment rate of five percentage points or more above the statewide average.

“Request” is document submitted by the eligible entity or applicant stating the partial exemption dollar amount requested.

“Supporting Jobs” means the jobs that are created in other industries in the designated county as a result of the new or expanded business.

Section 5480.2 will specify the information required to be submitted by a business on an application for designation as an eligible entity. The application will require the name, address of the facility, NAICS or SIC code, applicant representative information, signature, and date. The applicant must also submit information on all direct jobs hired as of the date of the application and all anticipated direct job hires, and a detailed list of the items making up the investment, including items already purchased and items to be purchased in the future.

Section 5480.3 will specify the information to be submitted on a request for partial exemption. If the request is submitted with the application, the request must include the amount of the partial exemption requested for the current year, the partial exemption use date, if applicable, a certification that the request is based on a good faith estimate and a second certification that the entity has purchased or will purchase tangible personal property meeting the requirements of Title 18, Section 1525.7, in an amount that would entitle the company to a partial exemption.

If the request is submitted subsequent to the application, the eligible entity is required to submit a written document signed and dated by an authorized applicant representative and including the name of applicant, address of eligible facility, primary SIC or NAICS, applicant contact person name, title, address, phone number, fax number and email address, the amount of partial exemption requested for the current year, the partial exemption use date, if known, a certification that the request is based on a good faith estimate by the applicant to fully utilize the amount of the request, a certification that includes that the company will purchase or has purchased tangible personal property meeting the requirements of Title 18, section 1525.7 in an amount that would entitle them to a partial exemption pursuant to Revenue and Taxation Code section 6378.1. In addition, the entity must submit a copy of the eligibility letter previously issued by the CIEDB Board, a certification by an authorized applicant representative that the applicant is on schedule to meet the investment, and filling of new direct jobs plus supporting jobs, as required by section 5480.1(j), a copy of any certification letter that was submitted as described in Section 5480.7, a copy of any extension requests granted pursuant to section 5480.6, a copy of any previously received exemption allocation letters, and either the partial exemption use date or written authorization for the CIEDB staff to obtain confirmation from the Board of Equalization that the applicant has not used the partial exemption.

Section 5480.4 will provide the procedures used by the CIEDB Board to review and approve the applications and requests. The CIEDB Board will

consider all applications and requests at the beginning of each calendar year at a scheduled board meeting. The CIEDB Board will provide notification to interested persons and post advertisement. All applications and requests will be due 60 days before the CIEDB Board meeting where eligibility and partial exemption are to be determined. This section defines complete requests and applications and provides that all complete applications and requests will be recommended for approval to the CIEDB Board. This section also provides that all applications approved will be issued an eligibility letter and all requests approved shall be subject to section 5480.5.

Section 5480.5 will specify that the CIEDB Board can award an aggregate maximum of \$5,000,000 in partial exemptions per year and will provide the method used to allocate the exemption amounts to the requestors in a given year. All requests granted will be issued an exemption allocation letter indicating the amount of the partial exemption. This section provides that the exemption allocation letter needs to be submitted to the State Board of Equalization. This section also requires the entity to notify the CIEDB Board when they use the partial exemption.

Section 5480.6 will provide an extension request to the deadline for achieving investment level and/or job creation level by an eligible entity that has used the partial exemption. The extension request must be submitted within one year of the partial exemption use date and must be in writing and include a copy of the original application, a copy of the eligibility letter, the partial exemption use date, the amount of investment attained and number of direct jobs created to date, a detailed description of the reasons for not being able to attain investment and filling 500 new direct jobs plus supporting jobs, within one year of the partial exemption use date and a certification that the applicant has a good faith belief that the applicant will fill 500 new direct jobs plus supporting jobs and attain the investment of one hundred fifty million dollars (\$150,000,000). This section will provide that the CIEDB Board shall recommend approval of the extension request upon a finding that there are extraordinary circumstances beyond the control of the applicant. This section also defines "extraordinary circumstances" to mean the delay is due to circumstances beyond the applicant's control.

Section 5480.7 will specify that an entity that has been awarded a partial exemption shall notify the CIEDB Board that it has reached the required level of investment and job creation.

Section 5480.8 will specify the process used by the CIEDB Board to monitor investment and job levels for entities that have utilized the partial exemption.

DISCLOSURES REGARDING THE PROPOSED ACTION

The California Technology, Trade and Commerce Agency has made the following 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 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 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. This is a voluntary program.
- The adoption of the proposed regulation will not eliminate existing businesses within the state of California. The intent of this legislation is to create new jobs and expand or create new business in targeted high unemployment counties. The proposed regulation can potentially create new business in those targeted areas. The proposed regulation will not affect the expansion of businesses currently doing business within the state of California.
- Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The California Technology, Trade and Commerce Agency has determined that the proposed regulation will not impact small businesses. The eligibility criteria established in this regulation will only allow large companies to qualify for the exemption.

ALTERNATIVES CONSIDERED

The California Technology, Trade and Commerce Agency must determine that no reasonable alternative it considered or that has been otherwise identified and brought to the attention of the agency would be more effective in carrying out the purpose of the proposed action, or be as effective and less burdensome to affected private person than the proposed regulations. The Agency invites interested persons to present

statements or arguments concerning alternatives to the proposed regulation during the public comment period.

CONTACT PERSON

Inquiries and questions regarding the substance of the proposed regulations should be submitted or directed to:

Eric Mandell, Community Relations Manager
California Infrastructure Economic Development Bank
California Technology, Trade and Commerce Agency
1102 Q Street, Suite 6000
Sacramento, CA 95814
916-322-3141
Fax: 916-322-6314
E-mail: emandell@commerce.ca.gov

The following person is designated as a backup contact person for inquiries regarding the proposed regulation:

Brett Wiatre, Municipal Financial Analyst
California Infrastructure Economic Development Bank
California Technology, Trade and Commerce Agency
1102 Q Street, Suite 6000
Sacramento, CA 95814
916-323-8022
E-mail: bwiatree@commerce.ca.gov

Please direct requests for copies of the proposed text, the initial statement of reasons, the modified text of the regulations, if any, or any other rulemaking documents to:

Terri Toohey, Regulations Coordinator
California Technology, Trade and Commerce Agency
1102 Q Street, Suite 6000
Sacramento, CA 95814
916-324-3787
E-Mail: ttoohey@commerce.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the forty-five (45) day public comment period, the Agency may adopt the proposed regulation. As a result of public comments, either oral or written, that are received by the Agency regarding this proposal, the Agency may determine that changes to the proposed regulation are appropriate. If the Agency 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 Agency adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Terri Toohey at the above address. The Agency will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF THE PROPOSED REGULATIONS

The Agency has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Agency's office, in the Office of Economic Research and Strategic Initiatives, 1102 Q Street, 5th Floor, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the regulations. Copies of these items are available, upon request, from the Agency Contact Person designated in this Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Agency is required to prepare a Final Statement of Reasons. Once the Agency has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy. Requests for copies should be addressed to the Agency Contact Person identified in this Notice.

AGENCY INTERNET WEBSITE

The Agency maintains an Internet website for the electronic publication and distribution of written material. Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at <http://commerce.ca.gov>

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

[RH-02020824]
March 28, 2002

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Approval of Advisory Pure Premium Rates to be effective July 1, 2002.

SUBJECT OF HEARING

Notice is hereby given that the insurance commissioner will hold a public hearing to consider the approval of advisory pure premium rates developed by the designated rating organization. The hearing will be held in response to a filing, submitted March 28, 2002, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

AUTHORITY AND REFERENCE

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the insurance commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the insurance commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the insurance commissioner. Accordingly, the pure premium rates issued or approved by the insurance commissioner are advisory only.

HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

May 14, 2002—10:00 AM
22nd Floor Hearing Room
45 Fremont Street
San Francisco, California 94105

INFORMATIVE DIGEST

Pursuant to Insurance Code Section 11734 and Insurance Code Section 11751.5, the insurance commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted pure premium rates for the insurance commissioner's approval. The pure premium rates will be advisory only.

The pure premium rates recommended by the WCIRB to be effective July 1, 2002, are detailed in the WCIRB's filing letter and summarized below.

APPROVE PURE PREMIUM RATES

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the insurance commissioner to be effective July 1, 2002 with respect to new and renewal policies with anniversary rating dates on or after July 1, 2002. The proposed advisory pure premium rates are 10.1% greater than the January 1, 2002 advisory pure premium rates approved by the insurance commissioner.

The proposed pure premium rate change is based on: (1) insurer losses incurred during 2000 and prior accident years valued as of December 31, 2001; (2) insurer loss adjustment expenses for 2000 and prior years; and (3) the same methodologies underlying the approved January 1, 2002 advisory pure premium rates.

COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The insurance commissioner has determined that there will not be a cost increase and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein.

IMPACT ON HOUSING COSTS

The insurance commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

IMPACT ON SMALL BUSINESSES

The insurance commissioner has determined that the proposed regulations will not have a significant effect on small businesses.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The insurance commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the insurance commissioner expects that the proposed regulations will not have a significant effect on private persons or entities.

FEDERAL FUNDING TO THE STATE

The matters proposed herein will not affect any federal funding.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE AGENCIES

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COMPARABLE FEDERAL LAW

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

ACCESS TO HEARING ROOMS

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

PRESENTATION OF ORAL AND/OR
WRITTEN COMMENTS

All persons are invited to submit written comments to the insurance commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance
Attention: Larry C. White, Senior Staff Counsel
45 Fremont Street, 24th Floor
San Francisco, California 94105
(415) 538-4423

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the insurance commissioner's deliberations.

DEADLINE FOR WRITTEN COMMENTS

All written material, unless submitted at the hearing, must be received by the insurance commissioner at the address listed above no later than 5:00 PM on May 14, 2002.

TEXT OF REGULATIONS AND STATEMENT OF
REASONS AVAILABLE

The insurance commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's web site at www.wcirbonline.org in the "WCIRB Wire" section.

ACCESS TO RULE MAKING FILE, CONTACT

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 45 Fremont Street, 22nd Floor, San Francisco, California 94105, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all

persons on the insurance commissioner's Bulletins and Rulings, and California Government Code mailing lists.

ADOPTION OF REGULATIONS

Following the hearing, the insurance commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the insurance commissioner's action will be sent to all persons on the insurance commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the commissioner's action.

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

R-1-01

NOTICE IS HEREBY GIVEN that the Managed Risk Medical Insurance Board (MRMIB) proposes to permanently adopt changes to Chapter 5.5 of Title 10 of the California Code of Regulations. These regulations were approved as emergency regulations by the Office of Administrative Law on March 22, 2002. MRMIB has scheduled a public hearing in Sacramento, California for May 28, 2002 from 1:00 pm to 2:00 pm at the following address:

1000 G Street, Suite 450
Large Conference Room
Sacramento, CA 95814

The action is being initiated under the authority of Insurance Code Section 12711. The regulations make various changes to the benefit structure and one change to the eligibility standards of the Major Risk Medical Insurance Program (MRMIP), a health insurance program for individuals with preexisting conditions who cannot otherwise obtain health insurance.

It is requested, but not required, that any person wishing to present testimony should register at 1:00 pm on May 28, 2002. The hearing will be adjourned immediately following the completion of oral and written testimony presentations. This public hearing is for the purpose of considering regulations. The MRMIB upon its own motion, or at the instance of any interested persons, may adopt the proposals substantially as presented.

The MRMIB may modify the regulations after public hearing and adopt the modified regulations if the regulations as modified are sufficiently related to the text made available to the public, so that the public was adequately placed on notice that the regulations as modified could result from the proposed regulatory action. The text of any regulation as modified will be

mailed to all persons who testify or submit written comments at the public hearing; submit written comments during the public comment period; and all persons who request notification, at least 15 days prior to the date on which the MRMIB adopts the regulations. A request for a copy of any regulations as modified should be addressed to Dennis Gilliam at the address below.

Any person interested may present statements or arguments relating to the proposals in writing to:

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

Statements or arguments relating to the proposals can also be faxed to Dennis Gilliam at (916) 327-6580 or e-mailed to dgilliam@mrmib.ca.gov.

Such written statements must be received by 5:00 pm on May 28, 2002. Written testimony received after May 28, 2002 may not be assured of consideration unless otherwise expressly stated by the hearing officer. It is requested, but not required, that persons making oral presentations at the hearing provide a written statement at the conclusion of their remarks. The above facility is accessible to persons with mobility impairments. If you are in need of a language interpreter, including sign language, at the hearing, or have other special needs, please notify MRMIB at least two weeks prior to the hearing.

An Informative Digest/Policy Statement Overview for the proposed regulation changes, including a Fiscal Impact Statement and other required determinations are included below. These regulations are written in plain English. An Initial Statement of Reasons for the proposed action has been prepared. These, and copies of the proposed regulations, may be requested by telephone, or by writing to the above address. In addition, the Board has available, a rulemaking file, which contains all the information upon which the proposed regulations are based. This file is available for public perusal at the MRMIB office (see address above), during normal office hours, 8:00 am to 5:00 pm, Monday through Friday. The pertinent documents (proposed regulations and Initial Statement of Reasons) pertaining to this rulemaking can be obtained on MRMIB's website at www.mrmib.ca.gov. The final Statement of Reasons can be obtained when available, after the public hearing and final adoption, by contacting Dennis Gilliam at (916) 322-1215 or dgilliam@mrmib.ca.gov.

Please address questions and requests for available information concerning the proposed regulations to Dennis Gilliam at (916) 322-1215 or James Chrysler at (916) 323-0910 and at the address listed above. Either person can answer questions regarding the substance of the proposed regulations or can direct the question

to the appropriate person within the department. Dennis Gilliam is designated as the small business advocate contact person for the Board.

PUBLIC NOTICE

The Managed Risk Medical Insurance Board (MRMIB) proposes to adopt changes to Chapter 5.5 of Title 10 of the California Code of Regulations. These changes are necessary to update the MRMIP benefit standards to conform to the Knox-Keene Health Care services Act of 1975, as amended and to revise eliminate a program eligibility category for very small groups, who no longer need the protections of this program. The law the Board seeks to make specific by this filing is Part 6.5 of Division 2 of the Insurance Code, Sections 12711 and 12712..

Title 10, Chapter 5.5

Amend Sections: 2698.200; 2698.201; 2698.301
and 2698.302

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Insurance Code Section 12700, et seq., established the Major Risk Medical Insurance Program (MRMIP) in 1991, under the direction of the Managed Risk Medical Insurance Board (MRMIB). The program provides access to health insurance for individuals who are denied coverage, or offered excessive premiums, due to pre-existing medical conditions. MRMIP subscribers can select from several health insurers or health maintenance organizations that contract with the Board. Subscribers' premiums cost 25% to 37.5% more than that of a healthy person buying coverage. The State subsidizes the remainder of the cost for health services for the high-risk individual with funding from the Proposition 99 Cigarette and Tobacco Products Surtax Fund. This is a capped appropriation, currently \$40,000,000 per fiscal year, and the Board limits enrollment in the program, through a waiting list, in order to stay within the capped appropriation. MRMIB has authority pursuant to Insurance Code Section 12711(b) to establish the benefits that are to be offered through the program. The benefits established for MRMIP in 1991 were intended to be consistent with benefits that were offered in the individual health insurance marketplace. However, since the program's inception, changes in the Health and Safety Code and the California Code of Regulations have changed the standard of benefits that are provided by the individual insurance market. Therefore MRMIB is proposing to make these emergency regulations permanent, as follows:

I. Section 2698.301 Minimum Scope of Benefits

Several Subsections of Section 2698.301 have been amended so that benefits offered through MRMIP are more consistent with benefits provided in the indi-

vidual insurance market. Although MRMIB has the authority to establish benefits for MRMIP, pursuant to Insurance Code Section 12711(b), MRMIB has always intended to provide a benefits package through MRMIP that is consistent with current individual insurance product offerings and with benefits that are required of health plans licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), including its amendments (Health and Safety Code Sections 1367–1374.16). The Subsections of Section 2698.301 that are being amended for clarification and/or addition of benefits are as follows: hospital inpatient benefits, medical and surgical benefits, family planning services, maternity and perinatal benefits, emergency care services, reconstructive surgery benefits, prescription drug benefits, mental health benefits, medical rehabilitation benefits, durable medical equipment benefits, home health service benefits, human organ transplant limitations, and hospice benefits. In addition, several subsections are being consolidated to make the listing of benefits more clear.

II. Section 2698.302 Excluded Benefits

In order to be more consistent with Health and Safety Code Section 1367.68, Subsection 2698.302(a)(12) is amended to clarify that medically necessary surgical procedures, for any conditions directly affecting the upper and lower jawbone, or associated bone joints, are not excluded benefits for this program.

Subsection 2698.302(a)(13) is also amended so that treatment of chemical dependency not specified in Subsection 2698.301(a)(1)(J) is excluded. This will ensure that medically necessary inpatient alcohol and substance abuse detoxification benefits are not excluded.

III. Section 2698.200 Basis of Eligibility and Section 2698.201 Application

The Board is also taking this opportunity to make a correction to the Major Risk Program’s eligibility standards to conform to statutory changes in the small group (small employer) market. Subsection 2698.200(b)(1)(A)4 established as an eligibility category being a member of a group of two or fewer that has been denied coverage. In 1993 the ability of small groups to access health insurance was substantially reformed (Chapter 1158 Statutes of 1992 or AB 1672). Under these reforms, small groups of between 5–50 employees were given guaranteed access to and guaranteed ability to renew for health insurance at costs regulated to be lower than costs in the Major Risk Program. Under the reforms the number defining small group was gradually lowered to groups between 2 and 50. During this time the Major Risk Program was offered to very small groups until they came under

the protection of small group reform. Now that those groups from 2 through 50 employees have full access to affordable insurance, the Board can delete eligibility through group coverage entirely. Therefore the Board is proposing to delete Subsections 2698.200(b)(1)(A)4 and 2698.201(e)(1)(H)4 (the use of proof of rejection from small group coverage as supporting documentation of eligibility) from the regulations. This will focus the program on those trying to access the individual insurance market, which does not have the protections of the small group market. This is consistent with Health and Safety Code Section 1357(l) and Insurance Code Section 10700 (w), which now define small employers, as groups of 2 through 50 and Health and Safety Code Section 1357.03 and Insurance Code Section 10705, which give small groups access protections.

These regulations have been reviewed in public at the June 20, 2001 and July 18, 2001 meeting of MRMIB. MRMIB unanimously approved adoption of the regulation changes at that meeting. These regulations were approved as emergency regulations by the Office of Administrative Law on March 22, 2002 and the Board is proposing to make these regulations final through the public hearing process.

Authority: Sections 12711 and 12712; Reference: Sections 12711, 12725, 12728, and 12733

DETERMINATIONS

In accordance with Government Code Section 11346.5(a)(13), the Managed Risk Medical Insurance Board must determine that no reasonable alternative considered by the Board, or that has been otherwise identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

The Managed Risk Medical Insurance Board has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Board has made an initial determination that this regulatory action will have no effect on California housing costs.

FISCAL IMPACT ESTIMATE

There are no non-discretionary costs to local agencies or school districts.

State and Federal Impact: The Major Risk Medical Insurance Program is currently budgeted at \$40,000,000 per fiscal year from the Cigarette and Tobacco Products Surtax Revenue. In addition, there is a one time only general fund appropriation of \$5,000,000 for the 01/02 Fiscal Year. The proposed

changes to the MRMIP benefit package will not result in any request to increase the program's budget. MRMIP has a capped appropriation, and costs are controlled by limiting program enrollment. The Board's consulting actuary, PricewaterhouseCoopers has reviewed the benefit changes, with a focus on improvements to the mental health benefits. The actuary's opinion is that the charges will have no measurable impact on either client premiums or the need for state subsidy dollars.

There is no fiscal impact to the State budget in eliminating the small group eligibility category from the program.

There is no Federal fiscal impact, since these regulations do not impact any federally funded State agency or programs. There are no federal funds in the Major Risk Medical Insurance Program.

There is no impact on any department or program other than the Managed Risk Medical Insurance Board and its programs.

BUSINESS IMPACT ASSESSMENT STATEMENT

The Board has made an initial determination regarding the impact of these regulatory changes on California's businesses. There is no known significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The changes involve updating the benefit package for individuals and families in program, and focusing program eligibility on individuals and families, now that small businesses from 2 through 50 now have full access to health insurance. Therefore, these regulations will neither create new jobs or businesses nor eliminate existing jobs or businesses or affect the expansion of businesses currently doing business within California.

SMALL BUSINESS IMPACT STATEMENT

These regulation changes will impact small businesses. The elimination of small groups of two as an eligibility category does impact small businesses with two employees, but these businesses now have full access to lower cost health insurance because of small group reforms, and any individuals impacted can still join MRMIP as individuals.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Board has considered the cost impact on representative private persons or businesses impacted by these regulations. The Major Risk Program is for private individuals and their families. The elimination of small groups of two as a program eligibility category does impact businesses with two employees, but these businesses now have full access to lower cost health insurance through small group reform, and any

individuals impacted can still join MRMIP as individuals. There is a positive impact on private individuals, who will now be assured that program benefits are current and consistent with the benefits required in the individual insurance market.

AUTHORITY AND REFERENCES

Authority: Insurance Code Section 12711

References: Insurance Code Sections 12711, 12712, 12728, and 12733.

TITLE 16. RESPIRATORY CARE BOARD OF CALIFORNIA

NOTICE OF PROPOSED CHANGES

NOTICE IS HEREBY GIVEN that the Respiratory Care 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 in the Department of Consumer Affairs' Hearing Room at 400 R Street, Suite 1030, in Sacramento, California at 10:30 a.m. on June 14, 2002. 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 Respiratory Care Board at its office not later than 5:00 p.m. on June 13, 2002, 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 3722 of the Business and Professions Code, and to implement, interpret or make specific sections 125.9, 136, 480, 481, 3704, 3717, 3731, 3739, 3750, 3750.5, 3750.6, 3753.1, 3753.5, 3754.5, 3755, 3758, 3758.5, 3758.6, 3760, 3761, and 3773 of said Code, the Respiratory Care Board is considering changes to Division 13.6 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Business and Professions Code section 125.9 states any board within the department may establish, by regulation, a system for the issuance to a licensee of a

citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board where the licensee is in violation of the licensing act or any regulation adopted pursuant thereto.

Business and Professions Code section 3758 states an employer of a respiratory care practitioner shall report to the Respiratory Care Board the suspension or termination for cause of a practitioner in their employ.

This proposal would set forth the guidelines for the issuance and appeal of administrative citations and fines.

This proposal also provides amendments to the disciplinary guidelines for purposes of providing an updated reference to Administrative Law Judges when providing for discipline in their proposed decisions and provides amendments to substantial relationship criteria.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: NONE

Nondiscretionary Costs/Savings to Local Agencies: NONE

Local Mandate: NONE

Cost to Any Agency or School District for Which Government Code Sections 17500 through 17630 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 of Jobs/new Businesses: The Respiratory Care Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Respiratory Care Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing: NONE

EFFECT ON SMALL BUSINESS

The Respiratory Care Board has determined that the proposed regulations will not affect small businesses. All businesses, including small businesses, are currently required to report the termination or suspension of a respiratory care practitioner in their employ pursuant to Business and Professions Code section 3758.

CONSIDERATION OF ALTERNATIVES

The Respiratory Care Board must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in the 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 Respiratory Care 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 by accessing the board's website at www.rcb.ca.gov or upon request from the Respiratory Care Board at 444 North 3rd Street, Suite 270, Sacramento, CA 95814.

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 name 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.

CONTACT PERSON

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

Liane Zimmerman, Assistant Executive Officer
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

The backup contact person is:

Stephanie Nunez, Executive Officer
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be addressed to:

Liane Zimmerman, Assistant Executive Officer
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

TITLE 16. CALIFORNIA ARCHITECTS BOARD

NOTICE IS HEREBY GIVEN that the California Architects Board (“Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the California Architects Board, 400 R Street, Suite 4000, Sacramento, California, at 10:00 a.m. on May 28, 2002. Written comments must be received by the Board at its office at the above address not later than May 28, 2002 at 10:00 a.m. 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 proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 5526 of the Business and Professions Code, and to implement, interpret, or make specific Sections 5550 and 5552 of said Code, the California Architects Board is considering changes to Division 2 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Amend Section 109—Filing of Applications.

Section 5526 of the Business and Professions Code authorizes the Board to adopt, amend, modify, or repeal rules and regulations governing examinations and other rules and regulations as may be necessary. Sections 5550 and 5552 entitles any person who meets the qualifications set forth in the article to an examination for a license to practice architecture subject to the rules and regulations governing examinations.

Existing regulations specify the procedures for filing of applications:

This proposal would amend the regulations in order to

- Establish and compile relevant definitions
- Reorganize and eliminate duplication of statements

In addition, nonsubstantive changes are being made for clarifying and consistency purposes.

Amend Section 116—Eligibility for Examination.

Section 5526 of the Business and Professions Code authorizes the Board to adopt, amend, modify, or repeal rules and regulations governing examinations and other rules and regulations as may be necessary. Sections 5550 and 5552 entitles any person who meets the qualifications set forth in the article to an examination for a license to practice architecture subject to the rules and regulations governing examinations.

Existing regulations specify the eligibility requirements for examinations.

This proposal would amend the regulations in order to make nonsubstantive changes for clarifying and consistency purposes and to eliminate duplication of statements.

Amend Section 117—Experience Evaluation.

Section 5526 of the Business and Professions Code authorizes the Board to adopt, amend, modify, or repeal rules and regulations governing examinations and other rules and regulations as may be necessary. Sections 5550 and 5552 entitles any person who meets the qualifications set forth in the article to an examination for a license to practice architecture subject to the rules and regulations governing examinations.

Existing regulations specify that education and training credit shall be granted pursuant to the provisions of the Table of Equivalents.

This proposal would amend the regulations in order to:

- in relation to the Canadian Architectural Certification Board (CACB), correct the term from “certified” to “accredited” to be consistent with CACB’s terminology
- Add work experience under a foreign licensed architect while a candidate is enrolled in a college or university to be able to be granted credit under the Table of Equivalents
- Redefine the amount of credit that can be granted for completion of the Intern Development Program (IDP)
- Add the Intern Architect Program (IAP) of Canada to be able to be granted credit under the Table of Equivalents as an equivalent to IDP

- Redistribute the eight years of practice equivalents credit that can be granted for experience as a licensed architect practicing in another United States jurisdiction to five years of educational equivalents and three years of practice equivalents
- Remove the restriction on granting credit for overtime work hours
- Add exemptions to the requirement that each candidate earn at least one year of training under the direct supervision of an architect licensed in a United States jurisdiction for those candidates who complete IDP or IAP
- Establish the entry point for IDP

In addition, nonsubstantive changes are being made for clarifying and consistency purposes and to eliminate duplication of statements.

Amend Section 118.5—Examination Transfer Credit.

Section 5526 of the Business and Professions Code authorizes the Board to adopt, amend, modify, or repeal rules and regulations governing examinations and other rules and regulations as may be necessary. Sections 5550 and 5552 entitles any person who meets the qualifications set forth in the article to an examination for a license to practice architecture subject to the rules and regulations governing examinations.

This proposal would add the regulation by relocating a provision from Section 121—Form of Examinations since the content was not accurately related to the section title.

Amend Section 121—Form of Examinations.

Section 5526 of the Business and Professions Code authorizes the Board to adopt, amend, modify, or repeal rules and regulations governing examinations and other rules and regulations as may be necessary. Sections 5550 and 5552 entitles any person who meets the qualifications set forth in the article to an examination for a license to practice architecture subject to the rules and regulations governing examinations.

Existing regulations specify the requirements that all candidates take the Architect Registration Examination and the California Supplemental Examination and lists provisions for those who may be eligible without having passed both examinations.

This proposal would amend the regulations in order to revise the section title to accurately define the section content as being related to reciprocity; to delete subsection (c) which is being moved to a newly created Section 118.5—Examination Transfer Credit; and to make nonsubstantive changes for clarifying and consistency purposes.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

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

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

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because it only affects licensure candidates.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

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 at the hearing or prior to the

hearing upon request from the California Architects Board at 400 R Street, Suite 4000, Sacramento, California 95814 or by telephoning the contact person listed below.

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

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

CONTACT PERSON

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

California Architects Board
400 R Street, Suite 4000
Sacramento, CA 95814
Attn: Betsy Figueira
(916) 445-3394
(916) 445-8524 (FAX)
betsy_figueira@dca.ca.gov

The backup contact person is:

Vickie Mayer
(916) 445-3394
(916) 445-8524 (FAX)
vickie_mayer@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Betsy Figueira at (916) 445-3394.

Website Access: Materials regarding this proposal can be found at www.cab.ca.gov.

**TITLE 18. BOARD
OF EQUALIZATION**

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1528, Photographers, Photocopiers, Photo Finishers and X-Ray Laboratories, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on May 29, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by May 29, 2002.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Regulation 1528 explains the application of sales and use tax to transfers of tangible personal property by photographers, photocopiers, photo finishers and x-ray laboratories. In order to alert commercial photographers who are acting as commercial artists that the application of tax to their transactions is explained in Regulation 1540, a reference to Regulation 1540 should be added to Regulation 1528.

**COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed amendment and regulation do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment and regulation will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1528 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

**COST IMPACT ON PRIVATE PERSON
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

No significant effect.

FEDERAL REGULATIONS

Regulation 1528 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6006 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. David Rosenthal (916) 324-0293, at 450 N Street, Sacramento, CA 95814, e-mail David.Rosenthal@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, email Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

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

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1540, Advertising Agencies, Commercial Artists and Designers, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on May 29, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by May 29, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Regulation 1540 explains the application of sales and use tax to transfers of tangible personal property by advertising agencies, and persons who perform the functions of commercial artists. The regulation is proposed to be amended to conform Regulation 1540 to the April 2000 revisions to Regulation 1541, in regard to lump-sum billings for artwork and nontaxable services; to replace the confusing terminology of "ultimately subject to tax" with a clear explanation of the application of tax; and to reformat the discussion of special printing aids into subdivision (c)(1) through (c)(3) as it relates to a printer's and a print broker's

purchase of special printing aids, the sale of these printing aids, and the application of tax to each transaction.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment and regulation do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment and regulation will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1540 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

COST IMPACT ON PRIVATE PERSON 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

No significant effect.

FEDERAL REGULATIONS

Regulation 1540 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6006 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. David Rosenthal (916) 324-0293, at 450 N Street, Sacramento, CA 95814, e-mail David.Rosenthal@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, email Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

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

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substan-

tially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1541, Printing and Related Arts, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on May 29, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by May 29, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Regulation 1541 explains the application of sales and use tax to transfers of tangible personal property by printers and persons who perform similar functions. The regulation is proposed to be amended to conform Regulation 1541 to the April 2000 revisions to Regulation 1540, in regard to lump-sum billings for artwork and nontaxable services; to replace the confusing terminology of "ultimately subject to tax" with a clear explanation of the application of tax; and to reformat the discussion of special printing aids into subdivision (c)(1) through (c)(3) as it relates to a printer's and a print broker's purchase of special printing aids, the sale of these printing aids, and the application of tax to each transaction.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment and regulation do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment

and regulation will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1541 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

COST IMPACT ON PRIVATE PERSON 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

No significant effect.

FEDERAL REGULATIONS

Regulation 1541 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6006 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. David Rosenthal (916) 324-0293, at 450 N Street, Sacramento, CA 95814, e-mail David.Rosenthal@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone

(916) 322-9569, fax (916) 324-3984, email Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, email Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

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

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments

on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1543, Publishers, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on May 29, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by May 29, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Regulation 1543 explains the application of sales and use tax to transfers of tangible personal property by publishers. In part, it addresses activities of the graphic arts industry. The regulation is proposed to be amended to provide cross-references to, and reflect amendments made in 1999 and 2002 to Regulations 1540, Advertising Agencies, Commercial Artists and Designers, and 1541, Printing and Related Arts and recent statutory and case law changes.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment and regulation do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment and regulation will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendments to Regulation 1543 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

COST IMPACT ON PRIVATE PERSON 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

No significant effect.

FEDERAL REGULATIONS

Regulation 1543 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6006 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Mr. David Rosenthal (916) 324-0293, at 450 N Street, Sacramento, CA 95814, e-mail David.Rosenthal@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, email Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

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

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

GENERAL PUBLIC INTEREST

AIR RESOURCES BOARD

NOTICE OF POSTPONEMENT

NOTICE OF PUBLIC MEETING TO CONSIDER APPROVAL OF THE AIR RESOURCES BOARD'S 2002 CLEAN AIR PLAN: STRATEGIES FOR A HEALTHY FUTURE

BY NOTICE dated March 13, 2002, and published in the March 22, 2002, California Notice Register, Register 2002, No. 12-Z, the Air Resources Board (the

Board or ARB) announced it would conduct a public meeting to consider the approval of the 2002 Clean Air Plan, the ARB's short and long-range plan for achieving more healthful air in California. The meeting was scheduled for 9 a.m., April 25, 2002, at the California Environmental Protection Agency Headquarters, 1001 "I" Street, Central Valley Hearing Room, Second Floor, Sacramento, California.

PLEASE BE ADVISED that the meeting for consideration of the Clean Air Plan has been postponed. A new meeting date has not yet been determined but will be announced at least 30 days in advance of the public meeting.

BOARD OF PHARMACY

PROPOSED RULEMAKING TO AMEND CALIFORNIA CODE OF REGULATIONS SECTION 1707.2—NOTICE TO CONSUMERS

CHANGED TIME AND NEW LOCATION OF REGULATION HEARING

The Board of Pharmacy announces a change in the time and location of the regulation hearing scheduled for comments on changes proposed to its Notice to Consumers.

The time and location of the regulation hearing have been changed to:

April 25 at 1:30 p.m. (formerly this was noticed as 11 a.m.):

New Location:

Legislative Office Building
1020 N Street, Room 100
Sacramento, CA 95814

(note: photograph identification is required for building entry)

Comments regarding the regulation may be submitted to the board at its office address, or via fax or e-mail. These comments should be received by 5 p.m. April 22, 2002.

Alternatively, comments may be submitted during the regulation hearing on April 25, 2002.

DEPARTMENT OF FISH AND GAME

PUBLIC INTEREST NOTICE For Publication April 12, 2002

CESA CONSISTENCY DETERMINATION FOR Lower Los Serranos Storm Water Facility Project City of Chino Hills San Bernardino County

The Department of Fish and Game ("Department") received notice on March 28, 2002 that the City of Chino Hills proposes to rely on consultations between federal agencies to carry out a project that may

adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the periodic excavation and removal of sediment and vegetation build-up in the Lower Los Serranos Storm Drain Facility. The activities will impact approximately 2.87 acres of habitat along the Drainage.

The U.S. Fish and Wildlife Service, on March 15, 2002, issued to the U.S. Army Corps of Engineers ("Corps"), a no jeopardy federal biological opinion (FWS-SB-1739.4) which considers the Federally and State endangered least Bell's vireo (*Vireo bellii pusillus*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, the City of Chino Hills is requesting a determination on whether the Federal Biological Opinion FWS-SB-1739.4 is consistent with CESA.

If the Department determines that the federal biological opinion is consistent with CESA, the City of Chino Hills will not be required to obtain an incidental take permit under CESA for the proposed project.

DEPARTMENT OF FISH AND GAME

PUBLIC INTEREST NOTICE For Publication April 12, 2002

CESA CONSISTENCY DETERMINATION FOR Lower Dry Creek and Robla Creek Levee Improvements Project Sacramento County

The Department of Fish and Game ("Department") received notice on April 2, 2002 that the Sacramento Area Flood Control Agency (SAFCA) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of various flood protection related levee improvements to Lower Dry Creek and Robla Creek in Rio Linda. The activities will temporarily impact 0.57 acres of aquatic habitat and 7.35 acres of upland habitat that may be used by the giant garter snake. The activities will permanently impact 1.56 acres of aquatic habitat and 3.12 acres of upland habitat that may be used by the giant garter snake.

The U.S. Fish and Wildlife Service, on March 22, 2002, issued to the U.S. Army Corps of Engineers ("Corps"), a no jeopardy federal biological opinion (1-1-01-F-0134) which considers the Federally and State threatened giant garter snake (*Thamnophis gigas*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, SAFCA is requesting a determination on whether the Federal Biological Opinion

1-1-01-F-0134 is consistent with CESA. The consistency determination is requested for the giant garter snake, which is Federally and State threatened.

If the Department determines that the federal biological opinion is consistent with CESA, SAFCA will not be required to obtain an incidental take permit under CESA for the proposed project.

DECISION NOT TO PROCEED

DEPARTMENT OF MOTOR VEHICLES

NOTICE OF DECISION NOT TO PROCEED

California Code of Regulations
Title 13, Section 350.44, Cost of Information

Pursuant to Government Code Section 11347, NOTICE IS HEREBY GIVEN that the California Department of Motor Vehicles has decided not to proceed with the amendment of Section 350.44 of Title 13, Article 5, Chapter 1, Division 1, of the California Code of Regulations, regarding Requesting Information from the Department/Cost of Information, (Notice File No. Z-02-0318-02, published March 29, 2002, in the California Regulatory Notice Register) and, therefore, withdraws this proposed action for further consideration.

**RULEMAKING PETITION
DECISIONS**

DEPARTMENT OF CORPORATIONS

**RULEMAKING PETITION DECISION OF STATE
AGENCY UNDER GOVERNMENT CODE
SECTION 11340.7(a) and (d)**

PARTY SUBMITTING PETITION

Herman Bluestein

**PROVISIONS OF THE CALIFORNIA CODE OF
REGULATIONS REQUESTED TO BE AFFECTED**

Not stated.

**REFERENCE TO AUTHORITY TO TAKE
REQUESTED ACTION**

Petitioner has not provided the authority, as that term is defined in Government Code Section 11349(b).

**AN INTERESTED PERSON HAS A RIGHT TO
OBTAIN A COPY OF THE PETITION BY
CONTACTING THE STATE AGENCY**

AGENCY CONTACT PERSONS

Timothy L. Le Bas, Assistant Commissioner
and General Counsel
Colleen Monahan, Corporations Counsel
Office of Law and Legislation
Department of Corporations
1515 K Street, Suite 200
Sacramento, CA 95814
(916) 322-3553

DATE

March 29, 2002

STATE AGENCY DETERMINATION

The petition is denied in its entirety.

**REASONS SUPPORTING THE
STATE AGENCY DETERMINATION**

This determination is in response to a letter dated March 4, 2002 to the Commissioner of the California Department of Corporations ("Department") requesting a rulemaking proceeding.

Mr. Herman Bluestein requests a rulemaking proceeding for the: "(1) immediate and full disclosure of the conflict of interest to all current private clients with concentrated positions in companies to which [Goldman Sachs & Company ("Goldman")] provides investment banking services; and (2) structural separation of investment banking and wealth management investment adviser groups in California with an absolute prohibition on cross-marketing between the two groups."

The Department is treating the letter as a petition for the adoption of a regulation pursuant to Government Code Section 11340.6.

Subsequent to the National Securities Markets Improvement Act of 1996, the states and the federal government no longer share dual jurisdiction over the regulation of investment advisers. The states have jurisdiction over investment advisers with assets under management of less than twenty-five million dollars (\$25,000,000), while the federal Securities and Exchange Commission has jurisdiction over the remaining investment advisers. See Section 203A of the Investment Advisers Act of 1940. It appears that the activities of Goldman described in the petition would be subject to the jurisdiction of the Securities and Exchange Commission, rather than the Department.

With respect to investment advisers in California, Section 260.238 of Title 10 of the California Code of Regulations sets forth numerous activities that are prohibited under the California Corporate Securities Law of 1968. This section sets forth the requirement

that the investment adviser investigate the suitability of investments recommended to clients, and requires the investment adviser to disclose to clients in writing material conflicts of interests. Thus, disclosure of conflicts of interest is already a requirement of law.

With respect to the structural separation of investment banking and wealth management investment adviser groups, the investment advisers subject to the Department's jurisdiction (i.e., advisers with less than \$25 million in assets under management) generally do not have investment banking and wealth management adviser groups. This request is more appropriately directed to the Securities and Exchange Commission.

With respect to broker-dealers in California, Section 260.216.4.1 requires a broker-dealer to deliver to a financial planning customer a notice in writing on whether the broker-dealer has a conflict of interest. Thus, again, disclosure of conflicts of interest is already a requirement of law. Note further that Section 260.218.2 of Title 10 of the California Code of Regulations sets forth requirements for broker-dealers and agents regarding the suitability of investments, and Section 260.218 requires broker-dealers and agents to observe high standards of commercial honor and just and equitable principles of trade in the conduct of business.

In light of the foregoing, the Department concludes that the proposed regulations may be premature at this time, since existing law has adequate provisions to allow for the Department to take action against a broker-dealer or investment adviser subject to the Department's jurisdiction that fails to act in accordance with existing regulations. However, as the Department investigates the activities described by petitioner and reviews other complaints received by the Department for similar concerns, the Department will continue to consider this request.

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.

BOARD OF EQUALIZATION

Exemption for Aircraft Being Repaired, Overhauled, Modified or Serviced

This readopted emergency action implements a 1955 statute which exempts aircraft from personal property taxation if on the assessment date, the aircraft is in California "solely for the purpose of being repaired, overhauled, modified, or serviced." The proposed regulation addresses post- September 11th economic uncertainties and clarifies that certain aircraft "taken out of revenue service" and located in California for servicing during that period are exempt.

Title 18
California Code of Regulations
ADOPT: 138
Filed 04/03/02
Effective 04/03/02
Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF PILOT COMMISSIONERS

Hearing Procedures to Determine Pilots Number

The Board of Pilot Commissioners has jurisdiction over the San Francisco, San Pablo & Suisun Bays. Harbors and Navigation Code section 1170 requires the Board to determine how many licensed pilots are needed, section 1170.1 lists the required considerations, and section 1170.2 requires the Board to hold a hearing pursuant to the Bagley-Keene Open Meeting Act before making its "manpower" determination. This regulatory action adopts section 237, title 7, CCR, setting out the hearing procedures.

Title 7
California Code of Regulations
ADOPT: 237
Filed 04/04/02
Effective 05/04/02
Agency Contact:
Captain Patrick A. Moloney (415) 397-2253

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

Income Limits

This action would update the current income limits for households using the figures adopted by the U.S. Department of Housing and Urban Development.

Title 25
California Code of Regulations
Filed 04/04/02
Effective 04/04/02
Agency Contact:
Richard Friedman (916) 323-7288

**DEPARTMENT OF FOOD AND AGRICULTURE
Registration of Avocado trees**

This rulemaking action adds the Polymerase Chain Reaction (PCR) test to the single existing approved test for the sunblotch viroid which would prevent

avocado trees from being voluntarily certified as free of the viroid under the avocado tree registration program.

Title 3
California Code of Regulations
AMEND: 3033.2, 3033.3, 3033.4
Filed 04/04/02
Effective 05/04/02
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Standardized Permit Facilities

The Department of Toxic Substances Control is removing the interim status from the standardized permitting process stating January 1, 1998, is a final date as found in Health and Safety Code section 25201.6(f)(1), and further, removing section 66270.69(d) based on File No. 95-0125-01S.

Title 22
California Code of Regulations
AMEND: 66270.69, 67800.1, 67800.5
Filed 04/04/02
Effective 04/04/02
Agency Contact: Bonnie Amoruso (916) 322-2833

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Reporting Manifest Discrepancies

In light of terrorist threats, this emergency regulation implements more stringent requirements for reporting discrepancies between manifests and actual deliveries of hazardous wastes for certain federally defined and classified explosives and poisonous materials.

Title 22
California Code of Regulations
AMEND: 66262.54, 66264.71, 66264.71, 66265.71, 66265.72, 66270.30, Appendix
Filed 04/04/02
Effective 04/04/02
Agency Contact: Bonnie Amoruso (916) 322-2833

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Permit Modification at the Request of the Permittee

This rulemaking revises how to classify and handle modifications to certain non-RCRA hazardous wastes facility permits, removing some restrictions and easing the permit modification process where consistent with health, safety, and good environmental practice.

Title 22
California Code of Regulations
ADOPT: 66270.42.5, 66271.20 AMEND:
66270.42, 66271.18, 66270.21

Filed 04/04/02
Effective 05/04/02
Agency Contact: Joan Ferber (916) 322-6409

FISH AND GAME COMMISSION
List Baja California Birdbush as Endangered Species

This regulatory action adds the Baja California birdbush (*Ornithostaphylos oppositifolia*) to the the list of endangered species.

Title 14
California Code of Regulations
AMEND: 670.2
Filed 04/04/02
Effective 04/04/02
Agency Contact: John M. Duffy (916) 653-4899

NEW MOTOR VEHICLE BOARD
Request for Extension of Time

Pursuant to statutory amendments (S.B. 1819; Stats. 2000, ch. 789), this action establishes procedures whereby the Board could consider a request for an extension of time (beyond the one year limit) by a manufacturer, distributor or branch to own and operate a dealership within the relevant market area of an independent dealer of the same line-make, in preparation for sale to a successor independent franchisee, without the formality of a Board meeting.

Title 13
California Code of Regulations
ADOPT: 565
Filed 04/04/02
Effective 05/04/02
Agency Contact:
Robin P. Parker (916) 445-2080

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
Stairwells and Stairs

This rulemaking makes changes to the handrail height requirements for temporary stairway handrails in order to be consistent with General Industry Safety Orders (GISO), Federal OSHA regulation, and the American National Standard (ANSI).

Title 8
California Code of Regulations
AMEND: 1626
Filed 04/03/02
Effective 05/02/02
Agency Contact: Marley Hart (916) 274-5721

STATE PERSONNEL BOARD
State Employee Mediation Program

These regulations concern the State Employee Mediation Program. These regulations are exempt from the Administrative Procedure Act pursuant to

Government Code section 18211 and are submitted to OAL for filing with the Secretary of State and printing only pursuant to Government Code section 18214.

Title 2

California Code of Regulations

ADOPT: 60, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 60.10

Filed 04/04/02

Effective 04/04/02

Agency Contact: Steve Unger (916) 654-0842

**STATE WATER RESOURCES CONTROL BOARD
Amendments to Lahontan Basin Plan**

This action removes a prohibition against discharges of industrial waste to surface waters not meant for municipal use if the discharge meets stringent antidegradation criteria, and removes the beneficial municipal and domestic supply classification of the Searles Lake area because of the poor water quality, and allows industrial process the "industrial process use" for the water beneath Searles Lake.

Title 23

California Code of Regulations

AMEND: 3954

Filed 04/03/02

Effective 04/03/02

Agency Contact: Edward Anton

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN NOVEMBER 28, 2001 TO
APRIL 03, 2002**

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

Title 1

02/22/02 AMEND: 121, Appendix A

01/08/02 AMEND: 1402, 1414, 1437

Title 2

03/27/02 ADOPT: 59100

03/19/02 ADOPT: 599.930

03/18/02 AMEND: 599.502, 599.508

03/15/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220

03/13/02 AMEND: 56800

03/07/02 ADOPT: 2351

02/19/02 ADOPT: 18450.11

02/19/02 ADOPT: 18530.8

02/19/02 ADOPT: 18543 REPEAL: 18543

02/14/02 ADOPT: 18404.1 REPEAL: 18404.2

02/05/02 ADOPT: 433.1 AMEND: 433

01/31/02 ADOPT: 18421.4

01/30/02 AMEND: 55300

01/24/02 ADOPT: 18450.3, 18450.4, 18450.5
AMEND: 18402

01/24/02 ADOPT: 58500

01/22/02 AMEND: 18706

01/16/02 AMEND: 18232, 18702.1, 18705.5,
18708

01/16/02 ADOPT: 18539, 18550

12/27/01 AMEND: 18428

12/26/01 AMEND: 2554(b)(4), 2555(a)(1)

12/21/01 AMEND: 1859.2, 1859.81

12/20/01 AMEND: 2300(b)

12/20/01 AMEND: 45100

12/18/01 AMEND: 2541(c), 2541(d)

12/12/01 ADOPT: 1896.300, 1896.310, 1896.320,
1896.330, 1896.340, 1896.350, 1896.360,
1896.370

Title 3

04/02/02 ADOPT: 480.9 AMEND: 480.7

03/12/02 AMEND: 3423(b)

03/12/02 AMEND: 3423(b)

03/08/02 ADOPT: 306, 6188, 6780 AMEND: 6000

02/22/02 AMEND: Div. 1, Chapter 1.1, Section 2
and Appendix

02/20/02 AMEND: 3591.16(a)

02/07/02 AMEND: 3591.12 (a)

02/04/02 AMEND: 1392.1, 1392.2, 1392.4,
1392.9.1

02/04/02 AMEND: 3591.13 (a)

01/30/02 ADOPT: 2681, 2799 AMEND: 2675,
2676, 2694, 2695, 2697, 2701, 2734,
2773.1, 2773.5, 2774, 2774.5, 2775,
2778, 2782, 2783, 2783.5, 2788, 2789,
2790, 2790.5, 2793, 2794, 2796, 2798,
2801, 2802

01/14/02 AMEND: 3406 (b)

01/14/02 AMEND: 3423 (b)

01/08/02 AMEND: 576.1

01/04/02 AMEND: 3591.16 (a)

12/27/01 AMEND: 2

12/26/01 ADOPT: 950, 951, 952, 953, 954, 955
AMEND: 900.1, 901, 927, 930, 931

12/26/01 AMEND: 6650, 6654, 6656

12/20/01 ADOPT: 7010

12/14/01 AMEND: 3700 (a),(b),(c)

12/12/01 AMEND: 3591.2(a)

CALIFORNIA REGULATORY NOTICE REGISTER 2002, VOLUME NO. 15-Z

12/05/01 ADOPT: 1301, 1301.1, 1301.2, 1301.3,
1301.4, 1301.5, 1301.6, 1301.7, 1301.8,
1301.9
12/04/01 AMEND: 3591.12(a)
11/28/01 AMEND: 3430(b)
11/28/01 AMEND: 1359, 1392.4, 1436.30 RE-
PEAL: 1359.1, 1360, 1361, 1362, 1363

Title 4

03/21/02 ADOPT: 8090, 8091, 8092, 8093, 8094,
8095, 8096, 8097, 8098, 8099, 8100,
8101
03/19/02 ADOPT: 12100, 12102, 12104, 12106,
12108, 12120, 12130
02/13/02 AMEND: 1691
02/06/02 AMEND: 1858
01/31/02 AMEND: 1467
01/28/02 AMEND: 1844
01/18/02 ADOPT: 2081
01/11/02 ADOPT: 4160, 4161, 4162, 4263, 4164,
4165, 4166, 4167, 4168, 4169, 4170,
4171 REPEAL: 4160, 4161, 4162, 4164,
4167, 4168, 4169, 4170, 4171, 4172,
4173, 4174, 4175
01/10/02 ADOPT: 2078
01/07/02 ADOPT: 2071
01/07/02 ADOPT: 2072
01/07/02 ADOPT: 2073
01/07/02 ADOPT: 2082
01/07/02 ADOPT: 2076
01/04/02 ADOPT: 2083
01/03/02 ADOPT: 2079
01/03/02 ADOPT: 2070
01/03/02 ADOPT: 2074
01/03/02 ADOPT: 2077
01/03/02 ADOPT: 2080
01/03/02 ADOPT: 2075
12/12/01 REPEAL: 143.4
12/11/01 AMEND: 1979
12/10/01 AMEND: 1969
11/29/01 ADOPT: 12130

Title 5

03/25/02 ADOPT: 11980, 11981, 11982, 11983,
11984, 11985, 11986
03/15/02 ADOPT: 11963, 11963.1, 11963.2,
11963.3, 11963.4
03/12/02 ADOPT: 18400, 18405, 18406, 18407,
18408, 18409, 18409.5, 18410, 18411,
18412, 18413, 18414, 18415, 18416,
18417, 18418, 18419, 18420, 18421,
18422, 18423, 18424, 18425, 18426,
18427, 18428, 18429, 18430, 18431,
18432, 18433, AMEND: 18409.5,
18409(e),
03/01/02 ADOPT: 11967.5, 11967.5.1
02/19/02 ADOPT: 55753.5, 55753.7 AMEND:
55753

01/24/02 AMEND: 43880, 43881, 43882, 43883,
43884
01/24/02 AMEND: 11530, 11531
01/08/02 REPEAL: 11820, 11822, 11823, 11827,
11828, 11829, 11831, 11832, 11833,
11834
01/08/02 AMEND: 1031, 1032, 1033, 1034, 1035,
1036, 1037, 1038, 1039
01/07/02 AMEND: 73000, 73010, 73100, 73110,
73120, 73130, 73140, 73150, 73160,
73165, 73170, 73180, 73190, 73200,
73210, 73230, 73240, 73260, 73270,
73280, 73290, 73300, 73310, 73320,
73330, 73340, 73350, 73360, 73380,
73390, 73400, 73410, 73420, 73430,
73440,
01/07/02 AMEND: 42713
12/27/01 ADOPT: 31000, 31001, 31003, 31004,
31005, 31006, 31007
12/26/01 AMEND: 80487
12/21/01 ADOPT: 1215, 1216, 1217, 1217.5, 1218,
1219, 1219.5
12/21/01 ADOPT: 31000, 31001, 31002, 31003,
31004, 31005, 31006, 31007
12/18/01 AMEND: 30950, 30951, 30951.1, 30952,
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