



# California Regulatory Notice Register

REGISTER 2006, NO. 26-Z

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JUNE 30, 2006

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

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**PROPOSED ACTION ON  
REGULATIONS**

*Information contained in this document is published as received from agencies and is not edited by Thomson West.*

**TITLE 4. CALIFORNIA HORSE  
RACING BOARD**

**NOTICE OF PROPOSAL TO AMEND  
RULE 1544. CALLING OFF RACE  
AND  
RULE 1658. VESTING OF TITLE TO  
CLAIMED HORSE**

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

**PROPOSED REGULATORY ACTION**

The Board proposes to amend Rule 1544, Calling off Race, and Rule 1658, Vesting of Title to Claimed Horse. The proposed amendment to Rule 1544 provides that any claims submitted in a race that is called off, canceled, or declared no contest shall be void. The proposed amendment to Rule 1658 provides that a claim is void if a race is called off in accordance with Rule 1544.

**PUBLIC HEARING**

The Board will hold a public hearing starting at **9:30 a.m., Thursday, August 17, 2006**, or as soon after that as business before the Board will permit, at the **Surfside Race Place at Del Mar, 2260 Jimmy Durante Boulevard, Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

**WRITTEN COMMENT PERIOD**

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written com-

ment period closes at **5:00 p.m., on August 14, 2006**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [harolda@chrb.ca.gov](mailto:harolda@chrb.ca.gov)

**AUTHORITY AND REFERENCE**

Rule 1544 & 1658 Authority cited: Sections 19420 and 19440, Business and Professions (B&P) Code. Reference: Section 19562, B&P Code.

B&P Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Section 19562, B&P Code.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

B&P Code Section 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, and over all persons or things having to do with the operation of such meetings, is vested in the Board. B&P Section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. B&P Code Section 19562 states the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in California.

During the running of a claiming race at the 2005 Del Mar race meeting, a horse went down and caused three other horses to not finish the race. The stewards called off the race and declared it no contest under Board Rule 1544, Calling off Race. Citing Rule 1658, Vesting Title to Claimed Horse, the stewards ordered all claims in the race void. The owner of a horse that was claimed in the race appealed the stewards' decision to void the claim. An Administrative Law Judge ruled in favor of the owner, and stated nothing in Rule 1544 suggested that calling off a race invalidates claims. Board Rule 1544 currently provides that if the stewards believe a race cannot be run before midnight, or cannot be conducted

in accordance with the Board's rules and regulations, they shall cancel and call off the race. If mechanical failure, or interference during the running of the race affects the majority of horses, the stewards may declare the race no contest. If a race is called off, canceled or declared no contest, any wagers made on the race shall be refunded and no purse is awarded — as if the race never occurred. However, Rule 1544 does not address claims. This provided the loophole that allowed a successful appeal of the stewards' decision. The proposed amendment to Rule 1544 addresses the issue by providing that any claims submitted in a race that is called off, canceled, or declared no contest shall be void. In addition, the proposal to amend Rule 1658 states a claim is void if a race is called off, canceled, or declared no contest in accordance with Rule 1544. Together, the proposed amendments leave no doubt regarding the status of a claim when a race is called off, canceled or declared no contest.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed amendment of Rules 1544 and 1658 will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rules 1544 and 1658 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rules 1544 and 1658 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

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

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

#### CONTACT PERSON

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

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

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

Jacqueline Wagner, Manager  
Telephone: (916) 263-6033

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

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

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are suffi-

ciently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS

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

BOARD WEB ACCESS

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

**TITLE 4. CALIFORNIA HORSE RACING BOARD**

NOTICE OF PROPOSAL TO AMEND  
RULE 1486. TERM OF LICENSE

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

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1486, Term of License. The proposed amendment would provide that every original license as groom, stable employee, stable assistant and mule racing participant shall expire on the last day of the calendar year in which it is issued; shall automatically be extended to expire on the last day of the birth month of the licensee; and thereafter shall expire on the last day of the birth month of the licensee on an annual basis.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, August 17, 2006**, or as soon after that as business before the Board will permit, at the **Surfside Race Place at Del Mar, 2260 Jimmy Durante Boulevard, Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on August 14, 2006**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [harolda@chrb.ca.gov](mailto:harolda@chrb.ca.gov)

AUTHORITY AND REFERENCE

Authority cited: Section 19440, Business and Professions (B&P) Code. Reference: Sections 19510, 19520, 19521 and 19704, B&P Code.

B&P Code Section 19440 authorizes the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19510, 19520, 19521 and 19704, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

B&P Code Section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. B&P Code Section 19510 provides that no person required to be licensed pursuant to Article 5 may participate in any capacity in any horse race meeting without a valid and unrevoked license. B&P Code Section 19520 states every person not re-

quired to be licensed Under Article 4 (commencing with Section 19480) who participates in, or has anything to do with the racing of horses, shall be licensed by the Board pursuant to rules and regulations that the Board may adopt. B&P Code Section 19521 provides that an original license issued pursuant to Article 5.5 shall be issued for a period of the calendar year in which it is issued, and shall be renewable for a period, which the Board may, by regulation, establish. B&P Code Section 19704 states the Board shall issue a license for participants in mule racing. The license shall be limited to mule races only.

The Board currently issues one-year occupational licenses to grooms, stable employees, stable assistants and mule racing participants. These licenses expire on December 31 in the year in which they are issued. The Board believes a one-year occupational license is appropriate for such license classes, as there can be a high turnover rate among stable employees, and mule racing occurs only during the summer fair racing circuit, or as special event match races. In 2005, 699 original groom and stable employee occupational licenses were issued and 2,123 were renewed for a total of 2,822 licenses. In addition 16 mule-racing licenses were issued. The Board has found, however, that on or about December 31 of each year its licensing staff, with an average of two licensing technicians per office, is overwhelmed by persons attempting to renew their license. Because many grooms, stable employees and stable assistants are not citizens, the licensing process can be lengthy — due to verification of residency and work permits. In addition, a number of such persons are not able to read and write English, or are illiterate and need help to fill out the license application. The large numbers of persons attempting to renew their license, and the need to provide additional attention causes delays in service. This affects anyone who enters a Board licensing office in December or early January to conduct business, and has been the source of many complaints. To alleviate the end-of-the-year backlog the Board has determined that occupational licenses for grooms, stable employees, stable assistants and mule racing participants should follow the scheme of other classes of license and expire on the last day of the birth month of the licensee. This will have the effect of distributing a workload that is currently concentrated in one month over a twelve-month period; thus, eliminating the annual year-end rush. The proposed amendment to Rule 1486, Term of License provides that every original occupational license as groom, stable employee, stable assistant and mule racing participant shall expire on the last day of the calendar year in which it is issued. This is in keeping with the provisions of B&P Code Section 19521, which states that an original license shall be issued for a period of the calendar year in which it is issued. The proposed

amendment states that such original license shall automatically be extended to expire on the last day of the birth month of the licensee. This administrative extension, which will be applied at the time of licensing, will allow for an expiration date of the last day of the birth month of the licensee. Thereafter, as provided by the proposed amendment, the license shall expire on the last day of the birth month of the licensee. Existing licenses will be grandfathered into this scheme by extending renewal dates beyond December 31 to the last day of the birth month of the licensee. When a groom, stable employee, stable assistant or mule racing participant renews a license that expires on December 31, 2006, the license will be renewed to December 31, 2007, and automatically extended to the last day of the birth month of the licensee. The change in expiration dates will not affect the cost of the license, as all such licenses will retain a one-year term upon renewal and the Board believes grooms, stable assistants and stable employees can least afford an increase in the cost of a license.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

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

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

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

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

The Board has made an initial determination that the proposed amendment of Rule 1486 will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1486 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1486 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

### CONSIDERATION OF ALTERNATIVES

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

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

### CONTACT PERSON

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

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

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

Jacqueline Wagner, Manager  
Policy and Regulation Unit  
Telephone: (916) 263-6041

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

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

### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt

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

### AVAILABILITY OF STATEMENT OF REASONS:

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

### BOARD WEB ACCESS

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

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### NOTICE OF PROPOSAL TO AMEND RULE 1733. WHIPS

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

### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1733. Whips. The proposed amendment would increase the length of harness drivers' allowed whip from three feet nine inches to four feet.

### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, August 17, 2006**, or as soon after that as business before the Board will permit, at the **Surfside Race Place at Del Mar, 2260 Jimmy Durante Boule-**

**vard, Del Mar, California.** At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on August 14, 2006.** The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [harolda@chr.ca.gov](mailto:harolda@chr.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions (B&P) Code. Reference: Section 19563, B&P Code.

B&P Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Section 19563, B&P Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, and over all persons or things having to do with the operation of such meetings, is vested in the Board. B&P Section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. B&P Code Section 19563 states the Board may adopt any rules and regulations of the United States Trotting Association, not inconsistent with this chapter, for the regulation of harness racing.

A number of the Board's rules regarding harness racing are aligned with the rules of the United States Trotting Association's (USTA). Among such rules is Board Rule 1733, which provides the maximum length of the whip and snapper harness drivers may use in a race. The USTA has amended its rule regarding the allowable length of a whip. Under the new USTA rule, which was effective May 1, 2006, a whip may not exceed more than four feet. The California harness industry has requested that the Board amend Rule 1733 to be consistent with the USTA's rule. Therefore, the Board proposes to amend Rule 1733. Whips. The proposed amendment would increase the length of harness drivers' allowed whip from three feet nine inches to four feet.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed amendment of Rule 1733 will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1733 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1733 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

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

the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

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

CONTACT PERSON

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

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

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

Jacqueline Wagner, Manager  
 Policy and Regulation Unit  
 Telephone: (916) 263-6041

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

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AVAILABILITY OF MODIFIED TEXT

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for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS:

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

BOARD WEB ACCESS

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**TITLE 5. SUPERINTENDENT OF PUBLIC INSTRUCTION**

**NOTICE OF PROPOSED RULEMAKING AMENDMENT TO TITLE 5, CALIFORNIA CODE OF REGULATIONS REGARDING SCHOOL/COMMUNITY VIOLENCE PREVENTION PROGRAMS**

[Notice published June 30, 2006]

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

PUBLIC HEARING

California Department of Education staff, on behalf of the Superintendent, will hold a public hearing beginning at **9:30 a.m. on August 15, 2006**, at 1430 N Street, Room 1801, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Superintendent requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Superintendent requests, but does not require, that persons who make

oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

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

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

Comments may also be submitted by facsimile (FAX) at (916) 319-0155 or by e-mail to [regulations@cdce.ca.gov](mailto:regulations@cdce.ca.gov). Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on August 15, 2006**.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

#### AUTHORITY AND REFERENCE

Authority: Section 41513, Education Code.  
References: Sections 41510 and 41512, Education Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State of California Legislature has historically provided funding for school violence prevention via as many as seven different grant or entitlement programs. Beginning in 2005-06, these programs have been consolidated into two — the previously-existing *School Safety and Violence Prevention Act* entitlement pro-

gram, and a new \$16.9 million per year competitive school violence prevention grant. These regulations are being adopted, as required by Section 41513 of the *Education Code*, in order to implement the \$16.9 million competitive grant program.

The overall objective of the competitive school violence prevention program is to reduce levels of school violence in school communities with high levels of school violence. In order to establish a program which will accomplish this purpose, the regulations will contain instructions for applying for the grants, describe the criteria by which applications will be selected for funding, and provide specific details about the program such as allowable uses of funds, length of grant period, etc. The key elements of the regulations will be those which specify the criteria by which grant applications will be competitively rated. Among the elements upon which applications will be competitively rated are:

- The school violence prevention program which the grant application proposes to implement must be based upon principals which independent research has shown to be effective.
- The grant application must demonstrate significant school violence problems at the proposed site of the grant program, using objective data about school violence, discipline problems, and/or student perceptions of violence at school.
- The grant application must demonstrate that the violence prevention program has been designed by, and will receive ongoing direction from, a strong collaborative group which includes school staff, parents, students, law enforcement, and the community.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Superintendent has made the following initial determinations:*

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

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

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

Costs or savings in federal funding to the state: None  
Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The Superintendent is not aware of any cost impacts that a representative private person or business

would necessarily incur in reasonable compliance with the proposed action.

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

Effect on housing costs: None

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

### CONSIDERATION OF ALTERNATIVES

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

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

### CONTACT PERSONS

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

Chuck Nichols, Consultant  
Safe and Healthy Kids Program Office  
California Department of Education  
1430 N Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814  
Telephone: (916) 323-1026

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

### INITIAL STATEMENT OF REASONS AND INFORMATION

The Superintendent has prepared an Initial Statement of Reasons for the proposed regulation and has available all the information upon which the proposal is based.

### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

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

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the Regulations Coordinator.

### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Chuck Nichols, Legal Office, 1430 N Street, 6th Floor, Sacramento, CA, 95814; telephone, (916) 323-1026. It is recommended that assistance be requested at least two weeks prior to the hearing.

### 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 **August 17, 2006**, at 10:00 a.m. in the Council Chambers of the Costa Mesa City Council, 77 Fair Drive, Costa Mesa, California 92626.

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 **August 17, 2006**, following the Public Meeting in the Council Chambers of the Costa Mesa City Council, 77 Fair Drive, Costa Mesa, California 92626.

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 **August 17, 2006**, following the Public Hearing in the Council Chambers of the Costa Mesa City Council, 77 Fair Drive, Costa Mesa, California 92626.

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 **August 17, 2006**.

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 98  
Section 5006.1  
**Mobile and Tower Crane Operator Certification, Exception No. 2—Electric Line Trucks**
2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 25  
Section 3650  
**Labeling, Design, and Construction of Powered Industrial Trucks**

A description of the proposed changes are as follows:

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 98  
Section 5006.1  
**Mobile and Tower Crane Operator Certification, Exception No. 2—Electric Line Trucks**

#### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This proposal is in response to a Division of Occupational Safety and Health (Division) Request for New or Change in Existing Safety Order (Form 9-048) to amend Exceptions No. 1 and No. 2 to Section 5006.1 of the General Industry Safety Orders (GISO). Board staff intends to convene an advisory committee at a later date to consider the proposed amendments to Exception No. 1 regarding mobile crane boom length and lifting capacity. This proposal addresses Exception No. 2 which pertains to the applicability of the mobile and tower crane certification standards for operators of electric line trucks (a highly specialized vehicle) used by the

electric utility industry to (1) transport workers, tools, and materials and (2) serve as a traveling workshop for electric power line construction and maintenance work.

Electric line trucks are usually equipped with a boom and auxiliary equipment for setting poles, digging holes, and elevating material or workers. This type of vehicle is also known as a digger derrick or derrick truck and is regulated by Section 2940.7 of the High Voltage Electrical Safety Orders (HVESO). Electric line trucks are designed and built to meet American National Standard (ANSI) A10.31 which applies to digger derrick trucks, whereas mobile and locomotive cranes are built to the American Society of Mechanical Engineer (ASME) B30.5 standard.

Since Section 5006.1 became enforceable on June 1, 2005, there has been some confusion over whether hydraulic, telescopic, mobile truck cranes used by utility companies to perform electric line work (e.g. tower construction) are exempt from Section 5006.1 crane operator certification standards. This proposed rulemaking makes it clear that mobile truck cranes manufactured to the ASME B30.5 standards are not exempt from crane operator certification. Only electric line/digger derrick trucks manufactured to the ANSI A10.31 standard are exempt.

During advisory committee deliberations, it was determined that electric line trucks with lifting capacities below 3 tons (typical for a digger derrick truck) should be exempt from the operator certification requirements. The committee also concluded that electric line trucks as defined in Section 2700 of the Electric Safety Orders and regulated by HVESO Section 2940.7 should be excluded from the requirements of Section 5006.1 since they are not mobile cranes designed and built to conform to ASME B30.5 mobile crane standards and do not present the same degree of risk posed by mobile cranes. These cranes are unique as they are exclusively used for specialized functions, such as placement and removal of poles.

The rulemaking documentation both implicitly and explicitly identified electric line trucks as “derrick trucks” or “digger derrick trucks,” not ASME B30.5 cranes. For example, a response to comment in the rulemaking’s Final Statement of Reasons states, “there is no good reason not to afford private utility contractors the same exception with regard to the use of electric line trucks (also known as digger derrick trucks). . .”

Throughout HVESO Section 2940.7 the terms electric line and digger derrick or derrick truck are used interchangeably confirming that the intent of Section 2940.7 is to pertain to electric line/digger derrick trucks used in electric line maintenance, construction and repair.

The following amendments are proposed:

**Section 5006.1. Mobile Crane and Tower Crane–Operator Qualifications and Certification.**

This section contains standards pertaining to the qualifications of operators of mobile and tower cranes. Employers are required to only permit crane operators to operate a crane covered by this section who have a valid certificate of competency for the type of crane to be used. This standard also contains three exceptions which address applicability of the standard to (1) mobile cranes according to their rated load capacity and boom length, (2) exemption of all electric line trucks, and (3) cranes used in marine terminal operations.

Exception No. 2 exempts all electric line trucks as defined and regulated in HVESO Sections 2700 and 2940.7. An amendment is proposed to clarify that electric line/digger derrick trucks are exempt from the requirements of Section 5006.1, but not mobile cranes designed and built in accordance with the ASME B30.5.

The effect of the proposed amendment is to clarify the intent of the term “electric line trucks” and that mobile cranes designed and built in conformance with ASME B30.5 standards are not exempt from Section 5006.1’s certification requirements.

**COST ESTIMATES OF PROPOSED ACTION**

**Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action. There are no state agencies identified that conduct electric line work using hydraulic, telescopic mobile truck cranes.

**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 a 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.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impact 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 amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this 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.)

The 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.)

The 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 may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing busi-

nesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 25  
Section 3650  
**Labeling, Design, and Construction of Powered Industrial Trucks**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Division of Occupational Safety and Health (Division) submitted a Request for New or Change in Existing Safety Order (Form 9) to the Occupational Safety and Health Standards Board (Board). The Division stated that existing Section 3650 language only requires various types of powered industrial trucks (PIT) to be labeled as meeting applicable national consensus standards (NCS) design and construction requirements. It is necessary to amend Section 3650, consistent with the aforementioned labeling requirement, so that employers understand that PIT’s are to be designed, built and maintained in accordance with the applicable NCS.

The Federal Occupational Safety and Health Administration (OSHA) requires all new powered industrial trucks to meet the design and construction requirements as specified in the ANSI B56.1–1969 standard. Federal OSHA also requires that PIT’s bear a label or other identifying mark indicating acceptance by a nationally recognized testing laboratory.

This rulemaking proposal would make a revision to Section 3650 to clarify to the regulated public that PIT’s are to be designed, constructed and maintained in accordance with the applicable NCS. This was intended and implicit in the text of the existing language but not so stated in the text of the standard.

This proposed rulemaking action contains nonsubstantive, editorial, reformatting of subsections, and grammatical revisions consistent with Title 8 format. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

**Section 3650. Industrial Trucks. General**

This section contains standards governing the labeling of various types of powered industrial trucks as meeting applicable national consensus standards as specified in the text of the standard, and also contains standards which address but are not limited to: requirements that all name plates be legible and bear specific identifying information specific to the industrial truck upon which it is affixed, use of front end attachments, truck modifications, approvals for trucks used in hazardous atmospheres, carrying/balancing loads, use of fork extensions, driver safety, unattended vehicles and use of two or more PIT's to handle loads.

A new subsection (c) is proposed that clarifies that consistent with PIT's existing labeling requirements, powered industrial trucks are to be designed, constructed and maintained in accordance with the applicable national consensus standards listed in subsections (a) and (b).

The effect of the proposed amendment is to clarify to the employer that PIT's are to be designed, constructed and maintained in accordance with the NCS listed in Section 3650(a) and (b).

DOCUMENTS INCORPORATED  
BY REFERENCE

None.

COST ESTIMATES OF PROPOSED ACTION

**Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

**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 a 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.

**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 standards do 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, these standards do 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.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do 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.)

The proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these standards 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 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 August 11, 2006. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on August 17, 2006, 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](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal 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 Keith Umemoto, 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 10. DEPARTMENT OF INSURANCE**

45 Fremont Street, 21st Floor  
San Francisco, CA 94105

**File No. RH05048846**

**Date: June 14, 2006**

**Regulations Re: Law Enforcement Access to Insurance Claims Information**

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**SUBJECT OF HEARING**

The Commissioner proposes to adopt Title 10, Chapter 5, Subchapter 9, and Article 2 of the California Code of Regulations regarding law enforcement access to insurance claims information maintained by Claims Analysis Bureaus.

**AUTHORITY AND REFERENCE**

The Insurance Commissioner proposes to adopt regulations under the authority of California Insurance Code Section 1875.18(d)(2). These regulations are intended to implement, interpret and make specific these provisions of the California Insurance Code Section 1875.18(a)-(d) inclusive.

**HEARING DATE, TIME AND LOCATION**

**Date: Monday, August 14, 2006**

**Time: 10:30 a.m. - 4:30 p.m.**

**Location: 45 Fremont Street, 22<sup>nd</sup> Floor  
Administrative Law Bureau Hearing  
Room  
San Francisco, CA 94105**

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, 17<sup>th</sup> Floor,  
Sacramento, CA 95814

PRESENTATION OF WRITTEN AND/OR ORAL  
COMMENTS; CONTACT PERSON(S)

Debra A. Chaum  
California Department of Insurance, Legal Division  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA. 94105  
Telephone: (415) 538-4115  
[chaumd@insurance.ca.gov](mailto:chaumd@insurance.ca.gov)

Vanessa Himelblau  
California Department of Insurance, Legal Division  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA. 94105  
Telephone: (415) 538-4151  
[himelblauv@insurance.ca.gov](mailto:himelblauv@insurance.ca.gov)

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person and address designated above, **no later than August 14, 2006 at 5:00 p.m.** Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL  
OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided that they are sent to the following e-mail address [dchaum@insuance.ca.gov](mailto:dchaum@insuance.ca.gov). Facsimile transmissions should be faxed to the **attention of Debra A. Chaum at (415) 904-5490.**

ACCESS TO HEARING ROOMS

Please contact the contact person listed above.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees or other reasonable expenses in accordance with the provisions of Title 10, Subchapter 4.5. Interested persons should contact the Office of the Public Advisor at the following address to inquire as to appropriate procedures:

INFORMATIVE DIGEST:

**Summary of Existing Regulations and Policy Statement Overview:**

California Insurance Code Section 1875.18(a) requires that every bodily injury medical payment, or uninsured motorist claim made under a policy of automobile insurance shall be available, upon request, to law enforcement in this state whenever the claim relates to an event that occurred within the state.

California Insurance Code Section 1875.18(b) provides that any claim subject to 1875.18(a) shall be made available to law enforcement without regard to any limitation in the Insurance Information and Privacy Information Act or any other provision of law.

Section 1875.18(c)(1) provides that a claims analysis bureau shall provide automobile claims information upon request to law enforcement agency pursuant to the authority of California Insurance Code Section 1875.18 subdivision (a).

Section 1875.18(c)(2) provides that a licensed claims analysis bureau and any person employed by a licensed claims analysis bureau that provides information pursuant to section 1875.18 shall have the immunity provided in CIC 791.21 to any person disclosing personal or privileged information under Article 6.6.

California Insurance Code Section 1875.18(d)(1) provides that claims information requested by law enforcement pursuant to CIC 1875.18 shall be used solely for the purpose of investigating and prosecuting automobile insurance fraud; further, Section 1875.18(d)(1) provides that requests for claims information shall be narrowly formulated in order to protect the privacy rights of the citizens of the state while at the same time obtaining information necessary to conduct specific investigations.

Section 1875.18(d)(2) provides that the Insurance Commissioner has the authority to promulgate regulations that establish rules for the access to and use of any information requested or obtained pursuant to this section, and the circumstances under which that information may be inspected or corrected.

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is set forth below.

The Commissioner has determined that the adoption of regulations is necessary in order to effectively administer California Insurance Code Sections 1875.18(a)–(d). The regulations proposed herein would do the following:

- 1) Define the terms “claims analysis bureau,” “Commissioner,” “communication,” “department,” “fraud division,” “insurance claims information,” “insurer,” “law enforcement,” “match report” and “supplemental information”.
- 2) Specify the responsibility of insurers under California Insurance Code Sections 1875.18(a)–(d) to deposit claims information into a claims analysis bureau within twenty days of receipt of claims information.
- 3) Specify the insurer’s responsibility to report selection of a claims analysis bureau within (20) calendar days to the Fraud Division.
- 4) Specify the insurer’s obligation to transmit supplemental information received by the insurer during the life of the claim to a claims analysis bureau within 30 days of receipt.
- 5) Specify that a claims analysis bureau is prohibited from charging a fee to insurers for depositing any information required by statute including supplemental insurance claims information.
- 6) Specify that the Commissioner reserves the right to perform audits deemed necessary to determine if insurers are complying with obligations to deposit information in a claims analysis bureau as specified by statute.
- 7) Specify that claims analysis bureaus shall allow law enforcement access to claims information solely for the purposes of detection and deterrence of automobile insurance
- 8) Prohibit claims analysis bureau from charging a fee to law enforcement for access to any information contained in the database.
- 9) Specify that a claims analysis bureau shall provide claims information in the form of a match report to law enforcement within 10 days of a properly executed written request.
- 10) Specify the content of a written request by law enforcement to a claims analysis bureau for claims information.
- 11) Specify procedure to be followed by claims analysis bureau when a written request by law enforcement to a claims analysis bureau for claims information fails to meet criteria established by the Commissioner pursuant to these regulations.
- 12) Specify the procedure to be followed when person believes that any record deposited or maintained by a Claims Analysis Bureau contains claims information that is incorrect.
- 13) Specify the Commissioner’s powers to perform an examination of any insurance claims information transmitted to any CAB he or she may deem necessary and further specifies that the Commissioner shall have access to all reports, working papers, correspondence, or other documents, including audit reports and audit working papers relating to the insurer’s receipt, compilation and transmission of insurance claims information.
- 14) Specify that the expenses of any examination of insurance claims information conducted pursuant to subsection 2698.84(a) shall be borne by the organization that is the subject of the examination.
- 15) Prohibit a claims analysis bureau from releasing any insurance claims information in response to a Public Records Act Request.
- 16) Prohibit a claims analysis bureau from releasing any insurance claims information received pursuant to the provisions of California Insurance Code 1875.18 for public inspection until: (1) Such time as the release of the information is required in connection with a criminal or civil proceeding, or (2) is necessary to analyze and present information in an insurance claims analysis bureau’s annual report.
- 17) Specify the security procedure that a CAB must adopt in order to keep documents deposited in a CAB secure. Applicable security procedures specified in this section include procedures to be adopted for use by employees and subcontractors as well as training of employees and subcontractors regarding these procedures.
- 18) Specify that a claims analysis bureau or any person employed therein that provides insurance claims information to any other person or entity pursuant to California Insurance Code Section California Insurance Code Section 1875.18 shall have the same immunity provided under California Insurance Code Section 791.21 to any person that discloses personal or privileged information; however, this subsection does not provide immunity for disclosing or furnishing false information with malice or willful intent to injure any person.
- 19) Specify the penalties that may be imposed by the Insurance Commissioner for violation of the proposed regulations.

EFFECTS OF PROPOSED ACTION:

The major effects of the regulations are as follows:

Proposed Section 2698.80(a)

Proposed Section 2698.80(a) defines the term “claims analysis bureau” or “CAB” to mean a licensed, non profit corporation that receives, compiles and transmits insurance claims information pursuant to California Insurance Code 1875.11(b). This section is reasonably necessary as it provides a definition of statutorily defined term that is used through out these regulations so that it can be easily understood by the reader and applied. by the regulated entities.

Proposed Section 2698.80(b)

Proposed Section 2698.80(b) defines the term “Commissioner” as the Insurance Commissioner of the State of California. This section is reasonably necessary as it provides a definition of statutorily defined term that is used through out these regulations so that it can be easily understood by the reader and applied by the regulated entities.

Proposed Section 2698.80(c)

Proposed Section 2698.80(c) specifies that “Department” means the California Department of Insurance. The term is used throughout these regulations. This definition avoids confusion as to which department the term refers.

Proposed Section 2698.80(d)

Proposed Section 2698.80(d) clarifies that “Fraud Division” refers to the California Department of Insurance Fraud Division formerly known as the Bureau of Fraudulent Claims. This definition is reasonably necessary in that it clarifies that “Fraud Division” is that part of the organization.

Proposed Section 2698.80(e)

Proposed Section 2698.80(e) defines the term “insurance claims information” to mean the information that insurers are required to report to a licensed claims analysis bureau pursuant to California Insurance Code Section 1876. This definition is reasonably necessary to provide a uniform definition that can be used consistently throughout these regulations.

Proposed Section 2698.80(f)

Proposed Section 2698.80(f) defines the term “insurer” to have the same meaning as set forth in California Insurance Code Section 1874.1. Section 1874.1 provides that an insurer is the automobile assigned risk plan established pursuant to California Insurance Code Section 11620 as well as any insurer writing insurance for any motor vehicles or otherwise liable for any loss due to motor vehicle theft or motor vehicle insurance fraud. This definition is reasonably necessary in that it establishes the applicable definition “insurer” to be used in these regulations. This definition is reasonably necessary in that it provides a uniform definition of a term

used throughout these regulations that would otherwise be susceptible to various interpretations.

Proposed Section 2698.80(g)

Proposed Section 2698.80(g) defines the term, “Law Enforcement” to have the same meaning as given in Penal Code Sections 830.1, 830.2, 830.3., 830.8, 830.37, and 830.39 and shall also include investigators for the Department of Consumer Affairs Bureau of Automotive Affairs. This definition is reasonably necessary in that it establishes the applicable definition “insurer” to be used in these regulations. This definition is reasonably necessary in that it provides a uniform definition of a term

Proposed Section 2698.80(h)

Proposed Section 2698.80(h) defines the term “Match Report or Matched Claims Data Format” to mean the manner in which data is provided to insurers by the Claims Analysis Bureau as a result of a match between claims information submitted by one insurer and information previously submitted. This definition is reasonably necessary in that it provides a uniform definition of a term used throughout these regulations that would otherwise be susceptible to various interpretations.

Proposed Section 2698.80(I)

Proposed Section 2698.80(I) defines the term “supplemental information” as any claims information provided to the insurer after the initial claim has been filed. This definition is reasonably necessary as it provides a uniform definition of a term that is used throughout these regulations.

Proposed Section 2698.81(a)

Proposed Section 2698.81(a) provides that every CAB shall obtain the prior approval of a plan of operation as a CAB from the Insurance Commissioner before it may perform any of the functions described in California Insurance Code Section 1875. This section is reasonably necessary as Section 1875.18(c)(1) requires that a claims analysis bureau shall provide automobile claims information upon request to law enforcement agency pursuant to the authority of California Insurance Code Section 1875.18 subdivision (a) and subdivision (d)(1) further provides that that claims information requested by law enforcement pursuant to CIC 1875.18 shall be used solely for the purpose of investigating and prosecuting automobile insurance fraud. While the language of 1875.18(d)(1) indicate the scope as well as limitations on the information to be provided to law enforcement in broad and general terms, the cited statutes are silent as to actual mechanisms or processes that the CAB must use in order to ensure full compliance with the law.

Proposed Section 2698.81(a) sets forth a preliminary requirement that allows the Commissioner to review

and approve of a plan of operation prior to the performance any of the functions described in California Insurance Code Section 1875.11.

Proposed Section 2698.81(b)

Proposed Section 2698.81(b)(1) provides that every plan of operation submitted to the Insurance Commissioner for approval (pursuant to Section 2698.81) shall: expire two years from the initial date of approval by the Insurance Commissioner. This requirement is reasonably necessary to ensure that the Commissioner has an effective and frequent method of monitoring the CAB operational procedures to ensure that procedures full compliance with statutes and regulations controlling the CAB. This requirement is also necessary as it provides specific detailed language that sets forth clear guidance to the regulated entity as to the required content of the plan of operation.

Proposed Section 2698.81(b)(2)

Proposed Section 2698.81(b)(2) requires that the plan of operation submitted for approval (pursuant to Section 2698.81) shall set forth written procedures and physical controls to: prevent the unauthorized access to its system of records, prevent unauthorized disclosure of records and prevent physical damage to or destruction of records. This subsection goes on to provide that at a minimum all written procedures and physical controls set forth in a plan submitted to the Commissioner shall [at a minimum] comply controls set forth in a plan submitted to the Commissioner shall comply with Section 2698.87(a)(1)–(5). [See: Section 2698.87(a)(1)–(5) for full discussion of cited provisions.] This section is reasonably necessary to fully implement California Insurance Code Section 1875.18(d)(2). The cited statutory section provides only that the Commissioner shall promulgate regulations that establish rules for the access to and use of any information requested.

The proposed section is reasonably necessary in that it clarifies and delineates the specific requirements that a CAB must follow in order to ensure prevent the unauthorized access to its system of records, to prevent unauthorized disclosure of records and to prevent physical damage to or destruction of records.

Proposed Section 2698.81(b)(3)

Proposed Section 2698.81(b)(3) requires that the plan of operation submitted for approval (pursuant to Section 2698.81) shall set forth written procedures regarding the use of subcontractors to perform any function described by California Insurance Code Section 1875.11(b). The proposed subsection goes on to provide that at a minimum the CAB should provide training to subcontractors as specified in 2698.87(b) and provide to the Insurance Commissioner a list of taxpayer

identification numbers of all subcontractors that perform work for the CAB.

The proposed section is reasonably necessary in that it delineates the specific requirements that a CAB must follow in order to: prevent the unauthorized access to its system of records; prevent unauthorized disclosure of records; and to prevent physical damage to or destruction of records by subcontractors. The specificity of these requirements helps provide clarity and assists regulated persons or entities to fully comply with the law.

Proposed Section 2698.82(a)

Proposed Section 2698.82(a) requires that insurers deposit claims information to a licensed Claims Analysis Bureau within 20 calendar days of receipt of claims information. This section is reasonably necessary because California Insurance Code Section 1876 requires that insurers report all automobile claims to a claims analysis bureau within in 20 days of receipt. This section is reasonably necessary in order to fully implement the statutory scheme established by California Insurance Code Section 1875.18(d)(2) .and is not duplicative of the statute as it provides clarity.

Proposed Section 2698.82(b)

Proposed Section 2698.82(b) requires insurers to deposit any supplemental claims information provided to the insurer during the life of the claim to the CAB within 30 days of receipt of the supplemental claims information. This section is reasonably necessary because, California Insurance Code Section 1876 requires that insurers report all automobile claims information to a licensed claims analysis bureau within 20 days of receipt of the information but does not explicitly specify the time within which an insurer must report supplemental claims information to the licensed CAB. This section is reasonably necessary in order to fully implement the statutory scheme established by California Insurance Code Section 1875.18.

Proposed Section 2698.82(c)

Proposed Section 2698.82(c) prohibits any licensed CAB from charging a fee to an insurer for the deposit of any claims information including supplemental claims information. This section is reasonably necessary in order to clarify that the statutory prohibition against charging fees to insurers set forth in 1875.12(b)(6) is operative for both initial as well as supplemental claims information. Further, this regulation is reasonably necessary to fully implement the statutory scheme established by California Insurance Code Section 1875.18.

Proposed Section 2698.82(d)

Proposed Section 2698.82(d) provides that the Commissioner may perform audits as he or she deems necessary to determine that the appropriate claims information is deposited within the time frames specified by these regulations. This section is reasonably necessary

in order to fully implement the statutory scheme established by California Insurance Code Section 1875.18 and to ensure full compliance by all regulated entities.

Proposed Section 2698.83(a)

Proposed Section 2698.83(a) specifies that access to the claims information required by these regulations shall be made available to law enforcement agencies solely for the purpose of detection and investigation of insurance fraud. This section is reasonably necessary in order to fully implement the statutory scheme established by California Insurance Code Section 1875.18.

Proposed Section 2698.83(b)

Proposed Section 2698.83(b) clarifies that claims analysis bureaus shall not charge law enforcement any fee for access to claims information. Insurance Code Section 1876 requires that insurers deposit claims information into a licensed claims analysis bureau and further California Insurance Code Section 1875.18(a) law enforcement be allowed access to the information reported by insurers. The proposed subsection is reasonably necessary as it provides needed clarity by specifying that the claims analysis bureau shall not charge any fee to law enforcement.

Proposed Section 2698.83(c)

Proposed Section 2698.83(c) requires that claims analysis bureaus provide claims information to law enforcement in the form of a “match report” within 10 calendar days of receipt by the claims analysis bureau of a properly executed request. Insurance Code Section 1876 requires that insurers deposit claims information into a licensed claims analysis bureau and California Insurance Code Section 1875.18(d) requires that claims analysis bureau provide law enforcement information reported by insurers; however, the statute is silent as to the time, and manner in which the claims analysis bureau must respond to a law enforcement request for information. The proposed subsection is reasonably necessary as it provides needed clarity by specifying that the claims analysis bureau shall provide insurance claims information to law enforcement in the form of a “match report” within 10 calendar days of receipt of a request by law enforcement.

Proposed Section 2698.83(d)

Proposed Section 2698.83(d) requires that a properly executed written request for claims information (required by Proposed Section 2698.32(c)) shall contain the following information: (1) the specific claims information requested and (2) the identity of the requesting party.

Section 1875.18(c)(1) requires that a claims analysis bureau provide law enforcement information reported by insurers; however, his statute is silent as to the content of the written request for claims information by law

enforcement. The proposed subsection is reasonably necessary for the implementation of California Insurance Code Section 1875.18 clarity by specifying the necessary elements to be contained in the written request by law enforcement.

Proposed Section 2698.83(e)

Proposed Section 2698.83(e) provides that where a claims analysis bureau receives a written request for information from a law enforcement agency that does not comply with the provisions of 2698.83(e)(1)–(4) the claims analysis bureau shall specify the manner of non-compliance and return the request to the law enforcement agency making the request for either correction, amendment and re-submittal or withdrawal of the request.

Proposed Section 1875.18(a) requires that claims analysis bureau provide to law enforcement claims information reported by insurers to a CAB; however, the statute is silent as to procedure to be followed by Claims Analysis Bureau when it written request for claims information by law enforcement. The proposed subsection is reasonably necessary as it provides needed clarity by specifying the necessary elements to be contained in the written request.

Proposed Section 2698.84(a)

Proposed Section 2698.84(a) provides that any person who believes that any information deposited or maintained by a claims analysis bureau (CAB) is incorrect may proceed under the provisions of California Insurance Code Section 12929 and request in writing that the Commissioner investigate whether or not the information set forth is correct. This provision is reasonably necessary as California Insurance Code Section 1875.18(d)(2) specifically requires that the Commissioner establish rules governing the access to and use of information requested or obtained pursuant to California Insurance Code Section 1875.18 and the circumstances under which that information may be inspected or corrected. This proposed section provides specificity in that it clearly directs an individual that believes that records with respect to that individual (or any vehicle owned by that individual) are incorrect to proceed under the provisions of California Insurance Code Section 12929.

Proposed Section 2698.84(b)

Proposed Section 2698.84(b) provides that if after an investigation conducted by the Commissioner, pursuant to California Insurance Code Section 12929, the Commissioner determines that the information deposited or maintained by the CAB is incorrect the Commissioner shall issue an order that requires the claims analysis bureau (CAB) to correct the information within the time period specified by order. This provision is reasonably necessary as California Insurance Code Section

1875.18(d)(2) specifically requires that the Commissioner establish rules governing the access to and use of information requested or obtained pursuant to California Insurance Code Section 1875.18 and the circumstances under which that information may be inspected or corrected.

This proposed section provides specificity as it describes the procedure the Commissioner is required to follow if the Commissioner's investigation reveals that the information deposited or maintained in a claims analysis bureau (CAB) is incorrect. This subsection is not duplicative or a mere rephrasing of California Insurance Code Section 12929 as it provides clear guidance regarding the applicability of the section and makes the regulation easier to understand and apply.

Proposed Section 2698.84(c)

Proposed Section 2698.84(c) requires that any Claims Analysis Bureau that is ordered by the Commissioner to correct claims information shall send a copy of the Order of the Commissioner to any person requesting verification that within 10 days of the receipt of the request. This section is necessary as it provides needed specificity to fully implement California Insurance Code Section 1875.18 and clarifies the obligations of the Claims Analysis Bureau to send a copy of the Order of the Commissioner to any person requesting verification of the Order within ten days of receipt of the request.

Proposed Section 2698.85(a)

Proposed Section 2698.85(a) sets forth the Commissioner's right to perform an examination of insurance claims information transmitted to any CAB that the Commissioner may deem necessary. The subsection goes on to provide that the Commissioner shall have access to all reports and audit reports and audit working papers relating to the insurer's receipt, compilation and transmission and of insurance claims information. This section is necessary to fully implement California Insurance Code Section 1875.18 in that it clarifies and delineates the full scope of the Insurance Commissioner's statutory powers conferred upon him by California Insurance Code Sections 1875.18 to examine insurance claims information as well as all reports and audit reports and audit working papers relating to the insurer's receipt, compilation and transmission of insurance claims information.

Proposed Section 2698.85(b)

Proposed Section 2698.85(b) provides that the expenses of any examination conducted. This section is necessary to fully implement California Insurance Code Section 1875.18 in that it clarifies and delineates the full scope of the Insurance Commissioner's statutory powers conferred upon him by California Insurance Code Sections 1875.18 to examine insurance claims in-

formation as well as all reports and audit reports and audit working papers relating to the insurer's receipt, compilation, and transmission of insurance claims information.

Proposed Section 2698.86(a)

Proposed Section 2698.86(a) provides that a claims analysis bureau shall not release any insurance claims information in response to a Public Records Act Request. This section is necessary as it sets forth the statutory prohibition found at California Insurance Code 1875.16 against disclosure of insurance claims information in response to a Public Records Act Request is applicable to a CAB. This section is not duplicative, as it simply clarifies the applicability of California Insurance Code Section 1875.16 to claims analysis bureaus.

Proposed Section 2698.86(b)

Proposed Section 2698.86(b) provides that a claims analysis bureau shall not release any insurance claims information for public inspection unless: (1) such time as its release is required in connection with a criminal or civil proceeding; or (2) is necessary to analyze or present information for release in an insurance claims information annual report.

This section is necessary as it delineates the circumstances under which a claims analysis bureau may disclose insurance claims information in accordance with the provisions of California Insurance Code 1875.16. This section is not duplicative of 1875.16 as it simply clarifies the applicability of statutory provisions and allows regulated entities to more clearly and easily understand the scope of permissible conduct.

Proposed Section 2698.87(a)

Proposed Section 2698.87(a) provides that every CAB shall establish and adopt administrative policies and procedures and physical controls to: prevent the unauthorized access to its system of records, to prevent unauthorized disclosure of records and to prevent physical damage to or destruction of records. The section goes on to provide that at a minimum the administrative policies and procedures and physical controls shall require that:

- 1) the records are protected from public view;
- 2) the area in which records are kept is supervised during business hours to prevent unauthorized persons from having access to them;
- 3) the records are inaccessible to unauthorized persons outside of business hours;
- 4) the records are not disclosed to unauthorized persons or under unauthorized circumstances in either oral or written form; and,
- 5) direct access to the records is restricted to only those individuals who must have direct access to records in order to perform their duties.

This section is reasonably necessary to fully implement California Insurance Code Section 1875.18(d) in that it clarifies and delineates the specific requirements that a CAB must follow in order prevent the unauthorized access to its system of records, to prevent unauthorized disclosure of records and to prevent physical damage to or destruction of records.

Proposed Section 2698.88(a)

Proposed Section 2698.88(a) provides that a claims analysis bureau or any employee of a claims analysis bureau that provides insurance claims information to another person or entity pursuant to California Insurance Code Section 1875.18 shall have the same immunity provided under California Insurance Code Section 791.21 to any person that discloses personal or privileged information. This subsection goes on to provide, however, that the immunity provided by this subsection shall not be provided for the disclosure of false information with malice or willful intent to injure any person.

This section is necessary as it sets forth the scope of statutory immunity afforded by California Insurance Code Section 1875.16 from civil actions for persons that disclose insurance claims information in accordance with the provisions of California Insurance Code 1875.18. This section is not duplicative of existent law as it is necessary to clarify the law and inform the regulated entities of the immunities law provided by existent law.

Proposed Section 2698.89(a)

Proposed Section 2698.89(a) provides that the Commissioner may suspend or revoke the the license of any CAB if the CAB fails to comply with any provisions of this subchapter. This section is necessary to clarify existent law and inform the regulated entities of the potential consequences of violation of these regulations.

Proposed Section 2698.89(b)

The Commissioner shall conduct any proceeding to suspend or revoke any license granted to a CAB in accordance with the Administrative Procedures Act, Chapter 5(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. This section is necessary to clarify existent law and inform the regulated entities of the consequences for violation of these regulations.

Proposed Section 2698.89(c)

Proposed Section 2698.89(c) provides that penalties for noncompliance are cumulative and shall be in addition to any other penalties or remedies provided by the Insurance Code. This section is necessary to clarify existent law and inform the regulated entities of the penalty that may be levied for violation of these regulations.

MANDATES

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

COSTS OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary costs or savings imposed on local agencies, and no cost or savings in federal funding to the state.

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

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

IMPACT ON PRIVATE PERSONS/BUSINESSES

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

ALTERNATIVES STATEMENT

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

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that law enforcement have access to insurance claims information.

EFFECT ON JOBS AND BUSINESSES  
IN CALIFORNIA

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

IMPACT ON HOUSING COSTS

The Commissioner has preliminarily determined that the matters proposed herein will have no effect on housing costs.

IMPACT ON SMALL BUSINESS

The Claims Analysis Bureau (a licensee of the commissioner) is the principle entity regulated by the proposed rules. These entities are not small business within the meaning of the California Government Code, as they are required by statute to be non profit. The Commissioner has preliminarily determined that these regulations should have no impact on any small business.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations. However, see the reference to 28 Code of Federal regulations 16.51–2 in the **Initial Statement of Reasons** regarding section 2698.87 for further discussion.

TEXT OF REGULATIONS AND INITIAL  
STATEMENT OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed adoption of the regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the

information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

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

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to: <http://www.insurance.ca.gov>. Find in the leftmost column the link entitled 'Legal.' Click on it. On the 'Legal' page select the 'Proposed Regulations' link, near the top of the page. When the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter (RHO504886, the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "1875.18"), or search by keyword ("law enforcement access to claims information"). Then, click on the 'Submit' button to display links to the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the Regulations Re: Law Enforcement Access to Insurance Claims Information and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

**TITLE 10. DEPARTMENT OF INSURANCE**

**300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, California 95814**

**NOTICE OF PROPOSED ACTION**

**DATE: June 30, 2006      REGULATION FILE: RH04039377**

**SUBJECT OF PROPOSED RULEMAKING**

The Insurance Commissioner proposes to amend the regulations described below after considering comments from the public. The Commissioner proposes to revise California Code of Regulations, Title 10, Chapter 5, Subchapter 1, Article 1, §§ Title 10, Chapter 5, Subchapter 1, Article 1, §§ 2052.1 and 2052.4 (the "Standards for Approval and Disapproval of Names of Insurance Producers Regulation"), which have been in effect since October 1, 1973.

**AUTHORITY AND REFERENCE**

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code section 1724.5. Insurance Code section 790.10 provides the authority for this rulemaking.

**PUBLIC HEARING**

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this regulation, as follows:

**Date and time: August 15, 2006, at 10:00 a.m.**

**Location: California Department of Insurance  
300 Capitol Mall, 6<sup>th</sup> Floor  
Sacramento, CA 95814**

The hearing will continue on the date noted above until all testimony has been submitted or 4:00 p.m., whichever is earlier.

**PRESENTATION OF WRITTEN COMMENTS;  
CONTACT PERSONS**

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on August 15, 2006. Please direct all written comments to the following contact person:

Geoffrey Margolis, Senior Staff Counsel  
California Department of Insurance  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento CA 95814  
Telephone: (916) 491-3558  
[margolisg@insurance.ca.gov](mailto:margolisg@insurance.ca.gov)

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

John Madriz, Associate Analyst — Policy Unit, Licensing Services Division  
California Department of Insurance  
320 Capitol Mail  
Sacramento, CA 95814  
Telephone: (916) 492-3057  
[madrizj@insurance.ca.gov](mailto:madrizj@insurance.ca.gov)

**DEADLINE FOR WRITTEN COMMENTS**

All written materials must be received by the Insurance Commissioner, addressed to one of the contact persons at his respective address listed above, no later than 5:00 p.m. on August 15, 2006. Any written materials received after that time will not be considered.

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

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: [NameApprovalRegs@insurance.ca.gov](mailto:NameApprovalRegs@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Geoffrey Margolis and sent to the following facsimile number: (916) 324-1883. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

**INFORMATIVE DIGEST**

**Summary of Existing Law and Policy Statement Overview**

Every insurance producer who transacts business under a business (true or fictitious) must obtain approval of that name by the California Department of Insurance pursuant to California Insurance Code Section 1724.5. Additionally, CIC Section 1724.5 provides authority for the Insurance Commissioner to disapprove the use of any true or fictitious name if it interferes with a name

already in use (or under reservation) and/or could mislead the public. In furtherance of the Commissioner's duties under this law, the Department of Insurance promulgated regulations in 1973 to clarify application of Section 1724.5 by identifying words that are prohibited or limited for use by insurance license producers.

These regulations have not been updated since their enactment, and the Commissioner believes it is necessary to revise them to better fit today's business climate.

### **Effect of Proposed Action**

The Commissioner believes it is necessary to revise the California Code of Regulations, particularly since the existing regulations have not been updated since their initial enactment, the public is currently being misled by the use of certain names as insurance producers, the desire to reduce the number of rejected producer name applications, and to improve the transparency of government by disclosing the existing process used by the California Department of Insurance in evaluating proposed producer names for approval.

It can be beneficial to insurers, producers, and consumers when administrative costs related to compliance with regulatory requirements imposed are clarified. The proposed regulations tend to serve this purpose by ensuring that California's regulatory requirements in this area reduce misinterpretation and confusion by consumers and streamline the name approval process for producers. To the extent that producers, operating in compliance with California law, are able to devote additional resources — resources which would otherwise be expended submitting multiple name approval applications — to improving their financial stability or providing better products to consumers, everyone stands to benefit. The proposed regulations are reasonably necessary to the degree to which they help to achieve progress toward this goal.

One noteworthy change in the regulations is to add language to Section 2052.1 in order to provide prospective insurance producers, as well as existing insurance producers that desire a change in his/her/its business name, with a better understanding of the process used by the Insurance Commissioner in evaluating proposed names. This new language which states that "[s]imilarity is determined by comparing the first two, or more, words, initials, and/or numbers in the proposed name, with any or all of the words, initials, and/or numbers of all existing approved names," makes the current government process more transparent by disclosing the existing process used by the Department of Insurance during the name approval process.

Another major change in the regulations is to add language to Section 2052.4(c)(1) in order to provide prospective insurance producers, as well as existing insurance producers that desire a change in his/her/its busi-

ness name, with an awareness that the Insurance Commissioner's position is that any business name is misleading if that name fails to include the word "insurance" followed by one of the following definitive words: "agency", "services", "marketing", "sales", "solutions", "center", and under certain conditions "broker", "brokers", "brokerage", & "associates."

The other significant change in the regulations is that the additions and removal of words to the "prohibited" word list in Section 2052.4(d) (now 2052.4(e)), and the additions and removal of words to the "improper use" word list in Section 2052.4(e) (now 2052.4(f)). These subdivisions have not been changed since their enactment in 1973. Since that time, the financial services industry and the business of insurance has evolved such that names that were misleading in 1973 may no longer be misleading today, and names that are misleading today may not have been so in 1973. Additionally, the Department has received complaints from the public regarding various misleading names from the time of the enactment of the Regulations to the time of filing for this amendment.

### **MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

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

### **COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING**

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State. It may be possible, however, for the State to experience some cost savings if the current name approval declination rate of approximately fifty percent (50%) drops significantly after the regulations are amended.

### **ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

The Commissioner has made an initial determination that the proposed regulations may have a significant,

statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. As described above, certain insurance producers who wish to operate under a true or fictitious name that is prohibited by these regulations may believe its ability to compete with businesses in other states is compromised. The Commissioner has considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

#### POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

- The Commissioner has made an initial determination that the proposed regulations will not have a significant cost impact on private persons or business entities. It may be possible, however, for producers who apply for name approval to experience a small cost savings if the applicant files fewer name approval applications after the regulations are amended.

#### FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

#### EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently operating in the state. The Commissioner estimates that the proposed regulations will not have any impact on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently

operating in the state. Interested parties are invited to comment on this issue.

#### IMPACT ON HOUSING COSTS

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

#### ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

#### IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed regulations may affect small business as defined in Government Code section 11342.610, subdivision (b), paragraph (2).

#### COMPARABLE FEDERAL LAW

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

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

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 300 Capitol Mall, 17<sup>th</sup> Floor, Sacramento, California 95814, be-

tween the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

#### **AUTOMATIC MAILING**

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

#### **WEBSITE POSTINGS**

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find near the end of the left-most column, under the heading "Quick Links," the "Legal Information" link. Click it. On the "Legal Information" page, click on the "Proposed Regulations" link near the top of the page. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "RH04039377" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of the code section that the regulations implement ("1724.5" or "790.010"), or search by keyword ("Standards for Approval and Disapproval of Names of Insurance Producers" for example). Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the "Name Approval Regulation" link, and click it. Links to the documents associated with these regulations will then be displayed.

#### **MODIFIED LANGUAGE**

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

## **TITLE 11. DEPARTMENT OF JUSTICE**

### **NOTICE OF PROPOSED RULEMAKING**

The Department of Justice ("Department" or "DOJ") proposes to amend Section 978.20 of Division 1, Title 11 of the California Code of Regulations (CCR) regarding definitions of terms used to identify assault weapons after considering all comments, objections, and recommendations regarding the proposed action.

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

Penal Code (PC) section 12276.1 identifies restricted assault weapons based on specific characteristics or features. Currently, California Code of Regulations (CCR) section 978.20 of Title 11 defines five terms used in § 12276.1 PC. The proposed amendment will define a sixth term, "capacity to accept a detachable magazine", as meaning "capable of accommodating a detachable magazine, but shall not be construed to include a firearm that has been permanently altered so that it cannot accommodate a detachable magazine."

### **AUTHORITY AND REFERENCE**

Authority: Penal Code section 12276.5(i)

Reference: Penal Code sections 12276.1, 12276.5, 12280, 12285, and 12289

### **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 August 16, 2006. Only comments received at the Department offices by that time will be considered. Please submit written comments to:

Mail: Jeff Amador, Field Representative  
Department of Justice  
Firearms Licensing and Permits Section  
P.O. Box 820200  
Sacramento, CA 94203-0200

or

Email: [jeff.amador@doj.ca.gov](mailto:jeff.amador@doj.ca.gov)

### **PUBLIC HEARING**

The Department will hold a public hearing beginning at 9:00 a.m. on Wednesday, August 16, 2006 for the pur-

pose of receiving public comments regarding the proposed regulatory action. The hearing will be held in the Department of Water Resources auditorium located at 1416 9<sup>th</sup> Street, Sacramento, California. The auditorium is wheelchair accessible. At the hearing, any person may present oral or written comments regarding the proposed regulatory action. The Department requests, but does not require, that persons who make oral comments also submit written copy of their testimony at the hearing.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following determinations:

Mandate on local agencies or 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 that a representative person or business would incur in reasonable compliance with the proposed action: "The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action."

Significant effect on housing costs: None.

Small business determination: The Department has determined the proposed amendment does not affect small business. This determination is based on the fact that the proposed amendment simply defines a term used to identify assault weapons but does not place any additional cost burden on small businesses nor their customers.

Assessment regarding effect on jobs/businesses: The proposed amendment 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 doing business within California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no

reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Department invites any person interested in presenting statements or arguments with respect to alternatives to the proposed regulations to do so at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Please direct inquiries concerning the proposed administrative action to Jeff Amador at (916) 227-3661. The backup contact person is Troy Perry at (916) 227-3707. The mailing address for Jeff Amador and Troy Perry is:

Department of Justice  
Firearms Licensing and Permits Section  
P.O. Box 820200  
Sacramento, CA 94203-0200

AVAILABILITY OF RULEMAKING FILE INCLUDING THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The DOJ will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The initial statement of reasons and the text of proposed regulations are currently available at the DOJ website at <http://caag.state.ca.us/firearms/regs/>. You may also obtain copies by contacting Troy Perry at the telephone number or address 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. The Department will accept written comments on the modified text for 15 days after the date on which they are made available. Copies of any modified text will be available from the DOJ website at <http://caag.state.ca.us/firearms/regs/>. You may also obtain a written copy of any modi-

fied text by contacting Troy Perry at the telephone number or address above.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the final statement of reasons will be available at the DOJ website at <http://caag.state.ca.us/firearms/regs/>. You may also obtain a written copy of the final statement of reasons by contacting Troy Perry at the telephone number or address above.

#### 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 strikeout format, as well as the Final Statement of Reasons once it is completed, can be accessed through the DOJ website at <http://caag.state.ca.us/firearms/regs/>.

### TITLE 13. DEPARTMENT OF MOTOR VEHICLES

#### NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Sections 225.18, 225.39, 225.45, 225.54 and 225.63, in Chapter 1, Division 1, Article 3.6, of Title 13, California Code of Regulations to amend program requirements and add a new type of vehicle transaction to the Business Partner Automation (BPA) program.

#### PUBLIC HEARING

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

#### DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be re-

ceived at the department no later than 5:00 P.M. on *August 14, 2006*, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

#### AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Section 1685 of the Vehicle Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 1685 authorizes the department to contract with private industry partners to electronically process and update registration and titling transactions. The proposed regulation will amend program requirements and authorize a new registration transaction option.

**§225.18 Cause for Refusal to Enter into a Contract and Issue a Permit.** Section 225.18 is proposed to be amended to set a time limit upon which a former state employee may work for a business partner after being dismissed by the state.

**§225.39 Business Partner Responsibilities.** Section 225.39 is proposed to be amended to clarify for business partners the service providers' responsibility to allow second-line business partners to only process authorized vehicle transactions, to correct a typographical error in the "Physical Inventory Non-DMV Entities" form's revision date, and to clarify that the reference to a first-line business partner in this section refers to first-line service providers only.

**§225.45 Customer Fees.** Section 225.45 is proposed to be amended to add a new type of vehicle transaction to the associated fee amount to process the transaction.

**§225.54 Transaction Procedures and Inventory Requirements.** Section 225.54 is proposed to be amended to identify the new revision date of the transaction and control inventory handbook to include the new substitute plate and stickers vehicle registration transaction and processing procedures.

**§225.63 Audit Requirements.** Section 225.63 is proposed to be amended to identify the revised name of the departments' Audit Office.

#### DOCUMENTS INCORPORATED BY REFERENCE

- BPA Transaction Procedures and Inventory Requirements Handbook (December 2005)

The handbook is not published in Title 13 because it would be impractical and cumbersome to publish the

handbook in the department's regulations. The handbook is presently available from the department.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations implement existing statutes by allowing a business partner, as authorized in Vehicle Code section 1685, to process an additional vehicle registration transaction.
- Effect on Housing Costs: None.

DETERMINATIONS

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

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will neither create or eliminate jobs or create businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses because the proposed regulatory action implements existing statutes by expanding the types of vehicle registration transactions.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the is-

ssues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-5567, or [cpatrick@dmv.ca.gov](mailto:cpatrick@dmv.ca.gov). In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or e-mail [dbaity@dmv.ca.gov](mailto:dbaity@dmv.ca.gov). The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons and Express Terms) may be accessed at [www.dmv.ca.gov/about/lad/regactions.htm](http://www.dmv.ca.gov/about/lad/regactions.htm).

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently

related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

### TITLE 13. DEPARTMENT OF MOTOR VEHICLES

#### NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Section 423.00, in Chapter 1, Division 1, Article 6, of Title 13, California Code of Regulations to identify the annual adjustment of specified fees for 2007.

#### PUBLIC HEARING

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

#### DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on *August 14, 2006*, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

#### AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Sections 4604(b), 5014(f), 5036, 6700.25(e), 9102.5(a), 9102.5(c), 9250.13, 9252(a), 9254, 9258,

9261(a), 9261(b), 9261(c), 9261(d), 9265(a), 9265(b), 9702, 11515, 11515.2, 12814.5, 14900, 14900.1, 14901, 14902, 38121(b), 38232, 38255(a), 38255(b), 38255(c), 38260, and 38265(a) of the Vehicle Code; Code of Civil Procedure sections 488.385(b) and (c); and Revenue and Taxation Code section 10902(c).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 1678 has required the department to annually review and adjust a variety of department fees since January 1, 2005. The fees are to be adjusted in an amount equal to the increase in the California Consumer Price Index for the prior year as calculated by the Department of Finance. A fee would only be increased when the calculated amount equals or is greater than \$0.50, rounded to the next highest whole dollar.

The department proposes to amend Section 423.00 to identify the Vehicle Code sections that authorize each fee identified in Vehicle Code section 1678, the dates the fee increases are effective and the amount of each adjusted fee. These fees would become effective January 1, 2007.

#### DOCUMENTS INCORPORATED BY REFERENCE

There are no documents to be incorporated by reference.

#### FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The department is required by statute to adjust specific fees by increasing each fee in an amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance. Forty-one (41) different fees are proposed to be increased by one dollar and one (1) fee is proposed to be increased by two dollars.
- Effect on Housing Costs: None.

DETERMINATIONS

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

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will neither create nor eliminate jobs or create businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses because the proposed regulatory action identifies specific fees that will be increased based on the increase in the California Consumer Price Index for the prior year. This regulation proposes to increase forty-one fees specified in statute by one dollar (\$1) and one fee specified in statute by two (\$2) dollars.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot be reviewed during the comment period.

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-5567, or [cpatrick@dmv.ca.gov](mailto:cpatrick@dmv.ca.gov). In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or e-mail [dbaity@dmv.ca.gov](mailto:dbaity@dmv.ca.gov). The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

**TITLE 16. DEPARTMENT OF  
CONSUMER AFFAIRS BUREAU OF  
SECURITY AND INVESTIGATIVE  
SERVICES**

**NOTICE IS HEREBY GIVEN** that the Bureau of Security and Investigative Services (hereinafter referred to as "BSIS") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 1625 North Market Boulevard, Hearing Room, First Floor South, Room 102, Sacramento, CA 95834 on August 16, 2006, beginning at 10:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by this office no later than 5:00 p.m. on August 14, 2006.

The BSIS, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

**Authority and Reference:** Business and Professions Code section 7581 authorizes the Director of Consumer Affairs to amend, adopt, or repeal regulations for the administration and enforcement of the Private Security Services Act. Business and Professions Code sections 7583.6 and 7583.7 establish training requirements for prospective and registered security guards. The proposed amendments to sections 640 and 643 of Title 16, Division 7, of the California Code of Regulations will correct the fee amount for the initial application and renewal for security guards and will further implement the training requirements for prospective and registered security guards.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

Business and Professions Code section 7581 authorizes the Director to amend, adopt, or repeal regulations for the administration and enforcement of the Private Security Services Act. Statutes of 2002, chapter 886 (AB 2880) allows BSIS to increase the training requirements for perspective and registered security guards

from three (3) hours to 40 hours. This rulemaking package further defines the training.

1. Adopt changes to section 640 of Title 16, Division 7, of the California Code of Regulations that will correct the fee amount stated in the CCRs to reflect the current provision of sections 7588(h)(1) and 7588(h)(2) of the Private Security Services Act in the California Business and Professions Code.
2. Adopt changes to section 643 of Title 16 of the California Code of Regulations to further specify the security guard training requirements contained in sections 7583.6 and 7583.7 of the Business and Professions Code. To further implement and specify the required skills training courses, an outline of the course of study has been developed.

**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:** BSIS has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states.

**Impact on Jobs/New Businesses:**

BSIS has determined that this regulatory proposal will have no impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

**Cost Impact on Private Persons or Entities:**

BSIS has determined that the proposed regulatory action will have a minimal cost impact that a representative private person would necessarily incur in reasonable compliance with the proposed action. The cost is necessary to insure public safety and security.

**Effect on Housing Costs:** NONE

**EFFECT ON SMALL BUSINESS**

BSIS has determined that the proposed regulations may have an effect on small businesses because the regulations relate to training requirements for registered security guards.

CONSIDERATION OF ALTERNATIVES

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

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

STATEMENT OF REASONS AND INFORMATION

BSIS 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 Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau of Security and Investigative Services at 2420 Del Paso Road, Suite 270, Sacramento, California 95834.

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 concerning the proposed administrative action may be addressed to:

Name: Noreene DeKoning  
 Address: 2420 Del Paso Road, Suite 270,  
 Sacramento, CA 95834  
 Telephone No.: (916) 575-7054  
 Fax: (916) 575-7287  
 E-Mail: noreene\_dekoning@dca.ca.gov

The backup contact person is:

Name: Donna Jacobsen  
 Address: 2420 Del Paso Road, Suite 270,  
 Sacramento, CA 95834  
 Telephone No: (916) 575-7000  
 Fax: (916) 575-7287  
 E-Mail Address: [www.dca.ca.gov/bsis](http://www.dca.ca.gov/bsis)

Inquiries concerning the substance of the proposed regulation may be directed to Noreene DeKoning at (916) 575-7054.

**Web site Access:** Materials regarding this proposal can be found on BSIS's web site at [www.dca.ca.gov/bsis](http://www.dca.ca.gov/bsis).

**TITLE 16. PHYSICIAN ASSISTANT COMMITTEE**

NOTICE IS HEREBY GIVEN that the Physician Assistant Committee is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 1424 Howe Avenue, Greg Gorges Conference Room, Sacramento, California 95825, at 11:00 a.m. on 17 August 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physician Assistant Committee at its office not later than 5:00 p.m. on 14 August 2006 or must be received by the Physician Assistant Committee at the hearing. The Physician Assistant Committee, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

**Authority and Reference:** Pursuant to the authority vested by Sections 2018, 3502, and 3510 of the Business and Professions Code, and to implement, interpret or make specific Sections 3502 of said Code, the Physician Assistant Committee is considering changes to Division 13.8 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Amend Section 1399.540.

The existing regulation requires that a physician assistant may only provide medical services which he or

she is competent to perform and which are consistent with the physician assistant's education, training, and experience and which are delegated in writing by a supervising physician.

Section 3502(a) of the Business and Professions Code states, in part, that a physician assistant may only perform those medical services as set forth by the regulations of the board when the services are rendered under the supervision of a licensed physician and surgeon.

This proposal would formally recognize that the writing which delegates the medical services to the physician assistant be known as a "Delegation of Services Agreement" and require that it now be signed and dated by both the supervising physician and the physician assistant.

### FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because it only affects individual licensees. Licensees should already be reading and preparing the document. The only impact is that they would be required to sign the document.

The following studies/relevant data were relied upon in making the above Determination: none.

Impact on Jobs/New Businesses:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None

### EFFECT ON SMALL BUSINESS

The Physician Assistant Committee has determined that the proposed regulations would not affect small businesses. Because the document is already required by the regulations, the only effort is in signing the document.

### CONSIDERATION OF ALTERNATIVES

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

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

### INITIAL STATEMENT OF REASONS AND INFORMATION

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

### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physician Assistant Committee at 1424 Howe Avenue, Suite 35, Sacramento, California 95825.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file 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

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

Name: Glenn L. Mitchell  
 Address: 1424 Howe Avenue, Suite 35  
 Sacramento, CA 95825  
 Telephone No.: (916) 561-8783  
 Fax No.: (916) 263-2671  
 E-mail Address: gmittell@medbd.ca.gov

The backup contact person is:

Name: Richard L. Wallinder  
 Address: 1424 Howe Avenue, Suite 35  
 Sacramento, CA 95825  
 Telephone No.: (916) 561-8782  
 Fax No.: (916) 263-2671  
 E-Mail Address: rwallinder@medbd.ca.gov

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

**TITLE 16. PHYSICIAN ASSISTANT COMMITTEE**

NOTICE IS HEREBY GIVEN that the Physician Assistant Committee is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 1424 Howe Avenue, Greg Gorges Conference Room, Sacramento, California, at 11:30 a.m., on 17 August 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physician Assistant Committee at its office not later than 5:00 p.m. on 14 August 2006 or must be received by the Physician Assistant Committee at the hearing. The Physician Assistant Committee, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2018, 3502, and 3510 of the Business and Professions Code, and to implement, interpret or make specific Section 2058 and 3502 of said Code, the Physician Assistant Committee is considering

changes to Division 13.8 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 1399.541(h) of the existing regulation requires, in part, that the medical record of any patient cared for by the physician assistant for whom the physician's prescription has been transmitted or carried out shall be reviewed, countersigned, and dated by a supervising physician within seven days.

AB 2626 (Plescia, Chapter 452, Statutes of 2004) effective 1 January 2005 amended Section 3502.1 of the Business and Professions Code to require that the medical record of any patient cared for by the physician assistant for whom the physician's Schedule II drug order has been carried out shall be reviewed, countersigned, and dated by a supervising physician within seven days.

Section 1399.541(h) is currently in conflict with Section 3502.1 of the Business and Professions Code as a result of AB 2626.

This proposal would resolve these conflicts created by AB 2626.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because it only affects individual licensees. This proposal may have a beneficial impact because only drug orders issued by the physician assistant for Schedule II medications would be reviewed, countersigned, and dated by a supervising physician.

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

Impact on Jobs/New Businesses:

The Physician Assistant Committee has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because it only affects individual licensees.

Effect on Housing Costs: None

**EFFECT ON SMALL BUSINESS**

The Physician Assistant Committee has determined that the proposed regulations would not affect small businesses because it only affects licensees.

**CONSIDERATION OF ALTERNATIVES**

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

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

**INITIAL STATEMENT OF REASONS AND INFORMATION**

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

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physician Assistant Committee at 1424 Howe Avenue, Suite 35, Sacramento, California 95825-3237.

**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**

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

Name: Glenn L. Mitchell  
Address: 1424 Howe Avenue, Suite 35  
Sacramento, CA 95825  
Telephone No.: (916) 561-8783  
Fax No.: (916) 263-2671  
E-Mail Address: gmitchell@medbd.ca.gov

The backup contact person is:

Name: Richard L. Wallinder  
Address: 1424 Howe Avenue, Suite 35  
Sacramento, CA 95825  
Telephone No.: (916) 561-8782  
Fax No.: (916) 263-2671  
E-Mail Address: rwallinder@medbd.ca.gov

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

**TITLE MPP. DEPARTMENT OF SOCIAL SERVICES**

ORD #1105-19

**NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)**

**ITEM # 3 Adult Programs — Protective Supervision and Variable Assessments**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 16, 2006, as follows:

August 16, 2006  
Office Building #9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 16, 2006.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Office of Regulations Development  
 California Department of Social Services  
 744 P Street, MS 7-192  
 Sacramento, California 95814

TELEPHONE: (916) 657-2586  
 FACSIMILE: (916) 654-3286  
 E-MAIL: ord@dss.ca.gov

CHAPTERS

CDSS Manual of Policies and Procedures, Division 30 (Social Services Standards), Chapter 30-700 (Service Program No. 7: In-Home Supportive Services), Sections 30-757 (Program Content) and 30-761 (Needs Assessment Standards).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations provide for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to re-

main in their own homes and avoid institutionalization. Existing regulations permit services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Budget Trailer Bill, SB 1104 (Chapter 229, Statutes of 2004) amended Welfare and Institutions Code Section 12301.1 to add 12301.1(c) which authorizes variable intervals for reassessments by county welfare departments. This legislation also adopted Welfare and Institutions Code Section 12301.21 which requires the use of a standard statewide form to obtain medical certification for a person's need for protective supervision. Also, Welfare and Institutions Code Section 12300(b) authorizes protective supervision in IHSS. These proposed regulations implement and make specific the terms of these statutes.

As authorized by Welfare and Institutions Code Section 12301(c), the proposed regulations provide the option for county welfare departments to extend the reassessment period for up to 6 months beyond the 12-month period if certain conditions are met that ensure the recipients' needs are not likely to change during the extended period and who would not be put at risk by extending the reassessment period. The statute also requires county welfare departments to reassess needs, as necessary, when they are notified that the recipient's needs have changed. This is a change from current regulations that require county welfare departments to conduct reassessments for supportive services' needs as necessary, but at least once every 12 months.

As mandated by Welfare and Institutions Code Section 12301.21, the proposed regulations also require the development and use of a statewide standardized form to obtain medical certification for protective supervision needs and identify when and how the certification submitted shall be considered in the determination of a person's need for protective supervision. Current regulations do not require the use of a statewide standardized form.

COST ESTIMATE

1. Costs or Savings to State Agencies: Additional expenditures of approximately \$10.2 million in the current State Fiscal Year. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources.
2. Costs to Local Agencies or School Districts: None.

3. Nondiscretionary Costs or Savings to Local Agencies: Additional expenditures of approximately \$4.4 million in the current State Fiscal Year.
4. Federal Funding to State Agencies: Additional expenditures of approximately \$13.8 million in the current State Fiscal Year.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

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

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments 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.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

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

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 12300(b). Subject regulations implement and make specific Welfare and Institutions Code Sections 12300(b), 12301.1 and 12301.21.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Everardo Vaca (916) 657-2586  
Backup: Alison Garcia (916) 657-2586

#### EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

#### TITLE MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0306-02

#### NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

#### ITEM #2 Implementation of AB 72

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 16, 2006, as follows:

August 16, 2006

Office Building #9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 16, 2006.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814

TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

Manual of Policies and Procedures, Division 47 (Transitional Child Care), Chapter 47-100 (Stage One Child Care), Section 47-110 (Definitions); and Chapter 47-300 (Responsibilities of the County), Section 47-301 (Administration of Child Care Services)

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed regulations amend specific provisions and adopt new language in the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) that regulate Stage One of the California Work Opportunity and Responsibility to Kids (CalWORKs) child care program.

Current law requires the CDSS to notify Resource and Referral agencies (R&Rs) of the issuance of a revocation or a temporary suspension order (TSO) for a licensed child care provider.

Assembly Bill (AB) 72 (Statutes of 2004, Chapter 358) places additional notification and time frame requirements on CDSS. Effective January 1, 2005, CDSS is required to notify R&Rs within two business days of the issuance of a TSO or the revocation or placement on probation of a license for a child care provider within the R&Rs' jurisdiction.

AB 72 amended Section 8212 of the Education Code and added Section 1596.773 to the Health and Safety Code which affect R&Rs, county welfare departments (CWDs) and alternative payment programs (APPs). The amendments require R&Rs to remove from their referral list within two business days of receiving notice any licensed child care provider who is on probation, has their license revoked, or receives a TSO. In addition, R&Rs must notify CWDs and APPs within two business days of receiving these notices.

The new law requires CWDs and APPs to terminate payment to the child care provider within two business days of receiving notice that their license has been revoked or placed on TSO. In addition, CWDs and APPs are required to notify the parents and the child care provider of the reason for the termination within two business days of receiving notice.

Child care providers who have been placed on probation will continue to receive payment; however, CWDs and APPs are required to notify the parents within two business days that their child care provider has been placed on probation. Parents have the option to locate alternate child care arrangements or may remain with the provider without risk of subsidy payments being terminated to the provider.

These proposed regulations are to facilitate implementation of Section 8212(e) of the Education Code by

providing clear, consistent procedures for CWDs to follow when they receive notification that a child care license has been placed on TSO, revoked, or that the provider has been placed on probation.

#### **COST ESTIMATE**

1. **Costs or Savings to State Agencies:** No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
2. **Costs to Local Agencies or School Districts:** None.
3. **Nondiscretionary Costs or Savings to Local Agencies:** No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.
4. **Federal Funding to State Agencies:** No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations.

#### **LOCAL MANDATE STATEMENT**

These regulations do impose a mandate upon local agencies but not upon school districts. The mandate is not required to be reimbursed pursuant to Section 17500, et seq. of the Government Code because implementation of the regulations will, if anything, result in no costs.

#### **STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

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

#### **STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

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

#### **SMALL BUSINESS IMPACT STATEMENT**

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because subsidized child care will continue to be paid for families who use providers in compliance with statute, such as providers whose licenses have not been revoked or temporarily suspended.

#### **ASSESSMENT OF JOB CREATION OR ELIMINATION**

The adoption of the proposed amendments 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.

#### **STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

#### **STATEMENT OF ALTERNATIVES CONSIDERED**

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

#### **AUTHORITY AND REFERENCE CITATIONS**

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Section 8212(e), Education Code and Sections 1596.773 and 1596.886, Health and Safety Code.

#### **CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION**

Contact Person: Robin Garvey (916) 657-2586  
Backup: Alison Garcia (916) 657-2586

**TITLE MPP. DEPARTMENT OF  
SOCIAL SERVICES**

ORD #0306-01

**NOTICE OF PROPOSED CHANGES IN  
REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF SOCIAL  
SERVICES (CDSS)**

**ITEM #1 Stage One Child Care Regulations**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held August 16, 2006, as follows:

August 16, 2006  
Office Building #9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on August 16, 2006.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking

file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

**CONTACT**

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814

TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

**CHAPTERS**

Manual of Policies and Procedures, Division 47 (Transitional Child Care), Chapter 47-200 (Stage One Child Care Eligibility), Section 47-201 (Eligible Children); and Chapter 47-400 (Payment for Child Care Services), Section 47-401 (Child Care Payment Limits)

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

These regulations implement and make specific Senate Bill (SB) 68, Chapter 78, Statutes of 2005 which amended Section 8263.4 of the Education Code which states that the preferred placement of 11- or 12-year-old children is in a before or after school program. Current regulations do not specify the preferred placement of these children who are eligible for subsidized child care.

These regulations also implement SB 1104, Chapter 229, Statutes of 2004, which amended Sections 8263(b)(1) and (f) of the Education Code that state that a family receiving subsidized child care on the basis of a child receiving child protective services can receive child care services and an exemption from family fees for up to 12 months. Current regulations do not place a limit on the time period in which families may be exempt from paying a family fee for subsidized child care services. The proposed regulations place time limits on the exemption from family fees for families with children at risk of abuse, neglect, and exploitation and for families with children receiving child protective services.

Current regulations specify that the maximum reimbursement rate ceiling for child care services is no more than 1.5 standard deviations above the average cost of

care for the region where the child care is provided. The proposed regulations will change the maximum reimbursement rate to no more than 85 percent of the rates charged by providers offering the same type of child care for the same age child in that region. The amendments will be consistent with the California Department of Education (CDE) as required by the Budget Act of 2003, Chapter 157, Statutes of 2003, Item 6110-196-0001, Provisions 7(b) and (c).

Current regulations provide counties with the option to pay for child care during an excused absence. The proposed changes will eliminate this county option by requiring counties to reimburse providers for an ill child and for other excused absences as specified in Education Code Section 8208(e).

Education Code Section 8263(f) requires the Superintendent of Public Instruction to establish the family fee schedule. Education Code Section 8447(e) requires the CDE to adjust the family fee schedule annually. For clarity and ease of use, the proposed regulations make a nonsubstantive change in a handbook section by replacing the September 2000 family fee schedule with a reference to the regulations that support the provision which are found in the California Code of Regulations, Title 5, Division 1, Chapter 19, Subchapter 3, Article 5.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: None. These activities are part of the counties' day-to-day case management activities which are reported to existing child care codes.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current laws and regulations. These activities are part of the counties' day-to-day case management activities.
4. Federal Funding to State Agencies: None. These activities are part of the counties' day-to-day case management activities which are reported to existing child care codes.

#### LOCAL MANDATE STATEMENT

These regulations impose a mandate on local agencies and school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

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

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments 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.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

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

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Sections 8208(e), 8263(b)(1) and (f), 8263.4, and 8357 of the Education Code and AB 1765,

Budget Act of 2003, Chapter 157, Statutes of 2003, Provisions 7(b) and (c) of Item 6110-196-0001.

For additional information, contact Susan Solarz of the Department of Toxic Substances Control at (916) 324-1799.

CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATION

Contact Person: Robin Garvey (916) 657-2586  
Backup: Alison Garcia (916) 657-2586

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF TOXIC SUBSTANCE  
CONTROL**

**POST-CLOSURE PERMIT AND VARIANCE  
ISSUED FOR CHEVRON WESTSIDE  
DISPOSAL FACILITY**

On June 12, 2006, The Department of Toxic Substances Control (DTSC) issued a Post Closure Permit and a variance from post-closure groundwater monitoring requirements for the Chevron EPC Westside Disposal Facility, also known as Westside Disposal Facility, (Facility). In order to comply with CEQA requirements, a Notice of Exemption (NOE) has been filed.

The facility has been subject to Post-Closure Permit and since 1992 and a variance from post-closure groundwater monitoring requirements since 1991. The proposed Post Closure Permit includes the same requirements as the Post Closure Permit previously issued to a former owner. Similarly, the proposed Groundwater Monitoring Variance is a continuation of the waiver of groundwater monitoring requirements issued in 1991.

The Westside Disposal Facility is located in Kern County, approximately 1.7 miles northwest of Fellows and approximately 35 miles southwest of Bakersfield. The facility is situated in an arid environment with groundwater at a depth of 675 to 900 feet below ground surface. Groundwater cannot be used for drinking water because it is contaminated with crude oil and has high levels of total dissolved solids and . There are no drinking water wells in the vicinity of the site

**INDUSTRIAL WELFARE COMMISSION**

**Notice of Wage Board Meeting**

**To Review Adequacy of the Current  
Minimum Wage**

**August 4, 2006  
Sacramento**

In accordance with Labor Code Sections 1173, 1178 and 1178.5, and Title 8, California Code of Regulations, section 11530, et seq., the Industrial Welfare Commission (IWC) has called for a wage board to consider the adequacy of the current California minimum wage. A public meeting of the wage board will convene at 10:00 a.m. on August 4, 2006, in Sacramento at the Department of Health Services Auditorium, 1500 Capitol Avenue.

Pursuant to Section 11534 of the above referenced regulations: (a) the public may attend and observe wage board proceedings, but may not make oral presentations; (b) any written testimony or other information that the public wants the wage board to consider in its deliberations must be received by the IWC no later than 5 p.m. on July 20, 2006. Any written materials submitted for consideration must include copies for each member of the wage board as well as ten additional copies for the IWC. The written materials should be addressed to the IWC, 801 K Street, Suite 2100, Sacramento, CA 95814.

For further information, you can visit the IWC's website at [www.dir.ca.gov/iwc](http://www.dir.ca.gov/iwc). You can also contact Stephanie Leach at (916) 322-2206 or send a letter to IWC, 801 K Street, Suite 2100, Sacramento, CA 95814.

Daniel Curtin, Chair  
Willie Washington, Commissioner  
Timothy Cremins, Commissioner  
Leslee Coleman, Commissioner  
Harold Rose, Commissioner

Special accommodations (i.e., sign language, accessible seating) may be requested by contacting IWC at (916) 322-2206 at least seven (7) days prior to the meeting date.

July 5, 2006

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**Final Report “Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code Section 901(g): Child-Specific Reference Doses (chRDs) for School Site Risk Assessment: Manganese and Pentachlorophenol. [06/30/06]**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the availability of the final Report “Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code Section 901(g): CHILD-SPECIFIC REFERENCE DOSES (chRDs) FOR SCHOOL SITE RISK ASSESSMENT—Manganese and Pentachlorophenol.” Health and Safety Code (HSC), Section 901(g) requires the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the appropriate entities within the California Environmental Protection Agency, to identify those chemical contaminants commonly found at school sites and determined by OEHHA to be of greatest concern based on child-specific physiological sensitivities. HSC 901(g) also requires OEHHA to annually evaluate and publish, as appropriate, numerical health guidance values or chRDs for those chemical contaminants until the contaminants identified have been exhausted.

In developing these chRDs, OEHHA has followed the requirements set forth in Health and Safety Code Section 57003 for receiving public input. The first draft document was posted on the OEHHA Website ([www.oehha.ca.gov](http://www.oehha.ca.gov)) in December 2004. A public workshop was held in January 2005 to discuss the scientific basis and recommendations in the draft report. After considering public comments and input from an external peer review panel assembled by the Office of the President, University of California, OEHHA revised the document for additional public review in April 2006. The release of the final document is a culmination of this public input process.

If you would like to receive further information on this announcement or have questions, please contact our office at (916) 324-2829 or the address below or go to the OEHHA Website at [www.oehha.ca.gov](http://www.oehha.ca.gov):

Mr. Leon Surgeon  
Integrated Risk Assessment Branch  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010  
1001 I Street, MS-12B  
Sacramento, California 95812-4010  
FAX: (916) 322-9705

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

**STATE LANDS COMMISSION**

**Office of Administrative Law**

**Acceptance of Petition to Review Alleged  
Underground Regulation**

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

You must also send a copy of your comment to the petitioner and the agency contact as identified in the petition. Please refer to CTU-06-0525-01.

May 25, 2006

William L. Gausewitz  
Director of Administrative Law  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814-4339

Dear Director Gausewitz:

Enclosed please find a petition submitted pursuant to California Code of Regulations Title 1, Division 1, Chapter 2 regarding the recently adopted Resolution by The California State Lands Commission Regarding Once-Through Cooling in California Power Plants.

Respectfully,

/s/  
VICTOR WEISSNER  
President

Enclosures

cc: Mr. Paul D. Thayer, Executive Officer,  
State Lands Commission  
Mr. Michael R. Valentine, Chief, Land  
Management Division, State Lands  
Commission

PETITION FOR DETERMINATION OF UNDERGROUND REGULATION ADOPTED BY THE STATE LANDS COMMISSION

Introduction

The Office of Administrative Law (OAL) has the authority to address a petition that alleges that a state agency has “issued, used, enforced, or attempted to enforce an underground regulation” pursuant to Title 1, California Code of Regulations Section 260. The California Council for Environmental and Economic Balance (CCEEB) submits this Petition for Determination of Underground Regulation (Petition) and respectfully request that the OAL find that the State Lands Commission (SLC) “Resolution by The California State Lands Commission Regarding Once–Through Cooling In California Power Plants” (Resolution) is an underground regulation and should be voided. CCEEB is an nonprofit, nonpartisan coalition of business, labor and public leaders that works to advance policies that protect public health and the environment while also allowing for continued economic growth. CCEEB’s members include corporations, unions, and other members of the public. CCEEB is interested in assuring that state agencies create regulations that are well–considered, reasonable, and foster good energy policy. However, the Resolution creates an underground regulation without the benefit of public comments from CCEEB and other members of the public interested in the regulation of coastal power plants. In fact, CCEEB’s members include the owners of all the coastal power plants that will be adversely impacted by the State Lands Commission Resolution. Those members include Southern California Edison Company (SCE), San Diego Gas and Electric Company, Cabrillo Power I LLC and El Segundo Power, LLC. Thus, CCEEB submits this Petition, which raises issues of considerable public importance, and requests prompt action by the Office of Administrative Law.

1. Identifying Information:
  - California Council for Environmental and Economic Balance
  - Victor Weisser, President
  - 100 Spear Street Suite 805
  - San Francisco, CA 94105
2. State Agency Issuing Underground Regulation:
  - State Lands Commission
3. Description of the Underground Regulation being Challenged:
  - a. Background of SLC Resolution

The SLC has approved the Resolution based upon the SLC concerns with the claimed environmental impacts associated with once–through cooling water systems at power plants located along the California coast. The

Resolution was proposed for adoption at the SLC meeting on February 9, 2006. The SLC deferred the vote on the Resolution at that meeting, and adopted the Resolution at its April 17, 2006 meeting. The text of the Resolution is Attachment 1 to this Petition.

b. Summary of SLC Resolution

A full description of the Resolution is contained in the Staff Report regarding the Resolution that is Attachment 2 to this Petition. The SLC Resolution makes conclusions regarding the alleged impacts of once–through cooling on the marine environment. Many of the conclusions are unsupported by evidence regarding claimed environmental impacts. As a result of these alleged impacts, the Resolution imposes, in part, significant regulatory constraints on existing power plants or new plants that would be, under the jurisdiction of the Commission. For example, the Resolution provides that the SLC “shall not approve leases for new power facilities that include once–through cooling technologies . . .” The Resolution also creates a restriction on the SLC ability to issue new leases, or lease extensions or amendments, based upon how a power plant is complying with laws outside the SLC jurisdiction. Additionally, the Resolution requires that the SLC include a provision in extended leases that allows the SLC to re–open a lease under certain circumstances.

4. Description of the Agency Action

The SLC adopted the Resolution by a 3–0 vote at its April 17, 2006 meeting without complying with the California Administrative Procedure Act. (See April 17, 2006 Agenda Voting Record, which is Attachment 3 to this Petition.)

5. Legal Basis that the Resolution is an Underground Regulation

a. Requirements for the Promulgation of Regulations.

The California Administrative Procedure Act (APA) was passed to “establish basic minimum procedural requirements for the adoption of administrative regulations.” (Government Code Section 11346) The APA provides that 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 action has been adopted as a regulation under the APA. (Government Code Section 11340.5; *Morning Star Co. v. State Board of Equalization*, 2006 Lexis 3953, April 24, 2006 at pp. 15–16) The APA also gives the OAL the authority to determine if the action is a regulation that has not been properly adopted pursuant to the APA. (Government Code Section 11340 et seq.)

The OAL has recently issued regulations that establish a procedure for reviewing agency actions that are

regulations that have not been through the required APA process. The OAL calls such actions “underground regulations”. The OAL regulations at 1 CCR §250(a) define “underground regulation” as any

guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule 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.

Government Code Section 11342.600 defines a “regulation” as:

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

Government Code Section 11346 is consistent with the broad definition of “regulation” in Section 11342.600; Section 11346 provides that the APA applies to the exercise of any quasi-legislative power conferred upon any agency by any statute.

b. SLC Resolution

The Resolution By The California State Lands Commission Regarding Once-Through Cooling In California Power Plants was adopted by the SLC at its April 17, 2006 meeting. The SLC did not subject the Resolution to the process required for regulations by the APA. The Resolution contains a rule, order, and standard of general application that is a regulation. Specifically, three of the “resolved” clauses in the SLC Resolution are underground regulations because of the requirements that they impose on the SLC and the effect that they will have on SLC leases to power plant operators. The three resolved clauses are as follows:

- “Resolved, that as of the date of this Resolution, the Commission shall not approve leases for new power facilities that include once-through cooling technologies; and be it further
- Resolved, that the Commission shall not approve new leases for power facilities, or leases for re-powering existing facilities, or extensions or amendments of existing leases for existing power facilities, whose operations, include once-through cooling, unless the power plant is in full compliance, or engaged in an agency-directed process to achieve full compliance, with requirements imposed to implement both Clean Water Act Section 316(b) and the California water quality law as determined by the appropriate agency, and with any additional requirements

imposed by state and federal agencies for the purpose of minimizing the impacts of cooling systems on the environment, and be it further

- Resolved, that the Commission shall include in any extended lease that includes once-through cooling systems, a provision for noticing the intent of the Commission to consider re-opening the lease, if the appropriate agency has decided, in a permitting proceeding for the leased facility, that an alternative, environmentally superior technology exists that can be feasibly installed, and that allows for the stability of the electricity grid system, or if state and federal law or regulations otherwise require modification of the existing once-through cooling system, and be it further”

c. SLC Jurisdiction

The SLC is the state agency charged with regulating the use of state lands, including tide lands and public trust lands upon which are located once-through cooling water facilities. (See Division 6 of the Public Resources Code.) Public Resources Code Section 6501.1 provides that the SLC may lease lands owned by the state, and under the SLC’s jurisdiction, for whatever purposes the SLC deems advisable, including for industrial purposes like the operation of a power plant. Public Resources Code Section 6502 provides that any person desiring to lease land from the state may apply to the SLC for such permission. The SLC has the right to reject that application. The SLC has previously promulgated a number of regulations that allow it to implement this authority. These regulations begin at Title 2 CCR §2000. For example, the Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) hold a 49 year lease from the SLC for the intake and discharge structures that constitute a critical piece of the once-through cooling water system for the San Onofre Nuclear Generating Station Units 2 and 3 (SONGS).<sup>1</sup> Attachment 2 lists ten power plants that operate subject to SLC leases. In fact, Attachment 2 shows that two power plants have leases that have expired and are operating in holdover status, and a third lease will expire in August 2006.

d. The SLC Resolution is a Regulation

The SLC Resolution is a regulation that precludes the SLC from issuing new leases for power plants that would have once-through cooling structures. The Resolution also precludes the issuance of lease extensions or amendments for other power plants depending upon how the power plant is complying with state water qual-

<sup>1</sup> SONGS is jointly owned by SCE, San Diego Gas & Electric Company, and the cities of Anaheim and Riverside. SCE is the operating agent for these other entities.

ity laws. Additionally, the Resolution requires that the SLC include a provision in extended leases that allows the SLC to re-open a lease under certain circumstances. The Resolution establishes a set of rules that is generally applicable to all current, or future, power plants that have once-through cooling systems. The California Supreme Court in *Tidewater Marine Western Inc. v. Victoria Bradshaw*, 14 Cal. 4th 557, 571 (1996), citing *Union of American Physicians & Dentists v. Kizer*, 223 Cal. App. 3d 490, 497 (1990), explained that a regulation subject to the APA 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. (*Roth v. Department of Veterans Affairs* (1980) 110 Cal. App. 3d 622, 630 [167 Cal. Rptr. 552].) Second, the rule must “implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency’s] procedure.” (Gov. Code, § 11342, subd. (g).) See also, *Morning Star Co. v. State Board of Equalization*, 2006 Lexis 3953, April 24, 2006 at pp. 18–19.

Moreover, the *Tidewater* court concluded that a “written statement of policy that an agency intends to apply generally, that is unrelated to a specific case, and that predicts how the agency will decide future cases is essentially legislative in nature even if it merely interprets applicable law.” *Tidewater*, at p. 574–575. See also *Yamaha Corp. of America v. State Bd. of Equalization*, 19 Cal. 4th 1, 18 (1998).

The SLC Resolution applies to the general class of once-through cooling water structures located on state lands. The fourth “Whereas” clause in the resolution states that there are 21 power plants along the California Coast that use once-through cooling systems. Attachment 2 concludes that 10 of these power plants are subject to the SLC’s jurisdiction. Thus, these 10 power plants would be subject to the SLC regulatory prohibitions established by the Resolution. The SLC’s intent is to eliminate the perceived environmental impacts associated with these once-through cooling water systems. Thus, the Resolution meets the first prong of the *Tidewater* case — the Resolution is not limited to a specific case, but is applicable to all once-through cooling water facilities located on state lands within the SLC’s jurisdiction.

Next, the Resolution meets the second prong of the *Tidewater* test. The Resolution emphatically directs the SLC as to how it shall implement the existing lease regulations when applications are filed for once-through cooling water systems. The Resolution is clear; the SLC

“shall not approve leases for new power facilities that include once-through cooling technologies. . .” The other two resolved clauses listed above contain similar directives. For instance, the SCE lease from the SLC for the SONGS Units 2 and 3 intake and discharge structures will expire on February 28, 2023. The SLC would be unable to issue a lease extension to SCE to allow SCE to continue to operate the SONGS cooling water structures after February 28, 2023 without including the re-opener provision required by the third “resolved” clause. Therefore, the Resolution makes specific how the SLC will process lease applications and requests for extensions and amendments for once-through cooling water power plants, which meets the second prong of the two part test in *Tidewater*. As the Resolution meets the *Tidewater* test as a regulation, the Resolution is a regulation and must go through the APA.

e. The SLC Resolution Has Not Used the APA

The SLC did not follow the APA in implementing the Resolution. According to the California Supreme Court:

The APA establishes the procedures by which state agencies may adopt regulations. The agency must give the public notice of its proposed regulatory action (Gov. Code, § 11346.4, 11346.5); issue a complete text of the proposed regulation with a statement of the reasons for it (Gov. Code, § 11346.2, subds. (a), (b)); give interested parties an opportunity to comment on the proposed regulation (Gov. Code, § 11346.8); respond in writing to public comments (Gov. Code, § 11346.8, subd. (a), 11346.9); and forward a file of all materials on which the agency relied in the regulatory process to the Office of Administrative Law (Gov. Code, § 11347.3, subd. (b)), which reviews the regulation for consistency with the law, clarity, and necessity (Gov. Code, § 11349.1, 11349.3). *Tidewater* at p. 568.

For example, the SLC did not submit a copy of the Resolution to the Office of Administrative Law for review. Nor has the SLC provided a statement of reasons for the Resolution that meets the requirements in Government Code Section 11346.2.

f. The SLC Resolution is Not Exempt From the APA

Petitioner is unaware of any statutory exemption from the APA that would allow the SLC to pass the Resolution without compliance with the APA.

6. The Public Importance of the Petition

a. Adverse Effects on the State Wide Energy System

In adopting the Resolution, the SLC took action to stop the issuance of new or extended leases for power

facilities utilizing once-through cooling without sufficiently considering evidence as to how that action might negatively and severely affect statewide generation. All 21 plants operate with once-through cooling water systems and represent 24,000 megawatts of generation, which accounts for over 45% of the in-state power generation. The passage of this Resolution casts an immediate cloud over future capital expenditures at these facilities for such things as installation of upgrades, air pollution controls and repowers (significant reconstruction of critical power plant infrastructure with new, state of the art equipment).

The Resolution creates regulatory uncertainty that frustrates long-term electric reliability planning. The Resolution may have a chilling effect on capital investments and result in early, unanticipated plant retirements that will jeopardize electric reliability. Owners of affected facilities may be disinclined to invest in capital projects with long pay-back periods such as reliability upgrades or pollution control equipment. In such cases, electricity consumers may be forced to shoulder higher costs to maintain short-term reliability of critical power plants considered by the state to be “reliability must-run” facilities. Similarly, the Resolution may dissuade facility owners from repairing equipment that suffers a sudden, catastrophic failure. In the event of such a failure, the uncertainty resulting from the Resolution may cause a facility owner to shut down a plant long before the Resolution may have otherwise forced it to close.

The electric power grid relies on a balance of generation, transmission and demand. The locations of the power plants targeted by the SLC Resolution were originally chosen both for the availability of cooling water and their proximity to high-population areas with high electric demand. The infeasibility of converting existing power plants to alternative cooling technologies may force the plants to close and require that they be replaced with new generation. However, a number of factors such as land use zoning, property costs, visual impacts, unavailability of emission reduction credits, and noise, may prohibit construction of replacement generation that does not use once-through cooling on the sites of existing power plants. If the existing power plants are replaced with new generation that is not similarly located, new transmission lines will be required to transport electricity to the areas of high electric demand. Transmission lines are not only expensive, but the significant losses of power resulting from increased transmission distances compound the negative environmental and economic effects resulting from less efficient electric generation using alternative cooling technologies. Moreover, the existing power plants provide important electric reliability services—such as voltage support, contingency reserves and regulating

reserves—that cannot be provided by remotely located electric generation. The SLC did not consider the potential effects of the Resolution on electric reliability and costs to electric consumers.

No comprehensive study has been performed to determine if these coastal power plants could continue to operate other than with a once-through cooling system. To convert the plants to cooling towers using degraded groundwater, recycled water, or ocean water would undoubtedly cost millions of dollars per plant, if such a conversion were even feasible. Any conversion would have potential environmental impacts associated with the installation and operation of cooling towers, which have also not been studied.

b. State Wide Environmental Adverse Effects and Lack of Commensurate Benefits

The SLC Resolution is specific in the actions to eliminate the use of once-through cooling systems at power plants, but vague in the benefits that would result from that elimination. In adopting the Resolution, the SLC did not sufficiently evaluate the specific environmental and economic impacts that may occur as a result of that action. The SLC cites the impacts of only one power plant, San Onofre Nuclear Generating Station, and does so without providing any context for that citation, as evidence that once-through cooling as a technology is categorically unacceptable. Although the Resolution may affect any number of existing or future proposed power plants, the SLC did not evaluate how or if eliminating once-through cooling at every site would provide the environmental benefits the SLC relies on to justify their action.

The SLC Resolution wrongfully cites the availability and use of an alternative cooling technology at other locations in California and nation as evidence that such technologies are feasible for conversions at plants currently using once-through cooling systems. However, there is no supporting analysis by which the SLC shows on a site-by-site basis the practical and economic feasibility for such a conversion. Thus, the SLC can neither cite the specific benefits that would result from eliminating OTC nor can they cite the environmental and economic costs to achieve any perceived benefits.

Converting existing power plants that utilize once-through cooling to any other form of cooling will lower power plant efficiency. This means that more fuel will need to be burned just to maintain equivalent electrical generation. Increased fuel consumption will result in increased emissions of criteria pollutants such as nitrogen oxides, particulate matter, and carbon monoxide. Increased fuel consumption will also result in an increase in greenhouse gas emissions, specifically carbon dioxide. These increases in air pollutant emissions to provide some vague and un-quantified environmental

benefit run contrary to ongoing state policies and actions to reduce emissions of criteria and greenhouse gas pollutants.

Dry cooling systems reduce a power plant's generating efficiency by nearly 9%. To compensate for this impact, additional electric generation must take place. This generation generally will be from natural gas-fired power plants and, assuming no ocean cooling, will result in an estimated 27 tons of additional particulate matter (PM 10) emissions for wet cooling towers and 483 tons for dry cooling systems.<sup>2</sup> Statewide, annual CO<sub>2</sub> emissions will increase 311, 491 metric tons for wet cooling towers and 1,914,837 metric tons for dry cooling systems. If potable water wet cooling towers were used to replace all of the once-through cooling systems, over 20 billion gallons of water would be consumed annually.<sup>3</sup> Preliminary estimates are that twelve of the 21 coastal power plants cannot switch to cooling tower systems because of space restraints or land use restrictions.

The United States Environmental Protection Agency has already addressed the environmental effects of Once Through Cooling and generation companies are working to be in compliance with these requirements. The implementation of the regulations will be through the State Water Resources Control Board (SWRCB). In June, the SWRCB will begin the process of developing guidance for the Regional Water Quality Control Boards for the implementation of the Clean Water Act section 316(b) requirements for Once Through Cooling. The Board staff has indicated they will use the SLC Resolution as the official state policy on once through cooling. Thus, the implementation of the 316(b) requirements will be driven by the State Lands Commission resolution.

7. Certification of Petition Submittal to the State Lands Commission

The undersigned, Victor Weisser, certify that I have submitted a copy of this Petition and all its attachments to:

<sup>2</sup> Dry or air cooling towers are much less efficient than wet cooling towers, accounting for the higher replacement power and emissions numbers.

<sup>3</sup> On June 19, 1975, the State Water Resources Control Board adopted its "Water Quality Control Policy on the Use and Disposal of **Inland** Waters Used for Powerplant Cooling." (emphasis added) The policy states in relevant part: "Where the Board has jurisdiction, use of fresh inland waters for powerplant cooling will be approved by the Board only when it is demonstrated that the use of other water supply sources or other methods of cooling would be environmentally undesirable or economically unsound." The Policy also states: "It is the Board's position that . . . the source of powerplant cooling water should come from the following sources in this order of priority. . . (1) wastewater being discharged to the ocean, (2) ocean, (3) brackish water from natural sources or irrigation return flow, (4) inland wastewaters of low TDS, and (5) other inland waters."

Mr. Paul Thayer  
Executive Officer  
State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, California 95825-8202  
Phone Number: (916) 574-1800

All of the above information is true and correct to the best of my knowledge.

By: \_\_\_\_\_ Date: 5/25/06  
Victor Weisser  
President  
California Council for Economic and  
Environmental Balance

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

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

**AIR RESOURCES BOARD**  
Reporting Requirements for Transit Agencies

This non-substantive change makes sense of Title 13 section 2023.4(e)(1)(C). As drafted and enacted, a particular report must be submitted a transit agency by January 31, 2009 analyzing the NOx fleet average reduction requirements. The report submitted by the agency due on January 31, 2009 the average NOx emission for the agency's fleet. If the average exceeds that required by the regulations, the report must include a schedule of actions planned to achieve compliance by December 31, 2007. This rulemaking changes the schedule deadline to achieve compliance to December 31, 2010, as it would be impossible to achieve compliance through any series of plans retroactively.

Title 13  
California Code of Regulations  
AMEND: 2023.4  
Filed 06/16/06  
Effective 07/16/06  
Agency Contact: Alexa Malik (916) 322-4011

**BOARD OF FORESTRY AND FIRE PROTECTION**  
Lake Tahoe Region Exemption Emergency Rule, 2005

This regulatory action is the third readoption of emergency file 05-0613-04E (the first readoption was file #05-1004-02EE and the second was file #06-0131-01EE) which amends Title 14, section 1038 and related sections in order to exempt Timber Harvesting Plan filing requirements of the Forest Practice Act when harvesting live trees in a watercourse and lake protection zone (WLPZ) in the Lake Tahoe region for the purpose of reducing fire hazards. This amendment allows for live tree removal for fuelwood use or other minor forest products only in certain specified areas with specified low impact equipment.

Title 14  
California Code of Regulations  
AMEND: 895, 895.1, 1038, 1038(f)  
Filed 06/16/06  
Effective 06/16/06  
Agency Contact:  
Christopher Zimny (916) 653-9418

**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
Vocational Nursing Program — Fee Changes

In this regulatory action, the Board of Vocational Nursing and Psychiatric Technicians amends two regulations establishing the various fees for the Vocational Nursing Program.

Title 16  
California Code of Regulations  
AMEND: 2537, 2537.1  
Filed 06/14/06  
Effective 01/01/07  
Agency Contact: Marina Okimoto (916) 263-7845

**CALIFORNIA HIGHWAY PATROL**  
North American Standard Out-of Services Criteria

This regulatory action amends the commercial vehicle out-of-service criteria for determining whether or not a vehicle and/or driver, inspected by a member of the CHP, is in such an unsafe condition that they are likely to constitute a hazard on a highway. These regulations continue to incorporate by reference specified portions of the standards in the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, which has undergone some minor revisions.

Title 13  
California Code of Regulations  
AMEND: 1239  
Filed 06/15/06  
Effective 07/15/06  
Agency Contact: Jeff Picardi (916) 445-1865

**CALIFORNIA HORSE RACING BOARD**  
Rail Construction and Track Specifications

The amendments to this regulation remove the requirement that a written certification by a Land Surveyor or Registered Civil Engineer regarding the track surfaces and elevation grade marks. The amendments also exempt “synthetic and polymer or wax-coated sand track surfaces” from the grade marks and cross slope requirements of the regulation. The requirement for written certification was deemed overly burdensome on the race tracks. The exemption for synthetic or wax-coated sand track surfaces is because the slope and grade marking requirements are primarily for drainage issues, which are not present with these types of surfaces.

Title 4  
California Code of Regulations  
AMEND: 1472  
Filed 06/20/06  
Effective 07/20/06  
Agency Contact: Harold Coburn (916) 263-6397

**DEPARTMENT OF INSURANCE**  
Workers’ Compensation Pure Premium Rates

This filing will result in the publication of history notes describing updates to the California Workers’ Compensation Uniform Statistical Reporting Plan; the Experience Rating Plan — 1995; and Regulations for the Recording and Reporting of Data.

Title 10  
California Code of Regulations  
AMEND: 2318.6, 2353.1, 2354  
Filed 06/19/06  
Effective 01/01/06  
Agency Contact:  
Christopher A. Citko (916) 492-3187

**FAIR POLITICAL PRACTICES COMMISSION**  
Contribution Limits & Application to Repaid Loans

This action amends 2 Cal. Code Regs. section 18537 to clarify the limits and effects of repayment of campaign loans. Specifically, the amendment specifies that if a loan is repaid, the lender or other liable person may make additional contributions to the same person, so long as the contribution, when added to the outstanding balance of any loan, do not violate contribution limits.

OAL’s review of FPPC proposed regulations is limited to the provisions of the APA as it was enacted on June

4, 1974, when voters adopted the California Political Reform Act. (Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer, (April 27, 1992, C010924 [nonpub. opn.].) As such, OAL's review is limited to determining if the proposed regulations comply with "the form and style prescribed by the Secretary of State. If the department approves the regulation or order of repeal for filing, it shall endorse on the certified copy thereof its approval for filing and shall transmit such copy to the Secretary of State." (Former Gov. Code, section 11380.2, repealed by Stats. 1979, ch. 467, § 2.)

Title 2  
 California Code of Regulations  
 AMEND: 18537  
 Filed 06/20/06  
 Effective 07/20/06  
 Agency Contact: John Wallace (916) 445-4812

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN JANUARY 18, 2006 TO  
 JUNE 21, 2006**

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

**Title 1**

03/28/06 AMEND: 1395  
 03/27/06 ADOPT: 250, 260, 270, 280 AMEND: 55

**Title 2**

06/20/06 AMEND: 18537  
 06/08/06 AMEND: 18526  
 05/26/06 ADOPT: 18438.5 AMEND: 18438.8  
 05/25/06 AMEND: 18942  
 05/24/06 AMEND: 433.1  
 05/24/06 ADOPT: Div. 8, Ch. 111, Sec. 59560  
 05/17/06 ADOPT: 22610.1, 22610.2, 22610.3, 22610.4  
 05/15/06 AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, Form SAB 50-04  
 05/08/06 AMEND: 18537.1  
 04/24/06 AMEND: 20108.70, Division 7  
 04/10/06 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35,

20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80  
 04/04/06 ADOPT: 18215.1 AMEND: 18225.4, 18428  
 03/14/06 ADOPT: 1859.70.3, 1859.71.5, 1859.78.9, 1859.93.2, 1859.93.3 AMEND: 1859.2, 1859.61, 1859.74, 1859.77.1, 1859.79, 1859.79.2, 1859.83, 1859.104, 1859.202, 1859.66  
 03/08/06 AMEND: 56, 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8  
 02/28/06 AMEND: 57.1, 57.2, 57.3, 57.4  
 02/21/06 ADOPT: 18371  
 02/21/06 AMEND: 2320(a) (2)  
 02/21/06 REPEAL: 2550, 2551, 2552, 2553, 2554, 2555, 2556  
 02/21/06 ADOPT: 18361.10  
 02/16/06 AMEND: Div. 8, Ch. 58, Sec. 54700  
 01/30/06 AMEND: Div. 8, Ch. 103, Sec. 59150  
 01/24/06 REPEAL: 649.23, 649.25, 649.26, 649.27  
 01/23/06 AMEND: 18351  
 01/20/06 AMEND: 1897

**Title 3**

06/12/06 AMEND: 3433(b)  
 05/23/06 ADOPT: 6580, 6582, 6584  
 05/23/06 ADOPT: 3424  
 05/19/06 AMEND: 3433(b)  
 05/18/06 AMEND: 3591.12(a)  
 05/18/06 ADOPT: 1472.7.2 AMEND: 1472, 1472.4  
 05/11/06 AMEND: 3591.19  
 04/28/06 AMEND: 1380.19, 1420.10  
 04/27/06 AMEND: 3406(b)  
 04/13/06 AMEND: 1446.4, 1454.10, 1462.10  
 04/11/06 AMEND: 3700(c)  
 04/11/06 AMEND: 3700(c)  
 04/10/06 AMEND: 3406(b)  
 03/30/06 AMEND: 3406(b)  
 03/28/06 AMEND: 3406(b)  
 03/23/06 ADOPT: 6310 AMEND: 6170  
 03/07/06 AMEND: 3700(c)  
 03/01/06 AMEND: 3406(b)  
 02/22/06 AMEND: 3406(b)  
 02/21/06 AMEND: 3433(b)  
 02/21/06 ADOPT: 3591.19(a)(b)(c) AMEND: 3591.19(a)  
 02/21/06 AMEND: 3700(c)  
 02/16/06 ADOPT: 3433

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02/07/06	AMEND: 6502	55630, 55720, 55729, 55756.5, 55761, 5580
02/02/06	AMEND: 3700(c)	
<b>Title 4</b>		02/17/06 ADOPT: 19827 AMEND: 19814, 19814.1, 19851, 19853
06/20/06	AMEND: 1472	
06/01/06	AMEND: 8070(d), 8071(a)(9), 8072, 8073(c), 8074(b), 8076(c)(1)	01/19/06 ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7
05/18/06	ADOPT: 12358	
05/05/06	AMEND: 150	<b>Title 8</b>
03/24/06	ADOPT: 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, 10190, 10191	06/06/06 AMEND: 5155
03/23/06	ADOPT: 10302(bb), 10305(d), 10305(e), 10315(d), 10315(j), 10320(b), 10322(e), 10325(c), 10325(c)(3)(K), 10325(c)(6), 10325(c)(8), 10325(c)(12), 10325(f)(7), 10325(f)(10), 10325(g)(5)(B)(ii), 10325(g)(5)(B)(iv), 10325(g)(5)(B)(v), 10326(g)(6), 1036(g)(7)	05/25/06 AMEND: 4650
02/28/06	AMEND: 4143	04/19/06 AMEND: 3395
01/25/06	ADOPT: 12002, 12004, Appendix A AMEND: 12100, 12200, 12220, 12300	04/17/06 AMEND: 2320.4(a)(3)
01/20/06	ADOPT: 1843.6	04/11/06 ADOPT: 32613 AMEND: 32130, 32135, 32140, 32155, 32190, 32325, 32350, 32400, 32450, 32500, 32602, 32604, 32605, 32607, 32609, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32647, 32648, 32649, 32650, 32680, 32690, 32781, 32980, 33020, 40130
<b>Title 5</b>		04/04/06 ADOPT: 6070, 6074, 6075, 6080, 6085, 6087, 6089, 6090, 6095, 6100, 6105, 6110, 6115, 6120 REPEAL: 1200, 1204, 1205, 1210, 1215, 1216, 1217, 1220, 1225, 1230, 1240, 1250, 1270, 1280
06/12/06	ADOPT: 19833.5, 19833.6 AMEND: 19815, 19816, 19816.1, 19819, 19824, 19828.1, 19831	04/03/06 AMEND: 1720
06/09/06	ADOPT: 19827 AMEND: 19812, 19813, 19814, 19814.1, 19815, 19816, 19817, 19817.1, 19826, 19826.1, 19836, 19851, 19853	03/22/06 AMEND: 9701, 9702, 9703
05/25/06	AMEND: 1074	03/15/06 AMEND: 1710(f)
05/15/06	ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7	03/14/06 ADOPT: 9783.1 AMEND: 9780, 9780.1, 9781, 9782, 9783 REPEAL: 9780.2, 9784
05/12/06	AMEND: 19819, 19851	02/28/06 AMEND: 1644
04/28/06	AMEND: 51026, 53206, 54024, 54100, 54616, 54700, 54706, 55005, 55160, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55403, 55404, 55512, 55522, 55530, 55605, 55675, 55753.5, 55753.7, 56000, 56050, 56062, 56200, 56201, 56202, 56204	02/27/06 AMEND: 3637, 3638, 3639, 3640, 3642, 3646
04/04/06	AMEND: 11704	02/22/06 ADOPT: 8397.14, 8397.15, 8397.16 AMEND: 8354, 8397.12
04/04/06	AMEND: 42920	02/14/06 AMEND: 31100
03/16/06	ADOPT: 1207.1, 1207.2 AMEND: 1204.5	02/09/06 ADOPT: 296.0 296.1, 296.2, 296.3, 296.4 AMEND: 290.1, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, 295.0
03/16/06	ADOPT: 15566, 15567, 15568, 15569	02/09/06 AMEND: 15201, 15300, 15400, 15400.2, 15402.4, 15450.1, 15452, 15454, 15463
03/15/06	AMEND: 51000, 51022, 51023, 51100, 51102, 53407, 53410.1, 53413, 53501, 54010, 54041, 54050, 54200, 54220, 54300, 54600, 54604, 54608, 54610, 54612, 54626, 54630, 55002, 55231, 55402, 55405, 55534, 55600, 55602,	01/27/06 AMEND: 100, 102
		01/27/06 AMEND: 1518
		01/25/06 AMEND: 1635
		<b>Title 9</b>
		06/07/06 ADOPT: 10056, 10057
		05/24/05 ADOPT: 3400
		05/19/06 ADOPT: 1810.100, 1810.110, 1810.200, 1810.201, 1810.202, 1810.203, 1810.203.5, 1810.204, 1810.205, 1810.205.1, 1810.205.2, 1810.206, 1810.207, 1810.208, 1810.209,



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04/17/06 AMEND: 791.7, 793, 795  
 04/11/06 AMEND: 18454, 18456, 18456.3, CIWMB form 60  
 04/10/06 AMEND: 630  
 04/03/06 ADOPT: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71, 4970.72  
 04/03/06 ADOPT: 4970, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01 REPEAL: 4970.02, 4970.03, 4970.04  
 03/28/06 AMEND: 187  
 03/27/06 AMEND: 163.1  
 03/22/06 AMEND: 119, Appendix A  
 03/20/06 ADOPT: 5.81, 27.92 AMEND: 5.80, 27.60, 27.90, 27.95  
 03/20/06 AMEND: 27.82  
 03/02/06 ADOPT: 1.60, 1.61, 1.93 AMEND: 1.71  
 03/01/06 AMEND: 851.23  
 02/23/06 AMEND: 2000, 2090, 2105, 2110, 2401, 2420, 2425, 2430, 2501, 2530, 2535, 2540, 2850  
 02/10/06 AMEND: 895, 895.1, 1038, 1038(f)  
 02/09/06 ADOPT: 18459.1.2, Forms 203, 204 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18457, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 18462, 18463, 18464, 18466, Penalty Tables 1&2  
 02/08/06 AMEND: 2310

**Title 15**

06/09/06 ADOPT: 3040.2 AMEND: 3000, 3040, 3041, 3043, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045, 3045.1, 3045.2, 3045.3, 3075  
 06/06/06 AMEND: 3173.1  
 05/25/06 AMEND: 3040.1, 3341.5, 3375, 3375.3, 3378  
 05/22/06 ADOPT: 3043.7 AMEND: 3043.1, 3327, 3328  
 05/16/06 AMEND: 3999.2  
 05/16/06 AMEND: 3999.1.10, 3999.1.8  
 05/01/06 AMEND: 2510, 2511, 2512, 2513

04/24/06 ADOPT: 3054.1, 3054.2, 3054.3, 3054.4, 3054.5, 3054.6 AMEND: 3050, 3051, 3052, 3053, 3054  
 03/27/06 AMEND: 3176.3  
 01/25/06 AMEND: 3482  
 01/19/06 AMEND: 3370

**Title 16**

06/14/06 AMEND: 2537, 2537.1  
 06/05/06 AMEND: 3303  
 06/05/06 ADOPT: 2608  
 06/05/06 AMEND: 2630, 2630.1  
 06/01/06 ADOPT: 137  
 05/31/06 ADOPT: 869.9 AMEND: 868, 869  
 05/30/06 AMEND: 3340.1, 3340.16, 3340.16.5, 3340.17, 3340.41 REPEAL: 3340.16.6  
 05/22/06 AMEND: 152  
 05/12/06 AMEND: 1388, 1388.6, 1389, 1392  
 05/01/06 AMEND: 8.1, 12, 12.5, 21, 69  
 04/17/06 AMEND: 3353  
 04/17/06 AMEND: 1399.465  
 03/29/06 ADOPT: 1399.159.01 AMEND: 1399.159, 1399.159.1 REPEAL: 1399.159.4  
 03/21/06 AMEND: 1914, 1918, 1920, 1950, 1983, 1991, 1993, 1998  
 03/14/06 REPEAL: 1530  
 03/13/06 ADOPT: 1034.1 AMEND: 1021, 1028, 1034  
 03/13/06 REPEAL: 1515  
 03/13/06 ADOPT: 1399.25  
 03/10/06 AMEND: 1566, 1566.1  
 03/09/06 AMEND: 3351.3 and 3351.4  
 03/02/06 ADOPT: 2524.1, 2579.11  
 02/27/06 AMEND: 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.6  
 02/24/06 AMEND: 3008, 3031, 3062.1  
 02/21/06 AMEND: 1833.1, 1870, 1870.1  
 02/07/06 ADOPT: 1379.19

**Title 17**

05/15/06 AMEND: 60201  
 04/20/06 ADOPT: 93119  
 04/17/06 AMEND: 70100, 70100.1, 70200, Incorporated Documents  
 04/10/06 ADOPT: 30346.11, 30346.12 AMEND: 30345.2, 30346.6, 30348.3

**Title 18**

04/24/06 ADOPT: 19591 AMEND: 19513, 19524  
 04/20/06 AMEND: 1707  
 04/20/06 AMEND: 4905  
 02/09/06 AMEND: 4055, 4056, 4057, 4058, 4059, 4060, 4061

**Title 22**

06/12/06 AMEND: 51215.6, 51321, 51323, 51535.1, 51542, 51546 REPEAL: 51124.1, 51215.4, 51335.1, 51511.3

06/05/06 ADOPT: 66260.201 AMEND: 66260.10, 66261.9, 66273.1, 66273.3, 66273.6, 66273.8, 66273.9, 66273.12, 66273.13, 66273.14, 66273.20, 66273.32, 66273.33, 66273.34, 66273.40, 66273.51, 66273.53, 66273.56, 66273.82, 66273.83, 66273.90, Appendix X to Chapter 11

05/19/06 AMEND: 12805

05/18/06 ADOPT: 64400.38, 64400.40, 64400.45, 64400.47, 64400.67, 64401.65, 64401.82, 64401.92, 64468.5, 64530, 64531, 64533, 64533.5, 64534, 64534.2, 64534.4, 64534.6, 64534.8, 64535, 64535.2, 64535.4, 64536, 64536.2, 64536.4, 64536.6, 64537, 64537.2, 64537.4

05/17/06 ADOPT: 4429 AMEND: 4409, 4400(hh) REPEAL: 4400(ii)

05/12/06 ADOPT: 64442, 64443, 64447.3 AMEND: 64415 REPEAL: 64441, 64443

05/10/06 ADOPT: 50960.2, 50960.4, 50960.6, 50960.9, 50960.12, 50960.15, 50960.21, 50960.23, 50960.26, 50960.29, 50960.32, 50960.34, 50960.36, 50961, 50965 AMEND: 50962, 50963, 50964 REPEAL: 50960, 50961

05/08/06 AMEND: 96010

04/20/06 AMEND: 70577, 70717, 71203, 71517, 71545

04/19/06 ADOPT: 4400(kk) REPEAL: 4414

04/12/06 AMEND: 4416

03/24/06 ADOPT: 110056, 110060, 100604, 110100, 110112, 110116, 110124, 110144, 110148, 110156, 110160, 110168, 110204, 110224, 110228, 110232, 110244, 110248, 110246, 110280, 110288, 110296, 110307, 110311, 110315, 110319, 110323, 110347, 110355, 110383, 110410

03/23/06 AMEND: 926-3, 926-4, 926-5

03/20/06 AMEND: 66264.147, 66264.151, 66265.147

03/09/06 ADOPT: 12900

03/07/06 AMEND: 100058, 100066, 100078, 100079

02/02/06 AMEND: 97170, 97172, 97174, 97178, 97180, 97184, 97188, 97190, 97198

01/31/06 ADOPT: 66250.1, 66250.2

01/23/06 AMEND: 51510, 51510.1, 51511, 51511.5, 51511.6, 51535, 51535.1, 51544, 54501

01/20/06 AMEND: 4448

**Title 23**

04/25/06 ADOPT: 3948

04/25/06 ADOPT: 2919

04/10/06 ADOPT: 2917 AMEND: 2914.5

03/28/06 ADOPT: 3944.2

03/22/06 ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37

03/13/06 ADOPT: 3939.21

02/01/06 ADOPT: 3989.3

01/20/06 ADOPT: 3939.17

**Title 25**

05/15/06 AMEND: 6932

04/24/06 AMEND: Adding a title to Ch. 7, Subchapter 21

02/07/06 AMEND: 10001

**Title 27**

06/13/06 AMEND: 15241, 15242

**Title MPP**

04/03/06 AMEND: 11-501, 42-302, 42-701, 42-711, 42-712, 42-713, 42-715, 42-716, 42-718, 42-719, 42-720, 42-721, 42-722, 42-802, 42-1009, 42-1010, 44-111, 63-407 REPEAL: 42-710

02/10/06 AMEND: 63-103.2, 63-300.5, 63-402.229, 63-503.441, 63-509(b), 63-509(c), 63-801.737(QR)

01/23/06 AMEND: 42-101