



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

ARTICLE 22 Citrus

(Notice published May 2, 2008)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend, Title 3, Article 22, Section 1430.43 of the California Code of Regulations (CCR). The Department also proposes to add Section 1430.142.

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 comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on June 16, 2008. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Rick S. Jensen, Chief
 Inspection and Compliance 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, pursuant to the authority vested by Sections 407, 42681, 42682, and 42684, Food and Agri-

cultural Code, and to implement, interpret, or make specific Section 42941, Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Sections 407, 42681, 42682, and 42684 of the Food and Agriculture Code allow the Department to establish, modify, or rescind regulations to carry out the provisions of Citrus Program legislature. Such regulations are to secure uniformity of enforcement and maintenance of minimum standards.

Sections 42682 and 42684 further authorize the Department to consider regulatory changes submitted by parties with substantial interest in the industry. California Citrus Mutual petitioned the regulatory changes explained as follows:

Section 1430.43 gives enforcement officers the ability to take a representative sample of oranges, which may have been damaged by freezing conditions. This damage may not show up for several days, which is why the officer must "hold" the oranges for later inspection. The regulation currently allows all citrus other than oranges that may be damaged by freeze to be shipped without a sample taken for later inspection. The specific purpose of amending Section 1430.43 is to allow enforcing officers to take representative samples of all citrus.

Proposed Section 1430.142 will give the Secretary the ability to lower or raise the assessment rate within the legislative authority provided by the Food and Agricultural Code Section 48002. The necessity of this proposal is to provide the industry with the flexibility to quickly replenish their reserve fund used solely for inspections during freeze years. If there were to be a freeze in consecutive years, industry would not have the ability to quickly raise assessments to pay for the necessary inspections. Current changes to the assessment rate require a lengthy legislative amendment. By creating this regulation, industry may efficiently regulate and maintain a level reserve.

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 nondiscretionary cost or savings imposed on local agencies: None.

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

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

Cost impacts on a representative private person or 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 to the regulations would result in no added costs to small businesses affected by these proposed changes. The proposed changes allow the assessments to be commensurate with program costs, not to exceed the maximum assessment already set by Food and Agriculture Code, Section 48002(a). The proposed changes create a level playing field for all citrus freeze inspections.

CONSIDERATION OF ALTERNATIVES

The Department has initially determined 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 these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Rick S. Jensen, Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

The backup contact person for these inquiries is:

Amadou Ba, Program Supervisor
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Susan Shelton 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, 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, and the petition received from California Citrus Mutual. Copies may be obtained by contacting Susan Shelton at the 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 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. Please send requests for copies of any modified regulations to the attention of Susan Shelton at the 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 Ms. Shelton 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 strikethrough can be accessed through our website at: www.cdfr.ca.gov/is/regulations.html

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **June 19, 2008**, at 10:00 a.m. in the Harris State Building Auditorium, 1515 Clay Street, Oakland, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **June 19, 2008**, following the Public Meeting, in the Harris State Building Auditorium, 1515 Clay Street, Oakland, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **June 19, 2008**, following the Public Hearing, in the Harris State Building Auditorium, 1515 Clay Street, Oakland, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **June 19, 2008**,

1. **TITLE 8. GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 69
Section 4530
Bakery Ovens—Inspections

Descriptions of the proposed changes are as follows:

1. **TITLE 8. GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 69
Section 4530
Bakery Ovens—Inspections

INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as the result of a Request for New or Change in Existing Safety Order (Form 9), submitted by the Division of Occupational Safety and Health (Division), dated August 21, 2007, to revise Section 4530(a) in the General Industry Safety Orders (GISO). The Division stated that Title 8, Section 4530, bakery oven standards, does not contain an oven inspection/maintenance requirement that is contained in 29 CFR 1910.263(l)(9)(ii). This federal requirement stipulates that bakery oven safety devices are to be inspected by the employer at intervals not less than two times per month and by the oven manufacturer at least once a year. California Labor Code Section 142.3(a)(2) requires the Board to adopt standards that are at least as effective as those promulgated by federal OSHA.

Existing Section 4530 contains general bakery oven requirements and requirements for fired and recirculating ovens. Existing Section 4530(a) contains general requirements for bakery ovens that include requirements for safe oven placement, oven safety devices, and gas oven lock-out requirements. Currently, Section 4530 does not contain requirements for periodic inspections of the oven's safety devices as mandated by the aforementioned Federal OSHA requirements. Board staff agrees with the Division that Title 8, Section 4530 needs to be amended to ensure that Title 8 standards are at least as effective as the counterpart federal regulation for this issue.

Therefore, this proposal consists of language derived from 29 CFR 1910.263(l)(9)(ii) to address this issue. Board staff's proposal deviates somewhat from the Division's recommended language and the federal standard by requiring that a qualified person, a term defined in GISO, Section 3207, conduct the monthly inspections rather than an "especially appointed, properly instructed employee," which is language unfamiliar to Title 8 and California employers. The term "qualified person," as defined in Section 3207, is well understood. Board staff believes this deviation is justified since the term "qualified person" is equivalent to "especially appointed, properly instructed employee". Section 3207 defines "Qualified Person, Attendant or Operator" as a person designated by the employer who by reason of his training and experience has demonstrated his ability to safely perform his duties and, where required, is properly licensed in accordance with federal, state, or local laws and regulations.

Section 4530. Bakery Ovens.

Existing Section 4530 contains standards addressing general bakery oven requirements that include safety devices for fired and recirculating bakery ovens.

An amendment is proposed to add language in subsection (a), as new subsection (a)(2), to require that all oven safety devices be inspected at least two times per month by a qualified person and at least once a year by a representative from the bakery oven manufacturer.

This proposal adds requirements substantially similar to the oven inspection requirements of 29 CFR 1910.263(l)(9)(ii). The current California standard has no inspection requirements. Therefore, this proposal will render the inspection requirements for bakery ovens in Section 4530 "at least as effective as" 29 CFR, Section 1910.263(l)(9)(ii). The proposal will provide employees with the added safety that is likely to result from a regimen of inspections.

In addition, existing subsections (a)(2) through (a)(4) are proposed to be renumbered to include new subsection (a)(2). Furthermore, an editorial revision is proposed to renumbered subsection (a)(5) to replace the term "men" with "a person" to eliminate gender specific language. These revisions are editorial in nature and will have no effect on the regulated public.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

With regard to the bi-monthly inspection requirement, there would be no significant cost impact to State agencies that operate bakery ovens, as these inspections would generally be conducted by the employees currently maintaining the ovens. There will be an additional cost to State agencies that operate bakery ovens related to the annual inspections conducted by the manufacturer's representative. In conversations with manufacturers of bakery ovens, the cost of the annual inspection generally ranges from \$80 to \$160 depending on the type of the oven and travel distance to the oven site. Employers who operate bakery ovens will typically enter into a service contract with the manufacturer to conduct periodic inspections as required by the proposal. Bakery ovens are expensive pieces of equipment ranging in price from tens of thousands of dollars for small independent bakeries to millions of dollars for large scale commercial bakeries. Besides the cost of the ovens, the cost to operate these ovens in terms of energy consumption can be significant. Proportionally, the cost of the annual inspection is insignificant compared to these other costs. The required inspections are intended to prevent a catastrophic event such as an oven fire

which could result in serious employee injury or death and major property loss, not to mention loss of production time.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. (Also, see Costs or Savings to State Agencies.)

Cost Impact on 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.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and

entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All employers — state, local and private — will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment will affect small business as defined in Government Code Section 11342.610 with respect to the annual inspection requirement. However, this impact is proportionally insignificant. (See Costs or Savings to State Agencies.)

ASSESSMENT

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

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board 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 as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at

the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than June 13, 2008. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on June 19, 2008, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 16. DENTAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Dental Board of California, pursuant to the authority vested in it by section 1614 of the Business and Professions Code, is proposing to take the action described in the Informative Digest. Any person interested may submit written comments relevant to the action proposed by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice. A written comment period has been established commencing on **May 2, 2008** and closing on **June 16, 2008 at 5:00 p.m.** No public hearing is scheduled for this rulemaking, however, any interested person or his or her duly authorized representa-

tive may request a public hearing no later than 15 days prior to the close of the written comment period.

Authority and Reference: Pursuant to the authority vested by Section 1614 of the Business and Professions Code, and to implement, interpret or make specific Sections 1634.1, 1634.2 and 1724 of said Code, the Dental Board of California is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Title 16 of the California Code of Regulations, Sections 1021, and add Sections 1028.2, 1028.3, 1028.4 and 1028.5

Existing law authorizes the board to regulate the issuance of dental licenses and specifies the requirements for licensure. These regulations will amend current regulations to allow the Board to issue a dental license to applicants who have completed specified national examination requirements and the California law and ethics exam, meet certain education requirements, and have completed a clinically based advanced education program in general dentistry or an advanced educational program in general practice residency. The bill specified that satisfactory evidence of completion of the required program be certified on a certification of clinical residency program completion form approved by the board. This bill was passed by the Legislature and signed on September 30, 2006, making it effective on January 1, 2007. The bill required that the board work together with the Department of Consumer Affairs' Office of Examination Resources (OER) to ensure that the competencies contained in the certification of clinical residency program completion form are aligned with the board's current occupational analysis. The report was completed on November 1, 2007. This has resulted in a need for emergency regulations to fully implement SB 683 to allow application, collection of fees, and establish the processes necessary to allow applicants to submit their statutory requirements and thereby be issued a California dental license. The bill included a provision that emergency regulations be adopted by January 1, 2008. Emergency regulations were adopted on February 1, 2008.

At its meeting on March 7, 2008, the board adopted additional modifications to the text to specify exactly what applicants must provide for proof of graduation and proof that they have not failed the WREB clinical examination within the last five years, as required by Section 1634.1 of the Business and Professions Code. The board also modified application form Residency-1, Application for Determination of Licensure Eligibility (Residency) to require that an applicant disclose any convictions that were expunged, and to eliminate

the penalty of automatic forfeiture of the license. The board's address was also updated.

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 determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

In FY 2005/06, as reported in the Department of Consumer Affairs' Annual Survey, the total number of new licenses issued to dentists was 867. Assuming that 75% of new licensees will choose to work in or establish new small businesses, the passage of this regulation would have an impact on, or create approximately 650 small businesses.

Impact on Jobs/New Businesses:

The Dental Board of California has determined that this regulatory proposal will potentially increase the number of small businesses. Assuming that 50% of new licensees licensed according to this process open an independent practice, newly licensed dentists could potentially add up to 433 new businesses in California based upon the number of new licensees reported in FY 2005-06. These businesses would employ dental assistants, dental hygienists, and front office staff to create up to 2,000 new jobs.

Cost Impact on Representative Private Person or Business:

The Dental Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Applicants for licensure through completion of a residency program would pay the same application and licensing fees as any other applicant.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Dental Board of California has determined that the proposed regulations may affect small businesses if those small businesses are dental offices who will have an increased number of licensed dentists to employ. Dentists who become licensed may also open new dental offices, creating new small businesses employing dental assistants, dental hygienists and other staff.

CONSIDERATION OF ALTERNATIVES

The Dental Board of California 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 in writing relevant to the above determinations during the above-mentioned comment period. If a public hearing is held, oral comments may be presented at the hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Dental Board of California 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 board's website at www.dbc.ca.gov or upon request from the Dental Board of California at 2005 Evergreen Street, Suite 1550, 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 rule-making action may be addressed to:

Name: Donna Kantner
 Address: 2005 Evergreen Street, Suite 1550
 Sacramento, CA 95815
 Telephone No.: (916) 263-2211
 Fax No.: (916) 263-2140
 E-Mail Address: Donna_Kantner@dca.ca.gov

The backup contact person is:

Name: Richard L. Wallinder, Executive Officer
 Address: 2005 Evergreen Street, Suite 1550
 Sacramento, CA 95815
 Telephone No.: (916) 263-2300
 Fax No.: (916) 263-2140
 E-Mail Address: Rick_Wallinder@dca.ca.gov

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

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication May 2, 2008
 CESA CONSISTENCY DETERMINATION FOR
 Clear Creek Treatment Plant Project
 Shasta County
 2080-2008-005-01

The Department of Fish and Game (“Department”) received notice on April 17, 2008 that the City of Redding proposes to rely on consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (“CESA”). The project consists of the expansion and upgrade of the Clear Creek Waste Water Treatment Plant located at Sacramento River Mile (RM) 288.8 in Redding, Shasta County (“Project”). The Project will expand the treatment plant capacity to accommodate anticipated growth outlined in the general Plan and anticipated future wastewater flows out of the year 2025.

Project activities will include in-water work which will impact listed fish species and will necessitate removal of riparian vegetation. Project activities are like-

ly to result in temporary and permanent impacts to Chinook salmon winter-run (*Oncorhynchus tshawyscha*) and Chinook salmon spring-run (*Oncorhynchus tshawyscha*). Construction-related impacts to juvenile salmon include: exposure to noise and high sound pressure levels associated with pile driving in the river channel, increased turbidity, bank erosion, and suspended sediments, disturbance of shaded riverine aquatic habitat, loss of potential spawning habitat, potential spill of hazardous materials in the Sacramento River, and impaired fish passage. Potential operations-related impacts to salmon include increased treated effluent discharge effects, toxic pollutants, and chlorine.

The National Marine Fisheries Service (NMFS) issued a “no jeopardy” federal biological opinion (2007/05277)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers (Corps) on March 26, 2008 which considered the effects of the project on the Federally and State endangered Chinook salmon winter-run and Federally and State threatened spring-run Chinook salmon. Pursuant to California Fish and Game Code Section 2080.1, the City of Redding is requesting a determination that the BO and ITS are consistent with the requirements of CESA. If the Department determines that the BO and ITS are consistent with CESA, the City of Redding will not be required to obtain a separate permit under CESA (Fish and Game Code Section 2081(b)) for the proposed project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication May 2, 2008
 CESA CONSISTENCY DETERMINATION
 REQUEST FOR
 Colusa Generating Station Project
 Colusa County
 2080-2008-004-02

The Department of Fish and Game (Department) received a notice on April 16, 2008 that the Pacific Gas and Electric (PG&E) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the construction and commission of a nominal 660-megawatt combined-cycle power plant on 31 acres of a 100-acre site adjacent to Delevan Road in Colusa County, CA (Project). The Project will entail a 22.5-acre power generation facility and stormwater detention basin, a new 8.2 acre switchyard, a 43-acre construction area, a new 1,800-foot-long electrical interconnection to PG&E’s 230 kV Cottonwood to Vaca-Dixon lines adjacent to the site, a new 1,500-foot-long

natural gas pipeline from the Tehama-Colusa Canal, and a 2,500-foot-long access road extending from the existing road leading to the PG&E Compressor Station. Project activities are likely to result in permanent impacts to approximately 1.184 acres of habitat suitable for the giant garter snake (*Thamnophis gigas*), including 0.684 acres of aquatic habitat and .5 acres of upland habitat. Project activities are also likely to result in temporary impacts to 2.7 acres of giant garter snake habitat, including 1.83 acres of aquatic habitat and 0.87 acres of upland habitat.

The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal biological opinion (81420-2008-F-0836-1)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers (Corps) on March 14, 2008 which considered the effects of the project on the Federally threatened and State threatened giant garter snake. Pursuant to California Fish and Game Code Section 2080.1, PG&E is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, PG&E will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

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

**NOTICE OF INTENT TO LIST CHEMICAL
May 2, 2008**

The Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65), codified at Health and Safety Code section 25249.5 et seq., provides two primary mechanisms for administratively listing chemicals that are known to the State to cause cancer or reproductive toxicity (Health and Safety Code section 25249.8(b)). A chemical may be listed under Proposition 65 when a body considered to be authorita-

tive by the state’s qualified experts has formally identified the chemical as causing cancer or reproductive toxicity. The following entities are identified as authoritative bodies for purposes of Proposition 65, as it pertains to chemicals known to cause cancer: the U.S. Environmental Protection Agency, the International Agency for Research on Cancer, the U.S. Food and Drug Administration, the National Institute for Occupational Safety and Health, and the National Toxicology Program. The criteria for listing chemicals through the authoritative bodies mechanism are set forth in Title 22, California Code of Regulations, section 12306.

As the lead agency for the implementation of Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency intends to list the chemicals identified in the table below as known to the State to cause cancer, pursuant to this administrative mechanism as provided in Health and Safety Code section 25249.8(b) and Title 22, Cal. Code of Regs., section 12306.

Relevant information related to the possible listing of the identified chemicals was requested in a notice published in the *California Regulatory Notice Register* on February 15, 2008 (Register 2008, No. 7-Z). No public comments were received. OEHHA has determined that *benthiavalicarb-isopropyl*, *mepanipyrim*, *pirimicarb* and *resmethrin* meet the criteria for listing under Title 22, Cal. Code of Regs., section 12306, and therefore OEHHA is issuing this notice of intent to list these chemicals under Proposition 65. A document providing more detail on the basis for the listing of these chemicals can be obtained from OEHHA’s Proposition 65 Implementation Office at the address and telephone number indicated below, or from the OEHHA Web site at: <http://www.oehha.ca.gov/>. Anyone wishing to provide comments as to whether the listing of *benthiavalicarb-isopropyl*, *mepanipyrim*, *pirimicarb* or *resmethrin* meets the criteria for listing provided in Title 22, Cal. Code of Regs., section 12306 should send written comments in triplicate, along with any supporting documentation, by mail or by fax to:

Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
Street Address: 1001 I Street
Sacramento, California 95814
Mailing Address: P.O. Box 4010
Sacramento, California 95812-4010
Fax No.: (916) 323-8803
Telephone: (916) 445-6900

Comments may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: [665](mailto:coshi-</u></p>
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ta@oehha.ca.gov. In order to be considered, comments must be received at OEHHA by 5:00 p.m. on Monday, June 2, 2008.

The following chemicals have been determined by OEHHA to meet the criteria set forth in Title 22, Cal. Code of Regs., section 12306 for listing as causing cancer under the authoritative bodies mechanism:

Chemical	CAS No.	Reference
Benthiavalicarb–isopropyl ¹	177406–68–7	U.S. EPA (2005a)
Mepanipirim ¹	110235–47–7	U.S. EPA (2004)
Pirimicarb	23103–98–02	U.S. EPA (2005b)
Resmethrin	10453–86–8	U.S. EPA (2005c)

¹Not currently registered in the United States.

REFERENCE

U.S. Environmental Protection Agency (U.S. EPA, 2004). *Cancer Assessment Document. Evaluation of the Carcinogenic Potential of Mepanipirim*. Cancer Assessment Review Committee, Health Effects Division, Office of Pesticide Programs. April 20, 2004.

U.S. Environmental Protection Agency (U.S. EPA, 2005a). *Cancer Assessment Document. Evaluation of the Carcinogenic Potential of Benthiavalicarb–isopropyl*. Cancer Assessment Review Committee, Health Effects Division, Office of Pesticide Programs. October 18, 2005.

U.S. Environmental Protection Agency (U.S. EPA, 2005b). *Cancer Assessment Document. Evaluation of the Carcinogenic Potential of Pirimicarb*. Cancer Assessment Review Committee, Health Effects Division, Office of Pesticide Programs. July 13, 2005.

U.S. Environmental Protection Agency (U.S. EPA, 2005c). *Cancer Assessment Document. Evaluation of the Carcinogenic Potential of Resmethrin*. Cancer Assessment Review Committee, Health Effects Division, Office of Pesticide Programs. May 25, 2005.

RULEMAKING PETITION DECISIONS

BOARD OF PAROLE HEARINGS

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

**California Code of Regulations (CCR)
Title 15, Crime Prevention and Corrections
Division 2, Board of Parole Hearings
(Formerly Board of Prison Terms)**

Petitioner:

Martin Walters (E–86183) petition to amend title 15 CCR §§ 2402 and 2403 was submitted under Government Code section 11340.6 to the Board of Parole Hearings (Board). This response will be published in the California Regulatory Notice Register on **March 2, 2008**.

Authority:

Government Code § 12838.4 vests the Board with all the: powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the former Board of Prison Terms and Narcotic Addict Evaluation Authority.

Penal Code § 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code § 5076.2 authorizes the Board to promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

Contact Person:

Please direct any inquiries regarding this action to Marc D. Remis, Senior Staff Counsel, Board of Parole Hearing, by mail at P.O. Box 4036, Sacramento, CA 95812–4036.

Availability of Petition:

The petition for amendment of the regulations is available upon request directed to the Board’s contact person.

Summary of Petition:

1.: Petitioner requests that the Board amend Title 15 CCR § 2402 Determination of Suitability:

Petitioner contends that the Board is required by the penal code to meet with life inmates and shall normally set a parole release date after holding the required suitability hearing. He cites several cases and policies from 1975–1980 supporting his position that suitability determination is not a pre–requisite before the board sets a base term for life inmates. He claims the practice of setting a base term after suitability is found leads in some cases to inmates being over–incarcerated past the time they should have been released once credits are subtracted from the base term assessed. The petitioner recommends that the first sentence in § 2402(a) be stricken: ~~“The panel shall first determine whether the life prisoner is suitable for release on parole.”~~

The Board denies the Petitioner’s recommendation to amend § 2402 since the authorities petitioner relies

upon are out of date. The California Supreme Court case *In re Dannenberg* (2005) 34 Cal. 4th 1061, 23 Cal. Rptr. 3d 417, clarified prior law and held that the statutory language requiring that the Board set release dates does not require that the Board set the base term before determining suitability. Therefore, existing regulations are consistent with applicable law.

2. Petitioner requests that the Board amend title 15 CCR § 2403 Base Term:

Petitioner contends that the Board is required by the penal code to meet with life inmates and shall normally set a parole release date after holding the required suitability hearing. For reasons similar to those stated above, petitioner recommends striking a portion of the first sentence in § 2403(a), as follows: “The panel shall set a base term for each life prisoner who is found suitable for parole.”

The Board also denies the Petitioner’s recommendation to amend § 2403 for the reasons stated above. Existing regulations are already consistent with applicable law.

The petition is therefore DENIED.

/s/

MARTIN HOSHINO

Executive Officer

Board of Parole Hearings

cc: Petitioner Martin Walters (E86183)
 Marc D. Remis, Senior Staff Counsel, Parole Hearings Team
 Donald J. Currier, Assistant Secretary Office for Legal Affairs
 D. L. Runnels, Undersecretary, Operations
 File

Enclosures

MDR/alc

DEPARTMENT OF MANAGED HEALTH CARE

ACTION: Notice of Decision on Request for Reconsideration of Determination on Petition to Adopt Regulations

SUBJECT: Petition by Salvatore D’Anna requesting adoption of regulations re HIPAA

PETITIONER

Salvatore D’Anna’s request for reconsideration (Request) of the decision by the Department of Managed Health Care (Department) regarding the petition for rulemaking action (Petition) was received by the Department on March 25, 2008. Pursuant to the require-

ments of Government Code section 11340.7, the Department provides this response to the request for reconsideration.

CONTACT PERSON

Inquiries concerning this decision may be directed to Emilie Alvarez, Regulations Coordinator, Department of Managed Health Care, Office of Legal Services, by mail at: 980 9th Street, Suite 500, Sacramento, CA 95814, by telephone at: (916) 322-6727, or by e-mail at: ealvarez@dmhc.ca.gov or regulations@dmhc.ca.gov.

AVAILABILITY OF PETITION

The petition for the adoption of regulations is available upon request directed to the Department’s Contact Person.

AUTHORITY

Under authority established in the Knox-Keene Act¹, including but not limited to sections 1343, 1344 and 1346, the Department of Managed Health Care (Department) may adopt, amend and rescind regulations as necessary to carry out the provisions of the Act.

DETERMINATION ON THE REQUEST FOR RECONSIDERATION

Introduction

On February 25, 2008, Salvatore D’Anna submitted a Petition requesting that the Department initiate rulemaking action to adopt a regulation “to require disciplinary action against any health plan that violates the Privacy Protections of [HIPAA].” The Health Insurance Portability and Accountability Act (HIPAA) is federal law that establishes standards for ensuring the confidentiality of personal medical information.

¹Health and Safety Code section 1340 *et seq.* References herein to the “Act” are to the sections of the Knox-Keene Act.

Pursuant to Government Code section 11340.7, and for the reasons stated in its decision issued March 24, 2008, the Department denied the Petition. As noted above, on March 25, 2008, Mr. D’Anna requested reconsideration. After considering the Request for Reconsideration, the Department has determined to affirm its denial of the Petition.

Determination

The Request for Reconsideration states that the Department’s decision on the Petition should:

“. . .take into account that the Legislature (through the California Health Insurance Portability and Accountability Implementation Act, Health & Saf.C. § 130300 et seq.) has directed the California Health and Human Services Agency to determine (by January 1, 2008) which state laws are preempted by HIPAA (pursuant to 45 CFR § 160.2043), at which time those provisions will be repealed. (See Health & Saf.C., § 130311.5).”

The Department has determined that the preemption analysis performed by the California Office of HIPAA Implementation (OHI) does not warrant modification of the determination on the Petition.

Section 130311.5 of the Health and Safety Code (hereinafter Section 130311.5) provides:

(a) The office shall assume statewide leadership, coordination, direction, and oversight responsibilities for determining which provisions of state law concerning personal medical information are preempted by HIPAA pursuant to Section 160.203 of Title 45 of the Code of Federal Regulations. State entities impacted by HIPAA shall, at the direction of the office, do the following:

- (1) Assist in determining which state laws concerning personal medical information are preempted by HIPAA.
- (2) Conform to all determinations made by [OHI] concerning HIPAA preemption issues.

(b) Any provision of state law concerning personal medical information that is determined by [OHI] to be preempted by HIPAA pursuant to Section 160.203 of Title 45 of the Code of Federal Regulations, shall not be applicable to the extent of that preemption. The remainder of the provisions of state law concerning personal medical information shall remain in full force and effect.

The OHI (established in the Health and Human Services Agency) has posted the preemption analysis required by Section 130311.5 on the OHI web site at: http://www.ohi.ca.gov/state/calohi/ohiGeneral.jsp?sCat=/Nav/Legal%20Issues#legal_completed_preemption_analyses_of_state_privacy_laws

The OHI preemption analysis of Civil Code section 56.10 is posted to the OHI web site at: http://www.ohi.ca.gov/calohi/docs/CMIA_PA_05_update.doc

The OHI preemption analysis of selected provisions of the Knox–Keene Act is posted to the OHI web site at: http://www.ohi.ca.gov/calohi/docs/10.17.05_knox.keene_preemption_analysis.doc

The OHI preemption analysis of the Knox–Keene Act does not identify for preemption Section 1386, subdivision (b), of the Health and Safety Code (hereinafter Section 1386 of the Knox–Keene Act), which requires health plans to comply with the requirements of Section 56.10 of the Civil Code. If one or more requirements of Section 56.10 of the Civil Code are preempted by HIPAA, then pursuant to Section 1386 of the Knox–Keene Act, health plans must still comply with the requirements that are not preempted, and all applicable requirements of HIPAA.

As explained in the Department’s determination on the Petition, the Department does not promulgate regulations to clarify provisions of law that: are outside the Knox–Keene Act; are unnecessary to clarify, implement or make specific a statute within the Knox–Keene Act; or are duplicative of other law. Accordingly, the Department’s previously issued decision on the Petition is not modified.

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**ACCEPTANCE OF PETITION TO REVIEW
ALLEGED UNDERGROUND REGULATIONS**

**(Pursuant to title 1, section 270, of the
California Code of Regulations)**

Agency being challenged:

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Kathleen Eddy, Senior Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Michael St. Martin, CO–000414–3, RRU–7
P.O. BOX 5003
Coalinga, CA 93210

Agency contact:

Anne Nguyen
 Dept. of Mental Health
 1600 9th Street, Ste. 151
 Sacramento, CA 95814

Please note the following timelines:

Publication of Petition in Notice Register: May 2, 2008

Deadline for Public Comments: June 2, 2008

Deadline for Agency Response: June 16, 2008

Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response

Deadline for OAL Decision: September 2, 2008

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 MENTAL HEALTH

**PETITION TO THE OFFICE OF
 ADMINISTRATIVE LAW**

RE: **ALLEGED UNDERGROUND
 REGULATION**

FROM: MICHAEL GEORGE ST.MARTIN,
 Petitioner

DATE: March 12, 2008

This is a computer generated petition based on the optional OAL form supplying the information required by Title 1, California Code of Regulations, '280, for a petition challenging an alleged underground regulation.

1. Identifying Information: Petitioner

Your Name: **MICHAEL GEORGE
 ST.MARTIN
 CO-000414-3, RRU-7**

Your Address: **P.O. Box 5003, Coalinga, CA
 93210**

Your Telephone
 Number: **(559) 934-0391 or (559) 934-0392**

Your E-Mail
 (if you have one): michaelst.martin@hotmail.com

**2. State Agency or Department being challenged:
 California Department of Mental Health ("DMH")**

3. Provide a complete description of the purported underground regulation. Attach a written copy of it. If the purported underground regulation is found in

an agency manual, identify the specific provision of the manual alleged to comprise the underground regulation. Please be as precise as possible.

Description of alleged Underground Regulation

Petitioner alleges the ENTIRE Coalinga State Hospital ("CSH") Operation Manual is an Underground Regulation, as there is no evidence that any portion of the CSH Operation Manual has been promulgated pursuant to the Administrative Procedures Act.

By this action, Petitioner specifically alleges the section of the CSH Operation Manual known as *Administrative Directive AD-818* is an underground regulation, as there is no evidence that this administrative directive has been promulgated pursuant to the Administrative Procedures Act.

A true and correct copy of
ADMINISTRATIVE DIRECTIVE AD-818
 is attached hereto as EXHIBIT A.

4. Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation.

Administrative Directive AD-818 is applied to all persons proposed or adjudicated to be SVPs in California who are detained by the Department of Mental Health. Its existence and use are not in controversy.

Each hospital has some version of AD-818 that is applied statewide to all persons detained in Department of Mental Health facilities.

The DMH has taken the firm position that none of its Administrative Directives are regulations subject to the provisions of the APA.

Petitioner alleges that *Administrative Directive AD-818* is a regulation within the meaning of the APA.

"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. . . . (Tidewater Marine Western, Inc. v. Bradshaw, supra, 14 Cal. 4th at 571, 59 Cal.Rptr.2d 186.)" (*Morning Star Co. V. State Bd. Of Equalization* (2006), 38 Cal. 4th 324, 333, 42 Cal.Rptr.3d 47, 55)

5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code that no express statutory exemption to the requirements of the APA is applicable.

Administrative Directive AD-818
Is a Regulation Within the Meaning of the APA

Prior to implementation, or revision thereof, the Department was required to adopt *Administrative Directive AD-818*, or any revision thereof, but failed to do so, and thus, pursuant to the law the current version now being utilized is invalid and an “Underground Regulation.”

Though the Director may prescribe rules and regulations such as *Administrative Directive AD-818*, they must be promulgated and filed per Chapter 3.5 of art. 1 of Division 3 of Title 2 of the Administrative Procedures Act, government Code, section 11340 et seq. There is no evidence that DMH has ever promulgated any version of *Administrative Directive AD-818* pursuant to the APA.

Administrative Directive AD-818 is a regulation. Chapter 3.5, article 5, of the Administrative Procedure Act, Govt. Code sections 11346 et seq., governs adoption, amendment and repeal of regulations by administrative agencies known as rulemaking. Govt. Code section 11342.600 provides that:

“[A regulation is] 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.”

Syngenta Crop Protection, Inc. V. Helliker (2d Dist. 2006) 138 Cal.App. 4th 1135, 1175–77, 42 Cal.Rptr.3d 191, 221–222, quotes Tidewater Marine Western, Inc. v. Bradshaw (1996) 14 Cal. 4th 557, 59 Cal.Rptr.2d 186, which explains:

“[The APA] establishes <minimum procedural requirements=for rulemaking. ([Govt. C.] ’ 11346(a).) The agency must provide notice of the proposed action (*Id.* ’ 11346.4, 11346.5), the complete text of the proposal (’ 11346.2(a)), and an initial statement of reasons for the proposal (’ 11346.2(b)), and a final statement of reasons (’ 11346.9(a)). The agency must provide a public hearing if an interested person timely requests a hearing (’ 11346.8(a)), provide an opportunity for interested persons to submit written comments if no hearing is held (*ibid.*), and respond in writing to comments in the final statement of reasons (’ 11346.9(a)(3)). The agency must submit the entire rulemaking file to the Office of Administrative Law (’ 11347.3(c), 11342.550), which reviews the regulation for compliance with the law and other criteria and approves or disapproves the regulatory action. (’ 11349.1, 11349.3. . . .” (14 Cal. 4th 557, 59 Cal.Rptr.2d 186.)

“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 this chapter.” (Govt. Code ’ 11340.5(a).)

“A substantial failure to comply with chapter 3.5 of the APA renders the regulation invalid. § 11350(a); *Tidewater Marine Western, Inc. v. Bradshaw, supra*, 14 Cal. 4th at 576, 59 Cal.Rptr.2d 186.”

“A regulation subject to the APA thus 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.= ([Former] Govt. Code § 11342(g) [now § 11342.601].) Of course, interpretations that arise in the course of case-specific adjudication are not regulations, though they may be persuasive as precedents in similar subsequent cases . . . Similarly, agencies may provide private parties with advice letters, which are not subject to the rulemaking provisions of the APA. ([Former] Govt. Code § 11343(a)(3), 11346.1(a) [now § 11340.9(I)].) Thus, if an agency prepares a policy manual that is no more than a summary, without commentary, of the agency=s prior decisions in specific cases and its prior advice letters, the agency is not adopting regulations . . . A policy manual of this kind would of course be no more binding on the agency in subsequent agency proceedings or on the courts when reviewing agency proceedings than are the decisions and advice letters that it summarizes.”(Emphasis added.) (*Tidewater Marine Western, Inc. v. Bradshaw, supra*, 14 Cal. 4th at 571, 59 Cal.Rptr.2d 186.)”

Morning Star Co. v. State Bd. Of Equalization (2006), 38 Cal. 4th 324, 333–334, 42 Cal.Rptr.3d 47, 53–54, confirms the Syngenta/Tidewater analysis, especially that a regulation must be intended to apply generally, and that it must implement, interpret or make specific the law administered by the agency, or govern the agency=s procedure.

Administrative Directive AD-818 is a regulation. It is applied to all persons proposed or adjudicated to be SVPs in California who are detained at Coalinga State Hospital. It declares what personal property may or may not be possessed by SVPs detained at Coalinga State Hospital. Its use is mandatory. Thus the mandate of *AD-818* implements, enforces or otherwise makes specific the language of the Welfare and Institutions Code, §§ 5325, 5325.1, and Title 9, California Code of Regulations (“CCR”), §§).

**NO EXCEPTION EXCLUDES
ADMINISTRATIVE DIRECTIVE AD-818
FROM THE APA PROCEDURES.**

**A true and correct copy of
Special Order 239.02
is attached hereto as EXHIBIT B.**

Clearly inapplicable are the provisions of Govt. Code § 11340.9 excluding:

“(d) A regulation that relates only to the internal management of the state agency. . .”

“(f) A regulation that embodies the only legally tenable interpretation of a provision of law. . .”

“(I) A regulation that is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.”

Armistead v. State Personnel Bd. (1978) 22 Cal.3d 198, 204–205, 149 Cal.Rptr. 1, 4 quoting from the First Report of the Senate Interim Committee on Administrative Regulations to the 1955 Legislature, documents the necessity for strict adherence to the APA. The court found this necessary so as to prevent state agencies from avoiding obedience to the APA by denominating rules as “<policies,= <interpretations,= <instructions,= <standards,= or the like,” and by containing them “in internal organs of the agency such as manuals, memoranda, bulletins, or [directing them] to the public in the form of circulars or bulletins.”

Armistead underlined that “[R]ules that interpret and implement other rules have no legal effect unless they have been promulgated in substantial compliance with the APA” (emphasis added), thus provisions of state personnel transactions manual governing withdrawal of resignation by state employee merited no weight as agency interpretation where such provision had not been duly promulgated and published.

The Administrative Directive in question here fits the above description perfectly. Although it is referred to as “information,” it is called an “Administrative Directive,” and is replete with mandatory words such as “shall” and “will” in regard to actions to be taken. It contains mandatory language thus making it much more than simple “information,” policies, interpretations, instructions, guides, standards, or the like. Instead, it is a forbidden underground regulation which has not been adopted pursuant to the Administrative Procedures Act.

The justification for issuing AD-818 is stated in that document as, “Department of Mental Health, Special Order 239.02.” *Special Order 239.02* applies statewide to all DMH facilities. Having each DMH facility issue its own version of *Special Order 239.02* under the label of an Administrative Directive is just the sort of “avoiding obedience to the APA” that is discussed in *Armistead v. State Personnel Bd.*

**ADMINISTRATIVE DIRECTIVE AD-818
APPLIES GENERALLY TO ALL PERSONS
DETAINED PURSUANT TO THE SVPA
(WIC §§ 6600 et seq.)**

Modesto City Schools v. Education Audits Appeal Panel, (3d Dist. 2004) 123 Cal.App. 4th 1365, 1381, 20 Cal.Rptr.3d 831, 842, holds that to be deemed an underground regulation, which would be invalid because it was not adopted in substantial compliance with the procedures of the APA, the agency must intend it to apply generally rather than in a specific case, and the agency must adopt it to implement, interpret, or make specific the law enforced by the agency.

Kings Rehabilitation Center, Inc. V. Premo, (3rd Dist. 1999) 69 Cal.App. 4th 215, 217, 81 Cal.Rptr.2d 406, notes:

“The APA is partly designed to eliminate the use of <underground= regulations; rules which only the government knows about. If a policy or procedure falls within the definition of a regulation within the meaning of the APA, the promulgating agency must comply with the procedure for formalizing such regulations, which include notice and approval by the Office of Administrative Law (OAL). Failure to comply with the APA nullifies the rule. (Govt. Code § 11350(a); *Armistead v. State Personnel Bd.* (1978) 22 Cal.3d 198, 204, 149 Cal.Rptr. 1, 4”) (Emphasis added.)

Administrative Directive AD-818 is neither intended nor utilized to make specific determinations but is utilized generally when determining the property rights of all persons detained under the SVPA. Thus, *AD 818* is a regulation that must be promulgated as a regulation but otherwise is a null and void underground regulation.

6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.

Administrative Directive AD-818 does not conform to existing laws, thus public comment and OAL oversight is needed in order to halt the “bureaucratic tyranny” warned of in *Tidewater* and *Morning Star*.

Morningstar reiterates, “[2] These requirements promote the APA’s goals of bureaucratic responsiveness and public engagement in agency rulemaking. ‘One purpose of the APA is to ensure that those persons or entities whom a regulation will affect have a voice in its creation [citation], as well as notice of the law’s requirements so that they can conform their conduct accordingly [citation]. The Legislature wisely perceived that the party subject to regulation is often in the best posi-

tion, and has the greatest incentive, to inform the agency about possible unintended consequences of a proposed regulation. Moreover, public participation in the regulatory process directs the attention of agency policy-makers to the public they serve, thus providing some security against bureaucratic tyranny. [Citation.]’ [132 P.3d 255] (*Tidewater, supra*, 14 Cal.4th at pp. 568–569, 59 Cal.Rptr.2d 186, 927 P.2d 296.)” (*Morning Star Co. V. State Bd. Of Equalization* (2006), 38 Cal. 4th 324, 333, 42 Cal.Rptr.3d 47, 53.)

Protection & Advocacy, Inc. (PAI), a non-profit agency that provides legal advice and advocacy services on disability rights issues in California. PAI submitted the following comments to the OAL in a companion petition to this present petition that challenged CSH AD–626. Both AD–626 and AD–818 operate together, along with several other companion Administrative Directives, and are used to control patients’ property possession. PAI raised concerns that Coalinga State Hospital (CSH) is applying an underground regulation with respect to its policies on contraband:

“PAI believes that the Administrative Practices Act must be followed in regard to these two CSH ADs so that public comment can be submitted to the OAL for review and conformance to existing law.

Title 9, CCR, ’ 884(b)(1) provides that a non-LPS patient has a right to keep and use personal possessions as space permits except items that are listed as contraband by the facility. The list of items shall be made available on all treatment units and public areas within the facility. See Title 9 CCR ’ 884(b)(1). What this means is that patients should be able to keep personal possessions unless CSH has designated the item to be contraband or the item can be denied based on “good cause” finding that factors exist to deny the right. See Title 9 CCR ’ 884(c).

A hospital can designate an item as “contraband” and thus a patient cannot keep the item as a personal possession so long as the item fits under the definition of “contraband” found in Title 9, CCR ’ 881(e). “Contraband” is materials, articles, or goods that patients are prohibited from having in their possession because such materials, articles or goods present a risk to safety and security in the facility. See Title 9 CCR ’ 881(e).

A patients= right to personal property at CSH is outlined in several ADs. CSH ADs 626 (Individual=s Property and Storage) and 818 (Contraband) discuss what personal property a patient can have in the facility, and what items a patient cannot have respectively. Copies of both ADs are enclosed for review.

If a patient=s property is taken away from him, and the property is not listed as contraband on the current contraband list, the facility must provide a good cause denial in writing. See Title 9 CCR ’ 884(c). A facility can only find good cause if exercising a specific right under 884 would cause harm to the patient, others, the facility, or there is a compromise in the safety and security of the facility and/or safety to others. Further, there must also be no less restrictive means of protecting the patient=s interest. *Id.* Withholding of rights under 884 cannot be done for punitive measures, nor can the right be viewed as a privilege to be earned. See Title 9 CCR ’ 884(d). A denial of rights cannot exceed thirty days without additional staff review. *Id.* The denial of rights must be in writing in the patient=s treatment record. See Title 9 CCR ’ ’ 884(f) and (I). Rights under section 884 an only be denied for as long as the good cause for denial exists. See Title 9 CCR ’ 884(h).

CSH AD 818 Does Not Comply with Title 9 CCR ’ 881(e) and the Definition of Contraband.

CSH AD 818 contains a list of controlled items designated as contraband that do not comply with ’ 881(e)=s definition of contraband. Therefore, CSH=s practice of confiscating personal property labeled as contraband is an underground regulation.

To illustrate how CSH AD 818 violates regulations, it divides contraband items into different categories depending on where the item is not allowed or under what supervision the item is allowed. This is hardly a “contraband” list because it provides a blanket list of what items are not allowed as personal property without following the “good cause” careful analysis that is required. Items such as musical instrument, CDs, DVDs, denture cleaner, or personal tennis shoes are not allowed to individuals unknown to the treatment team, if the patient is found not to be able to handle the items responsibly, or if the patient misuses the item.

CSH has not articulated any nexus between listing these items as contraband and the regulatory definition of contraband under ’ 881(e). CSH has laid out a blanket list of items patients cannot have or items that patients can have (CSH AD 626). By doing this, CSH is circumventing the good cause denial requirement outlined in ’ 884(c) rather than starting from the place of allowing patients to possess property *unless* it is contraband or a good cause denial is proven. Instead, the AD purports to give CSH the authority to determine what is not allowed first. Pursuant to Title 9 CCR ’ 884’s good cause denial, an item not meeting the regulatory definition of “contraband” can only be confiscated if good cause exists and a written denial is placed into the patient=s chart.

Further, CSH does not recognize that ' ' 880 et seq. Controls the creation and implementation of its contraband list. Under CSH AD 818, CSH cites Department of Mental Health (DMH) Special Order 239.02 as its authority. DMH Special Order 239.02 is authorized by the Deputy Director of Long Term Care Services. A copy of DMH Special Order 239.02 is enclosed.

OAL oversight and a public comment period are needed to ensure that CSH implements a contraband policy that follows California regulation. The CSH contraband list is currently reviewed by the Contraband and Technology Transfer Committee and reviewed by CSH's Executive Director. See CSH AD 818, section V(B)(1). Furthermore, CSH AD 818 gives the executive director and chief of police at CSH the authority to declare any item contraband immediately when emergency circumstances are present. This decision is not reviewed until the next scheduled contraband committee meeting. See CSH AD 818, section V(B)(2). CSH does not define what an "emergency circumstance" is that gives rise to the authority of the executive director and chief of police. Having the contraband list reviewed and implemented by CSH staff has resulted in a blank contraband list that is arbitrary and lacking in authority from Title 9 CCR " 880et seq. Therefore OAL oversight and a comment period are needed to ensure a legal contraband police is implemented at CSH."

7. (Optional) Please attach any additional relevant information that will assist OAL in evaluating your petition.

Administrative Directive AD-818 and *Administrative Directive AD-626* are always used together and make repeated reference to each other.

CSH patient James A. Hydrick challenged AD-626 alleging it was an "Underground" regulation through a petition to the Office of Administrative Law on August 6, 2007. The OAL accepted this petition and set a public comment period. Protection & Advocacy attorney Sean Rashkis of Sacramento filed a brief in support of the Hydrick Petition.

On February 5, 2008, the Director of the Department of Mental Health, Stephen Mayberg, PhD., signed a "Delegation of Authority" for certification which stated, "I hereby delegate my authority and responsibilities for these matters to the following individuals:" The only individual listed is "Cindy Radavsky." On February 6, 2008, Cynthia A. Radavsky signed the statement, "We fully understand and accept this delegation."

Also on February 6, 2008, on a Department of Mental Health letterhead, Cynthia Radavsky issued a Certification which she signed as Deputy Director, Long Term Care Services, California Department of Mental Health. The body of this certification states:

CERTIFICATION PURSUANT TO 1 CCR 280

I, Cynthia A. Radavsky, Deputy Director of Long Term Care Services, California Department of Mental Health (Department), hereby certify:

1. The Department received a copy of a petition filed with California Office of Administrative Law by James A. Hydrick, on or about August 15, 2007. A copy of the petition is attached hereto as Exhibit A.
2. The Department will not issue, use, enforce, or attempt to enforce the alleged underground regulation. Coalinga State Hospital Administrative Directive No. 626.
3. A copy of this certification was sent to the petitioner by certified mail, and a copy of the receipt is attached hereto as Exhibit B.

On February 13, 2008, the Office Of Administrative Law issued a letter, Re: CTU2007-0815-01, The AD-626 Petition. In this letter to the petitioner signed by Susan Lapsley, Director, the OAL states:

The Office of Administrative Law has received your petition alleging that the Department of Mental Health has issued, used, enforced, or attempted to enforce an underground regulation. The rule you challenge is Coalinga State Hospital Administrative Directive 626. Department of Mental Health has certified, pursuant to California Code of Regulations, title 1 section 280, that it will not issue, use, enforce, or attempt to enforce Administrative Directive 626.

OAL, therefore, pursuant to section 280, will suspend all action on the petition.

Our decision in no way reflects on the merits of the underlying issue presented by your petition. It does not constitute a judgment or opinion on any issue raised in your petition. Nothing in our decision restricts your right or ability to pursue this matter directly with the Department of Mental Health.

On February 27, 2008, CSH Executive Director Norm Kramer issued a memorandum on DMH letterhead that, in part, announced:

"Coalinga State Hospital is addressing the security issues that were identified in the abolished AD by reviewing, revising and approving the Contraband List, which is authorized under Title 9, 884(b)(1). Coalinga State Hospital is also finalizing a new Administrative Directive that identifies the process for storage of personal possessions within the facility. It is anticipated this Administrative Directive will be reviewed and approved the first week of March 2008.

The facility reserves the right to review items entering the facility for suspected contraband and control storage space at its discretion until both documents, the revised contraband list and the new Administrative Directive are published.”

**A true and correct copy of the
Kramer Memorandum dated February 27, 2008
is attached hereto as EXHIBIT C.**

Thus, although the Department of Mental Health certified they would “not issue, use, enforce, or attempt to enforce the alleged underground regulation, *AD 626*, the DMH does in practice continue to use, enforce, and attempt to enforce *AD-626*. And to do so, the DMH has incorporated *AD-626* into *AD-818*, the Administrative Directive being specifically challenged in this petition.

Petitioner alleges the Department of Mental Health utilized this sleight-of-hand diversion tactic of certifying Pursuant to Title 1, of the California Code of Regulations, ’ 280, that they would not issue, use, enforce, or attempt to enforce the alleged underground regulation, for the express purpose of preventing oversight by the Office Of Administrative Law and thus avoiding compliance with the Administrative Procedures Act.

CONCLUSION

“Moreover, public participation in the regulatory process directs the attention of agency policymakers to the public they serve, thus providing some security against bureaucratic tyranny. [Citation.]’ [132 P.3d 255] (*Tidewater, supra*, 14 Cal.4th at pp. 568–569, 59 Cal.Rptr.2d 186, 927 P.2d 296.)” (*Morning Star Co. v. State Bd. Of Equalization* (2006), 38 Cal. 4th 324, 333, 42 Cal.Rptr.3d 47, 53.)

Such bureaucratic tyranny has been a problem throughout the history of this country. Now, it must be stopped once again. The tyrannical bureaucrats in the Department of Mental Health must be directed to follow the law.

The DMH, part of the Executive Branch, lacks Constitutional authority to enact legislation. The Legislature has granted state agencies and departments quasi-legislative powers through the APA providing they follow specific promulgation procedures. However, until and unless the DMH does follow the provisions of the APA to properly promulgate *Administrative Directive AD-818*, it is an underground regulation which has been implemented in violation of the Separation of Powers Clause, Article III, Section 3, of the California Constitution.

To allow the DMH to continue to utilize a controversial Administrative Directive, such as *Administrative Directive AD-818*, would be to allow the sort of unfet-

tered power in the Executive Branch that is a step toward a totalitarian concentration of power in the executive; a power to be exercised with inadequate legislative standard, and capable of avoiding judicial review, particularly when done through sleight-of-hand tactics designed to avoid review, has been prohibited from the earliest times. See *Hayburn’s Case*, (1792) 2 U.S. (Dall.) 408, 1 L.Ed. 436, and its progeny.

Based on the foregoing, it is clear that there is a need for public participation in the regulatory process which directs the attention of agency policymakers within the Department of Mental Health to the public they serve, and to ensure that those persons or entities whom a regulation will affect have a voice in its creation.

8. Certifications:

I certify that I have submitted a copy of this petition and all attachments to:

Stephen W. Mayberg, Ph.D., Director
California Department of Metal Health
1600 9th St., Suite 151
Sacramento, CA 95814
(916) 654-2413 / (916) 654-2309

I certify that all the above information is true and correct to the best of my knowledge.

/s/

MICHAEL GEORGE ST. MARTIN
PETITIONER

03-12-08
Date

ERRATUM NOTICE

OFFICE OF ADMINISTRATIVE LAW

**ACCEPTANCE OF PETITION TO REVIEW
ALLEGED UNDERGROUND REGULATIONS**

ERRATUM NOTICE

**(Pursuant to title 1, section 270, of the
California Code of Regulations)**

STATE LANDS COMMISSION

The following Acceptance of Petition to Review Alleged Underground Regulations was printed on April 18, 2008, in error. The correct publication date should have been April 25, 2008. The timeline for submission of comments and issuance of the determination remain as noted below.

If you need a copy of the petition, please contact Margaret Molina, (916) 324-6044 or mmolina@oal.ca.gov

Agency being challenged:

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Richard Smith, Staff Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Thomas and Nancy Bollay
P.O. Box 5686
Santa Barbara, CA 03150

Agency contact:

Paul D. Thayer, Executive Officer
State Lands Commission
100 Howe Avenue, Suite 100-S
Sacramento, CA 95825-8202

Please note the following timelines

Publication of Petition in Notice Register: April 25, 2008

Deadline for Public Comments: May 27, 2008

Deadline for Agency Response: June 9, 2008

Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response

Deadline for OAL Decision: August 25, 2008

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.

**OAL REGULATORY
DETERMINATIONS**

OFFICE OF ADMINISTRATIVE LAW

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

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

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

Date: April 17, 2008

To: Colin Johnson

From: Chapter Two Compliance Unit

Subject: **2008 OAL DETERMINATION NO. 4(S)
(CTU 08-0320-01)**

(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f)(2)(E))

Petition challenging as an underground regulation a Memorandum issued August 22, 2007 by the California Men's Colony

On March 20, 2008, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether the document you challenge is an underground regulation. The document is a memorandum titled, "Security Enhancements for CDCR Inmate Identification (ID) Cards" (Memorandum), issued by the California Men's Colony, a prison within the California Department of Corrections and Rehabilitation (CDCR) system, that says in part:

Effective immediately, the California Men's Colony (CMC) will enhance the security of the institution by including a custody indicator on the identification (ID) cards of Lifer and Close Custody inmates.

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

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600² is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058 establishes exemptions expressly for the CDCR:

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

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

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

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

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

. . .

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

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

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

² “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Similarly, the Memorandum at issue here applies solely to the inmates of the California Men’s Colony. It was issued by the warden at the California Men’s Colony, John Marshall, and directs staff at the CMC to add custody indicators as new security information to ID cards issued at CMC. Inmates housed at other institutions are controlled by that institution’s criteria for identification cards. Therefore, the Memorandum is a “local rule” and is exempt from compliance with the APA.³

Date: April 17, 2008

/s/
Susan Lapsley
Director

/s/
Peggy J. Gibson
Staff Counsel

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

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,

³ For this reason, pursuant to subdivision (f)(2)(E) of section 270, this rule which is included in a statutory exemption is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

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

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

- (A) The challenged rule has been superseded.
- (B) The challenged rule is contained in a California statute.
- (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
- (D) The challenged rule has expired by its own terms.

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

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# 2008-0313-02
AIR RESOURCES BOARD
 Section 100 — Stationary Compression Ignition Engines

These are changes of an editorial and nonsubstantive nature.

Title 17
 California Code of Regulations
 AMEND: 93115.4, 93115.6, 93115.10
 Filed 04/21/2008
 Agency Contact: Amy Whiting (916) 322-2990

File# 2008-0307-03
AIR RESOURCES BOARD
 Formaldehyde Emissions From Composite Wood Products ATCM

In this regulatory action, the Air Resources Board adopts an Airborne Toxic Control Measure pursuant to Health and Safety Code sections 39650 through 39675. The substance "Formaldehyde" was previously identified as a Toxic Air Contaminant. This regulatory action adopts an "Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products."

Title 17
 California Code of Regulations
 ADOPT: 93120, 93120.1, 93120.2, 93120.3, 93120.4, 93120.5, 93120.6, 93120.7, 93120.8, 93120.9, 93120.10, 93120.11, 93120.12
 Filed 04/18/2008
 Effective 04/18/2008
 Agency Contact: Amy Whiting (916) 322-2990

File# 2008-0304-03
BOARD OF BARBERING AND COSMETOLOGY
 Summary Suspension

This Certificate of Compliance filing seeks adoption to Title 16 California Code of Regulations of sections 973, 973.1, 973.2, 973.3, 973.4, 973.5, and 973.6 to establish the procedure for the disciplinary suspension authorized by AB 409 (Chapter 381, Statutes 2006) which was enacted with an urgency clause. AB 409 authorizes disciplinary action toward licensees and establishment owners that do not abide by health and safety laws relating to foot spa safety and other health and safety laws. Specifically, AB 409 provides for immediate temporary suspension and probation of licensees. This rulemaking establishes the grounds for suspension, procedures for issuing suspensions, contents of the suspension Notice, terms and conditions of probation, the contents of reme-

dial training, and the appeal process for challenging the suspension and probation.

Title 16
 California Code of Regulations
 ADOPT: 973, 973.1, 973.2, 973.3, 973.4, 973.5, 973.6
 Filed 04/16/2008
 Effective 04/16/2008
 Agency Contact: April Oakley (916) 575-7102

File# 2008-0311-02
BOARD OF EQUALIZATION
 Interstate and Foreign Commerce

This title 1, California Code of Regulations, Section 100 change without regulatory effect amends section 1620 of title 18 of the California Code of Regulations to add an exemption from use tax of the first \$800 in value of tangible personal property hand-carried into the state from a foreign jurisdiction so as to conform to California Revenue and Taxation Code Section 6405. Section 6405 was amended by AB 1748 (2007) to raise the tangible personal property value exemption from \$400 to \$800 effective January 1, 2008.

Title 18
 California Code of Regulations
 AMEND: 1620
 Filed 04/23/2008
 Agency Contact: Rick Bennion (916) 445-2130

File# 2008-0306-01
BOARD OF PODIATRIC MEDICINE
 Applications, Certificates — Equivalent Exams

Currently, all applicants for licensure to practice podiatric medicine in California must pass an exam administered by the National Board of Podiatric Medical Examiners (NBPME). This regulatory action recognizes the United States Medical Licensing Examination (USMLE) and the National Board of Osteopathic Medical Examination (NBOME) as equivalent in content and thereby acceptable for licensure purposes, pursuant to Business and Professions Code sections 2475.1 and 2488.

Title 16
 California Code of Regulations
 AMEND: 1399.660
 Filed 04/17/2008
 Effective 05/17/2008
 Agency Contact: Kathleen Cook (916) 263-0315

File# 2008-0321-01
DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Security

The Department of Corrections and Rehabilitation is amending sections 3291 and 3293, title 15, California

Code of Regulations, pertaining to “Employee Law Enforcement and Peace Officer Personnel,” and “Polygraph Examinations,” retrospectively. The Law Enforcement Liaison Unit no longer exists due to the reorganization of the department and the creation of the Office of Correctional Safety. Therefore, internal references contained within the aforementioned sections have been changed.

Title 15
California Code of Regulations
AMEND: 3291, 3293
Filed 04/18/2008
Effective 04/18/2008
Agency Contact: Gail Long (916) 341-7329

File# 2008-0310-01
DEPARTMENT OF DEVELOPMENTAL SERVICES
Section 100 Amendments to Title 17

This is a nonsubstantive action updating some internal cross-reference citations.

Title 17
California Code of Regulations
AMEND: 54355
Filed 04/21/2008
Agency Contact: Diana Nicolaou (916) 654-1760

File# 2008-0304-02
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This is the certification of four emergency rulemakings which expanded and contracted various areas of numerous counties with respect to the light brown apple moth (*Epiphyas postvittana*) [OAL file numbers: 07-0919-03 E; 07-1101-01 E; 07-1119-01 E and 07-1121-06 E.]

Title 3
California Code of Regulations
AMEND: 3434(b) & (c)
Filed 04/16/2008
Effective 04/16/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0416-01
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This emergency amendment expands the existing borders of the light brown apple moth (LBAM; *Epiphyas postvittana*) quarantine in the Santa Clara and San Mateo counties by approximately 99 square miles.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 04/18/2008
Effective 04/18/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0307-06
DEPARTMENT OF FOOD AND AGRICULTURE
Oak Mortality Disease Control

This certificate of compliance makes permanent the prior emergency regulatory action (OAL file no. 2007-1213-01E) that modified the existing oak mortality disease control regulation by adding two new plant species — *Corylopsis spicata* (spike winter hazel) and *Physocarpus opulifolius* (ninebark) — to the list of associated articles (nursery stock) whose movements are regulated as hosts or potential carriers that may transfer the disease from an infested area.

Title 3
California Code of Regulations
AMEND: 3700
Filed 04/21/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0312-04
DEPARTMENT OF PESTICIDE REGULATION
Minimum Qualifications for Pest Control Advisers

This action amends the minimum educational standards for licensing as a Pest Control Advisor in order to make it possible for additional courses, projects, internships, cooperative work experience, independent study, a dissertation, and one year’s work experience in pest management or production systems to be recognized and counted in fulfillment of the minimum course requirements and to allow an applicant to utilize certification as a crop adviser to meet the educational requirement.

Title 3
California Code of Regulations
AMEND: 6550
Filed 04/23/2008
Effective 04/23/2008
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

File# 2008-0307-01
EMPLOYMENT TRAINING PANEL
Substantial Contributions

In order to carry out the intent of the law [Unemployment Insurance Code Sec. 10209(d)] to distribute employment training funds broadly and equitably, this rulemaking action amends title 22 California Code of Regulations Section 4410 to require employers to make

substantial contributions to the cost of employee training activities beginning after the first negotiated contract between an employer and the Employment Training Panel, if the first contract occurred within a five-year period and was in the amount of \$250,000 or more. The rulemaking specifies the rates of substantial contribution required of employers for the second and third contracts within five years and authorizes the Panel to reduce the rate for the third contract upon a showing of good cause. The rulemaking also repeals title 22 California Code of Regulations Section 4410.5, because the waiver it contains is not required by statute, it conflicts with the intent of the law for broad and equitable distribution of these funds, and because it is speculative and unreliable.

Title 22
California Code of Regulations
AMEND: 4410 REPEAL: 4410.5
Filed 04/18/2008
Effective 07/01/2008
Agency Contact: Maureen Reilly (916) 327-5422

File# 2008-0312-02
OFFICE OF EMERGENCY SERVICES
Area Plans — Pesticide Drift Exposure Incidents

This regulatory action requires that pesticide drift exposure protocols be incorporated into area plans by administering agencies.

Title 19
California Code of Regulations
ADOPT: 2660
AMEND: 2720, 2723, 2724, 2725, 2726, 2728
Filed 04/23/2008
Effective 05/23/2008
Agency Contact: Jack Harrah (916) 845-8759

File# 2008-0311-04
SUPERINTENDENT OF PUBLIC INSTRUCTION
Child Care and Development Program — Military Personnel

This is the certification of an emergency rulemaking (OAL file number 07-1024-02 E). This regulatory action allows the State Superintendent of Public Instruction to grant exceptions to state subsidized pre-school programs so that they can exclude "housing allowances" from adjusted monthly income for active military personnel living on or near a base or base housing. This exclusion only applies after the placement of children from the statutorily mandated priorities list and other "income eligible" families.

Title 5
California Code of Regulations
ADOPT: 18134
Filed 04/21/2008
Effective 04/21/2008
Agency Contact: Debra Strain (916) 319-0860

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN NOVEMBER 21, 2007 TO
APRIL 23, 2008**

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**
02/25/08 ADOPT: 48, 50, 52 AMEND: 55
01/29/08 AMEND: 1, 6, 90, and Appendix A (Std. Form 400)
- Title 2**
04/10/08 AMEND: 1866, 1866.4.3, 1866.13, Form SAB 40-22 (Rev. 10/07)
04/09/08 AMEND: 18997
03/28/08 ADOPT: 59630
03/24/08 AMEND: 18735
03/19/08 AMEND: 55300
03/19/08 AMEND: 549.90
03/19/08 AMEND: 18200
03/03/08 AMEND: 1859.76, 1859.83, 1859.104.3
02/25/08 AMEND: 549.80
02/25/08 AMEND: 714
01/07/08 AMEND: 1859.2, 1859.43, 1859.50, 1859.51, 1859.81, 1859.106
01/07/08 AMEND: 18531.61
01/03/08 ADOPT: 547.69, 547.70, 547.71
AMEND: 547.69 renumbered as 547.72, 547.70 renumbered as 547.74, 547.71 renumbered as 547.73
12/26/07 AMEND: div. 8, ch. 54, sec. 54300
12/19/07 ADOPT: 18413
12/18/07 ADOPT: 1859.324.1, 1859.330
AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329
12/17/07 AMEND: 58700
12/17/07 AMEND: 18351
12/13/07 ADOPT: 18531.2

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01/07/08	AMEND: 1180.3.1		
12/26/07	AMEND: 3433(b)	04/01/08	ADOPT: 3140, 3141, 3141.1, 3141.2, 3141.3, 3141.4, 3141.5, 3141.6, 3141.7, 3141.8, 3141.9, 3141.10, 3141.11, 3141.12, 3141.13, 3142, 3142.1, 3142.2, 3143, 3144, 3145, 3146 AMEND: 3000, 3001, 3009, 3094.2, 3120.6, 3137
12/26/07	AMEND: 3963		
12/21/07	AMEND: 3434(b)	03/05/08	AMEND: 1504, 1597
12/20/07	ADOPT: 606	03/05/08	AMEND: 3228
12/19/07	AMEND: 3700(c)	02/29/08	AMEND: 3270
12/19/07	AMEND: 3433(b)	12/31/07	AMEND: 3650
12/10/07	AMEND: 3406(b)	12/28/07	AMEND: 1604.24
12/06/07	AMEND: 3589	12/11/07	ADOPT: 9767.16, 9813.1, 9813.2 AMEND: 9767.1, 9810, 9811, 9812, 9813
12/03/07	AMEND: 3434(b)		
11/29/07	AMEND: 3434(b)	12/10/07	ADOPT: 13800
11/29/07	AMEND: 3591.2	12/04/07	AMEND: 3214, Figure E-1 of 3231, Plate B-17
11/27/07	AMEND: 3406(b)	11/29/07	ADOPT: 33485 AMEND: 32135, 32166, 32500, 32630, 32700, 32781, 32784, 32786, 33480, 61020, 61450, 61470, 61480, 81020, 81450, 81470, 81480, 91020, 91450, 91470, 91480
11/27/07	AMEND: 3433(b)	11/26/07	ADOPT: 392.4 AMEND: 347, 350.1, 355, 359, 359.1, 371.2, 374, 385, 392.5
11/21/07	AMEND: 3433(b)		
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04/08/08	AMEND: 1467	03/06/08	AMEND: 10025, 10057, 10515, 10518, 10524, 10545, 10550, 10606, 11014, 11017, 11024, 13070
03/24/08	AMEND: 10177, 10178, 10181, 10182, 10187, 10188, 10189	02/28/08	ADOPT: 7024.9, 7025.4, 7136.4, 7136.5, 7136.6, 7136.7, 7136.8, 7136.9, 7137, 7138, 7179.4, 7179.5 REPEAL: 7136.5
02/29/08	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	02/13/08	ADOPT: 3100, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210, 3200.220, 3200.225, 3200.230, 3200.240, 3200.250, 3200.260, 3200.270, 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040,
01/22/08	AMEND: 8070, 8072, 8073		
01/10/08	AMEND: 1632		
12/26/07	AMEND: 12002, 12122, 12202, 12203.2, 12222		
11/21/07	ADOPT: 12347		
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04/21/08	ADOPT: 18134		
04/21/08	ADOPT: 18134		
03/03/08	ADOPT: 9510.5, 9512, 9513, 9514, 9525 AMEND: 9510, 9511, 9515, 9516, 9517, 9518, 9519, 9521, 9522, 9523, 9524, 9527, 9528, 9529, 9530 REPEAL: 9517.1, 9520		
02/28/08	ADOPT: 11969.10, 11969.11 AMEND: 11969.1, 11969.2, 11969.3, 11969.4, 11969.6, 11969.7, 11969.8, 11969.9		
02/25/08	AMEND: 41301		
02/22/08	AMEND: 3051.16, 3065		
12/20/07	ADOPT: 1202 AMEND: 1200, 1204, 1204.5, 1205, 1207, 1207.1, 1207.2, 1207.5, 1209, 1210, 1211, 1211.5, 1215, 1215.5, 1216, 1217, 1218, 1219, 1225		
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 03/20/08 AMEND: 1950.314.8
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 02/22/08 ADOPT: 2695.20, 2695.21, 2695.22,
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 02/14/08 ADOPT: 2790.8, 2790.9
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 2240.2, 2240.3, 2240.4
 12/27/07 ADOPT: 1436, 1950.314.8
 12/19/07 AMEND: 2698.82(b), 2698.84, 2698.87,
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 11/30/07 AMEND: 2699.6611
 11/30/07 ADOPT: 2699.6603, 2699.6604
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 02/29/08 AMEND: 1009, 1070, 1071, 1082, 1083
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 03/07/08 AMEND: 345.02, 345.06, 345.21,
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 02/08/08 AMEND: 621, 691, 693, 699
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 1404, 1405 REPEAL: 1300, 1301, 1302,
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 12/05/07 ADOPT: 2166, 2166.1, 2167, 2168,
 2169, 2170, 2171, 2172, 2172.1, 2172.2,
 2172.3, 2172.4, 2172.5, 2172.6, 2172.7,
 2172.8, 2172.9, 2173, 2174 AMEND:
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 04/04/08 AMEND: 27.80
 03/26/08 AMEND: 630
 03/14/08 ADOPT: 13255.1 AMEND: 13055,
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 03/14/08 ADOPT: 5.79, 5.88, 29.16, 29.91
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 12/17/07 AMEND: 632
 12/14/07 ADOPT: 700.4, 700.5 AMEND: 1.74, 29.15, 116, 300, 551, 705
 11/29/07 ADOPT: 916.9.1, 936.9.1, 916.9.2, 936.9.2, 916.11.1, 936.11.1, 923.9.1, 943.9.1, 923.9.2, 943.9.2 AMEND: 859.1, 916.9, 936.9, 956.9, 923.9, 943.9, 963.9
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 01/23/08 AMEND: 3190, 3191
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 12/18/07 AMEND: 3052, 3054.1
 12/11/07 AMEND: 176
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 03/04/08 ADOPT: 100400, 100401, 100402, 100403, 100404, 100405, 100406, 100407, 100408, 100409, 100410
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02/29/08 AMEND: 25128-1
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5541, 5550, 5551, 5560, 5561, 5562,
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2.2 to 2.3, renumber Division 2.3 to 2.4,
5090 (amend and renumber to 5600),
5091 (amend and renumber to 5601),
5092 (amend and renumber to 5602),
5093 (amend and renumber to 5603),
5094 (amend and renumber to 5604),
5095 (amend and renumber to 5605),
5200 (amend and renumber to 5700)
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02/05/08 REPEAL: 3.33
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03/18/08 AMEND: 12000
03/03/08 AMEND: 926-3, 926-4, 926-5
02/28/08 AMEND: 51000.3, 51000.30, 51000.50
02/08/08 ADOPT: 64551.10, 64551.20, 64551.30,
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- 64551.70, 64551.100, 64552, 64554, 64556, 64558, 64560, 64560.5, 64561, 64570, 64572, 64573, 64575, 64576, 64577, 64578, 64580, 64582, 64583, 64585, 64591, 64600, 64602, 64604
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- 02/06/08 AMEND: 2708(c)-1
 02/06/08 AMEND: 2708(c)-1
 01/08/08 ADOPT: 7107, 7118 AMEND: 7314
 12/13/07 ADOPT: 64651.21, 64651.34, 64651.38, 64651.88, 64653.5, 64657, 64657.10, 64657.20, 64657.30, 64657.40, 64657.50
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- 12/06/07 ADOPT: 97930, 97930.1, 97930.2, 97930.3, 97930.4, 97930.5, 97930.6, 97930.7, 97930.8, 97930.9, 97930.10
- 11/29/07 AMEND: 51531
- Title 22, MPP**
 03/05/08 AMEND: 87101, 87102, 87106, 87107, 87110, 87111, 87112, 87113, 87114, 87115, 87116, 87117, 87118, 87218, 87219, 87219.1, 87220, 87222, 87223, 87224, 87225, 87226, 87227, 87227.1, 87228, 87229, 87230, 87231, 87235, 87236, 87340, 87342, 87342.1, 87343, 87344, 87345, 87346, 87451, 87452, 87453, 87454, 87455, 87455.1, 87457, 87458, 87560, 87561, 87562, 87564, 87564.2, 87564.3, 87564.4, 87564.5, 87565, 87566, 87567, 87568, 87569, 87570, 87571, 87572, 87573, 87574, 87575, 87575.1, 87575.2, 87576, 87577, 87578, 87579, 87580, 87581, 87582, 87583, 87583.1, 87584, 87585, 87586, 87587, 87588, 87589, 87590, 87591, 87592, 87593, 87686, 87689, 87690, 87691, 87692, 87700, 87701, 87701.1, 87701.2, 87701.3, 87701.5, 87702, 87702.1, 87703, 87704, 87705, 87706, 87707, 87708, 87709, 87710, 87711, 87713, 87716, 87716.1, 87720, 87721, 87722, 87724, 87725, 87725.1, 87730, 87730.1, 87730.2, 87731, 87731.1, 87731.2, 87731.3, 87731.4, 87755, 87756, 87757, 87758, 87759, 87761, 87763, 87766, 87768, 87769, 87775, 87777, 87785, 87786, 87787, 87788, 87789, 87791, 87792, 87793 REPEAL: 87725.2
- 12/31/07 ADOPT: 86500, 86501, 86501.5, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529, 86531, 86531.1, 86531.2, 86534, 86535, 86536, 86540, 86542, 86544, 86545, 86546, 86552, 86553, 86554, 86555, 86555.1, 86558, 86559, 86561, 86562, 86563, 86564, 86565, 86565.2, 86565.5, 86566, 86568.1, 86568.2, 86568.4, 86570, 86572, 86572.1, 86572.2, 86574, 86575, 86576, 86577, 86578, 86578.1, 86579, 86580, 86586, 86587, 86587.1, 86587.2, 86588
 AMEND: 11-400c, 11-402, 45-101(c), 45-202.5, 45-203.4, 45-301.1
- Title 23**
 03/10/08 ADOPT: 3919.2
 02/28/08 ADOPT: 3919.1
 02/11/08 ADOPT: 3939.27
 02/08/08 ADOPT: 3939.28
 02/08/08 ADOPT: 3939.30
 02/05/08 ADOPT: 3939.29
 01/24/08 ADOPT: 3939.31
 12/18/07 AMEND: 2621, 2632, 2634, 2635, 2636, 2637, 2638, 2661, 2666, 2711, 2713
- 12/07/07 ADOPT: 3919
 12/06/07 ADOPT: 3918
 11/30/07 ADOPT: 3959.1
- Title 25**
 04/02/08 ADOPT: 7201, 7205, 7205.1, 7205.2, 7205.3, 7206, 7207, 7209, 7211, 7215, 7225, 7231 AMEND: 7200, 7202, 7204, 7206 (renumbered to 7209.5), 7208, 7210, 7212, 7218 (renumbered to 7217), 7220, 7222, 7224, 7226, 7228, 7230, 7232, 7234, 7239 (renumbered to 7201)
 REPEAL: 7214, 7216
- 04/01/08 AMEND: 6932
 12/10/07 ADOPT: 8207.1, 8212.3 AMEND: 8204, 8207, 8208, 8209, 8210, 8211, 8212, 8212.1, 8213, 8216, 8217
- Title 27**
 03/21/08 AMEND: 15100, 15110, 15140, 15150, 15160, 15170, 15185, 15186, 15187, 15187.1, 15190, 15200, 15210, 15220, 15230, 15240, 15241, 15250, 15260,

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	15280, 15290, 15300, 15310, 15330, 15400.2, 15600		15400.1, Division 3 — Subdivision 1 — Chapters 1, 2, 3, 4, 5, 6
02/25/08	ADOPT: 21815 AMEND: 21780, 21790, 21800, 21820, 21825, 21830, 21840, 21865, 22234, 22240, 22243, 22244, 22246, 22247, 22248, 22249, 22249.5, 22251, 22252, 22253, Division 2 — Appendix 3	Title 28	
		01/10/08	AMEND: 1300.67.60
		Title MPP	
12/18/07	AMEND: 15290 (reports 3, 4 & 6),	11/28/07	AMEND: 47-110, 47-260, 47-301, 47-430, 47-601, 47-602, 47-620, 47-630 REPEAL: 47-610