ARNOLD SCHWARZENEGGER, GOVERNOR

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **May 21, 2009,** at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **May 19, 2008**.

BACKGROUND/OVERVIEW

Many candidates control multiple committees, such as committees for election to a particular term of office or a different office, an officeholder account committee, a legal defense fund committee or a ballot measure committee. In addition, an individual who is currently an officeholder in one jurisdiction may also be a candidate for office in another jurisdiction. The purpose of the proposed regulation is to ensure that the complete picture of a candidate's campaign contributions and expenditures — in all of his or her controlled committees — is available to the public on the preelection filing dates when the candidate is up for election. The preelection filing requirements of Sections 84200.5, 84200.7 and 84200.8 apply to the candidates being voted on and "their controlled committees."

The proposed regulation addresses campaign statement filing requirements that apply when a candidate controls multiple committees and when an individual who holds office in one jurisdiction is seeking office in another jurisdiction. The regulation aims to codify and update advice concerning these topics contained in the Commission's campaign manuals (see Manual 1, p. 6–4 to 6–6) and the *Barrett* Advice Letter, No. A–88150 and A–88–168.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18405:

The proposed regulation addresses the campaign statement filing requirements for an individual who holds office in one jurisdiction and is seeking office in another jurisdiction. For example, the filing requirements of this regulation would apply to a city council member who is running for State Assembly, or a State Senator whose term is expiring and who is seeking mayoral office.

The proposed regulation also addresses the filing requirements when a candidate or elected officer controls more than one committee for the purpose of election to office. The proposed regulation provides that all these committees must file campaign statements on the dates the candidate or elected officer is required to file preelection statements in connection with his or her election to office. The regulation may cover the requirements for other committees that the candidate controls such as an officeholder account committee, a legal defense fund committee, or a ballot measure committee to also file campaign statements on the preelection dates in connection with the candidate's election to office.

SCOPE

The Commission may adopt or reject all or part of the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues. The Commission may consider where and on which filing dates reports by all of a candidate's controlled committees must be filed. The Commission may consider cross–filing requirements applicable to a ballot measure committee controlled by a candidate.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulatory action will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulatory action will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulatory action will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act (Gov. Code Secs. 81000–91014).

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code Sections 84200, 84200.5, 84200.7, 84200.8, 84215 and 82016.

CONTACT

Any inquiries should be made to Hyla P. Wagner, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322–5660 or 1–866–ASK–FPPC, or email hwagner@fppc.ca.gov.

The Commission welcomes public comment on the proposed regulatory language which can be accessed under the "Regulations" section of the Commission's website at http://www. fppc.ca. gov/index.html?ID=247#2.

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

MULTI–COUNTY: **Tuolumne Wind Project**

A written comment period has been established commencing on **April 17, 2009**, and closing on **June 1, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Sarah Olson, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **June 1, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED
CONFLICT OF INTEREST CODES

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

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

AMENDMENT

STATE: DEPARTMENT OF FINANCE
GAMBLING CONTROL
COMMISSION

A written comment period has been established commencing on **April 17, 2009**, and closing on **June 1, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **June 1, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

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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.

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

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing on or after **May 21, 2009**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **May 19, 2009**.

BACKGROUND/OVERVIEW

Under the Political Reform Act ("Act")[1], there are several categories of post–employment laws, commonly known as the "revolving door restrictions." (Sections 87400–87406.3.) For former state officials, the Act includes both the "permanent ban" in Sections 87401 and 87402 and the "one–year ban" in Section 87406. In addition, local officials who leave governmental service are subject to the local "one–year ban" in Section 87406.3.

Sections 87401 and 87402 — The state "permanent ban" prohibits former state officials from being paid to appear in a proceeding involving specific parties (e.g., a lawsuit, administrative law judge hearing, or a state contract) in which the official previously participated. (See Sections 87401–87402; Regulation 18741.1.)

Section 87406 — The state "one–year ban" restricts specified state officials, for one year after leaving state service, from being paid to represent others before their former agency for the purpose of influencing the agency's decisions in specified proceedings. (See Section 87406; Regulation 18746.1.)

Section 87406.3 — The local "one–year ban" prohibits certain former local officials from communicating, for compensation, with their former agencies for the purpose of influencing any legislative or administrative actions including quasi–legislative and quasi–judicial actions. (See Section 87406.3; Regulation 18746.3.)

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18746.4 and Amend Cal. Code Regs. Sections 18741.1, 18746.1, and 18746.3:

The Commission will consider clarifying Commission regulations interpreting the Act's revolving door restrictions to more fully encompass statutory requirements and to reflect recent staff advice pertaining to the restrictions. Specific proposals the Commission may consider include, but are not limited to, the following:

- Amending the state revolving door restrictions, including the state permanent ban and the state one–year ban, to clearly specify that the bans apply upon leaving any particular agency. (See *Lowry* Advice Letter, No. I–08–053.)
- Defining when an official has "permanently left" or has taken a "leave of absence" thereby triggering the post–employment restrictions. (See *Coler* Advice Letter, No. I–07–089 and *Benitez* Advice Letter, No. I–07–192.)
- Expressly stating, as specified in the Act, that the permanent ban applies if the official assists another person in a proceeding in which the official would be prohibited from appearing even if the official does not make an appearance or communication. (See Section 87402.)
- Specifying that the state one–year ban applies to different types of actions depending on the official's former office or position. (See Section 87406.)

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

[1]The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Sections 87401, 87402, 87406 and 87406.3.

CONTACT

Any inquiries should be made to Brian G. Lau, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322–5660 or 1–866–ASK–FPPC. Proposed regulatory language can be accessed at http://www.fppc.ca.gov/index.html?ID=247#2.

TITLE 3. FOOD AND AGRICULTURE

CALIFORNIA CODE OF REGULATIONS TITLE 3. FOOD AND AGRICULTURE DIVISION 4. PLANT INDUSTRY CHAPTER 2. FIELD CROPS SUBCHAPTER 2. COMMERCIAL FEED ARTICLE 9. MISBRANDING AND ADULTERATION

NOTICE OF PROPOSED RULE MAKING

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to amend Sections 2675, 2734, and 2735 of the regulations in Title 3 of the California Code of Regulations pertaining to definitions and adulteration.

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on June 8, 2009. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Kent Kitade, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given, that the Department of Food and Agriculture proposes to amend regulations in Title 3 of the California Code of Regulations pursuant to the authority vested by Sections 407 and 14902 of the Food and Agricultural Code (FAC) and to implement, interpret, or make specific Section 15041 of the Food and Agricultural Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 407 of the FAC states that the Secretary of California Department of Food and Agriculture (Secretary) may adopt such regulations as are reasonably necessary to carry out the provisions of the FAC which he is directed or authorized to administer or enforce. FAC Section 14902 states that the Secretary shall enforce this chapter and adopt and enforce those regulations relating to the manufacturing and distribution of commercial feed, as the Secretary deems necessary to carry out the statutes.

Section 15041 of the FAC describes adulterated feed. In particular, Section 15041(a) states that a commercial feed is adulterated if it bears or contains any poisonous substance in amounts specified as unsafe by the Secretary.

Within the authority of California Food and Agricultural Code, Section 15041, the Department is proposing to:

- Adopt Section 2675 subsection (i) of the California Code of Regulations by adding Section 2751(b) to define "aflatoxins"
- Amend Section 2734, subsection (a)(6) which sets the limit for aflatoxins at which commercial feed is deemed adulterated.

- Amend Section 2735, subsections (a), (b), and (d) which describes documentation required for cottonseed originating outside of California to enter the state.
- Repeal Section 2735, subsection (e) that allows cottonseed meal with higher limits of aflatoxins to be fed to beef cattle in Imperial County feedlots.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

Other non–discretionary cost or saving 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 business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes in the regulations would result in no added costs to small businesses affected by these proposed changes. There are no new costs associated with the proposed regulations. There are no new or additional fees associated with the proposed regulation changes. The potential savings to mitigate a contaminated milk incident outweigh the costs incurred to comply with the proposed change of the meaning of aflatoxin and the removal of the exemption.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Kent Kitade, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch
California Department of Food and Agriculture
1220 N Street Sacramento, CA 95814
916–445–2140

The backup contact person for these inquiries is:

Dale Rice, Program Supervisor
Feed, Fertilizer, Livestock Drug and Egg Regulatory Services Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
916–445–0444

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Mr. Kitade at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Suite 220, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice; the proposed text of the regulations; the initial statement of reasons; the Feed Inspection Advisory Board meeting minutes; the letter of support from California Grain and Feed Association. Copies may be obtained by contacting Kent Kitade at the contact address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regu-

lations substantially as described in this notice. If the Department makes modifications that 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 Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Kent Kitade at the contact address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Kent Kitade at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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: www.cdfa.ca.gov/is/regulation.htm .

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND RULE 1979. TRIFECTA RULE 1979.1. SUPERFECTA

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1979, Trifecta, and Rule 1979.1, Superfecta, of the California Code of Regulations, Title 4, Division 4. The proposed amendment to Rule 1979 would change the required minimum number of wagering interests scheduled to start for the association to open a Trifecta pool from six horses to four horses. The proposed amendment to Rule 1979.1 would change the required minimum number of wagering interests scheduled to start before a Superfecta pool may open from eight horses to six horses.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, June 11, 2009,** or as soon after that as business before the Board will permit, at **CHRB Headquarters, 1010 Hurley Way, Suite 300, Sacramento, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory actions to the Board. The written comment period closes at 5:00 p.m. on **June 1, 2009**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

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

AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19590, Business and Professions Code. Reference: Section 19590, Business and Professions Code.

Business and Professions Code sections 19440 and 19590 authorize the Board to adopt the proposed regulations, which would implement, interpret, or make specific section 19590 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari–mutuel wagering. Business and Professions Code section 19590 states the Board shall adopt rules governing, permitting, and regulating pari–mutuel wagering on horse races under the system known as the

pari–mutuel method of wagering. Pari–mutuel wagering shall be conducted only by a person or persons licensed under this chapter to conduct a horse racing meeting or authorized by the Board to conduct advance deposit wagering.

Rule 1979, Trifecta, requires six wagering interests scheduled to start in a race before a Trifecta pool may open for wagering. Under Rule 1979.1, Superfecta, eight wagering interests scheduled to start are required before a pool may open for wagering. These requirements put California at a disadvantage, as they place this state's Trifecta and Superfecta wagers among the most restrictive in the nation. The minimum numbers of wagering interests required for a Trifecta in other racing jurisdictions range from no minimum, with racetrack officials able to offer or scratch a Trifecta pool at their discretion, to a minimum of four, five and six wagering interests. For the Superfecta, the minimum numbers of wagering interests required in other racing jurisdictions range from no minimum, to at least eight wagering interests. Besides California, only New York, Minnesota and Arkansas require eight wagering interests to open the pool. California horse racing associations are unable to offer as many Trifecta and Superfecta wagers as they would like because the minimum number of wagering interests required to open a pool often cannot be achieved. This is due to increasingly short fields. In 2008, the statewide average number of starts per race for thoroughbreds was 8.1 — out of 24,158 starts. The Hollywood Park Fall meeting had an average of 7.7 starts per race in 2008, and Bay Meadows had an average of 6.8 starts in the same year. This means there were many California races where a Trifecta or Superfecta could not be offered because there were too few starters. Coupling of horses can further reduce the number of starters. Each horse entered to race is considered a wagering interest, unless two or more horses are coupled as a single wagering interest in accordance with the Board's rules. If two or more horses are coupled in a race, the ability of the association to open a Trifecta or Superfecta pool may be further diminished. The Trifecta and Superfecta are popular wagers, and when a California racing association is unable to open a pool for one of these wagers because it cannot meet the higher threshold for wagering interests, racing fans will place Trifecta or Superfecta wagers in out–of–state venues. This affects the California handle, which diminishes racetrack commissions, and purses and breeder awards for horsemen. The Board has determined that it wishes to lower the required number of wagering interests scheduled to start to open a Trifecta or Superfecta pool to place California racing associations on an equal footing with other racing jurisdictions and to help keep wagering dollars in this state.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed amendment to Rule 1979 and Rule 1979.1 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1979 and Rule 1979.1 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Affect on small businesses: none. The proposal to amend Rule 1979 and Rule 1979.1 does not have an effect on small businesses because it does not apply to small businesses. The Rule provides the circumstances under which an association may offer a Trifecta or Superfecta wager.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed texts of

the regulations, the initial statement of reasons, the modified texts of the regulations, if any, and other information upon which the rulemaking is based should be directed to

Harold Coburn, Regulations Analyst
California Horse Racing Board
Policy and Regulation Unit
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263–6397
E–mail: HaroldA@chrb.ca.gov

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

Colleen Germek, Regulations Analyst
Telephone: (916) 274–6049

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

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

AVAILABILITY OF MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

BOARD WEB SITE ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed texts of the regulations, and the initial statement of reasons. The Board's web site address is www.chrb.ca.gov.

TITLE 10. DEPARTMENT OF INSURANCE

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, California 95814

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

July 1, 2009 Workers' Compensation Claims Cost Benchmark and Pure Premium Rates

File No. REG–2009–00015

Notice Date: April 17, 2009

Approval of the Workers' Compensation Claims Cost Benchmark and Advisory Pure Premium Rates and proposed revisions to the Insurance Commissioner's Regulations pertaining to Experience Rating to be effective July 1, 2009.

NOTICE AND SUBJECT OF PUBLIC HEARING

Notice is hereby given that the Insurance Commissioner will hold a public hearing in response to a filing, submitted on March 27, 2009, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB"), to consider the following:

- Approval of the Workers' Compensation Claims Cost Benchmark and advisory pure premium rates developed by the WCIRB as a rating organization on behalf of its member insurers.

- Approval of amendments to the California Workers' Compensation Experience Rating Plan—1995 as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent.

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:

April 28, 2009 — 10:00 a.m.
California Department of Insurance
22nd Floor Hearing Room
45 Fremont Street
San Francisco, California

AUTHORITY AND REFERENCE

Workers' Compensation Claims Cost Benchmark and Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for each employee classification on behalf of its member insurers for submission to the Insurance Commissioner for issuance or approval. The WCIRB also submits an overall rate adjustment that measures the change in costs to the California worker's compensation system, designated by the Commissioner as the Workers' Compensation Claims Cost Benchmark, in addition to the changes to the pure premium rates for each classification.

The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the Claims Cost Benchmark or pure premium rates issued or approved by the Insurance Commissioner. Accordingly, the Claims Cost Benchmark and pure premium rates issued or approved by the Insurance Commissioner are an estimate of the workers' compensation claims costs and are advisory only. However, all insurers must submit their rates for review to the Insurance Commissioner prior to their use, and an insurer's filed workers' compensation rates are public information.

Uniform Plans and Regulations

The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations are promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11750 and 11750.3, the WCIRB has developed and submitted for Insurance Commissioner's approval pure premium rates for its member insurers. Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his statistical agent. As the designated statistical agent, the WCIRB has filed revisions to the California Workers' Compensation Experience Rating Plan—1995 for approval. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Experience Rating Plan—1995 is mandatory.

The pure premium rates as well as amendments to the California Workers' Compensation Experience Rating Plan—1995 recommended by the WCIRB to be effective July 1, 2009 are detailed in the WCIRB's filing and summarized below.

APPROVE CLAIMS COST BENCHMARK AND 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, 2009 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2009. The corresponding overall pure premium rate level change or claims cost benchmark is 24.4% greater than the claims cost benchmark approved by the Insurance Commissioner to be effective January 1, 2009. The proposed pure premium rates for each of the 497 standard classifications are 24.4% higher than the pure premium rates effective January 1, 2009.

The proposed 24.4% increase is based on (1) insurer losses incurred during 2008 and prior accident years valued as of December 31, 2008; (2) insurer loss adjustment expenses for 2007 and prior years; (3) loss ratio projection methodologies similar to those underlying the WCIRB's January 1, 2009 pure premium rate filing; (4) loss adjustment expense methodologies that are the same as those underlying the WCIRB's January 1, 2009 pure premium rate filing; and (5) increases in the cost of losses and loss adjustment expenses expected to emerge as a result of two recent Workers' Compensation Appeals Board (WCAB) decisions. (*Ogilvie v. City and County of San Francisco, Almaraz v. Environmental Recovery Services/Guzman v. Milpitas Unified School District*).

AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995

The WCIRB recommends that the following revision to the California Workers' Compensation Experience Rating Plan—1995 become effective July 1, 2009 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2009.

- Amend Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the experience rating eligibility threshold from $15,700 to $19,531 to reflect the proposed change in the overall pure premium rates.

COSTS OR SAVINGS RESULTING FROM THE REGULATIONS

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by workers' compensation insurers. To the extent they are adopted by insurers, they may result in higher costs. The amendments to the California Workers' Compensation Experience Rating Plan—1995 may or may not result in costs or savings depending upon whether an employer is above or below the experience rating eligibility threshold and based upon an employer's claim experience.

COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Insurance Commissioner cannot determine whether or not there may be a cost or savings to local agencies and school districts, but there will not be any new programs mandated on any local agencies or school districts as a result of the proposed regulations, if adopted as proposed herein. The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by workers' compensation insurers. To the extent they are adopted by insurers, they may result in higher costs to local agencies or school districts insured for workers' compensation. The amendments to the California Workers' Compensation Experience Rating Plan—1995 may or may not result in costs or savings depending upon whether an employer is above or below the experience rating eligibility threshold and based upon an employer's claim experience.

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 may or may not have a significant effect on small businesses. The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by workers' compensation insurance companies. To the extent they are adopted by insurers, they may result in higher costs. The amendments to the California Workers' Compensation Experience Rating Plan—1995 may or may not result in costs or savings depending upon whether a small business employer is above or below the experience rating eligibility threshold and based upon an employer's claim experience.

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 may or may not have a significant effect on private persons or entities. The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by workers' compensation insurance companies. To the extent they are adopted by insurers, they may result in higher costs. The amendments to the California Workers' Compensation Experience Rating Plan—1995 may or may not result in costs or savings depending upon whether an employer is above or below the experience rating eligibility threshold and based upon an employer's claim experience.

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
Attn: Christopher A. Citko
Senior Staff Counsel
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

(916) 492–3187
(916) 324–1883 (FAX)
citkoc@insurance. ca. gov

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, FAX number, or email address listed above no later than 5:00 p.m. on May 1, 2009.

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 be viewed or downloaded from the Regulatory Filings section of the WCIRB website (www.wcirbonline.org).

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 the WCIRB's 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 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 5:00 p.m., 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 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF PROPOSED REGULATIONS

California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend section 3045.2 in the California Code of Regulations (CCR), Title 15, Division 3, concerning Excused Time Off for inmates to attend religious events.

PUBLIC HEARING

Date and Time:	**June 10, 2009 — 9:00 a.m. to 10:00 a.m.**
Place:	Office of Training & Professional Development Mt. Lassen Conference Room 10000 Goethe Road Sacramento, CA 95827
Purpose:	To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close **June 10, 2009, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax or by e–mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283–0001; by fax at (916) 255–5601; or by e–mail at *RPMB@cdcr.ca.gov* before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283–0001
Telephone (916) 255–5500

In the event the contact person is unavailable, inquiries should be directed to the following back–up person:

John McClure
Regulation and Policy Management Branch
Telephone (916) 255–5464

Questions regarding the substance of the proposed regulatory action should be directed to:

Anthony Freese
Captain, Standardized Procedures Unit
Telephone (916) 322–7599

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17500 through 17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has initially determined that the proposed 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.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website http://www.cdcr.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department 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 Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

- This action amends section 3045.2 of the CCR, Title 15, Division 3, to provide for institution heads to make every reasonable effort to provide for the religious and spiritual welfare of all interested inmates, including affording inmates a reasonable accommodation to attend a scheduled religious service if they are unable to do so due to conflicting work/education assignments.

TITLE 16. BOARD OF PODIATRIC MEDICINE

NOTICE IS HEREBY GIVEN that the Board of Podiatric Medicine (hereinafter "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 Hotel Adagio, 550 Geary Street, San Francisco, CA 94102, Siena Room, at 9:00 a.m., on June 5, 2009. Written comments, including those sent by mail, facsimile, or e–mail to the addresses listed under Mischa Matsunami in this Notice, must be received by the board at its office not later than 5:00 p.m. on June 4, 2009 or must be received by the board at the hearing. The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2470 of the Business and Professions Code, and to implement, interpret or make specific Sections 144, 480, 2222, 2229, 2236, and 2497 of said Code, the Board of Podiatric Medicine is considering changes to Division 13.9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt Article 12 (consisting of sections 1399.720, 1399.721, 1399.722, 1399.723, 1399.724, and 1399.725).

This proposed rulemaking pertains to the mandatory submission of fingerprints to the Department of Justice (DOJ) for a state and federal level criminal offender record information search.

Business and Professions Code section 144 requires an applicant to furnish to specified agencies, including the Board of Podiatric Medicine, a full set of fingerprints for the purpose of conducting criminal history record checks. Additionally, this section allows the board to obtain and receive criminal history information from the DOJ and the United States Federal Bureau of Investigation (FBI).

The proposed regulations would require all board licensees for whom an electronic record of his or her fingerprints does not exist in the DOJ's criminal offender record identification database to successfully complete a state and federal level criminal offender record information search conducted through the DOJ.

Specifically, the proposed regulations would:

- require all applicants to furnish a full set of fingerprints pursuant to Business and Professions Code section 144.
- require all licensees who have not previously submitted fingerprints to the DOJ or for whom an electronic record of the submission of the fingerprints does not exist with DOJ, to complete a state and federal level criminal offender record information search conducted through the DOJ before his or her license renewal date.
- exempts from the requirements of this proposed regulation licensees who are disabled, renewed in an inactive or retired status, or actively serving in the military outside the United States.
- requires licensees to retain for at least two years from renewal date a receipt showing the electronic transmission of his or her fingerprints to the DOJ and that the licensee's fingerprints were taken.
- requires licensees renewing his or her license to disclose any of the following events which occurred in the prior renewal cycle: (1) criminal convictions except for traffic infractions, and (2) disciplinary actions taken against his or her license.
- specify that no license shall be issued or renewed unless (1) fingerprints have been submitted pursuant to the requirements of Sections 1399.721 or 1399.722, and (2) licensee has reported on the existence of any criminal convictions or disciplinary actions pursuant to Section 1399.724.

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 Sections 17500–17630 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 on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The current processing fees associated with LiveScan fingerprinting are $32.00 for the DOJ and $24.00 for the FBI.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses because the regulations relate to fingerprinting and disclosure requirements of individual licensees.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Podiatric Medicine at 2005 Evergreen Street, Suite 1300, Sacramento, California 95815.

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

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

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

CONTACT PERSON

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

Name:	Mischa Matsunami
Address:	2005 Evergreen Street, Suite 1300 Sacramento, California 95815
Telephone No.:	(916) 263–2647
Fax No.:	(916) 263–2651
E–Mail Address:	mischa_matsunami@dca.ca.gov

The backup contact person is:

Name:	Jim Rathlesberger
Address:	2005 Evergreen Street, Suite 1300 Sacramento, California 95815
Telephone No.:	(916) 263–2647
Fax No.:	(916) 263–2651
E–Mail Address:	Jim_Rathlesberger@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.bpm.ca.gov/lawsregs/index.shtml

TITLE 16. RESPIRATORY CARE BOARD

Respiratory Care Board of California Scope of Practice: Sleep & Wake Disorders

Notice of Proposed Changes

NOTICE IS HEREBY GIVEN that the Respiratory Care Board of California (hereinafter "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 Board office located at 444 North 3rd Street, Suite 270, Sacramento, CA 95811 at 1:00 p.m., on Monday, June 1, 2009. Written comments, including those sent by mail, facsimile, or e–mail to the addresses listed under "Contact Person" in this Notice, must be received by the Board at its office not later than 5:00 p.m. on June 1, 2009 or must be received by the Board at the hearing. The Board upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such

modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 3722 of the Business and Professions Code, and to implement, interpret or make specific Sections 3702 and 3702.7 of said Code, the Respiratory Care Board adopts Section 1399.363 of Article 6 or Division 13.6 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

SB 132 (R–Denham) introduced February 9, 2009, will establish a new certification category for polysomnography technologists, technicians, and trainees enforced through the Medical Board of California. SB 132 provides an exemption for respiratory care practitioners as follows:

> "(f) This section shall not apply to California licensed allied health professionals, including, but not limited to, respiratory care practitioners, working within the scope of practice of their license."

The proposed regulation will ascertain that polysomnography, as defined in SB 132, is within the scope of practice of a respiratory care practitioner.

Respiratory care practitioners have long been involved in the evolution of polysomnography. It has been deemed a subspecialty of respiratory care recognized by national associations, accrediting bodies as well as recognized and authentic respiratory care testing agencies. The National Board for Respiratory Care (NBRC) is the national body which provides the competency test for respiratory therapists nation–wide. The NBRC also provides several additional "subspecialty" credentials to respiratory therapists: 1) advanced Registered Respiratory Therapist; 2) Certified Pulmonary Function Technologist; 3) Registered Pulmonary Function Technologist; 4) Neonatal/Pediatric Respiratory Care Specialist; and 5) Sleep Disorders Testing and Therapeutic Intervention Respiratory Care Specialist. No state requires additional licensure to practice in any of these subspecialties. Rather, it is something self–regulated through employers that indicates the person has achieved a high level of expertise in the particular area of respiratory care, therefore additional training is very limited.

References to respiratory care as the foundation of polysomnography are made throughout literature from the 1960s to present day. The Board estimates that as many as 40% of the personnel currently practicing polysomnography are licensed respiratory care practitioners.

SB 132 does not establish a full licensing practice act, nor does it establish a pure title act. A practice act confers the exclusive right to practice a given profession on practitioners who meet specified criteria related to education, experience and examination and often is embodied in a licensing act (i.e., those who are not licensed cannot lawfully practice the profession). A practice act is the highest and most restrictive form of professional regulation, and is intended to avert severe harm to the public health, safety or welfare that could be caused by unlicensed practitioners.

A title act, on the other hand, reserves the use of a particular professional designation to practitioners who have demonstrated specified education, experience or other criteria. A title act typically does not restrict the practice of a profession or occupation; it merely differentiates between practitioners who meet the specified criteria, and are authorized by law to represent themselves accordingly, and those who do not.

SB 132 is a modest hybrid proposal which would require those who engage in the practice of polysomnography or use the title "certified polysomnography technologist" to meet certain education, examination and certification requirements, work under the supervision and direction of a licensed physician and surgeon, and undergo a criminal record clearance.

So while SB 132, is hybrid proposal and provides an exemption for licensed respiratory care practitioners, this regulation will ascertain that the practice of polysomnography currently being performed by licensed respiratory care practitioners will continue to be within the scope of the respiratory care practice.

This regulatory action adopts Section 1399.363 of Article 6 of Division 13.6 of Title 16 of the California Code of Regulations. Specifically, this regulatory action clarifies that the treatment, management, assessment, diagnostic testing, control, education, and care of patients with sleep and wake disorders is within the scope of practice of a respiratory care practitioner.

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 statewide adverse impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

This regulation is broadly based upon the following study and report:

Study: The California Respiratory Care Practitioner Workforce Study, June 2007
Conducted by the Institute for Social Research, California State University, Sacramento

Report: Review of Unlicensed Personnel in The Practice of Polysomnography, April 2005
Prepared by the Respiratory Care Board of California

Impact on Jobs/New Businesses

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

This regulation reaffirms the current standard and practice that the treatment, management, assessment, diagnostic testing, control, education, and care of patients with sleep and wake disorders is within the scope of practice of a respiratory care practitioner. This regulation will prevent the elimination of jobs or existing businesses, as a result of future regulatory amendments that may impact and inadvertently limit the current and existing practice by respiratory care practitioners.

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 Costs: NONE

EFFECT ON SMALL BUSINESS

The Respiratory Care Board has determined that the proposed regulations would not affect small businesses. The regulation proposes to ensure continuity in sleep and wake disorder services provided, historically and currently, by respiratory care practitioners.

CONSIDERATION OF ALTERNATIVES

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

The Respiratory Care Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the above–mentioned public hearing.

INITIAL STATEMENT OF REASONS

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 upon request from the Respiratory Care Board of California, 444 North 3rd Street, Suite 270, Sacramento, CA 95811.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at www.rcb.ca.gov.

CONTACT PERSON

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

Christine Molina
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95811
Telephone: (916) 323–9983
Fax: (916) 323–9999
E–Mail: christine_molina@dca.ca.gov

The backup contact person is:

Stephanie Nunez
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95811
Telephone: (916) 323–9983
Fax: (916) 323–9999

Website Access

Materials regarding this proposal can be found at www.rcb.ca.gov.

TITLE 18. FRANCHISE TAX BOARD

NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF TITLE 18. FRANCHISE TAX BOARD

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

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

These amendments are necessary to designate new classifications as special disclosure categories and make other technical changes to reflect the current organizational structure of the Franchise Tax Board. Copies of the amended code are available and may be requested from the Contact Person set forth below,

Nonsubstantive changes are being made by amending the title of existing positions and deleting titles of existing positions that have been eliminated for use within the Franchise Tax Board.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than June 1, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than May 18, 2009, by contacting the Contact Person set forth below, at which time a public hearing will be scheduled.

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

The Franchise Tax Board has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing the Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, business or small businesses. In making these proposed amendments, the Franchise Tax Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons of the proposed amendments.

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

Colleen Berwick
Franchise Tax Board
Legal Division, MS A260
P.O. Box 1720
Rancho Cordova, CA 95741–1720
Telephone: (916) 845–3306
E–Mail Address: colleen.berwick@ftb.ca.gov

GENERAL PUBLIC INTEREST

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Notice to Interested Parties
April 17, 2009

Announcement of Availability

INDICATORS OF CLIMATE CHANGE IN CALIFORNIA

The Office of Environmental Health Hazard Assessment (OEHHA), in its role as lead agency for the Environmental Protection Indicators for California (EPIC) Project, has prepared a report presenting indicators of climate change in California. This report presents a total of 27 climate change indicators, which draw upon data collection, monitoring and studies by state and federal agencies, universities and research institutions. Many of the indicators are derived from research studies funded by the California Energy Commission's Public Interest Energy Research (PIER) Program. Taken collectively, the indicators can help the research community in examining the interrelationships between and among climate and other physical and biological elements of the environment, and in identifying gaps in information. Finally, the indicators — particularly those that reveal evidence of the already discernable impacts of climate change — can highlight priority areas for state mitigation and adaptation strategies. Generally, the indicators show that changes occurring in California are largely consistent with those observed globally. Please refer to *http://www.oehha.ca.gov/public_info.html* to access the final reports and other specific information regarding OEHHA's reports.

DECISIONS NOT TO PROCEED

CALIFORNIA HORSE RACING BOARD

NOTICE OF DECISION NOT TO PROCEED
WITH RULEMAKING ACTION
RULE
1663. ENTRY OF CLAIMED HORSE

Pursuant to Government Code Section I1347(a), the California Horse Racing Board has decided not to proceed with the amendment of Rule 1663, Entry of Claimed Horse, of Title 4, Division 4, of the California Code of Regulations.

The notice of proposal to amend Rule 1663 was published in the California Regulatory Notice Register on March 27, 2009, notice file number Z–2009–0317–09.

DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE OF DECISION NOT TO PROCEED
(Pursuant to Government Code Section 11347)

On February 13, 2009, the Department of Food and Agriculture published a Notice of Proposed Rulemaking concerning the amendments of Section 3433, of the regulations in Title 3 of the California Code of Regulations pertaining to Diaprepes Root Weevil Interior Quarantine as an emergency action that was effective on September 2; and, October 15 and 20, 2008. At that time, the Department proposed to continue the regulations as amended and to complete the amendment process by the submission of a Certificate of Compliance no later than April 13, 2009.

Upon passage of the Governor's Budget, there was no source of funding identified for quarantine enforcement and eradication activities related to Diaprepes root weevil. Therefore, the Department can no longer perform these activities using existing resources.

Pursuant to Government Code Section 11347, the Department hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on February 13, 2009 (Register 2009, No. 7–Z, page 230, Notice File No. Z2009–0203–11).

Any interested person with questions concerning this rulemaking should contact Stephen Brown at either (916) 654–1017 or by email at: sbrown@cdfa.ca.gov.

The department will also publish this Notice of a Decision Not to Proceed on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

DEPARTMENT OF INSURANCE

NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code Section 11347, the Department of Insurance hereby gives notice that it has decided not to proceed with California Code of Regulations Title 10, Chapter 5, Subchapter 3, Article 14, Subarticle 1 entitled "Controlled Business Source" and consisting of sections 2555, 2555.1, 2555.12, 2555.13, 2555.2, 2555.21, 2555.22, 2555.23, 2555.3, 2555.31, 2555.32, 2555.33, 2555.4, and 2555.41. (Notice File No. Z–2008–0617–24) as published in the California Regulatory Notice Register June 27, 2008.

Any interested person with questions concerning this rulemaking should contact Jill Jacobi at the Department of Insurance at either (415) 538–4426 or by e–mail at: JacobiJ@insurance.ca.gov.

OAL REGULATORY DETERMINATIONS

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS

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

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324–6044 or mmolina@oal.ca.gov.

DEPARTMENT OF PERSONNEL ADMINISTRATION

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

2009 OAL DETERMINATION NO. 7
(OAL FILE # CTU 2008–0919–02)

REQUESTED BY: Edmund Carolan

CONCERNING: Department of Personnel Administration Personnel Management Liaison memorandums No. 90–07, No. 90–07A (Hiring–Above–Minimum Standards for Extraordinary Qualifications), and No. 2007–026 (Delegation of Personnel Management Functions Update)

DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of a "regulation" as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of "regulation," but was not adopted pursuant to the APA and should have been, it is an "underground regulation" as defined in California Code of Regulations, title 1, section 250. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

ISSUE

On September 19, 2008, Edmund Carolan (Petitioner) submitted a petition to OAL challenging the Hiring–Above–Minimum (HAM) salary provisions found in three Personnel Management Liaison (PML) memorandums issued by the Department of Personnel Administration (Department). The challenged HAM provisions are in PML 90–07, PML 90–07A (Hiring–Above–Minimum Standards for Extraordinary Qualifications), and PML 2007–026 (Delegation of Personnel Management Functions Update). (Attached as Exhibits A, B and C, respectively.)

The challenged provisions pertain to the application of standards for offering a competitive salary above–the–minimum salary rate of a class to obtain for state agencies the employment of persons with extraordinary qualifications. The following summarizes the challenged provisions in PML 90–07 and are listed according to the headings as found in that PML (unless other-

wise specified, quotations in this discussion of the Issue are directly from PML 90–07):

Standards

A HAM request "should be reviewed against the following standards:"

1) Extraordinary qualifications "may" be indicated by: (a) Expertise in a particular area that "should be well beyond the normal requirements of the class"; (b) The scope and depth of unique talents, abilities or skills as demonstrated by previous job experience; (c) The degree to which a candidate exceeds minimum qualifications "should be a guiding factor," but not a determining factor; and (d) Qualifications and hiring rates of current state employees in the same class "should be carefully considered" to avoid questions for salary equity.
2) The specific extraordinary skill "should be difficult to recruit."
3) The prospective candidate's current salary or other bona fide salary offers "must be above–the–minimum rate," "must be verified and appropriately documented," and the current salary "should have [a] duration of at least one year." Competing offers "must be verified" where candidates are from a "suppressed occupational area" and are "unemployed or are facing layoff or relocation." Competing offers from other state agencies "cannot be used as justification."
4) In order for prior state employees to qualify for a higher rate of pay than they received in prior state employment, "they must clearly have enhanced their qualifications above those they possessed in the prior State employment."

Current State Employees

Current state employees "may" be eligible under the following circumstances: (a) "There must be a verifiable competing offer from another prospective non–State employer"; (b) "A promotional relationship cannot exist between the employee's current class and the prospective class"; (c) Such hires "represent a career change for the individual"; and (d) Offering this type of HAM "is typically necessary" to recruit candidates for the class. Department approval "is required" in all cases for current state employees. "Delegated HAM authority does not apply."

Documentation

"Departments must document the basis for each HAM request. HAM requests up to the third step may be approved in advance of documentation being provided to DPA [Department]. Fourth and fifth step HAMs may be expedited by DPA with a verbal approval following review of documentation. HAMs for current State employees, regardless of amount, requires DPA's pre–review of documentation and approval." "A copy of the approved request, as well as a statement of justification for delegated approvals, should be maintained by the requesting department in a separate file for post–audit purposes."

The stated purpose of PML 90–07A was solely to correct a typographical error in PML 90–07. Otherwise, it repeats the provisions in PML 90–07 and does not add/delete portions of PML 90–07.

Only two paragraphs of PML 2007–026 are specifically applicable to HAM standards and the petitioner does not challenge the other non–HAM related paragraphs in that PML. The following is the challenged rule in PML 2007–026:

"Departments are now delegated the authority to approve exceptions to the HAM criteria for extraordinary qualifications without prior review/approval by the PSB [Personnel Services Branch][1] for all new State employees."

Petitioner challenges the HAM provisions in these PMLs as alleged underground regulations[2] issued in violation of Government Code section 11340.5.[3] The scope of this determination is limited to these challenged HAM provisions.

DETERMINATION

OAL determines that some of the challenged HAM provisions meet the definition of "regulation" as defined in section 11342.600. These provisions are specifically identified in the "Analysis" section below. They do not fall within any express APA exemption, and therefore, should have been adopted pursuant to the APA. There is insufficient information for OAL to determine whether the other challenged provisions are discretionary or meet the definition of "regulation."

FACTUAL BACKGROUND

On January 31, 2008, Petitioner submitted a petition to OAL pursuant to section 11340.5 alleging that HAM provisions in the California Department of Corrections and Rehabilitation's Department Operations Manual

[1] Personnel Services Branch is a unit within the Department of Personnel Administration.

[2] An underground regulation is defined in title 1, California Code of Regulations, section 250:

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

[3] Unless otherwise specified code references are to the California Government Code.

are underground regulations. During the review of that petition, the California Department of Corrections and Rehabilitation asserted that its authority to regulate certain aspects of HAM salaries for new state employees is derived from the Department, whose authority is derived from section 19836. On August 4, 2008, without rendering an opinion on the validity of the underlying Department HAM policy issued in the Department's PMLs or other Department guidelines, OAL issued a determination (2008 OAL Determination No. 18) which found that the HAM provisions in the California Department of Corrections and Rehabilitation Department Operations Manual are underground regulations in that they had not been adopted in compliance with the APA.

On August 8, 2008, Petitioner submitted a petition to the Department pursuant to section 11340.6[4] asking the Department to formally adopt regulations to implement section 19836 in compliance with the APA. As of the date of this Determination, the Department has not yet submitted to OAL a decision for publication in the California Regulatory Notice Register pursuant to section 11340.7(d).[5]

On September 19, 2008, Petitioner filed a petition with OAL pursuant to section 11340.5 challenging the Department's HAM provisions in the three named PMLs as underground regulations, which is the basis for this determination. OAL received a response to this petition from the Department on January 20, 2009. Petitioner submitted a rebuttal to the Department's response to the petition on January 27, 2009. The rebuttal disagrees with the Department's response, particularly with its characterization of the PMLs as "merely suggestions." OAL received no comments from the public.

[4] Section 11340.6 provides an interested person with the opportunity to petition a state agency to promulgate regulations, and is separate from the petition process afforded in section 11340.5 for challenging state agency rules as alleged underground regulations.

[5] Section I1340.7(d) provides:

> Any decision of a state agency denying in whole or in part or granting in whole or in part a petition requesting the adoption, amendment, or repeal of a regulation pursuant to Article 5 (commencing with Section 11346) shall be in writing and shall be transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register at the earliest practicable date.

UNDERGROUND REGULATIONS

Section 11340.5, subdivision (a), prohibits state agencies from issuing rules unless the rules comply with the APA. It states as follows:

> (a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency issues, utilizes, enforces, or attempts to enforce a rule that meets the definition of "regulation" as defined in section 11342.600 and should have been adopted pursuant to the APA. An OAL determination that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to "due deference" in any subsequent litigation of the issue pursuant to *Grier v. Kizer*.[6]

ANALYSIS

A determination of whether the challenged rule is a "regulation" subject to the APA depends on (1) whether the challenged rule meets the definition of "regulation" pursuant to section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in section 11342.600 as:

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

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw*,[7] the California Supreme Court found that:

[6] (1990) 219 Ca1.App.3d 422, 268 Cal.Rptr. 244.

[7] (1996) 14 Ca1.4th 557, 571.

> A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure (Gov. Code, §11342, subd. (g)).[8]

The first element of a regulation is whether the rule applies generally. As *Tidewater* pointed out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations. The HAM provisions apply to the procedures and criteria that state agencies must use to hire an applicant at a higher than minimum salary. The HAM provisions apply to applicants for state employment, including both those who have previously been employed by the state and those who are new to state employment. State agencies and applicants for employment are both clearly defined classes of persons. The first element is, therefore, met.

The second element is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency's procedure. The statute that authorizes the administration of HAM salaries is section 19836, subdivision (a), which provides:

> The department may authorize payment at any step above the minimum salary limit to classes or positions in order to meet recruiting problems, to obtain a person who has extraordinary qualifications, to correct salary inequities resulting from actions by the department or State Personnel Board, or to give credit for prior state service in connection with appointments, promotions, reinstatements, transfers, reallocations, or demotions. Other salary adjustments within the salary range for the class may be made upon the application of the appointing power and with the approval of the director. Adjustments within the salary range authorized by this section may be either permanent or temporary and may be made retroactive to the date of application for this change.

The first sentence of section 19836 expressly authorizes the Department to address hiring employees above the minimum salary.[9] All three PMLs contain rules that implement, interpret or make specific the HAM provision of section 19836, the law enforced or administered by the Department. The following rules, by section in the PMLs, specify requirements, provide criteria that must be present or actions that must be taken, prohibit other actions, and use language that is reasonably understood to create a legal obligation.

Standards

In PML 90–07 and PML 90–07A, the rule states that the candidate's current salary or bona fide salary offer "must be above–the–minimum rate" and "must be verified and appropriately documented." In addition, specified competing offers "must be verified" and competing offers from state agencies "cannot be used" as justification for hiring at an above–the–minimum salary. This section also includes the requirement that prior state employees "must clearly have enhanced their qualifications" in order to qualify for a higher rate than they received in prior state employment.

Current State Employees

In PML 90–07 and PML 90–07A, this section requires the following for current state employees: there "must be a verifiable competing offer from another prospective non–State employer;" "[a] promotional relationship cannot exist between the employee's current class and the prospective class"; and Department approval "is required." In addition, this section includes an element that might be considered a requirement but is not as clearly stated. The statement that such hires "represent a career change" implies that this is a condition for approval of an above–the–minimum salary.

Documentation

In PML 90–07 and PML 90–07A, this section requires that "[d]epartments must document the basis for each HAM request." It also requires the Department pre–review of documentation and approval for HAM requests for current state employees.

PML 2007–026 delegates the authority to state departments "to approve exceptions to the HAM criteria for extraordinary qualifications" for all new state employees. This PML acknowledges that there are specified "HAM criteria," for which exceptions must be approved. These criteria are not listed in statute or regulation, but are listed in PML 90–07 and PML 90–07A.

[8] Section 11342(g) was re–numbered in 2000 to section 11342.600 without substantive change.

[9] Only the first sentence of section 19836 regards HAM salaries. The remaining portion of section 19836 regards other salary adjustments within the salary range for each class. Department regulations that implement, interpret and make specific this statute are located in Title 2 of the California Code of Regulations. Although there are regulations in Title 2 that implement, interpret or make specific the provisions regarding other salary adjustments in section 19836, there are none that implement, interpret or make specific the HAM provision in section 19836.

By specifying requirements, providing criteria that must be present or actions that must be taken, prohibiting other actions, and using language that is reasonably understood to create a legal obligation, these challenged HAM provisions implement, interpret, or make specific section 19836. Therefore, the second element in *Tidewater* is met.

We note that some of the challenged HAM provisions are couched in terms of "should" rather than "shall." For example:

> —*Standards:* A HAM request "should be reviewed against the following standards."
>
> —*Standards:* The specific extraordinary skill "should be difficult to recruit."

While these and similar provisions appear to be discretionary, we are mindful of the ruling in *State Water Resources Control Board v. OAL,*[10] in which the Court held:

> The Legislature established the OAL as a central office with the power and duty to review administrative regulations. The Legislature expressed its reasons in no uncertain terms stating, in essence, that it was concerned with the confusion and uncertainty generated by the proliferation of regulations by various state agencies, and that it sought to alleviate these problems by establishing a central agency with the power and duty to review regulations to ensure that they are written in a comprehensible manner, are authorized by statute and are consistent with other law. (Gov. Code sections 11340, subd. (e), and 11340.1.) In order to further that function, the relevant Government Code sections are careful to provide OAL authority over regulatory measures whether or not they are designated "regulations" by the relevant agency. *In other words, if it looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated as a regulation whether or not the agency in question so labeled it.* (Emphasis added.)

OAL cannot, from the information available, determine whether the provisions couched in discretionary terms "looks like a regulation, reads like a regulation, and acts like a regulation," and therefore, cannot determine whether these provisions meet the definition of "regulation."

Accordingly, we conclude that, except for the provisions regarding the authority of the Department to approve HAM salaries[11] and the provisions couched in discretionary terms, the challenged provisions identified above meet the definition of "regulation" as defined in section 11342.600. OAL reaches no determination as to the discretionary language in the PMLs.

The final issue to examine is whether the challenged HAM provisions fall within an exemption from the APA. Pursuant to section 11346, the procedural requirements established in the APA "shall not be superseded or modified by any subsequent legislation except to the extent that the legislation shall do so expressly." Express statutory exemptions from the APA can be general exemptions that apply to all state rulemaking agencies.[12] Express statutory exemptions may also be specific to a particular rulemaking agency or a specific program.[13] We were not able to ascertain, nor did the Department identify, any statutory APA exemptions that would apply to the challenged HAM provisions.

AGENCY RESPONSE

The following addresses the arguments made by the Department in its response to the petition.

1. The Department was not acting in a quasi–legislative manner when it issued PML 90–70, PML 90–70A and PML 2007–026 because the information contained in the PMLs was an interpretation of language already codified in section 19836(a).

Agency actions fall within three broad categories: quasi–legislative, quasi–judicial, and administrative. The rulemaking portion of the APA generally governs the exercise of quasi–legislative power by state agencies. In its response, the Department in referring to *Aguilar v. Association for Retarded Citizens,*[14] states:

> In determining whether the agency acted in a quasi–legislative manner, a distinction is made between the promulgation of a new regulation and the application and/or interpretation of an existing one.

In *Aguilar*, one agency, the Industrial Welfare Commission, had promulgated regulations in a Wage Order and another agency, the Department of Labor Standards Enforcement, was responsible for enforcing those regu-

[10] (1993) 12 Cal.App.4th 697, 702.

[11] Section 19836 provides that "The department may authorize payment at any step above the minimum salary limit . . . ." The

(Footnote continued on next column)

(Footnote 11 continued)

requirement that HAM salaries require the approval of the Department is contained in all three PMLs. If a challenged rule merely restates existing law, and does not further implement, interpret or make specific existing law, it does not meet the definition of "regulation" in section 11342.600, and therefore, is not an underground regulation. The PML provisions that require the Department's approval for a HAM salary merely restate section 19836, do not further implement, interpret or make specific section 19836, and thus, do not meet the definition of "regulation."

[12] See Government Code section 11340.9.

[13] For example, see Penal Code section 5058 that establishes an exemption for rules established by individual prisons.

[14] (1991) 234 Cal.App.3d 27.

lations. The Court held that, "Adoption of an interpretation consistent with the language and intention of the Wage Order as a prelude to enforcement does not require compliance with the APA."

We note, however, that the court in *Tidewater* emphasized that a policy is "a regulation within the meaning of the APA" when it is "a standard of general application interpreting the law" enforced by the agency. The court in *Tidewater* stated:

> A written statement of policy that an agency intends to apply generally, that is unrelated to a specific case, and that predicts how an agency will decide future cases is essentially legislative in nature even if it merely interprets applicable law.[15]

This is further emphasized in *Morning Star Company v. State Board of Equalization*, et al.[16] *Morning Star* confirms the holding in *Tidewater* by stating that "absent an express exception, the APA applies to all generally applicable administrative interpretations of a statute."

As determined by OAL in its analysis above, PML 90–70 and 90–70A contain rules of general application that further implement, interpret, or make specific the HAM provision of section 19836. Therefore, the rules in these PMLs meet the definition of "regulation." Additionally, provisions of PML 90–70 and PML 90–70A are intended to be used to decide whether to approve future HAM requests presented to the Department and are, therefore, quasi–legislative in nature.

2. The Department's delegation of authority with respect to HAMs does not constitute an underground regulation.

Section 19836 states: "The department may authorize payment at any step above the minimum salary limit . . . ." The remainder of section 19836 does not provide for the delegation of that authority. The challenged HAM provision in PML 2007–026 delegates this authority in limited circumstances to other state agencies. Rather than requiring that the approval of all HAM salaries must be made by the Department, the Department has chosen to implement its statutory authorization through a generally applied delegation to other state agencies to approve HAM requests in specified circumstances. Therefore, the HAM provision in PML 2007–026 meets the definition of "regulation." In addition, the procedures and criteria that state agencies are required to use pursuant to these PMLs are regulations, as discussed above.

3. The interpretations offered in the PMLs are merely suggestions to state agencies describing how the Department has interpreted each of the criteria in previous cases and the interpretations of the criteria have no legal effect.

As noted above, some provisions of PML 90–07 and 90–07A appear to be discretionary, but OAL does not have sufficient information to determine whether these provisions meet the definition of "regulation." However, as identified above, most of the HAM provisions in PML 90–07 and 90–07A are found to meet the definition of "regulation."

4. The PMLs merely restate the justifications for hiring someone above the minimum and that each of the items discussed in the PMLs are found in section 19836(a), and therefore, do not constitute underground regulations.

Other than permitting the Department to authorize a HAM salary, section 19836 describes the circumstances in which a HAM request might be permissible: 1) "in order to meet recruiting problems"; 2) "to obtain a person who has extraordinary qualifications"; 3) "to correct salary inequities resulting from actions by the department or State Personnel Board"; or 4) "to give credit for prior state service in connection with appointments, promotions, reinstatements, transfers, reallocations, or demotions." Section 19836 does not include any procedures or criteria that are to be used when assessing or approving such requests. In *Engelmann v. State Board of Education*,[17] the court held that to the extent any of the contents of an agency publication "depart from, or embellish upon, express statutory authorization and language" the agency will need to promulgate regulations. The challenged HAM provisions embellish upon the express statutory language and implement, interpret and make specific section 19836 by establishing procedures and criteria to be used in assessing and approving HAM requests.

CONCLUSION

The challenged HAM provisions, as identified in the "Analysis" section above, in PML 90–07, PML 90–07A (Hiring–Above–Minimum Standards for Extraordinary Qualifications), and PML 2007–026 (Delegation of Personnel Management Functions Update) meet the definition of "regulation" as defined in section 11342.600.[18] They do not fall within any express APA exemption, and therefore, should have been adopted pursuant to the APA. There is insufficient information for OAL to determine whether the other challenged pro-

[15] *Tidewater, supra,* at 574–575.

[16] (2006) 38 Cal.4th 324, 335, 42 Cal.Rptr.3d 47.

[17] 2 Cal.App.4th 47, 62.

[18] A court may find that the language which is couched in discretionary terms may also meet the definition of "regulation" as defined in Government Code section 11342.600; however, OAL was not provided sufficient information necessary to make such a determination.

visions are discretionary or meet the definition of "regulation."

Date: April 6, 2009

George Shaw
Staff Counsel

Susan Lapsley
Director

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2009–0223–01
ATHLETIC COMMISSION
Arbitration; Boxer's Condition; Use of Drugs; Alt. Rings; Bandages; Appeals

This rulemaking does the following:

1. adopts procedures for arbitration of a contract dispute between boxers and managers;
2. lists indicators as to a boxer's ability to perform;
3. delineates when drug testing may occur;
4. provides alternate ring specifications;
5. amends the amount of tape and bandage allowed for a boxer's handwraps;
6. provides that a positive drug test is a condition that allows for a change in decision and,
7. sets out the appeals procedures for certain fines and suspensions.

Title 4
California Code of Regulations
ADOPT: 227, 314, 389 AMEND: 281, 303, 323, 368, 523
Filed 04/06/2009
Effective 04/06/2009
Agency Contact: Bill Douglas (916) 263–2195

File# 2009–0218–01
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Public Safety Dispatcher Selection Requirements

This rulemaking places Public Safety Dispatcher selection requirements into the California Code of Regulations. The requirements include the Verbal, Reasoning, Memory, and Perceptual Abilities Assessment and the Oral Communication Assessment. The requirements also include a Background Investigation and a Medical Evaluation.

Title 11
California Code of Regulations
ADOPT: 9056, 9057, 9058, 9059, 9060 AMEND: 1018
Filed 04/01/2009
Effective 07/01/2009
Agency Contact: Melani Singley (916) 227–4258

File# 2009–0218–02
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Peace Officer Selection Requirements

This regulatory action deals with Peace Officer selection requirements.

Title 11
California Code of Regulations
ADOPT: 9050, 9051, 9052, 9053, 9054, 9055 REPEAL: 1002
Filed 04/01/2009
Effective 07/01/2009
Agency Contact: Melani Singley (916) 227–4258

File# 2009–0225–01
DEPARTMENT OF CONSERVATION
Beverage Manufacturer and Distributor Regulations

The Department of Conservation (Department) amends section 2245 and 2320 of Title 14 of the California Code of Regulations to allow beverage manufacturers and distributors to submit a required report and make necessary payments to the Department separately. Currently the regulations require both the payment and report to be made simultaneously. With the implementation of a new internal management system, the Department can now accept and track the items separately.

Title 14
California Code of Regulations
AMEND: 2245, 2320
Filed 04/08/2009
Effective 05/08/2009
Agency Contact: Karen Denz (916) 322–1899

File# 2009–0319–03
DEPARTMENT OF CONSUMER AFFAIRS
Conflict of Interest Regulations

The Department of Consumer Affairs is amending its conflict of interest code found at section 3830, title 16, California Code of Regulations. This amendment was approved for filing by the Fair Political Practices Commission on March 12, 2009.

Title 16
California Code of Regulations
AMEND: 3830
Filed 04/03/2009
Effective 05/03/2009
Agency Contact:
Albert Balingit (916) 445–5126

File# 2009–0223–04
DEPARTMENT OF CORRECTIONS AND REHABILITATION
Behavior Management Unit

This filing is a certificate of compliance for a regulatory action which was certified by the Department as an operational necessity pursuant to Penal Code section 5058.3 and was deemed an emergency by the Legislature. This emergency regulatory action established a Behavior Modification Unit to provide alternate General Population housing and programming for those inmates who are (1) deemed program failures, (2) found guilty of a Security Housing Unit offense or whose in–custody behavior reflects a propensity towards disruptive behavior, (3) are released from the Administrative Segregation Unit/Security Housing Unit, or (4) engage in gang related activity.

Title 15
California Code of Regulations
ADOPT: 3334 AMEND: 3000
Filed 04/02/2009
Agency Contact:
Fernando Azevedo (916) 323–6156

File# 2009–0223–03
FRANCHISE TAX BOARD
Water's–Edge Election

This rulemaking implements the changes to the Revenue and Taxation Code related to corporate tax for multinational corporations. The rulemaking implements changes to the process for corporations to elect a water's–edge, as opposed to worldwide, method of unitary business taxation computation. It amends Title 18 California Code of Regulations Section 25111 to provide for a deeming of a statutory, as opposed to contractually negotiated, water's–edge election for corporations that had made contractual water's–edge elections prior to the tax–year–effective date (2003) of the transition to a statutory election process. It adopts new Title 18 California Code of Regulations Section 25113, which provides definitions necessary for the statutory water's–edge election process. It describes the process for making the election and provides examples. It describes the process for terminating the election and gives exampes. It describes the process for re–electing the water's–edge method after a termination and gives examples. It also describes the effect of the election or termination on other members of an affiliated business group and gives examples.

Title 18
California Code of Regulations
ADOPT: 25113 AMEND: 25111
Filed 04/06/2009
Effective 05/06/2009
Agency Contact:
Colleen Berwick (916) 845–3306

File# 2009–0224–01
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
High–Voltage Electrical Safety Orders

This regulatory action adopts standards that are similar to federal standards concerning High–Voltage Electrical Safety Orders. These regulations are exempt from OAL review pursuant to Labor Code section 142.3(a)(3).

Title 8
California Code of Regulations
ADOPT: 2710.1, 2716.1, 2718, 2718.1, 2738, 2739.0, 2739.4, 2742.0, 2742.1, 2742.2, 2742.3, 2745.0, 2745.1, 2749.2, 2754.1, 2754.2, 2796, 2799.1, 2799.2, 2799.3, 2799.4, 2799.5, 2799.6, 2812.2, 2812.3, 2832, 2833.1, 2833.2, 2882.2, 2985.0, 2985.1, 2985.2, 2987.0, 2987.1, 2989.0, 2989.1 AMEND: 2700, 2706, 2707, 2710, 2712, 2714, 2715, 2725, 2735, 2739.1, 2743, 2745.2, 2749.1, 2753, 2790, 2791, 2792, 2795, 2797, 2799.0, 2805, 2810, 2812.1, 2816, 2819, 2820, 2833, 2845, 2847, 2863, 2873, 2874, 2875, 2880, 2882.1, 2890, 2893, 2908, 2910, 2931, 2932, 2933, 2934, 2935, 2946, 2974 REPEAL: 2742
Filed 04/01/2009
Effective 04/01/2009
Agency Contact: Marley Hart (916) 274–5721

File# 2009–0303–01
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Specific Regulatory Levels Posing No Significant Risk — NSRL for Ethylbenzene

This regulatory action establishes the specific regulatory level at which exposure to Ethylbenzene poses no

significant risk at 54 micrograms per day (inhalation) and 41 micrograms per day (oral).

Title 27
California Code of Regulations
AMEND: 25705(b)
Filed 04/07/2009
Effective 05/07/2009
Agency Contact: Susan Luong (916) 327–3015

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN November 5, 2008 TO April 8, 2009

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

Title 1

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

Title 2

03/05/09 AMEND: 18704
02/17/09 AMEND: 51.3
02/02/09 AMEND: 18402, 18450.3
01/30/09 ADOPT: 18427.5
01/30/09 ADOPT: 18421.8, 18521.5 AMEND: 18401
01/27/09 AMEND: 2294
01/26/09 AMEND: 1859.104.1
01/21/09 ADOPT: 1859.184.1 AMEND: 1859.2, 1859.103, 1859.184
01/12/09 AMEND: div. 8, ch. 24, secs. 45100, 45127, 45128
01/08/09 ADOPT: 18420.1
01/08/09 ADOPT: 18944.3 AMEND: 18944.1
12/30/08 AMEND: 714
12/29/08 ADOPT: 2298
12/15/08 AMEND: 17463, 17470, 17519
12/09/08 ADOPT: 25100
12/08/08 AMEND: 1700

Title 3

03/30/09 AMEND: 3434(b)
03/25/09 AMEND: 6860
03/23/09 AMEND: 3423(b)
03/19/09 ADOPT: 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222.1, 1222.4, 1209, 1209.1, 1245.1, 1245.2, 1245.3, 1245.4, 1260.2, 1269, 1269.1, 1269.2, 1271 AMEND: 1200, 1201, 1202, 1204, 1205, 1206, 1207, 1208, 1222, 1223, 1223.1, 1235, 1236, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1245.1, 1245.2, 1245.3, 1245.4, 1245.5, 1245.6, 1245.7, 1245.8, 1245.9, 1245.10, 1245.11, 1245.12, 1245.13, 1245.14, 1245.15, 1245.16, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1260.1, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270 REPEAL: 1203, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1237
03/18/09 AMEND: 3435(b)
03/10/09 AMEND: 3434
03/05/09 AMEND: 3591.20(a)
03/04/09 AMEND: 3435
02/27/09 AMEND: 3434(b)
02/26/09 AMEND: 850
02/19/09 AMEND: 3434(b)
02/13/09 AMEND: 3406(b)
02/10/09 AMEND: 3060.4(a)(1)(C)(1), 3652(k)
02/05/09 AMEND: 3434(b)
02/02/09 AMEND: 3406(b)
01/21/09 ADOPT: 3591.22(a), 3591.22(b), 3591.22(c), 3591.22(d)
01/21/09 ADOPT: 3591.21(a), 3591.21(b), 3591.21(c)
01/20/09 REPEAL: 3664, 3665, 3666, 3667, 3668, 3669
01/14/09 AMEND: 3434(b)
01/13/09 AMEND: 3434(b)
01/12/09 AMEND: 3589(a)
12/30/08 AMEND: 3417(b)
12/18/08 AMEND: 3417(b)
12/18/08 AMEND: 3406(b)
12/16/08 AMEND: 1358(b)
12/12/08 AMEND: 3434(b)
12/10/08 AMEND: 3589
12/04/08 AMEND: 3435(b)
11/26/08 AMEND: 3406(b)
11/20/08 ADOPT: 6400
11/12/08 AMEND: 3591.5(a)
11/12/08 AMEND: 3434(b)
11/07/08 AMEND: 3433(b)

Title 4

03/23/09 AMEND: 10175, 10176, 10177, 10182, 10185, 10187, 10188, 10189, 10190
03/11/09 AMEND: 1865

03/10/09 ADOPT: 12388, 12410
03/05/09 ADOPT: 2066
03/05/09 ADOPT: 1504.5 AMEND: 1481, 1486
03/04/09 AMEND: 2073
02/23/09 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101 REPEAL: 8102.10
02/13/09 ADOPT: 12362
02/11/09 ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078
01/13/09 ADOPT: 4027, 4027.1, 4027.2, 4027.3, 4027.4, 4027.5
12/29/08 AMEND: 12482
11/24/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101
11/17/08 AMEND: 1505

Title 5

03/27/09 AMEND: 3001, 3051, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070
03/05/09 AMEND: 80225
02/17/09 AMEND: 80413, 80487
02/04/09 ADOPT: 9800, 9810, 9820, 9830
01/20/09 ADOPT: 9517.1
01/05/09 AMEND: 80004
12/09/08 ADOPT: 18131.1 AMEND: 18131
11/06/08 AMEND: 42723

Title 8

04/06/09 ADOPT: 227, 314, 389 AMEND: 281, 303, 323, 368, 523
04/01/09 ADOPT: 2710.1, 2716.1, 2718, 2718.1, 2738, 2739.0, 2739.4, 2742.0, 2742.1, 2742.2, 2742.3, 2745.0, 2745.1, 2749.2, 2754.1, 2754.2, 2796, 2799.1, 2799.2, 2799.3, 2799.4, 2799.5, 2799.6, 2812.2, 2812.3, 2832, 2833.1, 2833.2, 2882.2, 2985.0, 2985.1, 2985.2, 2987.0, 2987.1, 2989.0, 2989.1 AMEND: 2700, 2706, 2707, 2710, 2712, 2714, 2715, 2725, 2735, 2739.1, 2743, 2745.2, 2749.1, 2753, 2790, 2791, 2792, 2795, 2797, 2799.0, 2805, 2810, 2812.1, 2816, 2819, 2820, 2833, 2845, 2847, 2863, 2873, 2874, 2875, 2880, 2882.1, 2890, 2893, 2908, 2910, 2931, 2932, 2933, 2934, 2935, 2946, 2974 REPEAL: 2742
03/04/09 AMEND: 3248
03/02/09 ADOPT: 15475.1, 15475.2, 15475.3, 15482, 15482.1, 15482.2, 15483, 15484, 15485, 15486, 15486.1, 15487, 15488, 15489, 15489.1, 15490, 15490.1, 15491, 15496, 15497, 15497.1, 15498, 15499, 15499.5 AMEND: 15201, 15203, 15203.1, 15203.2, 15203.3, 15203.4, 15203.5, 15203.6, 15203.7, 15203.8, 15203.9, 15203.10, 15204, 15205, 15210, 15210.1, 15210.2, 15210.3, 15211, 15211.1, 15211.2, 15215, 15230, 15251, 15353, 15360, 15405, 15470, 15471, 15472, 15473, 15474, 15475, 15476, 15477, 15478, 15479, 15480, 15481, 15601.7
03/02/09 AMEND: 3209, 3299, 4885, 5049, 5085, 5152, 5193, 5207, 5215, 5297, 5299, 5302, 5304, 5449, 6402, 6503, 6600
02/25/09 REPEAL: 10116.4, 10122, 10122.1, 10123, 10123.2, 10123.3, 10124, 10124.1, 10125, 10125.1, 10125.2, 10125.3, 10126, 10127, 10127.1, 10127.2, 10127.3, 10128, 10129, 10129.1, 10130, 10131, 10131.1, 10131.2, 10132, 10132.1, 10133, 10133.2, 10133.4, 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.15, 10133.16, 10133.17, 10133.18, 10133.19, 10133.20, 10133.21, 10133.22
02/18/09 AMEND: 3664, 3732, 3737, 3944, 4186, 4307.1, 4345, 4353, 4354
02/13/09 AMEND: 3336, 3650, 3653
02/09/09 AMEND: 3231, 3277, Appendix B Following Section 3299, Appendix A following Section 3326, 3340, 3341, 3575, Appendices A, B, C, D, E, F, G following Section 3583
01/29/09 AMEND: 4994
01/28/09 AMEND: 4999
01/20/09 AMEND: Appendix B following sections 1529, 5208, 8358
01/15/09 AMEND: 2500.7
01/13/09 ADOPT: 29, 31.1, 31.3, 31.7, 32.6, 36.5, 41.5, 41.6, 41.7, 63, 120, 121, 122, 123, 124 AMEND: 1, 10, 11, 11.5, 12, 13, 14, 15, 16, 17, 18, 19, 20, 30, 30.5, 31, 31.5, 32, 33, 34, 35, 35.5, 36, 38, 39, 39.5, 40, 41, 43, 44, 45, 46, 46.1, 47, 49, 49.2, 49.4, 49.6, 49.8, 49.9, 50, 51, 52, 54, 55, 56, 57, 60, 61, 62, 65, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159 REPEAL:

10.5, 32.5, 37, 53, 70, 71, 72, 73, 74, 75, 76, 76.5, 77, 101, 114, 115

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

12/02/08 AMEND: 2940.6, Appendix C

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

11/19/08 AMEND: 1658(p)

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

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

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

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

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

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

Title 9

02/06/09 ADOPT: 4000, 4005

01/07/09 AMEND: 7400

11/18/08 ADOPT: 9550

Title 10

03/27/09 AMEND: 2498.6 (Exhibit C)

03/25/09 AMEND: 2661.3, 2661.4, 2662.1

03/23/09 AMEND: 2498.6

02/26/09 AMEND: 2699.6805

02/23/09 AMEND: 2318.6, 2353.1

02/23/09 AMEND: 2498.6

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

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

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

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

01/12/09 AMEND: 2498.5

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

12/02/08 AMEND: 2652.1

11/12/08 AMEND: 2498.4.9

11/12/08 AMEND: 2498.4.9

11/07/08 AMEND: 2498.5

Title 11

04/01/09 ADOPT: 9050, 9051, 9052, 9053, 9054, 9055 REPEAL: 1002

04/01/09 ADOPT: 9056, 9057, 9058, 9059, 9060 AMEND: 1018

03/30/09 ADOPT: 30.15

03/03/09 AMEND: 9070, 9077

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

02/03/09 ADOPT: 64.7

01/28/09 AMEND: 51.19

12/31/08 AMEND: 1005(d)

12/02/08 AMEND: 1005, 1007, 1008

11/07/08 AMEND: 1005, 1081

Title 12

02/26/09 ADOPT: 800, 800.1, 801, 802, 803, 804, 805, 806, 807, 808, 809

01/27/09 AMEND: 501

01/12/09 AMEND: 503

Title 13

03/18/09 ADOPT: 1962.1 AMEND: 1900, 1962, 1962.1 renumber as 1962.2
03/10/09 ADOPT: 1160.6 AMEND: 1160.3, 1160.4
02/26/09 ADOPT: 29.00
02/05/09 ADOPT: 20.05 AMEND: 20.04
02/05/09 AMEND: 25.08
01/20/09 AMEND: 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2708, 2709, 2710
12/22/08 AMEND: 553.70
12/05/08 AMEND: 110.04
12/01/08 AMEND: 1956.8
11/24/08 ADOPT: 2027

Title 13, 17

12/03/08 AMEND: 2299.3, 93118.3

Title 14

04/08/09 AMEND: 2245, 2320
03/18/09 AMEND: 632
03/16/09 ADOPT: 20004.1, 20009.1, 20009.2 AMEND: 20000, 20001, 20002, 20003, 20004, 20005, 20008, 20009
03/04/09 AMEND: 2000, 2090, 2516, 2530, 2620, 2630, 2660, 2670, 2720, 2730
03/03/09 ADOPT: 27.32 AMEND: 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58
03/02/09 AMEND: 791.7(a), Form FG OSPR–1924, Form FG OSPR–1925, Form FG OSPR–1972
02/25/09 AMEND: 1038, 1052
02/23/09 ADOPT: 749.4
01/28/09 AMEND: 701
01/13/09 AMEND: 300
01/12/09 ADOPT: 4970.00, 4970.01, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06.1, 4970.06.2, 4970.06.3, 4970.07, 4970.07.1, 4970.07.2, 4970.08, 4970.09, 4970.10, 4970.10.1, 4970.10.2, 4970.10.3, 4970.10.4, 4970.11, 4970.12, 4970.13, 4970.14, 4970.14.1, 4970.14.2, 4970.14.3, 4970.15, 4970.15.1, 4970.15.2, 4970.15.3, 4970.15.4, 4970.16, 4970.17, 4970.18, 4970.19, 4970.19.1, 4970.19.2, 4970.19.3, 4970.19.4, 4970.19.5, 4970.19.6, 4970.20, 4970.21, 4970.22, 4970.23, 4970.23.1, 4970.23.2, 4970.24, 4970.25.1, 4970.25.2, 4970.25.3, 4970.26 REPEAL: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71, 4970.72
12/31/08 AMEND: 957 REPEAL: 957.11, 957.12
12/29/08 AMEND: 243, 245 REPEAL: 241
12/17/08 ADOPT: 1032 AMEND: 895, 895.1, 929.1, 949.1, 969.1,1032.7, 1032.9, 1037.3, 1054.5, 1055.3, 1056.3, 1090.1, 1090.2, 1090.4, 1090.6, 1090.17, 1092.03, 1092.04, 1092.06, 1092.18, 1104.3 REPEAL: 1032
12/11/08 AMEND: Division 5, Appendix M
12/10/08 ADOPT: 120.1, 120.2 AMEND: 120, 120.3 REPEAL: 120.01
11/26/08 AMEND: 1257
11/24/08 AMEND: 749.3
11/13/08 ADOPT: 18660.40
11/07/08 AMEND: 895.1, 919.9, 939.9
11/07/08 AMEND: 1038(i)
11/07/08 AMEND: 895.1, 898, 914.8, 916, 916.2, 916.9, 916.11, 916.12, 923.3, 923.9, 934.8, 936, 936.2, 936.9, 936.11, 936.12, 943.3, 943.9, 954.8, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963

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04/02/09 ADOPT: 3334 AMEND: 3000
02/05/09 ADOPT: 3077, 3077.1, 3077.2, 3077.3, 3077.4 AMEND: 3000, 3043.6, 3375
02/02/09 ADOPT: 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1856, 1857, 1860, 1866, 1867, 1868, 1870, 1872, 1876, 1878, 1888, 1890, 1892
12/19/08 REPEAL: 4826, 4985
12/16/08 ADOPT: 3099
12/15/08 ADOPT: 3334 AMEND: 3000
12/11/08 AMEND: 3323
12/09/08 AMEND: 3000, 3001, 3041.3, 3075.3, 3294.5, 3356, 3369.5, 3370, 3376.1, 3382, 3383, 3393, 3401, 3402, 3405, 3406, 3407, 3408, 3410, 3411, 3414, 3430, 3432, 3433
11/26/08 ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792

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04/03/09 AMEND: 3830
03/24/09 ADOPT: 1398.12
03/20/09 AMEND: 1937, 1950, 1950.5, 1953
03/11/09 AMEND: 1715, 1784, Form 17M–13, Form 17M–14, Form 17M–26

03/04/09 AMEND: 4181
03/04/09 AMEND: 1351.5, 1352
03/04/09 ADOPT: 389
03/04/09 AMEND: 998
03/04/09 AMEND: 950.2
03/03/09 AMEND: 305 REPEAL: 306.1
02/11/09 AMEND: 950.3
02/03/09 ADOPT: 2068.7
01/28/09 AMEND: 950.2
01/28/09 ADOPT: 1832.5
01/09/09 ADOPT: 2504.1, 2517.5, 2564.1, 2575.5 AMEND: 2537, 2540.6, 2590, 2592.6
12/30/08 AMEND: 1387
12/18/08 AMEND: 3340.28, 3340.29
12/17/08 AMEND: 4170
12/11/08 AMEND: 1336
12/09/08 AMEND: 1399.25 REPEAL: 1399.26
11/24/08 AMEND: 1419, 1419.1, 1419.3

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03/11/09 AMEND: 93119
02/03/09 ADOPT: 100701
01/29/09 ADOPT: 33060 AMEND: 33007, 33010, 33020, 33025, 33030, 33040
01/28/09 AMEND: 950.2
01/28/09 ADOPT: 1832.5
12/30/08 AMEND: 30195.1
12/26/08 ADOPT: 100501
12/02/08 ADOPT: 95100, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, 95112, 95113, 95114, 95115, 95125, 95130, 95131, 95132, 95133

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03/19/09 AMEND: 23701, 23772
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11/14/08 AMEND: 2900, 2910, 2915, 2920, 2930, 2940, 2945, 2950, 2955, 2960, 2965, 2966, 2970, 2980

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11/26/08 AMEND: 6633.2

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03/12/09 AMEND: 51517
03/03/09 ADOPT: 63000.48, 63051, 63052 AMEND: 63000.16, 63000.25, 63000.43, 63000.46, 63000.66, 63000.68, 63000.77, 63010, 63011, 63013, 63020, 63021, 63029, 63030, 63040, 63050, 63055 REPEAL: 63051
02/04/09 ADOPT: 66260.201, 66260.202, 66273.7, 66273.33.5, 66273.41, 66273.70, 66273.71, 66273.72, 66273.73, 66273.74, 66273.75, 66273.76, and 66273.77 AMEND: 66260.10, 66260.23, 66261.4, 66261.9, 66261.50, appendix X of chapter 11, 66264.1, 66265.1, 66273.1, 66273.2, 66273.3, 66273.4, 66273.5, 66273.6, 66273.8, 66273.9, 66273.30, 66273.31, 66273.32, 66273.33, 66273.34, 66273.35, 66273.36, 66273.37, 66273.38, 66273.39, 66273.40, 66273.51, 66273.52, 66273.53, 66273.54, 66273.55, 66273.56, 66273.60, 66273.61, 66273.62, and 67100.2 REPEAL: 6 6273.7.1, 66273.7.2, 66273.7.3, 66273.7.4, 66273.7.5, 66273.7.6, 66273.7.7, 66273.7.8, 66273.7.9, 66273.7.10, 66273.10, 66273.11, 66273.12, 66273.13, 66273.14, 66273.15, 66273.16, 66273.17, 66273.18, 66273.19, 66273.20, 66273.21, 66273.41, 66273.70, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, and 66273.90 Articles Affected: Amend article 3; Adopt new article 4; Renumber old article 4 to article 5; Renumberold article 5 to article 6; Repeal old article 6; Repeal old article 7 and adopt newarticle 7.
01/29/09 AMEND: 97174
01/28/09 AMEND: 41508, 41509, 41510, 41511, 41512, 41514, 41515, 41515.1, 41515.2, 41516, 41516.1, 41516.3, 41517, 41517.3, 41517.5, 41517.7, 41518, 41518.2, 41518.3, 41518.4, 41518.5, 41518.7, 41518.8, 41518.9, 41519, 41610, 41611, 41670, 41671, 41672, 41700, 41800, 41811, 41815, 41819, 41823, 41827, 41831, 41832, 41835, 41839, 41844, 41848, 41852, 41856, 41864, 41866, 41868, 41872, 41900, 42000, 42050, 42075, 42110, 42115, 42120, 42125, 42130, 42131, 42132, 42140, 42160, 42180, 42305, 42320, 42321, 42326, 42330, 42400, 42401, 42402, 42403, 42404, 42405, 42406, 42407, 42420, 42700, 42701, 42702,

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01/23/09 AMEND: 51000.6.1, 51000.8, 51000.16, 51000.20, 51000.20.1, 51000.24.1, 51000.25.2, 51000.30, 51000.50, 51000.51, 51000.52, 51000.53, 51000.55, 51000.60

01/22/09 ADOPT: 72038, 72077.1, 72329.1 AMEND: 72077, 72329

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11/20/08 AMEND: 3254(i)–2

11/13/08 ADOPT: 97234, 97267 AMEND: 97215, 97225, 97226, 97227, 97241, 97244, 97248

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01/05/09 AMEND: 27001

01/05/09 AMEND: 27000

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