



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTIONS 1859.2 AND 1859.51, ALONG WITH FORM SAB 50-04, APPLICATION FOR FUNDING, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections, along with an associated form, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing amendments to two regulation sections under the authority provided by Section 17070.35 of the Education Code. The proposal interprets and makes specific reference to Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20 and 17077.40 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement

the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. The current SFP regulations are being amended to enable school districts to utilize SFP modernization funds to address health and safety issues involving lead as specified in Senate Bill 21, Chapter 1075, Statutes of 2002. Clarifying language changes to these regulations are also included and are as follows:

Existing Regulation Section 1859.51 explains how new construction baseline eligibility will be adjusted and expands the components by which a new construction project's baseline eligibility will be adjusted. This Section also provides for an adjustment for new construction projects based on special day class loading standards, and provides a mechanism for adding pupils back into the eligibility baseline lost as a result of the SAB finding a material inaccuracy. The proposed amendment provides an additional specific factor adjusting the new construction eligibility.

Existing Form SAB 50-04 is used when a school district is seeking funding for a new construction or modernization project. The proposed amendments add: 1) new supporting document requirements for applications; 2) a certification that the school district considered the potential for lead-containing building materials in its modernization project and will follow all government standards to manage identified lead; and 3) other non-substantive changes which do not change the intent of this Form.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

ECONOMIC IMPACT

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

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than August 16, 2004 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

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

Lisa Jones, Regulation Coordinator

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

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

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Robert Young, at (916) 445-0083.

ADOPTION OF REGULATIONS

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

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

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

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

RULEMAKING FILE

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

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also

available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND THE FOLLOWING REGULATION SECTIONS, ALONG WITH AN ASSOCIATED FORM, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO THE DEFERRED MAINTENANCE PROGRAM

PROPOSED AMENDMENTS TO REGULATION SECTIONS: 1866, 1866.1, 1866.2, 1866.4, 1866.4.1, 1866.4.2, 1866.4.3, 1866.5, 1866.5.1, 1866.7, and 1866.13

PROPOSED AMENDMENTS TO: *Five Year Plan*, Form SAB 40-20 (Revised 08/03), Referenced in Regulation Sections 1866, 1866.1, 1866.2, 1866.4, 1866.4.1, 1866.4.3, 1866.5, and 1866.13

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections, along with an associated form, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at

its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend these regulation sections under the authority provided by Section 15503 of the Government Code. The proposal interprets and makes specific reference to Sections 17582 through 17592.5 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State School Deferred Maintenance Program (DMP) provides State matching funds, on a dollar-for-dollar basis, to assist school districts with expenditures for major repair or replacement of existing school building components. The SAB adopted regulations to implement the DMP, which were approved by the Office of Administrative Law and filed with the Secretary of State on January 13, 2003. As a result of recent legislative changes, some of the DMP regulation sections require amending and are as follows:

Existing Regulation Section 1866 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments provide additional specific words and terms essential to these regulations by defining "Like-Kind Material/System" which means a building material or system to be used for a deferred maintenance project, and further adding specific lead safety activities to the list of projects eligible for deferred maintenance funding.

Existing Regulation Section 1866.1 outlines the prerequisites to receiving an apportionment under the DMP, as well as defines the entities that may apply for DMP funding. The proposed amendment reflects a minor non-substantive change.

Existing Regulation Section 1866.2 provides direction to districts seeking an apportionment under the DMP and establishes the application process for receiving a DMP Basic Grant. The proposed amendment reflects a minor non-substantive change.

Existing Regulation Section 1866.4 establishes the necessity for a district to file a five-year plan of maintenance needs and the purpose for which the Form SAB 40-20, *Five Year Plan*, is filed and explains application acceptance guidelines. The proposed amendment reflects a minor non-substantive change.

Existing Regulation Section 1866.4.1 provides specific criteria pertaining to what type of projects may be included on a five-year plan and explains the uses of the Basic Grant apportionment. The proposed amendment reflects a minor non-substantive change.

Existing Regulation Section 1866.4.2 provides for the calculation of the Basic Grant apportionment and defines a prorated basic grant apportionment. The proposed amendment makes a non-substantive change.

Existing Regulation Section 1866.4.3 defines the type of revenue a district may utilize in order to deposit its matching share contribution. The proposed amendment reflects minor non-substantive changes.

Existing Regulation Section 1866.5 allows a district to apply for funding for multiple critical hardship projects and provides eligibility criteria for districts to obtain extreme hardship grants. The proposed amendments clarify that eligible repair or replacement projects must use "like-kind" materials or systems unless an alternative material or system is used with the concurrence of the OPSC, and makes minor non-substantive changes.

Existing Regulation Section 1866.5.1 explains what documents are required for submittal in order for the OPSC to accept Extreme Hardship Grant applications. The proposed amendment sets forth parameters in order to substantiate the selection of alternative materials or systems.

Existing Regulation Section 1866.7 specifies the role of a district's governing board once funds have been apportioned and deposited in the deferred maintenance fund of the district. The proposed amendment makes a non-substantive change.

Existing Regulation Section 1866.13 stipulates that work listed on the Form SAB 40-20, *Five Year Plan*, that has been submitted and funded under the School Facility Program or the Federal Renovation Program shall be removed from said plan and the district shall submit a revised Form SAB 40-20, *Five Year Plan*. The proposed amendment makes a minor non-substantive change.

Existing Form SAB 40-20, *Five Year Plan*, provides direction and the mechanism for districts to submit proposed deferred maintenance projects for which districts will complete over a five-year period. The proposed amendments add an eligible project category for the costs of lead safety projects, and expands the required school district certification that the district has complied with Education Code Section 17584.2. There are non-substantive changes reflected on this Form.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not

require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

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

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding deferred maintenance projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail, or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail, or fax must be received at the OPSC no later than August 23, 2004 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

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

Lisa Jones, Regulation Coordinator

Mailing Address: Office of Public School
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ADOPTION OF REGULATIONS

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

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

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

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

RULEMAKING FILE

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

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

TITLE 4. SCHOOL FINANCE AUTHORITY

NOTICE OF PROPOSED RULEMAKING ACTION

Article 1, Sections 10151 to 10164 Title 4, Division 15 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California School Finance Authority (the "Authority"), organized and operating pursuant to Sections 17170 through 17199.5 of the Education Code (the "Act"), proposes to adopt and amend the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Authority proposes to amend Sections 10152 through 10162 and adopt Sections 10163 and 10164 of Title 4 of the California Code of Regulations (the "Regulations"). The Regulations implement the Authority's responsibilities related to the Charter School Facilities Program (the "Program") established pursuant to Article 12 of Chapter 12.5 of Part 10 of the Education Code.

AUTHORITY AND REFERENCE

Authority: Section 17078.57, Education Code. The Regulations are authorized by Section 17078.57 of the Education Code.

Reference: Sections, 17078.52, 17078.53, 17078.54, 17078.56, 17078.57, and 17078.58, Education Code, and Title 2, Division 4, Part 26.8 (commencing with section 47600), Education Code. The Regulations implement, interpret or make specific Sections 17078.52, 17078.53, 17078.54, 17078.56, 17078.57, and 17078.58 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In 2002, the Program was created pursuant to Assembly Bill 14, to "provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils." (Education Code section 17078.52(a).) The Program provides for \$100,000,000 to be set aside from the bonds issued under the Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47, passed on November 5, 2002) and \$300,000,000 from bonds issued under the Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55, passed on March 2, 2004), for the purposes of financing charter school construction projects. A charter school, or school district acting on behalf of a charter school, may apply for financing under the Program to fund specified costs relating to charter school construction projects. The applicants are required to provide a local matching share of 50% of total project cost that may be provided through a lump sum payment, lease payments, or a combination of both.

A first round of applications was reviewed in 2003 to distribute the initial \$100,000,000 in Program funding. A second application round began on April 1, 2004, and is scheduled to end on July 29, 2004. The State Allocation Board ("Board") approve preliminary apportionments to applicants based on a number of preference items, such as geographical diversity, size of school diversity, nonprofit status, and whether a school is overcrowded. Prior to the Board taking action on the preliminary apportionments, the Authority is required to determine whether applicants are "financially sound," defined as "a charter school

that has demonstrated over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it is a financially capable concern, as measured by criteria established by the authority." (Education Code section 17078.52(d)(4).)

In connection with its role in the Program, the Authority is authorized to:

"adopt regulations establishing uniform terms and conditions that shall apply equally to all projects for funding . . . including, but not limited to, all of the following:

- (1) The process for determining the manner in which the applicant will pay its local matching share, including the method for determining any lease payments to be made in lieu of the local matching share. The regulations shall comply with all of the following criteria:
 - (A) The payment process set forth in Section 17199.4 may be used.
 - (B) The payment process shall permit lump-sum local matching payments and shall permit establishment of a schedule for lease payments to be made in lieu of the local matching share.
 - (C) The lease payment schedule shall be calculated by amortizing one-half of the total approved project costs, minus any lump-sum payments, over the entire payment period as set forth in Section 17078.58.
 - (D) The payment schedule for lease payments in lieu of the local matching funds pursuant to this section shall be based upon payment, within a reasonable period of time not to exceed a 30-year period, of one-half of the total eligible project costs, and shall be calculated in a manner that is designed to result in full payment of that portion, together with interest thereon at the rate paid on moneys in the Pooled Money Investment Account as of the date of disbursement of the funding.
- (2) The method for determining whether a charter school is financially sound. In the case of a charter school chartered by a school district that is located outside of the school district that chartered it, the method developed by the authority shall include, but shall not be limited to, a site visit to the school facility currently being used by the charter school during hours when pupils are present and instruction is being provided.

- (3) (A) Security provisions, including, but not limited to, the requirement that title to project facilities be held by the school district in which the facility is to be physically located, in trust, for the benefit of the state public school system.
- (B) The authority shall adopt a mechanism whereby a person or entity who provides a substantial contribution that is applied to the costs of the project in excess of the state share and the local matching share may be granted a security interest to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of as set forth in paragraph (5) of subdivision (b) of Section 17078.62.
- (4) The method for integrating funding pursuant to this article with the authority's general procedures pursuant to subdivision (i) of Section 17180 for otherwise funding projects eligible for funding under this chapter, if appropriate. (Education Code section 17078.57(a).)

In addition to the preliminary apportionment, the Board also will make a final apportionment to each eligible applicant once it has finalized its project. Because the time between preliminary and final apportionment could be up to three years, the Authority will review the financial soundness of each eligible applicant prior to the final apportionment.

The Regulations implementing section 17078.57, providing the criteria and process by which the Authority will evaluate each applicant's financial soundness, and includes the application which each applicant must submit, were initially adopted by the Authority in June 2003.

Pursuant to Senate Bill 15, enacted during the 2003–04 legislative session, a number of changes were made to the Program. The proposed amendments set forth in this rulemaking address the changes made by SB 15 and also clarify a number of issues which arose during the first round of applications.

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

No other matters prescribed by statute are applicable to the Authority or to any specific regulation or class of regulations pursuant to 11346.5(a)(4) of the California Government Code pertaining to the proposed regulations or to the Authority.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

FISCAL IMPACT

The Authority has determined that the emergency regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

While the Authority will incur additional expenses in implementing and administering the portion of the Program that is the responsibility of the Authority, Education Code section 17078.54(e) provides that the Authority may charge such additional expenses against the Charter School Facilities Account (Account) which is established pursuant to Education Code section 17078.52(b). The Account consists of \$100,000,000 and \$300,000,000 set aside for the Program out of proceeds of the general obligation bonds authorized by the voters in November 2002 and March 2004 with the passage of Proposition 47 and Proposition 55, respectively. Section 17078.54(e) allows the Authority, with Department of Finance approval, to access up to 2.5% of the \$400,000,000 for the Authority's administrative costs. Therefore, there is no fiscal impact on the State's General Fund or requirement of additional appropriations by the Legislature. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any State Agency pursuant to Government Code sections 11346.1(b) or 11346.5(a)(6).

INITIAL DETERMINATION REGARDING ANY SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Authority has made an initial determination that the Regulations will not have any significant, state-wide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Authority has determined that the adoption of the Regulations will not affect small business. Its purpose is to interpret and implement those portions of the Program that are the Authority's responsibility. The Program is a voluntary financing program available to charter schools to develop charter school facilities.

COST IMPACTS

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

ASSESSMENT OF EFFECT ON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The Authority has determined, pursuant to Government Code section 11346.3(b), that the Regulations will not have an effect on jobs and business expansion, elimination or creation.

COST IMPACT ON HOUSING

The Regulations will not have any effect on housing costs.

REASONABLE ALTERNATIVES

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

The Authority invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

AGENCY CONTACT PERSON

Written comments, inquiries and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Acting Executive Director
California School Finance Authority
304 S. Broadway, Suite 550
Los Angeles, CA 90013-1224
(213) 620-4467

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Mark Paxson, Senior Staff Counsel
State Treasurer's Office
(916) 651-6846

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to the Authority. The written comment period on the Regulations will end at 5:00 p.m. on August 31, 2004. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time for them to be considered by the Authority. In the event that changes

are made to the Regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

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

Pursuant to the California Government Code, the Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. This address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on the Authority's website at

<http://www.treasurer.ca.gov/csfa>.

PUBLIC HEARING

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Authority at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the Hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, the Authority may adopt the Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the

public (including through the Authority's website described above) for at least fifteen (15) calendar days before the Authority adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

The Authority is required to prepare a Final Statement of Reasons pursuant to Government Code section 11346.9. Once the Authority has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the Authority's website described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.

**TITLE 7. BOARD OF
PILOT COMMISSIONERS**

NOTICE OF PROPOSED CHANGES

**§ 213 re PILOT TRAINEE SELECTION
§ 218 re CONTINUING
PROFESSIONAL DEVELOPMENT**

NOTICE IS HEREBY GIVEN that the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun (the "Board") is proposing to take the action described in the Informative Digest below. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Board office located at Pier 9, Suite 102, San Francisco, California beginning immediately following the regular scheduled Board meeting **Thursday, August 26, 2004 (approximately 10:30 a.m.)**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under CONTACT PERSON at the end of this Notice, must be received by the Board at its office no later than 4:30 p.m., Monday, August 23, 2004, or must be received by the Board at the hearing.

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 1154 of the Harbors and Navigation Code, and to implement, interpret or make specific Sections 1130 and 1171.5 of said Code, the Board is considering changes to Division 2 of Title 7 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

The Board licenses and regulates maritime pilots for Monterey Bay and the Bays of San Francisco, San Pablo and Suisun and their tributaries. The Board also administers a pilot trainee training program and a continuing professional development program for such pilots.

The **pilot trainee selection process** is set forth in Section 213 of Title 7, California Code of Regulations. That section addresses qualifications, standards and rating criteria and provides for the assessment of an applicant's experience, the administration of written examinations and simulator exercises to those who qualify, and a mechanism for deciding appeals from applicants to the training program.

The proposed amendments to Section 213 would require two years' command experience for all applicants; change how experience points are earned; make changes requested by the Office of Examination Resources to address staffing issues relative to the preparation and administration of the written test and the simulator exercise phases of the selection process; make changes to address evaluator fatigue during the simulator exercise; and formalize the selection appeals process.

The **Continuing Professional Development Program** is included in Section 218 of Title 7, California Code of Regulations. That section sets forth the duties of the Port Agent and, among other things, specifies the circumstances under which a supervisory pilot is to be assigned to accompany newly licensed pilots with various experience levels of less than two years, using criteria based on facilities and types and sizes of vessels.

The proposed amendments to Section 218 would update those criteria to reflect current trends in vessel size and traffic.

The proposed amendments to Sections 213 and 218 are based on the Board's experience and the recommendations of the Office of Examination Resources, the Ad Hoc Committee on Trainee Selection, the Pilot Evaluation Committee and participants in various public workshops.

POLICY STATEMENT OVERVIEW

The **broad objective** of these amendments are to make adjustments to the selection process as a result of lessons learned from the Board’s 2002 selection, provide more specific procedures for the selection appeal process and adjust the criteria for the assignment of a supervisory pilot to meet current trends in vessel size and traffic.

The **specific objectives** of this proposed rulemaking are as follows:

- (A) For amendments to Section 213:
 - (2) to ensure that each applicant have at least two years’ of relevant command experience as specified;
 - (2) to ensure that the experience points assigned for specified command experience on tugs and deep draft vessels and as a commercial pilot reasonably reflect the knowledge and skills necessary for successful completion of the training program;
 - (3) to redefine a “year” of experience as used in this section to ensure comparable application to command and piloting experience;
 - (4) to allow for the use of contractors with psychometric qualifications equivalent to that provided by the Office of Examination Resources (OER) in the Department of Consumer Affairs, and subject to OER’s review, in the preparation and administration of written examinations and the simulator exercise phase of the selection process;
 - (5) to delete the requirement for the use of the same group of evaluators for the simulator exercise throughout a trainee selection process;
 - (6) to delete the Board’s option of using a group of five evaluators, in lieu of three, in the simulator exercise; and
 - (7) to provide procedures for submitting and resolving appeals during the trainee selection process.
- (B) For amendments to Section 218:
 - (1) to clarify that supervisory pilots are not required on vessels proceeding directly from sea to anchorage or from anchorage to sea;
 - (2) to adjust the criteria for requiring the assignment of a supervisory pilot on dry cargo vessels as follows:
 - (a) for pilots licensed by the Board 12 months or less—from “in excess of 850 feet” to “in excess of 900 feet”;
 - (b) for pilots licensed by the Board 18 months or less—from “in excess of 900 feet” to “in excess of 950 feet”; and

- (c) excluding vessels which are outbound and will not require turning for the outbound trip;
- (3) to apply the same restrictions currently applicable to vessels proceeding to or from Pittsburg, Antioch, Sacramento or Stockton to vessels proceeding to or from Redwood City;
- (4) to correct an obvious typographical error in the current regulation (“Port Agent” vs. “Port Agency.”).

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

Costs 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.

Other than the Board’s determination, no studies or data were relied upon in making the above determination.

Impact on Jobs/New Businesses: The Board has made an initial determination that this proposed regulatory action 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 Persons or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Effect on Housing Costs: The Board has made an initial determination that the proposed regulatory action will not affect housing costs.

EFFECT ON SMALL BUSINESSES

The Board has made an initial determination that the proposed regulatory action would not affect small businesses since the parties involved do not fall within the definition of “small business” per Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative to the proposed regulatory action 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 proposal described in this Notice.

Any interested person may present statements or arguments relevant to the above determinations orally at the above-mentioned hearing or in writing during the public comment period set forth in this Notice.

INITIAL STATEMENT OF REASONS
AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board's Executive Director, Captain Patrick A. Moloney, at Pier 9, Suite 102, San Francisco, California 94111.

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

All the information upon which the proposed regulation is based is contained in the rulemaking file which is available for public inspection at the Board office at Pier 9, Suite 102, San Francisco, CA.

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

CONTACT PERSON

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

Name: Captain Patrick A. Moloney
Addr: Pier 9, Suite 102
San Francisco, CA 94111
Tele: (415) 397-2253
Fax: (415) 397-9463
e-mail pilots@earthlink.net

The backup contact person is:

Name: Alice Evans
Addr: Pier 9, Suite 102
San Francisco, CA 94111
Tele: (415) 397-2253
Fax: (415) 397-9463
e-mail pilots@earthlink.net

WEBSITE POSTING

You can find additional information about this proposed rulemaking at the Board's website at:
<http://www.pilotcommission.org>
go to "Notices of Proposed Rulemaking" or:
<http://www.pilotcommission.org/rules.shtml>

**TITLE 13. DEPARTMENT OF
MOTOR VEHICLES**

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Section 151.00, in Article 3, of Chapter 1, Division 1, Title 13, of the California Code of Regulations concerning the refusal of California registration for vehicles not certified by the California Air Resources Board.

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 23, 2004*, 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 Vehicle Code section 4750 and Health and Safety Code sections 43151 and 43156.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The department proposes to adopt Section 151.00 in Article 3, Title 13, of the California Code of Regulations. The proposed section will clarify the conditions under which registration would be refused when a new motor vehicle is not certified by the California Air Resources Board and not eligible under a statutory exemption. The proposed section will also identify the various exemptions authorized by California law.

**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 not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This regulation is merely a clarification of statute.

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 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 merely clarifies statute.

**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. 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. 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 (Notice of Proposed Regulatory Action, Initial Statement of Reasons and Express Terms) may be accessed at 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 adopt Section 155.20 in Article 3, of Chapter 1, Division 1, Title 13 of the California Code of Regulations, Removal of a Nonrepairable or Total Loss Salvage Brand.

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 23, 2004*, 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 this regulation under the authority granted by Section 1651 of the Vehicle Code and Section 10902 of the Revenue and Taxation Code to implement, interpret or make specific Vehicle Code Sections 431, 544, 11515 and 11515.2.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Vehicle Code Section 544 requires insurance companies to report vehicles that have been declared a total loss salvage and nonrepairable vehicles to the department and report if the registered owner retains possession of the vehicle. The department has been notified by several registered owners, who retained their vehicles, stating the nonrepairable and total loss salvage brand on their vehicle was reported in error by the insurance company. The department relies on the judgment of the insurer to determine if a vehicle should be branded. Since there is a potential for error and since insurers are reluctant to repair vehicles that exceed a vehicle's value, this

regulation will allow the removal of a vehicle brand if a registered owner obtains a signed document from the insurer stating the brand was in error or obtains a court order requiring the removal of the brand from a vehicle record.

This proposed regulation will provide a registered owner with specific requirements in order for the department to remove a salvage or nonrepairable status from a vehicle record.

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.

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 regulation will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will neither reduce nor 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 which 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 regulation only provides a procedure for the removal of a salvage or nonrepairable brand on a vehicle.

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 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 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, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954 or bdewatney@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. 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 (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Public Comments web page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with 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 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 1050, 5510, 8550, 8553 and 8555, of the Fish and Game Code, and to implement, interpret or make specific Sections 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, of said Code, proposes to amend Sections 163 and 164, Title 14, California Code of Regulations, relating to Harvest of Herring and Harvesting of Herring Eggs.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Harvest of Herring, Section 163

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permit qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

The proposed regulatory changes will establish fishing quotas by area for the 2004–05 herring fishing season, based on the most recent assessments of the spawning populations of herring in San Francisco and Tomales bays. The Department of Fish and Game (Department) is proposing a fishing quota of 3,440 tons (10 percent of the 2003–04 estimated spawning biomass) for San Francisco Bay. An initial 400-ton fishing quota (3.3 percent of the 2003–04 estimated spawning biomass of 12,124 tons) is proposed for Tomales Bay with provisions to increase the quota in-season if escapement goals are achieved by February 15, 2004. This season, the recommendation for an in-season increase is as follows:

- If the spawning escapement in Tomales Bay is more than 4,000 tons, increase the quota to 500 tons.

The proposed amendment specifies that the length of the meshes of any gill net used or possessed in the roe fishery in Tomales Bay, for the 2004–05 season only, shall be no less than 2 inches or greater than 2½ inches. The proposed one-year continuation of the regulation, originally approved for the 2000–01, 2001–02 and 2002–03, 2003–04 seasons only, will

allow the Department to continue to evaluate the effect of reduced mesh length on the size and age composition of herring caught in 2 inch mesh gill nets.

Other changes relating to the herring season dates and corrections to referenced subsections are recommended to coincide with changes in the annual calendar and for accuracy.

The following is a summary of those proposed changes in Section 163, Title 14, CCR:

- Set the dates of the roe herring fisheries in San Francisco Bay from 5 p.m. on Sunday, December 5, 2004 to noon on Thursday, December 23, 2004 (“DH” gill net platoon only), and from 5:00 p.m. on Sunday, January 2, 2005 to noon on Friday, March 11, 2005.
- Set the dates of the roe herring fisheries in Tomales Bay from 5:00 p.m. on Sunday, December 26, 2004 until noon on Friday, December 31, 2004, and from 5:00 p.m. on Sunday, January 2, 2005 to noon on Friday, February 25, 2005.

A correction to references to subsection (g)(4)(B) in subsection (h) is proposed for accuracy. The correct reference is subsection (g)(4)(A).

Harvesting Herring Eggs on Kelp, Section 164

Under existing law, herring eggs on kelp (HEOK) may be taken for commercial purposes only under a revocable, nontransferable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify permit limitations; season; fishing area; permittee categories and qualifications; permit conditions; royalty fees; permit application procedures; permit performance deposit requirements; gear, fishing and harvesting restrictions; fishing quotas; landing and processing requirements; and permit suspension conditions and procedures. In addition, current regulations limit the number of permits that can be issued.

The proposed regulatory changes will establish fishing quotas for the 2004–05 HEOK fishing season. Individual HEOK quotas will depend on the total herring fishery quota for San Francisco Bay established by the Fish and Game Commission under Section 163, Title 14, CCR. The proposed quota for the 2004–05 San Francisco Bay herring fishery is 3,440 tons, representing 10 percent of the 34,400 ton estimated spawning biomass. If the Commission were to adopt a quota within this range, this would result in a 6.0-ton individual quota for a “CH” gill net permittee and a 1.7-ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery.

Subsection (f)(1) of the existing regulations specifies that one of the requirements of a prior permittee is the suspension of kelp for herring eggs on kelp fishing

during the immediately preceding herring eggs on kelp season. The proposed regulatory language would remove this requirement and amend the section as follows:

- (1) Prior permittee. Permits shall be issued to all prior permittees. A prior permittee is defined as a person who has:
 - (A) met the requirements under subsection (g) of these regulations, and
 - (B) renewed their herring eggs on kelp permit for the immediately preceding herring eggs on kelp season, and
 - (C) submitted all fees from prior seasons.

Subsection (j) defines a line used in HEOK fishing. In an effort to facilitate enforcement and provide for safe navigation in the areas around herring eggs on kelp fishing, the proposed regulation will further define a line as follows:

- Kelp lines shall have floats or cork over the entire length of the line.

Subsections (k)(5) and (k)(9) reference processing operations. The proposed regulatory change would change the language to refer to brining, for consistency with existing language.

Subsection (i) contains language specific to the 2003–04 season only. The proposed amendment would remove this language as it is no longer relevant.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Mono Memorial Hall, 100 Sinclair Street, Bridgeport, California on Friday, August 6, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Veterans Memorial Building, 209 Surf Street, Morro Bay, California on August 27, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 22, 2004, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 27, 2004 at the hearing in Morro Bay, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rule-making file), are on file and available for public

review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Jon D. Snellstrom at the preceding address or phone number. Becky Ota, Department of Fish and Game, phone (650) 631-6789, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing June 18, 2004. Oral or written comments relevant to these documents will be received at the August 6, 2004, meeting in Bridgeport. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., August 6, 2004. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Chino and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON August 6, 2004.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

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

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Abil-

ity of California Businesses to Compete with Businesses in Other States:

Section 163:

No adverse economic impacts. The proposed action for the 2004–05 season will have no adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations could benefit approximately 430 commercial herring fishermen and two processing plants in California, all of which are small businesses as defined under Government Code Section 11342.610. The direct impacts arising from the 2004–05 proposed interim management measures would result in an increase in the San Francisco Bay herring fishery quota, and a herring quota in excess of 2003–04 landings in Tomales Bay. (The San Francisco fishery quota was reduced to 2200 tons in 2003–04 due to concerns regarding the age structure of the population.) By increasing the San Francisco quota to 3440 tons, we would project potential 2004–05 ex-vessel revenue increases of as much as \$4,960,000 in the San Francisco fishery alone, for the 389 San Francisco herring fishermen. This is based on historical price data for years when herring roe commanded prices as high as \$2.00 a pound (1240 tons x 2000 lbs/ton x \$2/lb = \$4,960,000). Additionally, a 400 ton quota is proposed for the Tomales Bay herring fishery for 2004–05. This Tomales Bay quota is down from the 500 ton quota allowed for the 2003–04 season, though fishermen only harvested 300 tons of the available 500 ton quota in 2003–04. Thus the Tomales Bay herring fishery quota for 2004–05 represents a potential revenue increase of as much as \$400,000 for the 34 fishermen in that fishery (100 tons x 2000 lbs/ton x \$2/lb = \$400,000). The 2004–05 Humboldt Bay and Crescent City Harbor herring fishery quotas remain the same as for the 2003–04; Humboldt 60 tons and Crescent City 30 tons, for 4 and 3 fishermen respectively. On average, the proposed regulations represent potential individual revenue increases of approximately \$9,674 for each herring fishermen Statewide.

Total ex-vessel revenue projections Statewide for the 2004–05 herring season could be as high as \$15,720,000 (3930 tons x 2000 lbs/ton x \$2/lb = \$15,720,000).

Section 164:

The proposed action will not have a significant statewide adverse economic impact directly affect-

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

The proposed changes are to improve clarity of the regulations, ensure compliance, and promote an efficient, orderly fishery.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business: The 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.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215 and 220 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 215, 2930, 2931 and 2932 of said Code, proposes to amend sections 4.15 and 5.25, and add Section 5.26, Title 14, California Code of Regulations, relating to Salton Sea sport fishing regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently sport fisheries in the Salton Sea (Imperial County) include: Gulf croaker (*Bairdiella icistia*), orangemouth corvina (*Cynoscion xanthalmus*), and sargo (*Anisotremus davidsoni*). Current sport fishing regulations for the Salton Sea include a daily bag limit of five corvina, with an 18-inch minimum size limit, and no daily bag or size limits for croaker and sargo.

Because of declining populations of corvina, croaker and sargo, the Department is proposing to limit the sport harvest of corvina to two per day, and limit the harvest of croaker and sargo to six of each species per day. Possession limits for all species are proposed to include two daily bag limits. The proposed action is requested to prevent significant sport harvest from jeopardizing current and planned restoration activities for the Salton Sea and its sport fisheries while continuing to provide angling opportunities.

Additionally, to further reduce harvest impacts on immature croaker (*Bairdiella*) and sargo populations in the Salton Sea, the Department is proposing to eliminate the use of these species for bait purposes within the Colorado River Fishing District.

A minor change is proposed to be made to subsection (c) of Section 4.15 for clarity.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Veterans Memorial Building, 209 Surf Street, Morro Bay, California, on Friday, August 27, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 23, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 27, 2004, at the hearing in Morro Bay, CA. All written comments must include the true name and mailing address of the commentator.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Ed Pert, Chief, Fisheries Programs Branch, Department of Fish and Game, phone, (916) 445-3616, has been designated to respond to questions on the substance of the**

proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at

http://www.dfg.ca.gov/fg_comm/.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

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

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete With Businesses in Other States:
The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation is intended to preserve angling opportunities while safeguarding fish populations, and is not expected to impact businesses associated with sport fishing.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 219, 240, 713, 1050, 3003.1, 4001, 4005, 4006, 4009.5, 4012, and 4150, of the Fish and Game Code, and to implement, interpret or make specific Sections 200, 202, 203, 203.1, 206, 207, 211–222, 713, 1050, 3003.1, 4000–4004, 4005, 4006, 4009.5, 4012, 4150, 4152, 4180, and 4181, of said Code, proposes to amend Sections 460, 465.5, and 478 and add Sections 458.1, 458.2, 458.3, and 460.1, Title 14, California Code of Regulations, relating to Trapping Furbearers, Nongame Mammals and Nonnative Red Fox.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under current regulations (Sections 460, 461, 462, 463, 464, 465, 465.5, 466, 467, 472, 473, 474, 475, 478, 478.1, and 479 Title 14, CCR), furbearing and nongame mammals may be taken for recreation and

commerce in fur and for other purposes under a Department-issued trapping license, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify furbearing and nongame mammal seasons, areas, bag and possession limits; methods of take; use of traps; hours of take; and requirements for trapping statements or reports.

The proposed regulatory changes will create separate sections regarding leg-hold trap use; trapping license examination fees; exemption from Department of Fish and Game trapping licensure when trapping certain furbearing and nongame mammal species that are a nuisance or injuring crops or property, and; nonnative red fox trapping and hunting season. Additionally, the proposed changes will amend existing sections that prohibit the take of red fox; regulate trap use; and regulate the bobcat hunting and trapping seasons.

The following is a summary of the changes proposed by amending sections 460, 465.5, and 478, and adding sections 458.1, 458.2, 458.3, and 460.1, Title 14, CCR:

- Establish a separate section regarding leg-hold trap use to clarify that they may not be used, except in extraordinary cases to protect human health or safety;
- Establish a separate section authorizing the Department of Fish and Game to charge a fee to apply for a trapping license examination to help the Department recoup its costs of administering this examination;
- Establish a separate section that exempts from the trapping license requirement the trapping of fox squirrels, gophers, ground squirrels, mice, moles, opossums, raccoons, rats, skunks, and voles that are a nuisance or injuring crops or property. This would relieve persons, who have trapping licenses or their equivalent from the Department of Pesticide Regulation or the Structural Pest Control Board to trap these same mammals, from having to procure a second license from the Department of Fish and Game. The proposed regulation also would stipulate that no raw furs of these animals taken pursuant to this section may be sold;
- Identify the native and threatened Sierra Nevada red fox as the red fox subspecies which may not be taken at any time and distinguish it from the nonnative red fox subspecies;
- Establish a nonnative red fox hunting and trapping season and area to provide additional hunting and trapping opportunity and to control the spread of and possibly reduce the nonnative red fox population. The proposed regulation will also make unlawful the take of red fox for any profit-making purposes, which is consistent with Fish and Game Code Section 4012. The existing regulation in Section 460, Title 14, CCR, was established to protect the native Sierra Nevada red fox (*Vulpes vulpes necator*), a high-elevation subspecies now classified as threatened in California. The nonnative red fox (*Vulpes vulpes regalis*) was introduced decades ago for fur farming and hunting. It has proliferated in low elevation habitats to the extent that it is now considered an agricultural pest, and a threat to some wildlife species. This proposal adds Section 460.1, Title 14, CCR, in an effort to permit hunting and trapping for nonnative red foxes in an area of lower elevations that is far removed from the range of the native Sierra Nevada red fox. Controlling and/or reducing the nonnative red fox population in California is desirable, as these mammals prey on rodents, rabbits, reptiles, shorebirds, waterfowl, and other ground-nesting bird species, including some threatened and endangered species;
- Amend the regulation governing the use of traps in order to:
 - Exempt completely submerged traps from the daily visitation requirement because of their kill-type design and the intensive labor required to set up;
 - Allow for other practical methods of dispatch to ensure rapid death of trapped furbearing or nongame mammals;
 - Provide that the existing requirement, that trappers have written consent of the landowner to place traps within 150 yards of a structure used as a residence, apply only to body gripping traps;
 - Match the zones of protection for the Sierra Nevada red fox and San Joaquin kit fox with their current ranges;
 - Add an exception to the prohibited use of conibear traps, deadfall traps, and snares within these zones to protect human health or safety, and;
 - Add a provision that bats may not be trapped and may only be excluded from structures during the period October through March, except to prevent property damage, or to protect human health or safety. This would be added due to public concern regarding the protection of bats as there are 11 bat species classed as Species of Special Concern.
- Extend the bobcat trapping season an additional 51 days. Existing Section 478, Title 14, provides a 69-day trapping season. Inclement weather typically restricts or prevents trapping activity during portions of this period. In an effort to offset trapping time lost during these events and to increase trapping opportunity, while assuring bobcat harvest

levels remain well below allowable thresholds, the proposed regulation change expands the season to 121 days, and;

- Adjust the bobcat hunting season so that it opens on the second Saturday of October instead of October 15. Providing for seasons to open on Saturdays is consistent with Commission policy.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Mono Memorial Hall, 100 Sinclair Street, Bridgeport, California on Friday, August 6, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Veterans Memorial Building, 209 Surf Street, Morro Bay, California on August 27, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 22, 2004, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 27, 2004 at the hearing in Morro Bay, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Jon D. Snellstrom at the preceding address or phone number. Jesse Garcia, Department of Fish and Game, phone (916) 445-3709, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Also, the Initial Statement of Reasons, as well as the notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing June 18, 2004. Oral or written comments relevant to these documents will be received at the August 6, 2004, meeting in Bridgeport. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., August 6, 2004. Draft environmental documents are available for review at

the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Chino and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON August 6, 2004.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

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

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

- (c) Cost Impacts on a Representative Private Person or Business: A private person or business will incur minor to moderate costs by being in compliance with the proposed action. Currently, a Junior Trapping License costs \$26.25, a Resident Trapping License costs \$78.50, and a Nonresident Trapping License costs \$394.75. These prices would not change under the Department's proposal.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 202 and 355, of the Fish and Game Code, and to implement, interpret or make specific Sections 202, 355 and 356, of said Code, proposes to amend Section 502, Title 14, Waterfowl, Migratory; American Coot; and Common Moorhen (Common Gallinule).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. In addition to the eight proposals contained herein, the

U.S. Fish and Wildlife Service (Service), through the analysis of waterfowl population survey and other data, may also initiate changes in federal regulations which will require changes in existing and proposed State regulations. Changes in federal regulations for season opening and closing dates, modifying zone boundaries, elimination or creation of special management areas, season length, and daily bag limits for migratory birds may occur. All proposed changes to State regulations (excluding Proposal 2) require changes in the federal regulations and also must be approved by the Pacific Flyway Council at their meeting on July 23, 2004. Proposal 2 is consistent with federal regulations as they are currently understood. The Service will consider these and other recommendations at their meeting on July 29, 2004. The Department is anticipating that the Service will follow the pintail interim harvest strategy which allows a one bird daily bag limit throughout the general duck season and that the Service will also allow a 60-day canvasback season. Also, minor editorial changes were made to clarify and simplify the regulations and to comply with existing federal frameworks.

1. Modify the existing boundary in the Northeastern Zone to include Shasta Valley in the Northeastern Zone.
2. Modify the duck season in the Northeastern Zone from a 105-day split (segments) season to a 105-day continuous season.
3. Increase the Southern San Joaquin Valley and Balance of State Zone duck season length from 99 days (split) to a 100-day continuous season opening on the fourth Saturday in October.
4. Increase the 60-day partial pintail season to a 100-day (full season) in all zones.
5. Lengthen the goose season from 86 to 100 days in the Southern San Joaquin Valley and Balance of State zones.
6. Increase the dark goose daily bag limit from two to three in the Southern San Joaquin Valley and Balance of State zones.
7. Increase the season length from 16 to 100 days for Canada geese in the North Coast Special Management Area.
8. Increase the Small Canada goose daily bag limit from one to two but maintain the daily bag limit of one Large Canada goose in the North Coast Special Management Area.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Mono Memorial Hall, 100 Sinclair Street, Bridgeport, California on Friday, August 6, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Veterans Memorial Building, 209 Surf Street, Morro Bay, California on August 27, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 22, 2004, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 27, 2004 at the hearing in Morro Bay, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Jon D. Snellstrom at the preceding address or phone number. John Carlson, Department of Fish and Game, phone (916) 445-3555, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Also, the Initial Statement of Reasons, as well as the notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing June 18, 2004. Oral or written comments relevant to these documents will be received at the August 6, 2004, meeting in Bridgeport. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., August 6, 2004. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Chino and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON August 6, 2004.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

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

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business: A private person or business will incur minor to moderate costs by being in compliance with the proposed action. Currently, a Junior Trapping License costs \$26.25, a Resident Trapping License costs \$78.50, and a Nonresident Trapping License costs \$394.75. These prices would not change under the Department's proposal.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

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

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE LIST OF EQUIPMENT DEFECTS THAT SUBSTANTIALLY IMPAIR THE EFFECTIVENESS OF GASOLINE VAPOR RECOVERY SYSTEMS

The Executive Officer of the Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to the list of defects substantially impairing the effectiveness of vapor recovery systems used in motor vehicle refueling operations. The list of defects is incorporated by reference into title 17 of the California Code of Regulations, section 94006, and is otherwise known as the Vapor Recovery Equipment Defects (VRED) List. Such defects are sufficiently egregious to warrant the removal of the fueling point from service until the defect is repaired.

DATE: August 24, 2004

TIME: 10:30 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Coastal Hearing Room, 2nd Floor
1001 I Street
Sacramento

The public hearing will be conducted by the Executive Officer pursuant to the authority set forth in sections 39515 and 39516 of the Health and Safety Code.

If you have a disability-related accommodation need, please go to

<http://www.arb.ca.gov/html/ada/ada.htm>

for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please go to

<http://inside.arb.ca.gov/as/eeo/languageaccess.htm>

or contact the Bilingual Coordinator at (916) 324-5049.

TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendment to section 94006(b), title 17, California Code of Regulations (CCR) and the VRED List (adopted September 23, 2002) that is incorporated by reference therein. Staff is recommending that the Executive Officer approve the proposed amendments to the VRED List as described herein.

Background: Section 41960.2 of the Health and Safety Code (HSC) requires the ARB to: 1) identify and list equipment defects in systems for the control of gasoline vapors resulting from motor vehicle fueling operations that substantially impair the effectiveness of the systems in reducing air contaminants, and 2) periodically update the list to reflect changes in equipment technology or performance. The initial list of defects was developed in 1982 and then most recently updated in 2002. Amendments to the VRED List incorporated by reference into title 17 CCR, section 94006, are being proposed in this regulatory action in order to clarify several of the listed defects and improve the effectiveness of the vapor recovery program by enhancing the ability of enforcement personnel and gasoline dispensing facility (GDF) operators to identify and repair those defects that could significantly impact the effectiveness of the vapor recovery system. Inspectors from local and regional air pollution control districts and air quality management districts periodically inspect GDFs to ensure they are in good working order. When a component on the VRED List is documented by an inspector to contain a listed defect, the equipment must be removed from service until it has been replaced, repaired, or adjusted and reinspected by air pollution control district personnel (HSC section 41960.2(d)).

**AVAILABILITY OF DOCUMENTS AND
AGENCY CONTACT PERSONS**

The ARB staff has prepared a Staff Report/Initial Statement of Reasons (ISOR) for the proposed action, which includes a detailed explanation of the amendment and summary of the potential environmental and economic impacts of the proposal. The report is titled "Initial Statement of Reasons for Amendments to the List of Equipment Defects that Substantially Impair the Effectiveness of Gasoline Vapor Recovery Systems."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be obtained from the ARB's Public Information Office, Visitors and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (August 24, 2004).

After the public hearing and upon completion of the rule amendment process, the Final Statement of Reason (FSOR), which includes responses to significant issues raised by commentors, will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed in this notice.

Inquiries concerning the substance of the proposed regulations should be directed to Ranjit Bhullar, Manager, Vapor Recovery In-Use Program Section, Stationary Source Testing Branch, Monitoring and Laboratory Division, at (916) 322-0223 or R. Neil Nipper, Air Resources Engineer, Vapor Recovery In-Use Program Section, Stationary Source Testing Branch, Monitoring and Laboratory Division, at (916) 445-9391.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at

<http://www.arb.ca.gov/regact/vrdef02/vrdef02.htm>

**COSTS TO PUBLIC AGENCIES AND TO
BUSINESSES AND PERSONS AFFECTED**

The determinations of the Board's Executive Officer concerning the costs or savings necessarily

incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code sections 11346.5(a)(5) and 11346.5(a)(6), to any state agency or in federal funding to the state; costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code; or other non-discretionary costs or savings to local agencies.

The Executive Officer has also determined that adoption of 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 or on representative private persons. This determination is based on the fact that the proposed regulatory action establishes no new requirements, but rather clarifies existing defects. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR

In accordance with the California Administrative Procedure Act, Government Code section 11346.3(b), the Executive Officer has determined that adoption of the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, or the creation of new business, the expansion of business currently doing business within the State of California or the elimination of existing business within California.

The Executive Officer is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, since avoidance or repair of the listed defects is already required.

The Executive Officer has determined that pursuant to title 1, CCR, section 4, that the adoption of the proposed regulatory action does affect small business, making compliance with existing regulations easier by clarifying what the requirements are.

Before taking final action on the proposed regulatory action, the Executive Officer must determine that no reasonable alternative considered by the Executive Officer or that has otherwise been identified and brought to the attention of the Executive Officer 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.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Executive Officer, written submissions not physically submitted at the hearing must be received no later than **12:00 noon, August 23, 2004**, and addressed as follows:

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to:

vrdef02@listserv.arb.gov

and received at the ARB by no later than **12:00 noon, August 23, 2004**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than **12:00 noon, August 23, 2004**.

The Executive Officer requests, but does not require, 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff has time to fully consider each comment. The Executive Officer encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of ARB staff in advance of the hearing.

STATUTORY AUTHORITY

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, and 41960.2. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 41954 and 41960.2.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Visitor and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

ACTION: Notice of Proposed Rulemaking
Title 28, California Code of Regulations

SUBJECT: Access to Needed Health Care Services, Control #2002-0018, Amending Section 1300.67.2 and Adopting Sections 1300.67.2.2 and 1300.67.2.3 in Title 28, California Code of Regulations

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to amend and/or adopt regulations under the Health Care Service Plan Act of 1975 (Act) relating to enrollee access to needed health care services by amending section 1300.67.2 and adopting sections 1300.67.2.2 and 1300.67.2.3 in Title 28, California Code of Regulations. Before undertaking the action, the Director will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice.

PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may request in writing, a public hearing pursuant to section 11346.8(a) of the Government Code. The request for hearing must be received in writing by the Department of Managed Care's (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative may submit written statements, arguments or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Office of Legal Services, Department of Managed Health Care, by 5 p.m. on **August 23, 2004**, which is hereby designated as the close of the written comment period.

Comments may be transmitted by regular mail, FAX or email:

Email: regulations@dmhc.ca.gov
Mail Delivery: Department of Managed Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento CA 95814
Fax: (916) 322-3968

Please note, if comments are sent via email or fax, there is no need to send the same comments by mail delivery. All comments, including email, fax transmissions or mail delivery should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited. Please address all comments to the Department of Managed Health Care, Office of Legal Services.

1. Inquiries regarding the substance of the proposed regulation described in this notice may be directed to Diane McCarthy, Research Program Specialist II at (916) 322-6727.
2. All other inquires concerning the action described in this notice may be directed to Elaine Paniewski, Staff Service Analyst, at (916) 322-6727.

CONTACTS

Please identify the action by using the Department's regulation control number and title, **2002-0018 Access to Needed Health Care Services** in any of the above inquiries:

AVAILABILITY OF DOCUMENTS

Materials regarding the proposed regulations (including this public notice, the proposed regulations, and the Initial Statement of Reasons) are available via the internet. The documents may be accessed at <http://www.hmohelp.ca.gov/library/regulations/> under the heading Proposed Regulations. As required by the Administrative Procedure Act, the Department's Office of Legal Services maintains the rulemaking file. At the present time, the rulemaking file consists of the text of the regulations, the initial statement of reasons, and the notice. The rulemaking file is available for public inspection at the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Suite 500, Sacramento, CA 95814. To view the file, please call to make an appointment: (916) 322-6727.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Health and Safety code sections 1344 and 1346 vest the Director with the power to administer and enforce the provisions of the Act.

California Health and Safety Code section 1344 mandates that the Director have the ability to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of the Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to this chapter. In addition, the Director may honor requests from interested parties for interpretive opinions.

California Health and Safety Code section 1346 vests in the Director the power to administer and enforce the Act, including but not limited to recommending and proposing the enactment of any legislation necessary to protect and promote the interests of plans, subscribers, enrollees, and the public.

Health and Safety Code section 1367.03 requires the Department to develop and adopt regulations to ensure that enrollees have timely access to needed health care services. The Director proposes amending section 1300.67.2 and adopting sections 1300.67.2.2 and 1300.67.2.3 in Title 28, California Code of Regulations to effectuate section 1367.03 by setting forth minimum standards with which health care service plans (plans) shall comply to ensure that enrollees have timely access to needed health care services.

The proposed regulations set access to care standards concerning the availability of primary care physicians, specialty care physicians, hospital care, and other specified health care services to ensure that enrollees have timely access to care.

Amending section 1300.67.2 and adopting sections 1300.67.2.2 and 1300.67.2.3 shall benefit enrollees because it will ensure that plans provide health care services within reasonable proximity of the business or residence of the enrollee including accessible emergency health care services. The regulation clarifies that all services offered by the plan be accessible without delays detrimental to the health of the enrollees and set timelines for routine non-urgent care, urgent care and preventive care. This will ensure that plan enrollees will receive needed health care services within a reasonable timeframe, while not be overburdening the plans or providers.

AUTHORITY

Health and Safety Code sections 1342, 1344, 1351 and 1367.03

REFERENCE

Health and Safety Code sections 1367 and 1367.03.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulation(s) should be addressed to Elaine Paniewski, Staff Service Analyst, at (916) 322-6727. The Director will accept written, faxed or e-mailed comments on the modified regulation(s) for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Elaine Paniewski, Staff Service Analyst, at (916) 322-6727 or available on the internet at

<http://www.hmohelp.ca.gov/library/regulations/> under the heading Proposed Regulations.

ALTERNATIVES CONSIDERED

Pursuant to 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 or brought to its attention, would be more effective in carrying out the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

FISCAL IMPACT STATEMENT

- Mandate on local agencies and school districts: None
- Cost or Savings to any State Agency: None
- Direct or Indirect Costs or Savings in Federal Funding to the State: None
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None
- Costs to private persons or businesses directly affected: The Department is not aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- Effect on Housing Costs: None
- Other non-discretionary cost or savings imposed upon local agencies: None

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has determined that the regulations will have no impact on housing costs.

The Department has determined that the regulations do not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342(h)(2).

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined that the regulations will not significantly affect the creation of new businesses, or the elimination of existing businesses within the State of California.

The Department has determined that the regulations will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses currently doing business within the State of California.

FINDING REGARDING REPORTING REQUIREMENT

Government Code section 11346.3(c) provides as follows:

“No administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.”

All reporting requirements included in these regulations do apply to businesses because the Department has determined that the regulations are necessary to maintain the health, safety and welfare of the people of the State of California.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT, AND RULEMAKING FILE

The Department has prepared and has available for public review the following documents:

1. Initial Statement of Reasons
2. Text of proposed regulations

3. All information upon which the proposal is based (rulemaking file)

This information is available by request at the Department of Managed Health Care, Office of Legal Services, 980 9th St., Sacramento, CA 95814, or on our website at

<http://www.hmohelp.ca.gov/library/regulations/> under the heading, Proposed Regulations.

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

- ACTION:** Notice of Proposed Rulemaking
Title 28, California Code
of Regulations
- SUBJECT:** Assessment of Administrative
Penalties, Control #2001-0006,
Proposes to Adopt Section 1300.86,
Title 28, California Code
of Regulations

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to adopt regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Act) relating to assessment of administrative penalties upon health care service plans by adopting section 1300.86 in title 28, California Code of Regulations. Before undertaking the action, the Director will conduct written public proceedings; during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to section 11346.8(a) of the Government Code. The request for hearing must be received in writing by the Department of Managed Health Care (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative may submit written statements, arguments or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Office of Legal Services, Department of Managed Health Care, by 5 p.m. on **August 23, 2004** which is hereby designated as the close of the written comment period.

Comments may be transmitted by regular mail, FAX or email:

- Email: regulations@dmhc.ca.gov
Mail Delivery: Department of Managed
Health Care
Office of Legal Services
980 9th Street, Suite 500
Sacramento CA 95814
Fax: (916) 322-3968

Please note if comments are sent via email or fax, there is no need to send the same comments by mail delivery. All comments, including email, fax transmissions or mail delivery should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited. Please address all comments to the Department of Managed Health Care, Office of Legal Services.

1. Inquires regarding the substance of the proposed regulation described in this notice may be directed to **Christopher Holt**, Staff Counsel at (916) 322-6727.
2. All other inquires concerning the action described in this notice may be directed to **Elaine Paniewski**, Staff Service Analyst, at (916) 322-6727.

CONTACTS

Please identify the action by using the Department's regulation control number and title, **2001-0006 Assessment of Administrative Penalties** in any of the above inquiries.

AVAILABILITY OF DOCUMENTS

Materials regarding the proposed regulation (including this public notice, the proposed regulations, and the initial statement of reasons) are available via the internet. The documents may be accessed at <http://www.hmohelp.ca.gov/library/regulations/> under the heading Proposed Regulations. As required by the Administrative Procedure Act, the Department's Office of Legal Services maintains the rulemaking file. At the present time, the rulemaking file consists of the text of the regulations, the initial statement of reasons, and the notice. The rulemaking file is available for public inspection at the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Suite 500, Sacramento, CA 95814. To view the file, please call to make an appointment at (916) 322-6727.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Health and Safety Code sections 1344, and 1346 vest the Director with the power to administer and enforce the provisions of the Act.

California Health and Safety Code section 1344 mandates that the Director have the ability to adopt, amend, and rescind such rules, forms and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions in the Act. Furthermore, the Director may waive any requirement of any rule or form in situations where the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject this chapter. In addition, the Director may honor requests from interested parties for interpretive opinions.

California Health and Safety Code section 1346 vests in the Director the power to administer and enforce the Act, including but not limited to recommending and proposing the enactment of any legislation necessary to protect and promote the interests of plans, subscribers, enrollees, and the public. Health and Safety Code section 1386 provides that the Director may assess administrative penalties if the Director determines that a health care service plan has committed any of the acts or omissions described in section 1386 that constitute grounds for disciplinary action.

The Department proposes regulation section 1300.86 to implement section 1386 of the Act by establishing standard factors that may be considered in determining the appropriateness and size of administrative penalties as a disciplinary measure for health care service plans.

This regulation is necessary because section 1386 sets out the grounds for disciplinary action under the Act but does not include factors for the Director to consider in assessing administrative penalties. The proposed regulation will put licensed plans and the public on notice of the factors that may trigger administrative penalties. Furthermore, the factors described in the proposed regulation will promote fairness by providing a uniform framework for the Director when assessing administrative penalties.

AUTHORITY

California Health & Safety Code sections 1341, 1344, 1386.

REFERENCE

California Health & Safety Code section 1386.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified

regulation(s) should be addressed to Elaine Paniewski, Staff Service Analyst, at (916) 322-6727. The Director will accept written, faxed or emailed comments on the modified regulation(s) for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Elaine Paniewski, Staff Service Analyst, at (916) 322-6727 or available on the internet at

<http://www.hmohelp.ca.gov/library/regulations/> under the heading Proposed Regulations.

ALTERNATIVES CONSIDERED

Pursuant to 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 or brought to its attention, would be more effective in carrying out the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

FISCAL IMPACT STATEMENT:

- Mandate on local agencies and school districts: None
- Cost or savings to any State Agency: None
- Direct or indirect costs or savings in federal funding to the State: None
- Cost to Local Agencies and School Districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None
- Costs to private persons or businesses directly affected: The Department is not aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None
- Other non-discretionary cost or savings imposed upon local agencies: None

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs requiring

reimbursements by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has determined that the regulations will have no impact on housing costs.

The Department has determined that the regulations do not affect small businesses. Health care service plans are not considered a small business under Government Code section 11342(h)(2).

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined that the regulations will not significantly affect the creation of new businesses, or the elimination of existing businesses within the State of California.

The Department has determined that the regulations will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses currently doing business within the State of California.

FINDING REGARDING REPORTING REQUIREMENT

Government Code section 11346.3(c) provides as follows:

“No administrative regulation adopted on or after January 1, 1993, that requires a report shall apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.”

All reporting requirements included in these regulations do apply to businesses because the Department has determined that the regulations are necessary to maintain the health, safety and welfare of the people of the State of California.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT, AND RULEMAKING FILE

The Department has prepared and has available for public review the following documents:

1. Initial Statement of Reasons
2. Text of proposed regulations
3. All information upon which the proposal is based (rulemaking file)

This information is available by request at the Department of Managed Health Care, Office of Legal Services, 980 9th St., Sacramento, CA 95814, or on our website at

<http://www.hmohelp.ca.gov/library/regulations/>
under the heading Proposed Regulations.

TITLE MPP. DEPARTMENT OF SOCIAL SERVICES

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

ORD #0404-02

ITEM # 2 Implementation of the Quarterly Reporting/Prospective Budgeting (QR/PB) System for the CalWORKs Program

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, as follows:

August 25, 2004
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 25, 2004.

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

Manual of Policies and Procedures, Division 22 (State Hearings and Request for Review), Chapter 22-000 (State Hearing—General), Sections 22-071 (Adequate Notice) and 22-072 (Timely Notice—Aid Pending Hearing); Chapter 22-300 (AFDC Administrative Disqualification Hearings—General), Section 22-305 (General Provisions); Division 40 (Reception and Application), Chapter 40-000 (Implementation Schedule), Section 40-036 (Implementation of Quarterly Reporting/Prospective Budgeting for CalWORKs Recipients); Chapter 40-100 (General), Sections 40-103 (Definitions and Designations—General), 40-105 (Applicant and Recipient Responsibility), 40-107 (County Responsibility), 40-119 (How and Where Application is Made), 40-125 (Reapplications, Restorations, and County of Responsibility), 40-131 (Interview Requirement), 40-173 (County Department Responsibility for Notifying Applicants and Recipients), 40-181 (Continuing Activities and Determination of Eligibility), 40-183 (Intraprogram Status Change), 40-188 (Transfer Procedure), and 40-190 (County Responsibility); Division 41 (Linking Factors of Public Assistance Eligibility), Chapter 41-400 (Deprivation of Parental Support or Care), Section 41-405 (Termination of Deprivation); Division 42 (Nonlinking Factors of Public Assistance Eligibility), Chapter 42-200 (Property), Sections 42-209 (Differentiation of Property and Income), 42-213 (Property Items to Be Excluded in Evaluating Property Which May Be Retained), and 42-221 (Transfer of Property or Income); Chapter 42-300 (General Time Limit Requirements), Section 42-302 (60-Month Time Limit Requirements for Adults), Chapter 42-400 (Residence); Chapter 42-700 (Welfare-to-Work), Sections 42-716 (Welfare-to-Work Activities), 42-721 (Non-compliance with Program Requirements), 42-751 (Underpayments and Overpayments for Transportation and Ancillary Support Services), and 42-769 (Application of Bonuses and Sanctions); Division 44

(Standards of Assistance), Chapter 44-100 (Income), Sections 44-101 (Income Definitions), 44-102 (Availability of Income), 44-111 (Payments Excluded or Exempt from Consideration as Income), 44-113 (Net Income), 44-115 (Evaluation of Income In-Kind), and 44-133 (Treatment of Income—CalWORKs); Chapter 44-200 (AU Composition and Need), Sections 44-205 (Establishing the AU), 44-207 (Income Eligibility), and 44-211 (Special Needs in CalWORKs); Chapter 44-300 (Aid Payments), Sections 44-304 (Aid Payment Schedules), 44-305 (Aid Payments—Payee and Delivery), 44-313 (Budgeting Methods for AFDC-FG/U), 44-314 (Maximum Family Grant (MFG)), 44-315 (Amount of Aid), 44-316 (MR) (Reporting Changes Affecting Eligibility and Grant Determinations), 44-316(QR) (Mid-Quarter Reporting and County Actions), 44-318 (Beginning Date of Aid (BDA) for Persons Being Added to the AU), 44-325 (Changes in Amount of Payment), 44-327 (Delayed Payment), 44-340 (Underpayments), 44-350 (Overpayments—General), and 44-352 (Overpayment Recoupment); Chapter 44-400 (Reduced Income Supplemental Payments), Sections 44-400 (Reduced Income Supplemental Payments), 44-401 (Eligibility for a Reduced Income Supplemental Payment), and 44-402 (Computation of a Reduced Income Supplemental Payment); Division 47 (CalWORKs Child Care), Chapter 47-200 (Stage One Child Care Eligibility), Section 47-220 (Eligible Clients); Chapter 47-300 (Responsibilities of the County), Section 47-320 (Information Collection); Division 48 (Records), Chapter 48-000 (Records—General), Section 48-001 (County Department Responsibility for Records); Chapter 80-300 (Definitions and Forms), Sections 80-301 (Definitions) and 80-310 (Definitions—Forms); Chapter 82-600 (Conditions of Eligibility/Cooperation/Sanctions), Section 82-612 (Unemployment Insurance Benefits (UIB)); Chapter 82-800 (Assistance Unit), Section 82-812 (Temporary Absence), Section 82-820 (Included Persons), Section 82-832 (Excluded Persons); Division 89 (Demonstration Projects), Chapter 89-100 (Assistance Payments Demonstration Project (APDP) and California Work Pays Demonstration Project (CWDP)), Section 89-110 (Maximum Aid Payment (MAP) Level and MAP Restrictions), Section 89-130 (Restricted Accounts for Recipients); Chapter 89-200 (Minor Parent), Section 89-201 (Minor Parent Requirement)

**INFORMATIVE DIGEST/POLICY
 STATEMENT OVERVIEW**

These regulations implement and make specific AB 444 (Chapter 1022, Statutes of 2002), AB 692 (Chapter 1024, Statute of 2002), and AB 1402 (Chapter 398, Statutes of 2003) which provides authority for the Quarterly Reporting/Prospective

Budgeting (QR/PB) reporting system. This regulation package contains a tandem regulation format to allow for the operation of both Monthly Reporting/Retrospective Budgeting (MR/RB) and QR/PB during counties' staggered implementation of Quarterly Reporting (QR) in accordance with the QR/PB Director's Declaration as specified in Assembly Bill (AB) 444 (Chapter 1022, Statutes of 2002). This format is necessary to maintain current monthly reporting (MR) regulations for those counties that are pending QR implementation and will remain in place until all counties have implemented the QR system.

In current regulations under MR/RB, CalWORKs recipients are required to report income, household composition, and eligibility circumstances on a monthly income/eligibility report. Furthermore, recipient income is budgeted on a retrospective basis using actual income from two months prior to determine the current month's CalWORKs cash grant.

In proposed regulations QR/PB will require recipients to submit an income/eligibility report once per quarter. Recipient's eligibility and cash aid will be determined for a three-month quarterly period based on information provided by the recipient in a quarterly report. Income will be budgeted on a prospective basis using income reasonably anticipated to be received during the QR Payment Quarter. Eligibility and cash aid will be "frozen" for the duration of the quarter, except mid-quarter adjustments may occur under specified circumstances. Circumstances in which eligibility and cash aid may be adjusted during the quarter include: 1) Recipient mid-quarter reports which result in an increase in cash aid; 2) Recipient mandatory mid-quarter reports which result in a decrease in cash aid or a discontinuance from aid; 3) County initiated actions which result in a decrease in cash aid or a discontinuance from aid.

COST ESTIMATE

1. Costs or Savings to State Agencies: There is costs of \$3.3 million in CalWORKs Grants and \$2.9 million in CalWORKs Admin included in the FY 2003-04 budget.
2. Costs to Local Agencies or School Districts: The current year budget includes \$749,000 in county share of funding for CalWORKs Grants.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: There is \$25.9 million in CalWORKs Grants and \$25.2 million in CalWORKs Admin included in the FY 2003-04 budget.

LOCAL MANDATE STATEMENT

These regulations impose a mandate upon county welfare departments but not on school districts. Since the county share of the program is capped at a specified maintenance of effort level, there are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code. If the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars, reimbursement shall be made from the State Mandates Claims Fund.

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

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, 10554, and 11450.5, Welfare and Institutions Code; and Section 71, Assembly Bill (AB) 444 (Chapter 1022, Statutes of 2002), as amended by Section 3, AB 1402 (Chapter 398, Statutes of 2003). Subject regulations implement and make specific Welfare and Institutions Code Sections 11004.1, 11265.1, 11265.2, 11265.3, and 11450.5; Section 70, AB 444 (Chapter 1022, Statutes of 2002); Section 71, AB 444 (Chapter 1022, Statutes of 2002), as amended by Section 3, AB 1402 (Chapter 398, Statutes of 2003); and Section 37 of AB 444 (Chapter 1022, Statutes of 2002).

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

Contact Person: Maureen Miyamura
(916) 657-2586
Backup: Robin Garvey
(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**

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

ORD #0404-01

**ITEM # 1 Quarterly Reporting in the
Food Stamp Program**

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 25, 2004, as follows:

August 25, 2004
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 25, 2004.

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

Manual of Policies and Procedures, Division 63 (Food Stamp Regulations), Chapter 63-000 (Implementation Schedule), Section 63-034 (Implementation of Quarterly Reporting and Prospective Budgeting [QR/PB]); Chapter 63-100 (General Provisions), Section 63-102 (Definitions), Section 63-103 (Definitions—Forms); Chapter 63-300 (Application Process), Section 63-300 (Application Process), Section 63-301 (Application Processing Time Standards);

Chapter 63-400 (Eligibility Standards), Section 63-410 (Food Stamp Work Requirement for Able-Bodied Adults Without Dependents [ABAWD]); Chapter 63-500 (Eligibility Determinations), Section 63-501 (Resource Determinations), Section 63-503 (Determining Household Eligibility and Benefit Levels), Section 63-504 (Household Certification and Continuing Eligibility), Section 63-505 (Household Responsibilities), Section 63-508 (Quarterly Reporting), Section 63-509 (Income Eligibility and Benefit Calculation for Quarterly Reporting); Chapter 63-800 (Corrective Actions), Section 63-801 (Claims Against Households), and Section 63-804 (State Hearings)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill (AB) 444, (Chapter 1022, Statutes of 2002) mandated implementation of Quarterly Reporting/Prospective Budgeting (QR/PB) for both the California Work Opportunity and Responsibility to Kids (CalWORKs) and the Food Stamp Programs. This bill added Sections 11265.1, .2, .3, and 18910 to the Welfare and Institutions Code to mandate implementation of QR/PB in California. AB 1403, (Chapter 398, Statutes of 2003) amended Welfare and Institutions Code Section 11265.3 to further clarify averaging of income over the QR Payment Period.

Through authority provided by the above additions to the Welfare and Institutions Code, the QR/PB program contains the following features:

- Recipients will be required to submit an income/eligibility report once per quarter (in the third month of the quarter).
- Recipients will have limited mandatory reporting requirements during the quarter (referred to as mandatory mid-quarter reports). For the CalWORKs program, these include reporting income that exceeds a specified amount known as the Income Reporting Threshold (IRT), drug felony convictions, fleeing felon status, parole/probation violations and address changes. For the Food Stamp Program, recipients will only be required to report address changes in mid-quarter. Certain nonassistance food stamp recipients will also be required to report changes in work hours that could affect eligibility. However, the Food Stamp Program will review household eligibility when an IRT is reported in the CalWORKs program.
- Eligibility and benefits for a three-month period will be based on information provided on the Quarterly Eligibility Report form (QR 7) and will be determined using prospective budgeting and income-averaging rules.
- Benefits will be “frozen” for the three months of the quarter, except under specified circumstances. Cir-

cumstances under which benefits may be adjusted during the quarter include when: a voluntary recipient mid-quarter report results in increased benefits, a mandatory recipient mid-quarter report results in a decrease or discontinuance of benefits, an individual or household requests discontinuance, or a county-initiated action results in decreased benefits.

- Benefits are not decreased or discontinued during the quarter except under the limited circumstances as stated above.

COST ESTIMATE

1. Costs or Savings to State Agencies: Expenditures of approximately \$8,515,000 in the current State Fiscal Year. Savings of \$10,398,000 in State Fiscal Year 2004–05.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Expenditures of approximately \$2,340,000 in the current State Fiscal Year. Savings of \$4,816,000 in State Fiscal Year 2004–05.
4. Federal Funding to State Agencies: Expenditures of approximately \$10,461,000 in the current State Fiscal Year. Savings of \$16,054,000 in State Fiscal Year 2004–05.

LOCAL MANDATE STATEMENT

These regulations impose a mandate upon county welfare departments but not on 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. If the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars, reimbursement shall be made from the State Mandates Claims Fund. It is anticipated that overall savings to the General Fund will occur as a result of implementation of these regulations.

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

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, Welfare and Institutions Code. Subject regulations implement and make specific Sections 11265.1, .2, .3, and 18910 as added to Welfare and Institutions Code by AB 444, (Chapter 1022, Statutes of 2002), AB 692 (Chapter 1024, Statutes of 2002), and Welfare and Institutions Code Section 11265.3 as amended by AB 1402 (Chapter 398, Statutes of 2003).

CDSS REPRESENTATIVE REGARDING
RULEMAKING PROCESS OF THE
PROPOSED REGULATION

Contact Person: Robin Garvey
(916) 657-2586

Backup: Maureen Miyamura
(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 con-

cerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CESA CONSISTENCY DETERMINATION FOR
Fairway Drive Culvert Replacement Project
Humboldt County

The Department of Fish and Game ("Department") received notice on June 10, 2004 that the City of Eureka proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the replacement of the existing concrete culverts on Martin Slough under Fairway Drive with new culverts that will allow passage of juvenile salmonids and provide for conveyance of a 100-year storm. Activities will also include repairs to the upstream debris rack, renovation of the outlet weir, and reconstruction of the access road. The activities will impact riparian habitat and in-water fish habitat.

The National Marine Fisheries Service ("NOAA Fisheries") issued a no jeopardy federal biological opinion (151422SWR04AR9080:MT) to the U.S. Army Corps of Engineers ("Corps") on May 17, 2004 which authorizes incidental take of the federally threatened and state candidate Southern Oregon/Northern California Coast ESU Coho Salmon (*Oncorhynchus kisutch*).

Pursuant to California Fish and Game Code Section 2080.1, the City of Eureka is requesting a determination that biological opinion 151422SWR04AR9080:MT is consistent with CESA. If the Department determines that the federal biological opinion is consistent, the City of Eureka will not be required to obtain a separate incidental take permit under Fish and Game Code section 2081 for the project.

**DEPARTMENT OF
HEALTH SERVICES**

MEDI-CAL REIMBURSEMENT FOR
ANTIHEMOPHILIC BLOOD FACTORS

Currently, providers of antihemophilic blood factor (e.g., physicians, hospital outpatient departments, pharmacies, clinics, and blood banks) bill the Medi-Cal program using the Level II and III Healthcare Common Procedure Coding System (HCPCS) and are reimbursed in an amount equal to their actual

acquisition cost plus one percent. Effective for antihemophilic blood factors provided on or after June 1, 2004, the Medi-Cal program will reimburse providers an amount equal to the lesser of (1) the provider's usual and customary charge, (2) a manufacturer reported average of its selling price for that blood factor plus twenty percent, or (3) the provider's actual acquisition cost from a manufacturer plus twenty percent in the case of a provider that is a "covered entity" described in 42 United States Code section 256b(a)(4).

Manufacturers are expected to report to the Department on a quarterly basis for each of their blood factor products either "average selling price" as defined at Welfare and Institutions Code section 14105.86, "average sales price" as defined at 42 United States Code section 1395w-3a(c), or "average manufacturer price" as defined at 42 United States Code section 1396r-8(k). The "manufacturer reported average" for the purpose of the new reimbursement policy will be whichever of these averages that a manufacturer reports to the Department. Each manufacturer is required to report one of these averages to the Department within 30 days following the end of the previous quarter. The rates for blood factors will be updated on quarterly basis as of the first day of the month following submission by the manufacturers of the previous quarters pricing information. Persons wanting to find out what the latest rates are can obtain that information by contacting EDS at 1-800-427-1295.

Blood factors are identified by one of the HCPCS codes listed below. The HCPCS codes and their descriptions identify generic categories of blood factors.

HCPCS

<u>Code</u>	<u>Description</u>
J7190	Factor VIII (antihemophilic factor, human), per IU
J7192	Factor VIII (antihemophilic factor, recombinant), per IU
J7193	Factor IX (antihemophilic factor purified, non-recombinant) per IU
J7194	Factor IX, complex, per IU
J7195	Factor IX (antihemophilic factor, recombinant) IU
Z5230	Recombinant factor VIIa, 1200 ug

Each manufacturer's particular blood factor products fall within one of the six HCPCS code categories and are identified by a National Drug Code (NDC). When a provider bills the Medi-Cal program, it is required to identify both the HCPCS code and the NDC code for the blood factor for which it is seeking reimbursement.

This change in reimbursement policy is intended to put an end to a practice in which some entities have purchased antihemophilic blood factors from manufacturers, sold it to providers (e.g., pharmacies) at an inflated price, and the providers have then billed Medi-Cal at the inflated price. This has resulted in the Medi-Cal program paying many providers for blood factor at a level that far exceeds what a provider should be able to actually purchase it for. This change in policy will increase by up to 19 percent Medi-Cal reimbursement for "covered entities" described by 42 United States Code section 256b(a)(4) as well as any other providers that have been reimbursed by Medi-Cal based on an actual acquisition cost comparable to any of the three manufacturer reported averages mentioned earlier. The Department anticipates that this change in reimbursement policy will increase beneficiary access to large providers that maintained low patient censes due to previous lower reimbursement rates. In summary, the new policy will result in higher reimbursement to many providers thereby assuring continued access to antihemophilic blood factor for Medi-Cal beneficiaries, while also eliminating a situation in which Medi-Cal was often paying a provider for blood factor at a level that far exceeded the price at which providers can purchase blood factor.

This change in reimbursement policy should result in increased reimbursement for most providers, while eliminating the situation in which Medi-Cal has often paid excessive rates to some providers based on an inflated acquisition cost. The Department estimates that the net impact of the new policy will be to decrease the Medi-Cal program's annual aggregate expenditures for blood factor by approximately \$4 million.

Copies of this notice will be available for public review at local county welfare offices throughout the State.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

(Continuation of California Notice Register 2003, No. 42-Z; and 2004, 19-Z, and Meetings of August 1 and December 5, 2003; and May 4, 2004)

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

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 7071, 7078, 7701, 7708, 7923, 8026, 8425 and 8429.5 of the Fish and Game

Code and to implement, interpret or make specific sections 7050, 7070, 7071, 7075, 7078, 7082, 7083, 7086, 7652, 7701, 7708, 7923, 8026, 8081, 8420, 8425, 8429.5 and 8429.7 of said Code, proposes to add sections 53.00, 53.01, 53.02, 53.03, 149.1, 149.2, 149.3, and 149.4, and amend Section 149, Title 14, California Code of Regulations, regarding Market Squid Fishery Management Plan, commercial take of market squid, and market squid restricted access program.

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Regulations are proposed to implement a Market Squid Fishery Management Plan (Market Squid FMP, or Plan), including a market squid commercial fishery restricted access program, and to amend existing commercial squid fishing regulations adopted by the Fish and Game Commission (Commission) to manage the squid resource at a sustainable level. Fish and Game Code Section 8425 directs the Department of Fish and Game (Department) to develop, and the Commission to adopt, a Market Squid FMP in compliance with the Marine Life Management Act (MLMA)(Chap. 1052, Stats. 1998).

Each of the management alternatives included in the proposed regulatory amendments to Title 14, CCR, is described in the summary which follows.

Add Section 53.00, et seq. This proposed series of regulations serves to implement the Market Squid FMP, as follows:

Section 53.00—Purpose and Scope. Following in the series of regulations established in Chapter 5.5 of Title 14, CCR, which implement fishery management plans adopted by the Commission pursuant to the Marine Life Management Act, this Section provides that regulations established in Article 4 are consistent with the goals and objectives of the Market Squid FMP. It also states that the Plan, in combination with other applicable state and federal laws and regulations, governs management and regulation of market squid stocks and fisheries. The regulation further explains where specific squid regulations that will be adopted concurrently with adoption of the Plan may be found in the structure of Title 14.

Section 53.01—Definitions. This Section serves to provide definitions that are specific to the Market Squid FMP. All definitions provided are consistent with those found in the general FMP definitions found in Section 50.01 of Title 14 as well as other provisions of state and federal fisheries laws. The specified approval date was updated to reflect extension of the Commission's plan adoption date.

Section 53.02—Process and Timing. This Section explains that management of squid stocks and fisheries will conform to the Market Squid FMP and other

applicable state and federal laws and regulations, and that regulations may be adopted by the Commission in compliance with the Administrative Procedure Act to achieve intended management actions. The Department will provide the Commission information periodically upon which management decisions may be made, and the Director may establish an advisory committee to assist the department with development and review of fishery assessments, management options and proposals, and Plan amendments.

Section 53.03—Market Squid Fishery Management Plan (Market Squid FMP) Project. This Section serves to outline the proposed management actions which are presented in the Market Squid FMP, which constitute the "Proposed Project" of the Market Squid FMP, in fulfillment of CEQA requirements. This Section also provides that other management measures which are not included at this time as part of the proposed project or specifically detailed in the Market Squid FMP may be considered by the Commission for implementation at a later date, provided the action is consistent with the goals and objectives of the Market Squid FMP.

149. Commercial Taking of Market Squid. This Section was modified in 2000 and 2002 based upon the Commission's adoption of interim regulations using management authority from the Legislature to protect and manage the squid resource. Management measures adopted in these actions included enactment of weekend closures to provide for uninterrupted squid spawning throughout the state for two days per week, requirements to fill out logbooks of fishing activity, a limitation on the amount of light (wattage) which may be used for commercial squid fishing operations, a requirement to shield lights used for commercial squid fishing, and a statewide seasonal limit on the allowable catch of 125,000 short tons. These requirements are currently specified in subsections (a) through (e) of Title 14, CCR. Modifications, alternatives and additions to regulations in this Section are discussed below.

Section 149 Subsection (a)—Weekend Closures. Four regulatory options are provided for the Commission's consideration on this item; the first of which would only modify existing regulatory language to provide needed clarity on the scope of the regulation for enforcement purposes. The proposed modifications would clarify that commercial landings which are smaller than two tons are exempt from the closure in order to continue to provide an opportunity to land squid which may be taken as bycatch in fisheries where squid is not a target. Additionally, it is clarified that squid taken for live bait purposes on weekends pursuant to this Section shall only be sold as live bait.

The second option would repeal the weekend closure altogether.

The third option would maintain existing statewide weekend closures but provide for an exemption in the areas of the northern Channel Islands to allow fishing to continue 7 days per week, as some portion of the squid stock in that area would instead be protected in the newly-established marine protected areas.

The fourth option would maintain existing weekend closures in waters south of Point Conception, but the Commission could adjust the number of days per week open to fishing as well as the times of day or night that commercial squid fishing would be authorized in waters north of Point Conception. **Furthermore, the Commission could enact an additional time closure for commercial squid fishing in waters of District 16 (southern Monterey Bay) between 9 a.m. and 6 p.m. on the days when fishing is authorized.**

Section 149 Subsection (b)—Logbooks. As with weekend closure regulations in subsection (a), the Commission will take action at the adoption meeting to specify if existing logbook regulations shall be maintained and slightly modified for enforcement purposes, or if the measure shall be repealed. Proposed modifications to the existing language would update the permit designations to be consistent with the proposed commercial restricted access program and modify the revision dates of the logbook forms which are referenced in the regulation. It would also specify that logbook records shall be transmitted to the Department on or before the 10th day of each month following the month that fishing activity occurred, a requirement consistent with existing regulatory language in Section 190, Title 14, CCR.

Section 149 Subsection (c)—Wattage Limitation. The Commission will take action at the adoption meeting to specify if existing wattage regulations shall be eliminated, maintained at the current level, or replaced with a wattage limitation set at a value between the range of 15,000 to 30,000 watts. Other slight modifications are proposed to the existing regulatory language for technical clarification purposes.

Section 149 Subsection (d)—Light Shields. The Commission will determine if the current requirements shall be maintained status quo, if they should be modified to improve the effectiveness of the measure, or if they shall be repealed altogether. Department enforcement staff have indicated that the existing regulatory language is somewhat unclear with regard to the orientation of the lights directly downward; thus, the option to modify the requirements would add language which would also require that the lower edges of the shields be parallel to the deck of the vessel. The Department recognizes that this change to current practice could require that some light boat or vessel owners would need to substantially retrofit their shields in order to comply with the proposed

regulatory change; therefore it would be incorrect to designate the proposed change as merely a non-substantive, technical or clarifying in nature; and therefore it is considered as a separate regulatory option.

Section 149 Subsection (e)—Seasonal Catch Limitation. The Commission has four options to select from in terms of specifying an overall limit each season on the commercial harvest of squid. In options that serve to modify existing regulatory language, the existing term of “seasonal harvest guideline” is proposed to be replaced with “seasonal catch limitation” in each option in order to maintain consistency with general fishery management plan definitions specified in Section 50.01, Title 14, CCR. Other clarifying language was included to acknowledge existing or proposed regulatory provisions in this Section. The options include A) maintain existing regulations for a statewide catch limit, while considering changes to the allowable volume from a range of 24,000 to 125,000 short tons, B) eliminate the existing provisions, C) use El Nino events to determine the allowable harvest level [11,000 short tons during an El Nino time period and 115,000 short tons during a non-El Nino time period], or D) establish the limits regionally rather than statewide [5,500 to 27,800 short tons north of Point Conception and 65,500 to 111,600 short tons south of Point Conception]. Options C and D involve substantial new regulatory language.

Section 149 Subsection (f)—Option to Add Daily Trip Limits. If adopted, these regulations would limit each squid landing to a specified tonnage level depending on the type of fishing gear used. Roundhaul (purse seine, lampara) landings would be subject to a daily trip limit ranging from 30 to 138 short tons per day, and a level of 15 short tons would be imposed for brail vessels.

Section 149 Subsection (g)—Options to Add Seasonal Closure Areas for Seabird Protection and/or Harvest Replenishment Areas and/or General Habitat Closures. If adopted, these regulations would establish a closed season from February 1 through September 30 for squid fishing, or for squid fishing employing the use of lights, in specified areas at two or three of the northern Channel Islands and/or the Farallon Islands and/or all waters of the Gulf of the Farallones National Marine Sanctuary in order to provide seasonal protection for nesting seabirds. Each of the proposed closure areas extend outward at least one nautical mile from shore. These options were designed to provide various levels of protection to multiple seabird species which may have reduced, threatened, or endangered population levels. The seasonal closure end date was amended to provide the

Commission a range of time periods from which it may select. The proposed closure period may now end on any date between September 30 and November 30.

Additionally, if adopted, a proposed regulation would prohibit the take of market squid for commercial purposes in waters less than 100 fathoms in depth contiguous to San Nicholas Island. This proposed option may provide a specific squid harvest replenishment area in a currently underutilized squid fishing area and would prevent expansion of the fishery into these waters.

Additionally, if adopted, proposed regulations would prohibit the take of market squid for commercial purposes in specified northern California waters for general habitat protection. These measures are designed to prevent squid fishery interactions in areas that have not been traditionally utilized for commercial squid fishing. In 2003, several boats began harvesting squid in waters well north of the traditional Monterey fishing grounds, which is of concern to some biologists and other users of these areas. Particular issues that have been raised as matters of concern in these areas include the potential for bycatch of salmon in purse seine gear, potential for impact to seabirds from noise and lights, and the potential for interaction with marine mammals. Options to address these concerns include closing all waters to the commercial take of squid north of Pillar Point at any time, prohibiting the commercial take of squid in any waters of the Gulf of the Farallones National Marine Sanctuary, prohibiting the take of squid for commercial purposes in waters extending offshore one nautical mile from the mean high water mark of Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock, or prohibiting the take of squid for commercial purposes in District 10.

Section 149 Subsection (h)—Allow for Incidental Take. This regulation would specify that it is unlawful to take, land, or possess in excess of two tons of squid per trip or per calendar day except as authorized under a specific permit designation or for purposes of live bait only. This amendment would serve to establish, in regulation, a statutory provision that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (i)—Specify Forfeiture Process. This amendment would also serve to establish, in regulation, a statutory provision in Section 8421 (h) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (j)—Clarify Authorized Use of Light to Aggregate Squid. This amendment would also serve to establish, in regulation, a statutory provision in Section 8423 (e) that otherwise would be repealed with adoption of the Market Squid FMP and implementing regulations pursuant to Fish and Game Code Section 8429.7.

Section 149 Subsection (k)—Clarify to Whom Citations for Violations of This Section May Be Issued. The proposed regulations would include this subsection to clarify that citations for violations of this Section may be issued to the vessel operator, crewmembers, and/or the holder of a market squid permit issued pursuant to Section 149.1, Title 14, CCR.

Add Section 149.1, et seq. This proposed series of regulations serve to implement the commercial Market Squid Fishery Restricted Access Program, as follows below. The program and regulations are designed in accordance with the Commission's policy on Restricted Access Commercial Fisheries, and provides for a reduction in the fishing capacity of the market squid fleet and to allow for transfer of permits, which has been prohibited under the current statutory moratorium on permit issuance. The regulations, if adopted, would define and establish permits of different classes based on authorized gear types, procedural requirements for permit issuance, fishery capacity goals, and specific mechanisms to achieve those goals through permit transferability and upgrades.

Section 149.1 Subsection (a)—Establish Permit Requirement to Fish Squid for Commercial Purposes. This proposed regulation states that on and after April 1, 2004, any vessel engaged in taking squid, landing squid, or attracting squid by light for commercial purposes, shall have a valid market squid permit issued to the owner of that vessel. The regulatory language was updated to reflect extension of the plan adoption date. April 1, 2005 is now proposed as the effective date for the permit requirement. **A minor grammatical change was made to the proposed regulatory text for clarity.**

Section 149.1 Subsection (b)—Establish Permit Classes and Authorized Activities. The proposed subsection would designate up to three classes of commercial squid permits, to include Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits. Within each permit class, authorized gear types are specified. The regulation also allows permits to be specified as transferable or non-transferable, or both types of permits to be issued in each class. Only one market squid permit, regardless of the class of permit, may be issued per owner per vessel.

Section 149.1 Subsection (c)—Establish Initial Permit Issuance Criteria. The proposed regulatory language specifies that permits are to issued for fishing vessels based on either the vessel or an individual meeting the selected initial issuance criteria for each class of permit. The Commission may choose among several initial issuance criteria options that can result in transferable and/or non-transferable permit designations. For vessel permits, initial issuance criteria are constructed upon levels of catch history ranging from 50 to 150 squid landings within a qualifying time period spanning from January 1, 1990 to December 31, 2002. For brail permits, the Commission may consider a range of qualifying participation levels from 5 to 25 squid landings made with brail gear within a qualifying time period spanning from January 1, 1990 to December 31, 2002. For light boat permits, initial issuance criteria based on landings are inappropriate, therefore this option is based on possessing a current market squid permit (vessel or light) and submission of one logbook within a qualifying time period spanning from January 1, 2000 to December 31, 2002. Options are provided that include permit issuance criteria based on 10 to 50 squid landings in one single fishing season for 20-year California commercial fishermen (grandfathered individuals) pursuant to Fish and Game Code Section 8101. Other options for initial issuance criteria would not be based on prior catch history, and instead would require only that a squid permit have been held in one or more previous years.

The regulation further specifies that should non-transferable classes of permits be selected by the Commission for issuance, they may only be issued to individuals, and may not be issued to partnerships or corporations; although at the time of issuance, the permit may be issued for a vessel which is owned by a partnership or corporation. This provision allows for the non-transferable permit to expire when the permit holder dies, as the individual's personal fishing history was used to meet the initial issuance criteria. The range of dates provided from which a qualifying window period may be selected was clarified and extended to March 31, 2003. Therefore, the Commission may select any window period start date from January 1, 1990 through January 1, 2000, and any end date from November 12, 1999 through March 31, 2003. Most proposed initial issuance criteria options require that the vessel owner be issued a current squid permit. The specified permit dates were updated to reflect extension of the plan adoption date.

The proposed language defining initial permit issuance criteria was clarified for each proposed permit class, as qualifying criteria may be based on either a vessel's catch history (determined from fish landing receipts made in the vessel's identification

number) or an individual's catch history (determined from fish landing receipts made in the individual's identification number). Transferable permits may be issued based on a vessel's catch history, while criteria for non-transferable (20-year grandfather) permits are based upon an individual's personal catch history. It was further clarified that once a Transferable Market Squid Vessel Permit, Brail Permit, or Light Boat Permit has been issued for use on a vessel based on that vessel's catch history, individuals may not also use their personal catch history made aboard that vessel toward issuance of a non-transferable vessel or brail permit. This clarification was needed to prohibit the issuance of multiple permits based on catch history associated with a single vessel.

Options for additional initial issuance criteria for non-transferable permits are proposed in the updated regulatory text. These options may be selected by the Commission in order to further limit the potential pool of non-transferable applicants due to the lengthy adoption process of the FMP. The Commission may now select to institute a window period during which the individual's catch history must have been made to qualify for a non-transferable vessel or brail permit. The proposed window period for transferable permits from [January 1, 1990–January 1, 2000] through [November 12, 1999–March 31, 2003] is proposed for consideration.

Additionally, if multiple individuals apply for issuance of a non-transferable permit with catch history from the same vessel, only the individual with the greatest number of landings or if applicable, the greatest number of landings during the window period, will qualify for issuance of a non-transferable permit.

An option was also added to require that the holder of a non-transferable permit be aboard the permitted vessel while the vessel is fishing under authority of the permit. This requirement would possibly curtail effort by vessels upon which non-transferable permits are placed.

Minor additional modifications were made to the proposed regulatory text of the subsection for clarity and consistency.

Section 149.1 Subsections (d) and (e)—Specify Application Deadlines for Initial Permit Issuance, and an Appeals Process. These proposed regulations specify that all applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be submitted by June 30, 2004, and provide for a grace period through July 31, 2004 with a \$250 late fee. Applications for initial permit issuance after this time period will be denied by the Depart-

ment. Failure to impose deadlines on initial issuance could undermine the goals of the restricted access program since mechanisms to reduce fishing capacity designed as part of the program would likely be ineffective if new permits are continuously issued. Regulations also provide that any applicant who is denied initial issuance of any class of permit may appeal that denial to the Commission within 60 days of the denial. The initial issuance application deadline dates were extended by one year, which would result from a change to the April 1, 2005 effective date of the permit requirement. The change was needed to account for extension of the plan adoption date.

Section 149.1 Subsections (f), (g) and (h)—Specify Annual Permit Renewal Criteria, Deadlines and Appeals Process. These proposed regulations state that permits must be renewed annually, and may only be issued by the Department each year to those who held the same permit in the prior year. It also clarifies that upon the death of a non-transferable permit holder, the permit cannot be renewed. The proposed regulations state that renewal applications must be submitted by April 30 of each year, and provide for a grace period through May 31 of each year with a \$250 late fee. Applications for permit renewal after this time period will be denied by the department and returned to the applicant. If the permittee misses the deadline, an appeals process is again defined. The specified permit renewal deadlines were updated to account for extension of the plan adoption date.

Section 149.1 Subsection (i)—Fees. The proposed regulations reflect a range of permit, transfer and upgrade fees for the Commission's consideration. For each market squid permit, the Commission will select an annual fee from a range of \$400 to \$5000. This level may be set differently for each class of permit (i.e. vessel, brail or light; transferable or non-transferable). For permit transfers, both in cases where the vessel is transferred to a new owner, or if the permit is transferred to a replacement vessel, the Commission will select from a proposed fee range of \$250–\$1000 for the transaction. For each Market Squid Brail Permit Upgrade, the Commission will select a one-time fee from a range of \$400 to \$5000.

Section 149.1 Subsection (j)—Permit Revocation, Suspension or Cancellation. The proposed subsection, if adopted, would specify that a permit can be revoked or suspended by the Commission under the following circumstances: a) if the permit holder used false information to qualify for the permit, b) if the permit holder violates commercial squid fishing regulations, or c) if any terms or conditions of the permit are violated.

Section 149.1 Subsection (k)—Dissolution of Partnership or Corporation. For vessels which hold permits which are issued to partnerships or corporations, rather than individual vessel owners, the proposed regulation would require that the permit holder notify the Department of any dissolution of the partnership or corporation, and to specify who the successor permit holder is so that the Department may reissue the permit in that name.

Section 149.1 Subsection (l)—Change of Vessel Ownership. The proposed regulations, if adopted, would require the Commission to set a fee from a range of \$250–\$1000 to be imposed in cases where a permit holder sells his permitted vessel to another owner, and chooses to transfer the market squid permit to the new vessel owner. Documentation requirements and procedures for completing the transaction are also provided. The proposed regulations clarify that non-transferable permits will be canceled upon the sale or transfer of ownership of the vessel.

Section 149.1 Subsection (m)—Capacity Goals. This subsection establishes in regulation, the optimum number of vessels for each squid fishery permit class as selected by the Commission. These numbers form the basis from which other provisions of the restricted access program, such as permit transferability, are determined. If approved, the Commission will adopt a capacity goal for Market Squid Vessel Permits from a range of 10–104 permits, a capacity goal for Market Squid Brail Permits of 18 permits, and a capacity goal for Market Squid Light Boat Permits from a range of 10–104 permits. The proposed regulations also specify that the capacity goals for vessel permits shall equal the sum of the capacity goals for the brail and light boat permit classes.

Section 149.1 Subsection (n)—Gross Tonnage Endorsement. Proposed regulations in this subsection explain the criteria for defining or calculating the gross tonnage of a vessel for which a Market Squid Vessel Permit or a Market Squid Brail Permit is issued. The provisions provide consistency with federal regulations which are established for Coastal Pelagic Species fishery permits, and to provide a measure of comparable capacity for purposes of determining permit transferability.

Section 149.1 Subsections (o) and (p)—Transfer of Permits to Replacement Vessels and Transfer Appeals Process. If adopted, these subsections would define criteria that would allow for transfer of a permit to a different vessel after August 31, 2004 as selected by the Commission from a wide range of options. The option recommended by the Department would limit permit transfers in these classes to vessels only of comparable capacity, consistent with transferability guidelines for federal Coastal Pelagic Species permits. Regulations would specify that two vessels in the

vessel or brail permit classes are considered to be of comparable capacity if the gross tonnage of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel. Other options include no permit transferability except in cases of major mechanical breakdown or loss of the vessel, and transferability of permits regardless of vessel capacity. An additional option provides for cases where a replacement vessel does not meet the ‘comparable capacity’ provisions, a “two-for-one” permit transfer (an additional permit must be relinquished) may be authorized. The effective date for permit transfers was updated to reflect extension of the plan adoption date.

Light boat permit transfer options include “one for one” permit transferability, or provisions for a “two-for-one” permit transfer if the number of permits issued is at a level above the capacity goal specified in subsection (m), and “one for one” if the number of permits issued is below the capacity goal.

Regulations also define documentation requirements and procedures for completing the permit transfer transactions, and provide that any applicant who is denied transfer of any permit may appeal that denial first to the Department and then to the Commission.

Section 149.1 Subsections (q) and (r)—Market Squid Brail Permit Upgrade, and Appeals Process. If adopted, these subsections would provide for a Market Squid Light Boat permittee to upgrade to a Market Squid Brail Permit with surrender of one to three additional Market Squid Light Boat Permits. This option will provide a mechanism to reduce the number of light boat permits, while providing an opportunity to acquire a Market Squid Brail Permit. Regulations also define documentation requirements and procedures for completing the transaction, and provide that any applicant who is denied upgrade of the permit may appeal that denial first to the Department and then to the Commission.

Add Section 149.2, Permits for Taking of Market Squid for Sale as Live Bait. If adopted, on and after April 1, 2005, any owner of a vessel which takes market squid for live bait purposes will be required to hold a Market Squid Live Bait Permit for that vessel. This regulatory option is provided to the Commission should they choose to initiate management of this currently-unregulated component of the squid fishery. The specified permit requirement date was extended by one year to account for extension of the plan adoption date. If adopted, the proposed live bait permit requirement would be effective on and after April 1, 2006.

Add Section 149.3, Experimental Market Squid Vessel Permits. If adopted, this provision would allow the commission to issue 1–5 Transferable or

Non-Transferable Market Squid Vessel Permits to any individual for placement on any vessel for purposes of developing a squid fishery in areas previously not utilized for squid production. Individuals issued permits pursuant to this Section would be required to adhere to all commercial squid fishing regulations in Section 149, Title 14, CCR, and all terms and conditions for permits defined in Section 149.1, excepting initial issuance criteria defined in Section 149.1(c).

Two additional options were added to the proposed regulatory text of this Section for the Commission’s consideration. In the event that the Commission selects the option that establishes a squid fishery closure for all waters north of Pillar Point, the Commission may adopt a provision exempting experimental fishery permit holders from this closure area only. An option is also included that would establish a maximum seasonal catch limitation of [2,000–5,000] tons by experimental fishery permittees.

Add Section 149.4, Market Squid Fishery Regional Control Date. If adopted, this provision would establish a control date to notify participants of intent to adopt a regional restricted access program for the squid fishery at a future date. A range of control date options [April 1, 1998–October 17, 2003] is proposed for consideration. Fishery participation on or after this date may apply toward a permit for a specified geographic region under a future regional restricted access program for the market squid fishery if one is developed.

Fishery participation prior to the control date would not be used as a measure of participation to qualify for initial issuance of regional restricted access permits. Only participation on or after the control date may be used to determine eligibility in a future regional restricted access program. The port of landing of these catches or records of light boat activity would be used to determine eligibility in specific geographic areas.

Possession of any market squid vessel, brail, or light boat permit issued pursuant to Section 149.1, Title 14, CCR, would not guarantee issuance of a permit under any future squid regional restricted access program. Beginning with the fishing season immediately following adoption of a regional restricted access program, market squid fishery permits issued pursuant to Section 149.1 would be replaced with the appropriate regional permits that would be subject to specific conditions for issuance. Permits previously issued under Section 149.1 would be nullified and no longer subject to renewal provisions. The range of control date options was expanded to allow for selection of a control date between January 1, 1990 and August 27, 2004.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the **Veterans Memorial Building, 209 Surf Street, Morro Bay**, on Friday, August 27, 2004 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 23, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 27, 2004, at the hearing in Morro Bay, CA. All written comments must include the true name and mailing address of the commentator.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rule-making file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Dale Sweetnam, Department of Fish and Game, phone (858) 546-7170, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

IMPACT OF REGULATORY ACTION

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

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

The Commission has made an initial determination that the adoption of the recommended regulations may result in adverse economic impacts directly affecting California's small businesses associated with the market squid fishery. However, the potential economic impacts would not affect the ability of California's small businesses to compete with businesses in other states.

Implementing restricted access fishery regulations and ensuing fleet reductions, could result in potential direct ex-vessel revenue losses as high as \$3,047,071 fleet wide. This is based on averaged 5-year landings information. On an individual basis, these losses could range from \$38,000 to \$98,000 (before deducting costs of doing business) for each fisherman removed from the fishery. Details of these potential impacts are presented in the Market Squid Fishery Management Plan, dated July 7, 2003, Section 1, Table 3-21. Contact the Agency representative named herein for a complete analysis of the impacts.

Reducing the statewide seasonal harvest to levels ranging from 11,000 to 80,000 short tons, could result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Potential direct revenue losses to individual fishermen will depend on how many fishermen remained in the fishery, but could range from \$7,400 to \$117,500 per individual (before deducting costs of doing business).

An updated evaluation of adverse economic impacts is now available, and is included in the Market Squid Fishery Management Plan (dated April 12, 2004).

The regulations proposed would directly affect approximately 230 commercial market squid fishermen and light boat operators. The direct impacts to the private sector will depend on which of the proposed management measures and regulations are adopted. There are three primary areas of the proposed regulations that may have significant economic impact to the businesses associated with the market squid fishery:

- Seasonal and regional catch limits; ranging from 22,000,000 to 250,000,000 pounds statewide (11,000 to 125,000 short tons), and 11,000,000 to 223,200,000 pounds regionally (5,500 to 111,600 short tons),

- Implementation of a Restricted Access Squid Fishery; no new permits would be issued and permit renewal is subject to eligibility criteria intended to reduce the fleet size from about 230 permittees to as many as 148 to 199 permittees,
- Changes to annual permit fees; ranging from \$400 to \$5,000.

Average market squid landings for calendar years 2001 and 2002 were 183,050,000 pounds statewide (91,525 short tons) at an ex-vessel value of about \$20,800,000. Among the roughly 230 market squid permit holders, this represents potential individual revenues of approximately \$90,400 annually (on average and before deducting costs of doing business). Reducing the statewide seasonal harvest to levels less than recent landings, at levels ranging from 22,000,000 to 160,000,000 pounds (11,000 to 80,000 short tons), would result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. The majority of these impacts would occur in the Counties of Monterey, Santa Barbara, and Los Angeles, where most market squid landings are made. Potential revenue losses to individual fishermen would depend on how many fishermen remained in the fishery. Other proposed statewide seasonal levels of 236,000,000 and 250,000,000 pounds (118,000 and 125,000 short tons) would not present an economic impact to the fishery since these levels are above average catches in recent years.

Proposed regional catch limits, for the area North of Point Conception and area South of Point Conception, could impact local coastal communities disproportionately through reduced catch levels. The proposed 11,000,000 to 15,200,000 pound catch limits (5,500 to 7,600 short tons) for the North region and 131,000,000 to 233,000,000 pounds (65,500 to 111,600 short tons) for the South region potentially results in a much larger impact to fishermen in the North region. Recent landings information for the two regions (for calendar years 2001 and 2002 averaged), were about 75,200,000 pounds (37,600 short tons) for the North region and about 274,800,000 pounds (137,400 short tons) in the South annually. The potential loss in ex-vessel revenue for the North region fishermen ranges from \$6.8 million to \$7 million (an 80 percent to 85 percent reduction from recent landings revenues), and ranges from \$5.8 to \$16 million (a 19 percent to 52 percent reduction from recent landings revenues) for South region fishermen. However, since Northern

landings were unusually high in calendar year 2002, these impact estimates are likely to be overstated.

Regulations that would establish a restricted access fishery work in tandem with proposed eligibility criteria to determine which fishermen will remain in the fishery. Depending on the criteria adopted, the fleet of permittees may be reduced by 31 to 81 permits, in order to arrive at a fleet of 148 to 199 permittees. The proposed eligibility criteria are crafted to exclude fishermen who historically have had only marginal participation in the fishery; for example excluded fishermen may represent only 17 percent of the seasonal ex-vessel revenue generated by the entire fleet. Thus potential ex-vessel revenue losses to individual fishermen culled from the fishery, based on averaged 5-year landings information, could range from \$38,000 to \$98,000 per permittee (before deducting costs of doing business).

New fees may be stipulated under the proposed regulations, depending on which regulatory options are adopted. Currently, annual permit fees for market squid light boats and market squid fishermen are \$400. The regulations propose new annual fees ranging from \$400 to \$5,000. Permit transfer fees (or upgrade fees) currently at \$250 per transfer, may range from \$250 to \$1,000, depending on which regulations are adopted. The projected financial impact of the proposed permit fees to the average fisherman, calculated as the Present Value of permit fees paid over a 5-year time period, discounted at the 2002 Federal 5-year Treasury Bill rate of 3.82 percent, ranges from \$1,800 to \$22,400.

The proposed regulations may result in changes in seasonal market squid harvests statewide. Reducing the statewide seasonal harvest to levels less than recent landings, at levels ranging from 22,000,000 pounds to 160,000,000 pounds (11,000 to 80,000 short tons), would result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Extrapolating these potential revenue losses to the local economies, through the use of an output demand multiplier of 1.61, yields economic impact estimates of \$2,700,000 to \$28,000,000 in lost economic output demand statewide. Proposed statewide seasonal catch levels of 236,000,000 and 250,000,000 pounds statewide (118,000 and 125,000 short tons) would not present a statewide economic impact to the fishery since these levels are above average catches in recent years.

Statewide costs or economic impacts associated with implementing a restricted access fishery, and the ensuing loss of fishermen through permit reductions, are based on an estimated \$3.7 million loss in ex-vessel revenue production capacity due to fleet reduction. Apportioning this \$3.7 million among the respective local economies and using appropriate output demand multipliers, yields potential reduction of \$6 million to \$7.8 million statewide in economic demand output (this recognizes that each \$1 of ex-vessel revenue generates \$1.61 to \$2.05 in economic activity for local economies). Further details on these economic impacts are presented in the April 12, 2004, Market Squid Fishery Management Plan, see Section 3, Item 1.1.3.

The Commission has made an initial determination that the amendment of these regulations may have a significant, statewide adverse economic impact directly affecting businesses. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which 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; or
 - (iv) exemption or partial exemption from the regulatory requirements for business.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:
Regulations to establish a restricted access fishery and the associated eligibility criteria may result in loss of 31 to 81 market squid fishing jobs.
- (c) Cost Impacts on a Representative Private Person or Business:
Reducing the statewide seasonal harvest to levels ranging from 11,000 to 80,000 short tons, could result in potential ex-vessel revenue losses of \$1,700,000 to \$17,400,000 for the squid fleet statewide. Potential direct revenue losses to individual fishermen will depend on how many fishermen remained in the fishery, but could range from \$7,400 to \$117,500 per individual (before deducting costs of doing business).

Implementing restricted access fishery regulations and ensuing fleet reductions, could result in potential direct ex-vessel revenue losses as high as \$3,047,071 fleet wide. This is based on averaged 5-year landings information. On an individual basis, these losses could range from \$38,000 to \$98,000 (before deducting costs of doing business) for each fisherman removed from the fishery. Details of these potential impacts are presented in the Market Squid Fishery Management Plan, dated July 7, 2003, Section 1, Table 3-21. Contact the Agency representative named herein for a complete analysis of the impacts.

Other private person or business costs impacts that could arise from the proposed action are increases in market squid permit fees. Currently market squid permits fees are set at \$400 annually, and depending on the regulations adopted could increase to as much as \$5,000 annually.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

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

DECISION NOT TO PROCEED

DEPARTMENT OF CONSERVATION

Pursuant to Government Code Section 11347, the Department of Conservation has decided not to proceed with the Notice of Proposed Action as published in the California Regulatory Notice Register 2004, No. 27-Z, published July 2, 2004. (OAL Notice

File No. Z04-0615-02). The proposed amendments concerned the increase in the refund value receipt requirements. The Department will publish a Notice of Proposed Action on July 23, 2004, as required by law, to amend these regulations pertaining to the same subject matter.

The Department will also publish this notice of a decision not to proceed on its Website.

**RULEMAKING PETITION
DECISIONS**

DEPARTMENT OF SOCIAL SERVICES

June 10, 2004

Julie A. Ocheltree
Attorney-at-Law
Enright & Ocheltree, LLP
9100 Wilshire Boulevard
Seventh Floor, West Tower
Beverly Hills, California 90212-3423

Dear Ms. Ocheltree:

**SUBJECT: REQUEST FOR RECONSIDERATION
OF DECISION DENYING PETITION
TO REPEAL TITLE 22 CALIFORNIA
CODE OF REGULATIONS SECTION
35333(C)(1)(C)**

The California Department of Social Services (CDSS) received the above-referenced request from the Association of Regional Center Agencies (ARCA) on May 20, 2004. Pursuant to Government Code Section 11340.7(a), the CDSS declines to retract or modify its decision facially dated March 4, 2004, denying the petition to repeal Title 22 California Code of Regulations Section 35333(c)(1)(C), hereinafter referred to as "the Regulation." The request is therefore denied.

Government Code Section 11340.7(c) provides that the "agency's reconsideration of any matter relating to a petition shall be subject to subdivision (a)." To indicate why the request for reconsideration has been denied, the CDSS herein incorporates by reference the reasons stated in our March 4, 2004, letter. The CDSS and the Department of Developmental Services (DDS), as our letter explained, are also working on a reform package that will affect developmentally disabled children who are eligible to receive foster care maintenance payments or Adoption Assistance Program benefits.

On the subject of the reform package, I should like to respond to your assertion on page four of the request that the Regulation will not be repealed as part of the

package. You further noted that "there has been zero solicitation or involvement of Petitioner ARCA, as a directly interested party, in any discussions involving the reform package." Regrettably, the time table established for the reform package has met with delays because the issues have proven to be more complex and far reaching than initially anticipated. Although the CDSS and the DDS always intended to solicit the input of interested parties such as ARCA, we also agreed that the proposal would not be presented until it was mutually accepted by both departments and our umbrella Health and Human Services Agency. Now that most of the major details in the proposal have been discussed, the CDSS staff is gathering relevant statistical data from several counties to include as background information in the completed reform package. Both departments hope to have the completed package ready for agency review as soon as possible.

If you have any questions regarding this matter, please contact Glenn Freitas, Chief of the Foster Care Audits and Rates Branch, at (916) 657-1329.

Sincerely,

LAWRENCE B. BOLTON
General Counsel

c: Robert Baldo, Executive Director
Association of Regional Center Agencies
Clifford Allenby, Director
Department of Developmental Services
Marsha Jacobson, Assistant General Counsel
Department of Social Services
Glenn Freitas, Chief
Foster Care Audits and Rates Branch
Department of Social Services

PROPOSITION 65

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

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986**

**CHEMICALS KNOWN TO THE STATE
TO CAUSE CANCER OR
REPRODUCTIVE TOXICITY
JULY 9, 2004**

The Safe Drinking Water and Toxic Enforcement Act of 1986 requires that the Governor revise and republish at least once per year the list of chemicals

known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals which are shown with a ~~strikeout~~ were placed on the list with the date noted, and have subsequently been removed.

CHEMICALS KNOWN TO THE STATE
TO CAUSE CANCER

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148685	January 1, 1990
Acetaldehyde	75070	April 1, 1988
Acetamide	60355	January 1, 1990
Acetochlor	34256821	January 1, 1989
2-Acetylaminofluorene	53963	July 1, 1987
Acifluorfen	62476599	January 1, 1990
Acrylamide	79061	January 1, 1990
Acrylonitrile	107131	July 1, 1987
Actinomycin D	50760	October 1, 1989
Adriamycin (Doxorubicin hydrochloride)	23214928	July 1, 1987
AF-2-[2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688537	July 1, 1987
Aflatoxins	—	January 1, 1988
Alachlor	15972608	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309002	July 1, 1988
Allyl chloride	407051	January 1, 1990
Delisted October 29, 1999		
2-Aminoanthraquinone	117793	October 1, 1989
p-Aminoazobenzene	60093	January 1, 1990
ortho-Aminoazotoluene	97563	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92671	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81492	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109973	July 1, 1989
2-Aminofluorene	153786	January 29, 1999
1-Amino-2-methylanthraquinone	82280	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712685	July 1, 1987
4-Amino-2-nitrophenol	119346	January 29, 1999
Amitrole	61825	July 1, 1987
Analgesic mixtures containing phenacetin	—	February 27, 1987
Aniline	62533	January 1, 1990
Aniline hydrochloride	142041	May 15, 1998
ortho-Anisidine	90040	July 1, 1987
ortho-Anisidine hydrochloride	134292	July 1, 1987
Antimony oxide (Antimony trioxide)	1309644	October 1, 1990
Aramite	140578	July 1, 1987

<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332214	February 27, 1987
Auramine	492808	July 1, 1987
Azacitidine	320672	January 1, 1992
Azaserine	115026	July 1, 1987
Azathioprine	446866	February 27, 1987
Azobenzene	103333	January 1, 1990
Benz[a]anthracene	56553	July 1, 1987
Benzene	71432	February 27, 1987
Benzidine [and its salts]	92875	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205992	July 1, 1987
Benzo[j]fluoranthene	205823	July 1, 1987
Benzo[k]fluoranthene	207089	July 1, 1987
Benzofuran	271896	October 1, 1990
Benzo[a]pyrene	50328	July 1, 1987
Benzotrichloride	98077	July 1, 1987
Benzyl chloride	100447	January 1, 1990
Benzyl violet 4B	1694093	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
2,2-Bis(bromomethyl)-1,3-propanediol	3296900	May 1, 1996
Bis(2-chloroethyl)ether	111444	April 1, 1988
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlor-napazine)	494031	February 27, 1987
Bischloroethyl nitrosourea (BCNU)(Carmustine)	154938	July 1, 1987
Bis(chloromethyl)ether	542881	February 27, 1987
Bis(2-chloro-1-methylethyl)ether, technical grade	—	October 29, 1999
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541454	May 31, 2002
Bromodichloromethane	75274	January 1, 1990
Bromoethane	74964	December 22, 2000
Bromoform	75252	April 1, 1991
1,3-Butadiene	106990	April 1, 1988
1,4-Butanediol dimethanesulfonate (Busulfan)	55981	February 27, 1987
Butylated hydroxyanisole	25013165	January 1, 1990
beta-Butyrolactone	3068880	July 1, 1987
Cacodylic acid	75605	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331395	October 1, 1994
Captafol	2425061	October 1, 1988
Captan	133062	January 1, 1990
Carbazole	86748	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333864	February 21, 2003
Carbon tetrachloride	56235	October 1, 1987
Carbon-black extracts	—	January 1, 1990
N-Carboxymethyl-N-nitrosourea	60391926	January 25, 2002
Catechol	120809	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990

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<i>Chemical</i>	CAS <i>Number</i>	<i>Date</i>	<i>Chemical</i>	CAS <i>Number</i>	<i>Date</i>
Certain combined chemotherapy for lymphomas	—	February 27, 1987	Cupferron	135206	January 1, 1988
Chlorambucil	305033	February 27, 1987	Cycasin	14901087	January 1, 1988
Chloramphenicol	56757	October 1, 1989	Cyclophosphamide (anhydrous)	50180	February 27, 1987
Chlordane	57749	July 1, 1988	Cyclophosphamide (hydrated)	6055192	February 27, 1987
Chlordecone (Kepone)	143500	January 1, 1988	Cytembena	21739913	May 15, 1998
Chlordimeform	6164983	January 1, 1989	D&C Orange No. 17	3468631	July 1, 1990
Chlorendic acid	115286	July 1, 1989	D&C Red No. 8	2092560	October 1, 1990
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171262	July 1, 1989	D&C Red No. 9	5160021	July 1, 1990
p-Chloroaniline	106478	October 1, 1994	D&C Red No. 19	81889	July 1, 1990
p-Chloroaniline hydrochloride	20265967	May 15, 1998	Dacarbazine	4342034	January 1, 1988
Chlorodibromomethane	—	—	Daminozide	1596845	January 1, 1990
Delisted October 29, 1999	124481	January 1, 1990	Dantron (Chrysazin; 1,8-Dihydroxyanthraquinone)	117102	January 1, 1992
Chloroethane (Ethyl chloride)	75003	July 1, 1990	Daunomycin	20830813	January 1, 1988
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	13010474	January 1, 1988	DDD (Dichlorodiphenyldichloroethane)	72548	January 1, 1989
1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU)	13909096	October 1, 1988	DDE (Dichlorodiphenyldichloroethylene)	72559	January 1, 1989
Chloroform	67663	October 1, 1987	DDT (Dichlorodiphenyltrichloroethane)	50293	October 1, 1987
Chloromethyl methyl ether (technical grade)	107302	February 27, 1987	DDVP (Dichlorvos)	62737	January 1, 1989
3-Chloro-2-methylpropene	563473	July 1, 1989	N,N'-Diacetylbenzidine	613354	October 1, 1989
1-Chloro-4-nitrobenzene	100005	October 29, 1999	2,4-Diaminoanisole	615054	October 1, 1990
4-Chloro-ortho-phenylenediamine	95830	January 1, 1988	2,4-Diaminoanisole sulfate	39156417	January 1, 1988
p-Chloro-o-toluidine	95692	January 1, 1990	4,4'-Diaminodiphenyl ether (4,4'-Oxydianiline)	101804	January 1, 1988
p-Chloro-o-toluidine, strong acid salts of	—	May 15, 1998	2,4-Diaminotoluene	95807	January 1, 1988
5-Chloro-o-toluidine and its strong acid salts	—	October 24, 1997	Diaminotoluene (mixed)	—	January 1, 1990
Chloroprene	126998	June 2, 2000	Dibenz[a,h]acridine	226368	January 1, 1988
Chlorothalonil	1897456	January 1, 1989	Dibenz[a,j]acridine	224420	January 1, 1988
Chlorotrianisene	569573	September 1, 1996	Dibenz[a,h]anthracene	53703	January 1, 1988
Chlorozotocin	54749905	January 1, 1992	7H-Dibenzo[c,g]carbazole	194592	January 1, 1988
Chromium (hexavalent compounds)	—	February 27, 1987	Dibenzo[a,e]pyrene	192654	January 1, 1988
Chrysene	218019	January 1, 1990	Dibenzo[a,h]pyrene	189640	January 1, 1988
C.I. Acid Red 114	6459945	July 1, 1992	Dibenzo[a,i]pyrene	189559	January 1, 1988
C.I. Basic Red 9 monohydrochloride	569619	July 1, 1989	Dibenzo[a,l]pyrene	191300	January 1, 1988
C.I. Direct Blue 15	2429745	August 26, 1997	1,2-Dibromo-3-chloropropane (DBCP)	96128	July 1, 1987
C.I. Direct Blue 218	28407376	August 26, 1997	2,3-Dibromo-1-propanol	96139	October 1, 1994
C.I. Solvent Yellow 14	842079	May 15, 1998	Dichloroacetic acid	79436	May 1, 1996
Ciclosporin (Cyclosporin A; Cyclosporine)	59865133	January 1, 1992	p-Dichlorobenzene	106467	January 1, 1989
Cidofovir	113852372	January 29, 1999	3,3'-Dichlorobenzidine	91941	October 1, 1987
Cinnamyl anthranilate	87296	July 1, 1989	3,3'-Dichlorobenzidine dihydrochloride	612839	May 15, 1998
Cisplatin	15663271	October 1, 1988	1,4-Dichloro-2-butene	764410	January 1, 1990
Citrus Red No. 2	6358538	October 1, 1989	3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434868	January 1, 1988
Clofibrate	637070	September 1, 1996	1,1-Dichloroethane	75343	January 1, 1990
Cobalt metal powder	7440484	July 1, 1992	Dichloromethane (Methylene chloride)	75092	April 1, 1988
Cobalt [II] oxide	1307966	July 1, 1992	1,2-Dichloropropane	78875	January 1, 1990
Cobalt sulfate heptahydrate	10026241	June 2, 2000	1,3-Dichloropropene	542756	January 1, 1989
Coke oven emissions	—	February 27, 1987	Dieldrin	60571	July 1, 1988
Conjugated estrogens	—	February 27, 1987	Dienestrol	84173	January 1, 1990
Creosotes	—	October 1, 1988	Diepoxybutane	1464535	January 1, 1988
para-Cresidine	120718	January 1, 1988	Diesel engine exhaust	—	October 1, 1990
			Di(2-ethylhexyl)phthalate	117817	January 1, 1988
			1,2-Diethylhydrazine	1615801	January 1, 1988
			Diethyl sulfate	64675	January 1, 1988

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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>	<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Diethylstilbestrol (DES)	56531	February 27, 1987	Ethylene dibromide	106934	July 1, 1987
Diglycidyl resorcinol ether (DGRE)	101906	July 1, 1989	Ethylene dichloride (1,2-Dichloroethane)	107062	October 1, 1987
Dihydrosafrole	94586	January 1, 1988	Ethylene oxide	75218	July 1, 1987
Diisopropyl sulfate	2973106	April 1, 1993	Ethylene thiourea	96457	January 1, 1988
3,3'-Dimethoxybenzidine (ortho-Dianisidine)	119904	January 1, 1988	Ethyleneimine	151564	January 1, 1988
3,3'-Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325400	October 1, 1990	Fenoxycarb	72490018	June 2, 2000
Dimethyl sulfate	77781	January 1, 1988	Folpet	133073	January 1, 1989
4-Dimethylaminoazobenzene	60117	January 1, 1988	Formaldehyde (gas)	50000	January 1, 1988
trans-2-[(Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	55738540	January 1, 1988	2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	3570750	January 1, 1988
7,12-Dimethylbenz(a) anthracene	57976	January 1, 1990	Fumonisin B ₁	116355830	November 14, 2003
3,3'-Dimethylbenzidine (ortho-Tolidine)	119937	January 1, 1988	Furan	110009	October 1, 1993
3,3'-Dimethylbenzidine dihydrochloride	612828	April 1, 1992	Furazolidone	67458	January 1, 1990
Dimethylcarbamoyl chloride	79447	January 1, 1988	Furmecyclox	60568050	January 1, 1990
1,1-Dimethylhydrazine (UDMH)	57147	October 1, 1989	Fusarin C	79748815	July 1, 1995
1,2-Dimethylhydrazine	540738	January 1, 1988	Ganciclovir sodium	82410320	August 26, 1997
Dimethylvinylchloride	513371	July 1, 1989	Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
3,7-Dinitrofluoranthene	105735715	August 26, 1997	Gemfibrozil	25812300	December 22, 2000
3,9-Dinitrofluoranthene	22506532	August 26, 1997	Glasswool fibers (airborne particles of respirable size)	—	July 1, 1990
1,6-Dinitropyrene	42397648	October 1, 1990	Glu-P-1 (2-Amino-6-methyldipyrido[1,2-a:3',2'-d]imidazole)	67730114	January 1, 1990
1,8-Dinitropyrene	42397659	October 1, 1990	Glu-P-2 (2-Aminodipyrido[1,2-a:3',2'-d]imidazole)	67730103	January 1, 1990
Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996	Glycidaldehyde	765344	January 1, 1988
2,4-Dinitrotoluene	121142	July 1, 1988	Glycidol	556525	July 1, 1990
2,6-Dinitrotoluene	606202	July 1, 1995	Griseofulvin	126078	January 1, 1990
Di-n-propyl isocinchomerate (MGK Repellent 326)	136458	May 1, 1996	Gyromitrin (Acetaldehyde methylformylhydrazone)	16568028	January 1, 1988
1,4-Dioxane	123911	January 1, 1988	HC Blue 1	2784943	July 1, 1989
Diphenylhydantoin (Phenytoin)	57410	January 1, 1988	Heptachlor	76448	July 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630933	January 1, 1988	Heptachlor epoxide	1024573	July 1, 1988
Direct Black 38 (technical grade)	1937377	January 1, 1988	<u>Herbal remedies containing plant species of the genus Aristolochia</u>	—	July 9, 2004
Direct Blue 6 (technical grade)	2602462	January 1, 1988	Hexachlorobenzene	118741	October 1, 1987
Direct Brown 95 (technical grade)	16071866	October 1, 1988	Hexachlorocyclohexane (technical grade)	—	October 1, 1987
Disperse Blue 1	2475458	October 1, 1990	Hexachlorodibenzo-dioxin	34465468	April 1, 1988
Diuron	330541	May 31, 2002	Hexachloroethane	67721	July 1, 1990
Epichlorohydrin	106898	October 1, 1987	Hexamethylphosphoramide	680319	January 1, 1988
Erionite	12510428	October 1, 1988	Hydrazine	302012	January 1, 1988
Estradiol 17B	50282	January 1, 1988	Hydrazine sulfate	10034932	January 1, 1988
Estragole	140670	October 29, 1999	Hydrazobenzene (1,2-Diphenylhydrazine)	122667	January 1, 1988
Estrone	53167	January 1, 1988	Indeno [1,2,3-cd]pyrene	193395	January 1, 1988
Estropipate	7280377	August 26, 1997	Indium phosphide	22398807	February 27, 2001
Ethinylestradiol	57636	January 1, 1988	IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	76180966	April 1, 1990
Ethoprop	13194484	February 27, 2001	Iprodione	36734197	May 1, 1996
Ethyl acrylate	140885	January 1, 1989	Iron dextran complex	9004664	January 1, 1988
Ethyl methanesulfonate	62500	January 1, 1988			
Ethyl-4,4'-dichlorobenzilate	510156	January 1, 1990			

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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>	<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
Isobutyl nitrite	542563	May 1, 1996	Methylthiouracil	56042	October 1, 1989
Isoprene	78795	May 1, 1996	Metiram	9006422	January 1, 1990
Isosafrole	120581	October 1, 1989	Metronidazole	443481	January 1, 1988
Isoxaflutole	141112290	December 22, 2000	Michler's ketone	90948	January 1, 1988
Lactofen	77501634	January 1, 1989	Mirex	2385855	January 1, 1988
Lasiocarpine	303344	April 1, 1988	Mitomycin C	50077	April 1, 1988
Lead acetate	301042	January 1, 1988	Monocrotaline	315220	April 1, 1988
Lead and lead compounds	—	October 1, 1992	5-(Morpholinomethyl)-3-[(5-nitro- furfurylidene)- amino]-2-oxalolidinone	139913	April 1, 1988
Lead phosphate	7446277	April 1, 1988	Mustard Gas	505602	February 27, 1987
Lead subacetate	1335326	October 1, 1989	MX (3-chloro-4-dichloromethyl-5- hydroxy-2(5H)-furanone)	77439760	December 22, 2000
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989	Nafenopin	3771195	April 1, 1988
Lynestrenol	52766	February 27, 2001	Nalidixic acid	389082	May 15, 1998
Mancozeb	8018017	January 1, 1990	Naphthalene	91203	April 19, 2002
Maneb	12427382	January 1, 1990	1-Naphthylamine	134327	October 1, 1989
Me-A-alpha-C (2-Amino-3- methyl-9H-pyrido[2,3-b] indole)	68006837	January 1, 1990	2-Naphthylamine	91598	February 27, 1987
Medroxyprogesterone acetate	71589	January 1, 1990	Nickel (Metallic)	7440020	October 1, 1989
MeIQ(2-Amino-3,4- dimethylimidazo[4,5-f] quinoline)	77094112	October 1, 1994	Nickel acetate	373024	October 1, 1989
MeIQx(2-Amino-3,8- dimethylimidazo[4,5-f] quinoxaline)	77500040	October 1, 1994	Nickel carbonate	3333673	October 1, 1989
Melphalan	148823	February 27, 1987	Nickel carbonyl	13463393	October 1, 1987
Merphalan	531760	April 1, 1988	Nickel compounds	—	May 7, 2004
Mestranol	72333	April 1, 1988	Nickel hydroxide	12054487; 12125563	October 1, 1989
Metham sodium	137428	November 6, 1998	Nickelocene	1271289	October 1, 1989
8-Methoxypsoralen with ultraviolet A therapy	298817	February 27, 1987	Nickel oxide	1313991	October 1, 1989
5-Methoxypsoralen with ultraviolet A therapy	484208	October 1, 1988	Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
2-Methylaziridine (Propyleneimine)	75558	January 1, 1988	Nickel subsulfide	12035722	October 1, 1987
Methylazoxymethanol	590965	April 1, 1988	Niridazole	61574	April 1, 1988
Methylazoxymethanol acetate	592621	April 1, 1988	Nitrolic triacetic acid	139139	January 1, 1988
Methyl carbamate	598550	May 15, 1998	Nitrolic triacetic acid, tri- sodium salt mono- hydrate	18662538	April 1, 1989
3-Methylcholanthrene	56495	January 1, 1990	5-Nitroacenaphthene	602879	April 1, 1988
5-Methylchrysene	3697243	April 1, 1988	5-Nitro-o-anisidine	99592	October 1, 1989
4,4'-Methylene bis (2-chloroaniline)	101144	July 1, 1987	o-Nitroanisole	91236	October 1, 1992
4,4'-Methylene bis(N,N-dimethyl) benzenamine	101611	October 1, 1989	Nitrobenzene	98953	August 26, 1997
4,4'-Methylene bis (2-methylaniline)	838880	April 1, 1988	4-Nitrobiphenyl	92933	April 1, 1988
4,4'-Methylenedianiline	101779	January 1, 1988	6-Nitrochrysene	7496028	October 1, 1990
4,4'-Methylenedianiline dihydrochloride	13552448	January 1, 1988	Nitrofen (technical grade)	1836755	January 1, 1988
Methyleugenol	93152	November 16, 2001	2-Nitrofluorene	607578	October 1, 1990
Methylhydrazine and its salts	—	July 1, 1992	Nitrofurazone	59870	January 1, 1990
Methyl iodide	74884	April 1, 1988	1-[(5-Nitrofurfurylidene)-amino]- 2-imidazolidinone	555840	April 1, 1988
Methylmercury compounds	—	May 1, 1996	N-[4-(5-Nitro-2-furyl)-2- thiazolyl]acetamide	531828	April 1, 1988
Methyl methanesulfonate	66273	April 1, 1988	Nitrogen mustard (Mechlorethamine)	51752	January 1, 1988
2-Methyl-1-nitroanthraquin- one (of uncertain purity)	129157	April 1, 1988	Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55867	April 1, 1988
N-Methyl-N'-nitro-N- nitrosoguanidine	70257	April 1, 1988	Nitrogen mustard N-oxide	126852	April 1, 1988
N-Methylolacrylamide	924425	July 1, 1990	Nitrogen mustard N-oxide hydrochloride	302705	April 1, 1988
			Nitromethane	75525	May 1, 1997
			2-Nitropropane	79469	January 1, 1988
			1-Nitropyrene	5522430	October 1, 1990
			4-Nitropyrene	57835924	October 1, 1990
			N-Nitrosodi-n-butylamine	924163	October 1, 1987
			N-Nitrosodiethanolamine	1116547	January 1, 1988

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<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>	<i>Chemical</i>	<i>CAS Number</i>	<i>Date</i>
N-Nitrosodiethylamine	55185	October 1, 1987	Polychlorinated dibenzofurans	—	October 1, 1992
N-Nitrosodimethylamine	62759	October 1, 1987	Polygeenan	53973981	January 1, 1988
p-Nitrosodiphenylamine	156105	January 1, 1988	Ponceau MX	3761533	April 1, 1988
N-Nitrosodiphenylamine	86306	April 1, 1988	Ponceau 3R	3564098	April 1, 1988
N-Nitrosodi-n-propylamine	621647	January 1, 1988	Potassium bromate	7758012	January 1, 1990
N-Nitroso-N-ethylurea	759739	October 1, 1987	Primidone	125337	August 20, 1999
3-(N-Nitrosomethylamino) propionitrile	60153493	April 1, 1990	Procarbazine	671169	January 1, 1988
4-(N-Nitrosomethylamino)-1-(3-pyridyl)-1-butanone	64091914	April 1, 1990	Procarbazine hydrochloride	366701	January 1, 1988
N-Nitrosomethylethylamine	10595956	October 1, 1989	Procymidone	32809168	October 1, 1994
N-Nitroso-N-methylurea	684935	October 1, 1987	Progesterone	57830	January 1, 1988
N-Nitroso-N-methylurethane	615532	April 1, 1988	Pronamide	23950585	May 1, 1996
N-Nitrosomethylvinylamine	4549400	January 1, 1988	Propachlor	1918167	February 27, 2001
N-Nitrosomorpholine	59892	January 1, 1988	1,3-Propane sultone	1120714	January 1, 1988
N-Nitrosornicotine	16543558	January 1, 1988	Propargite	2312358	October 1, 1994
N-Nitrosopiperidine	100754	January 1, 1988	beta-Propiolactone	57578	January 1, 1988
N-Nitrosopyrrolidine	930552	October 1, 1987	Propylene oxide	75569	October 1, 1988
N-Nitrososarcosine	13256229	January 1, 1988	Propylthiouracil	51525	January 1, 1988
o-Nitrotoluene	88722	May 15, 1998	Pyridine	110861	May 17, 2002
Norethisterone (Norethindrone)	68224	October 1, 1989	Quinoline and its strong acid salts	—	October 24, 1997
Norethynodrel	68235	February 27, 2001	Radionuclides	—	July 1, 1989
Ochratoxin A	303479	July 1, 1990	Reserpine	50555	October 1, 1989
Oil Orange SS	2646175	April 1, 1988	Residual (heavy) fuel oils	—	October 1, 1990
Oral contraceptives, combined	—	October 1, 1989	Saccharin		
Oral contraceptives, sequential	—	October 1, 1989	Delisted April 6, 2001	81072	October 1, 1989
Oxadiazon	19666309	July 1, 1991	Saccharin, sodium		
Oxazepam	604751	October 1, 1994	Delisted January 17, 2003	128449	January 1, 1988
Oxymetholone	434071	January 1, 1988	Safrole	94597	January 1, 1988
Oxythioquinox	2439012	August 20, 1999	Salicylazosulfapyridine	599791	May 15, 1998
Palygorskite fibers (>5µm in length)	12174117	December 28, 1999	Selenium sulfide	7446346	October 1, 1989
Panfuran S	794934	January 1, 1988	Shale-oils	68308349	April 1, 1990
Pentachlorophenol	87865	January 1, 1990	Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Phenacetin	62442	October 1, 1989	Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Phenazopyridine	94780	January 1, 1988	Spironolactone	52017	May 1, 1997
Phenazopyridine hydrochloride	136403	January 1, 1988	Stanozolol	10418038	May 1, 1997
Phenesterin	3546109	July 1, 1989	Sterigmatocystin	10048132	April 1, 1988
Phenobarbital	50066	January 1, 1990	Streptozotocin (streptozocin)	18883664	January 1, 1988
Phenolphthalein	77098	May 15, 1998	Strong inorganic acid mists containing sulfuric acid	—	March 14, 2003
Phenoxybenzamine	59961	April 1, 1988	Styrene oxide	96093	October 1, 1988
Phenoxybenzamine hydrochloride	63923	April 1, 1988	Sulfallate	95067	January 1, 1988
o-Phenylenediamine and its salts	95545	May 15, 1998	Talc containing asbestiform fibers	—	April 1, 1990
Phenyl glycidyl ether	122601	October 1, 1990	Tamoxifen and its salts	10540291	September 1, 1996
Phenylhydrazine and its salts	—	July 1, 1992	Terrazole	2593159	October 1, 1994
o-Phenylphenate, sodium	132274	January 1, 1990	Testosterone and its esters	58220	April 1, 1988
o-Phenylphenol	90437	August 4, 2000	2,3,7,8-Tetrachlorodibenzo-pa-dioxin (TCDD)	1746016	January 1, 1988
PhiP(2-Amino-1-methyl-6-phenylimidazol[4,5-b]pyridine)	105650235	October 1, 1994	1,1,2,2-Tetrachloroethane	79345	July 1, 1990
Polybrominated biphenyls	—	January 1, 1988	Tetrachloroethylene (Perchloroethylene)	127184	April 1, 1988
Polychlorinated biphenyls	—	October 1, 1989	p-a,a,a-Tetrachloro-toluene	5216251	January 1, 1990
Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988	Tetrafluoroethylene	116143	May 1, 1997
Polychlorinated dibenzo-p-dioxins	—	October 1, 1992	Tetranitromethane	509148	July 1, 1990
			Thioacetamide	62555	January 1, 1988
			4,4'-Thiodianiline	139651	April 1, 1988
			Thiodicarb	59669260	August 20, 1999
			Thiourea	62566	January 1, 1988
			Thorium dioxide	1314201	February 27, 1987

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Tobacco, oral use of smokeless products	—	April 1, 1988	Altretamine	developmental, male	645056	August 20, 1999
Tobacco smoke	—	April 1, 1988	Amantadine hydrochloride	developmental	665667	February 27, 2001
Toluene diisocyanate	26471625	October 1, 1989	Amikacin sulfate	developmental	39831555	July 1, 1990
ortho-Toluidine	95534	January 1, 1988	Aminoglutethimide	developmental	125848	July 1, 1990
ortho-Toluidine hydrochloride	636215	January 1, 1988	Aminoglycosides	developmental	—	October 1, 1992
para-Toluidine	—	—	Aminopterin	developmental, female	54626	July 1, 1987
Delisted October 29, 1999	406490	January 1, 1990	Amiodarone hydrochloride	developmental, female, male	19774824	August 26, 1997
Toxaphene (Polychlorinated camphenes)	8001352	January 1, 1988	Amitraz	developmental	33089611	March 30, 1999
Treosulfan	299752	February 27, 1987	Amoxapine	developmental	14028445	May 15, 1998
Trichlormethine (Trimustine hydrochloride)	817094	January 1, 1992	Anabolic steroids	female, male	—	April 1, 1990
Trichloroethylene	79016	April 1, 1988	Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
2,4,6-Trichlorophenol	88062	January 1, 1988	Anisindione	developmental	117373	October 1, 1992
1,2,3-Trichloropropane	96184	October 1, 1992	Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Trimethyl phosphate	512561	May 1, 1996	Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50782	July 1, 1990
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997	Atenolol	developmental	29122687	August 26, 1997
Triphenyltin hydroxide	76879	July 1, 1992	Auranofin	developmental	34031328	January 29, 1999
Tris(aziridinyl)-para-benzoquinone (Triaziquone)	68768	October 1, 1989	Azathioprine	developmental	446866	September 1, 1996
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	52244	January 1, 1988	Barbiturates	developmental	—	October 1, 1992
Tris(2-chloroethyl) phosphate	115968	April 1, 1992	Beclomethasone dipropionate	developmental	5534098	May 15, 1998
Tris(2,3-dibromopropyl)phosphate	126727	January 1, 1988	Benomyl	developmental, male	17804352	July 1, 1991
Trp-P-1 (Tryptophan-P-1)	62450060	April 1, 1988	Benzene	developmental, male	71432	December 26, 1997
Trp-P-2 (Tryptophan-P-2)	62450071	April 1, 1988	Benzodiazepines	developmental	—	October 1, 1992
Trypan blue (commercial grade)	72571	October 1, 1989	Benzphetamine hydrochloride	developmental	5411223	April 1, 1990
Unleaded gasoline (wholly vaporized)	—	April 1, 1988	Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154938	July 1, 1990
Uracil mustard	66751	April 1, 1988	Bromacil lithium salt	developmental, male	53404196	May 18, 1999
Urethane (Ethyl carbamate)	51796	January 1, 1988	Bromoxynil	developmental	1689845	October 1, 1990
Vinclozolin	50471448	August 20, 1999	Bromoxynil octanoate	developmental	1689992	May 18, 1999
Vinyl bromide	593602	October 1, 1988	Butabarbital sodium	developmental	143817	October 1, 1992
Vinyl chloride	75014	February 27, 1987	1,3-Butadiene	developmental, female, male	106990	April 16, 2004
4-Vinylcyclohexene	100403	May 1, 1996	1,4-Butanediol dimethane-sulfonate (Busulfan)	developmental	55981	January 1, 1989
4-Vinyl-1-cyclohexene diepoxide (Vinyl cyclohexene dioxide)	106876	July 1, 1990	Cadmium	developmental, male	—	May 1, 1997
Vinyl fluoride	75025	May 1, 1997	Carbamazepine	developmental	298464	January 29, 1999
Vinyl trichloride (1,1,2-Trichloroethane)	79005	October 1, 1990	Carbon disulfide	developmental, female, male	75150	July 1, 1989
2,6-Xylidine (2,6-Dimethylaniline)	87627	January 1, 1991	Carbon monoxide	developmental	630080	July 1, 1989
Zileuton	111406872	December 22, 2000	Carboplatin	developmental	41575944	July 1, 1990
Zineb	—	—	Chenodiol	developmental	474259	April 1, 1990
Delisted October 29, 1999	42122677	January 1, 1990	Chinomethionat (Oxythioquinox)	developmental	2439012	November 6, 1998
			Chlorambucil	developmental	305033	January 1, 1989
			Chlorcyclizine hydrochloride	developmental	1620219	July 1, 1987
			Chlordecone (Kepone)	developmental	143500	January 1, 1989
			Chlordiazepoxide	developmental	58253	January 1, 1992
			Chlordiazepoxide hydrochloride	developmental	438415	January 1, 1992
			1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	developmental	13010474	July 1, 1990
			Chlorsulfuron	developmental, female, male	64902723	May 14, 1999
			Cidofovir	developmental, female, male	113852372	January 29, 1999
			Cladribine	developmental	4291638	September 1, 1996
			Clarithromycin	developmental	81103119	May 1, 1997

CHEMICALS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY

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Acetazolamide	developmental	59665	August 20, 1999
Acetohydroxamic acid	developmental	546883	April 1, 1990
Actinomycin D	developmental	50760	October 1, 1992
All-trans retinoic acid	developmental	302794	January 1, 1989
Alprazolam	developmental	28981977	July 1, 1990

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Clobetasol propionate	developmental, female	25122467	May 15, 1998	Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Clomiphene citrate	developmental	50419	April 1, 1990	Ethyl dipropylthiocarbamate	developmental	759944	April 27, 1999
Clorazepate dipotassium	developmental	57109907	October 1, 1992	Ethylene dibromide	developmental, male	106934	May 15, 1998
Cocaine	developmental, female	50362	July 1, 1989	Ethylene glycol monoethyl ether	developmental, male	110805	January 1, 1989
Codeine phosphate	developmental	52288	May 15, 1998	Ethylene glycol monomethyl ether	developmental, male	109864	January 1, 1989
Colchicine	developmental, male	64868	October 1, 1992	Ethylene glycol monoethyl ether acetate	developmental, male	111159	January 1, 1993
Conjugated estrogens	developmental	—	April 1, 1990	Ethylene glycol monomethyl ether acetate	developmental, male	110496	January 1, 1993
Cyanazine	developmental	21725462	April 1, 1990	Ethylene oxide	female	75218	February 27, 1987
Cycloate	developmental	1134232	March 19, 1999	Ethylene thiourea	developmental	96457	January 1, 1993
Cyclohexanol Delisted January 25, 2002	male	—108930	November 6, 1998	Etodolac	developmental, female	41340254	August 20, 1999
Cycloheximide	developmental	66819	January 1, 1989	Etoposide	developmental	33419420	July 1, 1990
Cyclophosphamide (anhydrous)	developmental, female, male	50180	January 1, 1989	Etrexinate	developmental	54350480	July 1, 1987
Cyclophosphamide (hydrated)	developmental, female, male	6055192	January 1, 1989	Fenoxaprop ethyl	developmental	66441234	March 26, 1999
Cyhexatin	developmental	13121705	January 1, 1989	Filgrastim	developmental	121181531	February 27, 2001
Cytarabine	developmental	147944	January 1, 1989	Fluazifop butyl	developmental	69806504	November 6, 1998
Dacarbazine	developmental	4342034	January 29, 1999	Flunisolide	developmental, female	3385033	May 15, 1998
Danazol	developmental	17230885	April 1, 1990	Fluorouracil	developmental	51218	January 1, 1989
Dauorubicin hydrochloride	developmental	23541506	July 1, 1990	Fluoxymesterone	developmental	76437	April 1, 1990
2,4-D butyric acid	developmental, male	94826	June 18, 1999	Flurazepam hydrochloride	developmental	1172185	October 1, 1992
o,p' -DDT	developmental, female, male	789026	May 15, 1998	Flurbiprofen	developmental, female	5104494	August 20, 1999
p,p' -DDT	developmental, female, male	50293	May 15, 1998	Flutamide	developmental	13311847	July 1, 1990
2,4-DP (dichloroprop) Delisted January 25, 2002	developmental	—120365	April 27, 1999	Fluticasone propionate	developmental	80474142	May 15, 1998
Demeclocycline hydrochloride (internal use)	developmental	64733	January 1, 1992	Fluvalinate	developmental	69409945	November 6, 1998
Diazepam	developmental	439145	January 1, 1992	Ganciclovir sodium	developmental, male	82410320	August 26, 1997
Diazoxide	developmental	364987	February 27, 2001	Gemfibrozil	female, male	25812300	August 20, 1999
1,2-Dibromo-3-chloropropane (DBCP)	male	96128	February 27, 1987	Goserelin acetate	developmental, female, male	65807025	August 26, 1997
Dichlorophene	developmental	97234	April 27, 1999	Halazepam	developmental	23092173	July 1, 1990
Dichlorophenamide	developmental	120978	February 27, 2001	Halobetasol propionate	developmental	66852548	August 20, 1999
Diclofop methyl	developmental	51338273	March 5, 1999	Haloperidol	developmental, female	52868	January 29, 1999
Dicumarol	developmental	66762	October 1, 1992	Halothane	developmental	151677	September 1, 1996
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117817	October 24, 2003	Heptachlor	developmental	76448	August 20, 1999
Diethylstilbestrol (DES)	developmental	56531	July 1, 1987	Hexachlorobenzene	developmental	118741	January 1, 1989
Diflunisal	developmental, female	22494424	January 29, 1999	Hexamethylphosphoramide	male	680319	October 1, 1994
Dihydroergotamine mesylate	developmental	6190392	May 1, 1997	Histrelin acetate	developmental	—	May 15, 1998
Diltiazem hydrochloride	developmental	33286225	February 27, 2001	Hydramethylnon	developmental, male	67485294	March 5, 1999
m-Dinitrobenzene	male	99650	July 1, 1990	Hydroxyurea	developmental	127071	May 1, 1997
o-Dinitrobenzene	male	528290	July 1, 1990	Idarubicin hydrochloride	developmental, male	57852570	August 20, 1999
p-Dinitrobenzene	male	100254	July 1, 1990	Ifosfamide	developmental	3778732	July 1, 1990
2,4-Dinitrotoluene	male	121142	August 20, 1999	Iodine-131	developmental	10043660	January 1, 1989
2,6-Dinitrotoluene	male	606202	August 20, 1999	Isotretinoin	developmental	4759482	July 1, 1987
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999	Lead	developmental, female, male	—	February 27, 1987
Dinocap	developmental	39300453	April 1, 1990	Leuprolide acetate	developmental, female, male	74381536	August 26, 1997
Dinoseb	developmental, male	88857	January 1, 1989	Levodopa	developmental	59927	January 29, 1999
Diphenylhydantoin (Phenytoin)	developmental	57410	July 1, 1987	Levonorgestrel implants	female	797637	May 15, 1998
Disodium cyanodithioimidocarbonate	developmental	138932	March 30, 1999	Linuron	developmental	330552	March 19, 1999
Doxorubicin hydrochloride	developmental, male	23214928	January 29, 1999	Lithium carbonate	developmental	554132	January 1, 1991
Doxycycline (internal use)	developmental	564250	July 1, 1990	Lithium citrate	developmental	919164	January 1, 1991
Doxycycline calcium (internal use)	developmental	94088854	January 1, 1992	Lorazepam	developmental	846491	July 1, 1990
Doxycycline hyclate (internal use)	developmental	24390145	October 1, 1991	Lovastatin	developmental	75330755	October 1, 1992
Doxycycline monohydrate (internal use)	developmental	17086281	October 1, 1991	Mebendazole	developmental	31431397	August 20, 1999
Endrin	developmental	72208	May 15, 1998	Medroxyprogesterone acetate	developmental	71589	April 1, 1990
Epichlorohydrin	male	106898	September 1, 1996	Megestrol acetate	developmental	595335	January 1, 1991
Ergotamine tartrate	developmental	379793	April 1, 1990	Melphalan	developmental	148823	July 1, 1990
Estradiol	developmental	7280377	August 26, 1997	Menotropins	developmental	9002680	April 1, 1990
Ethionamide	developmental	536334	August 26, 1997	Meprobamate	developmental	57534	January 1, 1992
				Mercaptopurine	developmental	6112761	July 1, 1990

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Mercury and mercury compounds	developmental	—	July 1, 1990	Prednisolone sodium phosphate	developmental	125020	August 20, 1999
Methacycline hydrochloride	developmental	3963959	January 1, 1991	Procarbazine hydrochloride	developmental	366701	July 1, 1990
Metham sodium	developmental	137428	May 15, 1998	Propargite	developmental	2312358	June 15, 1999
Methazole	developmental	20354261	December 1, 1999	Propylthiouracil	developmental	51525	July 1, 1990
Methimazole	developmental	60560	July 1, 1990	Pyrimethamine	developmental	58140	January 29, 1999
Methotrexate	developmental	59052	January 1, 1989	Quazepam	developmental	36735225	August 26, 1997
Methotrexate sodium	developmental	15475566	April 1, 1990	Quizalofop-ethyl	male	76578148	December 24, 1999
Methyl bromide as a structural fumigant	developmental	74839	January 1, 1993	Resmethrin	developmental	10453868	November 6, 1998
Methyl chloride	developmental	74873	March 10, 2000	Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/retinyl esters are required and essential for maintenance of normal reproductive function. The recommended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989
Methyl mercury	developmental	—	July 1, 1987	Ribavirin	developmental	36791045	April 1, 1990
N-Methylpyrrolidone	developmental	872504	June 15, 2001	Rifampin	male	36791045	February 27, 2001
Methyltestosterone	developmental	58184	April 1, 1990		developmental, female	13292461	February 27, 2001
Metiram	developmental	9006422	March 30, 1999	Secobarbital sodium	developmental	309433	October 1, 1992
Midazolam hydrochloride	developmental	59467968	July 1, 1990	Sermorelin acetate	developmental	—	August 20, 1999
Minocycline hydrochloride (internal use)	developmental	13614987	January 1, 1992	Sodium dimethylthiocarbamate	developmental	128041	March 30 1999
Misoprostol	developmental	59122462	April 1, 1990	Sodium fluoroacetate	male	62748	November 6, 1998
Mitoxantrone hydrochloride	developmental	70476823	July 1, 1990	Streptomycin sulfate	developmental	3810740	January 1, 1991
Myclobutanil	developmental, male	88671890	April 16, 1999	Streptozocin (streptozotocin)	developmental, female, male	18883664	August 20, 1999
Nabam	developmental	142596	March 30, 1999	Sulfasalazine	male	599791	January 29, 1999
Nafarelin acetate	developmental	86220420	April 1, 1990	Sulindac	developmental, female	38194502	January 29, 1999
Neomycin sulfate (internal use)	developmental	1405103	October 1, 1992	Tamoxifen citrate	developmental	54965241	July 1, 1990
Netilmicin sulfate	developmental	56391572	July 1, 1990	Temazepam	developmental	846504	April 1, 1990
Nickel carbonyl	developmental	13463393	September 1, 1996	Teniposide	developmental	29767202	September 1, 1996
Nicotine	developmental	54115	April 1, 1990	Terbacil	developmental	5902512	May 18, 1999
Nifedipine	developmental, female, male	21829254	January 29, 1999	Testosterone cypionate	developmental	58208	October 1, 1991
Nimodipine	developmental	66085594	April 24, 2001	Testosterone enanthate	developmental	315377	April 1, 1990
Nitrapyrin	developmental	1929824	March 30, 1999	2,3,7,8-Tetrachlorodibenzo- paradoxin (TCDD)	developmental	1746016	April 1, 1991
Nitrofurantoin	male	67209	April 1, 1991	Tetracycline (internal use)	developmental	60548	October 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51752	January 1, 1989	Tetracyclines (internal use)	developmental	—	October 1, 1992
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	developmental	55867	July 1, 1990	Tetracycline hydrochloride (internal use)	developmental	64755	January 1, 1991
Norethisterone (Norethindrone)	developmental	68224	April 1, 1990	Thalidomide	developmental	50351	July 1, 1987
Norethisterone acetate (Norethindrone acetate)	developmental	51989	October 1, 1991	Thioguanine	developmental	154427	July 1, 1990
Norethisterone (Norethindrone)/Ethinyl estradiol	developmental	68224/57636	April 1, 1990	Thiophanate methyl	female, male	23564058	May 18, 1999
Norethisterone (Norethindrone)/Mestranol	developmental	68224/72333	April 1, 1990	Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Norgestrel	developmental	6533002	April 1, 1990	Tobramycin sulfate	developmental	49842071	July 1, 1990
Oxadiazon	developmental	19666309	May 15, 1998	Toluene	developmental	108883	January 1, 1991
Oxazepam	developmental	604751	October 1, 1992	Triadimefon	developmental, female, male	43121433	March 30, 1999
Oxydemeton methyl	female, male	301122	November 6, 1998	Triazolam	developmental	28911015	April 1, 1990
Oxymetholone	developmental	434071	May 1, 1997	Tributyltin methacrylate	developmental	2155706	December 1, 1999
Oxytetracycline (internal use)	developmental	79572	January 1, 1991	Trientine hydrochloride	developmental	38260014	February 27, 2001
Oxytetracycline hydrochloride (internal use)	developmental	2058460	October 1, 1991	Triforine	developmental	26644462	June 18, 1999
Paclitaxel	developmental, female, male	33069624	August 26, 1997	Trilostane	developmental	13647353	April 1, 1990
Paramethadione	developmental	115673	July 1, 1990	Trimethadione	developmental	127480	January 1, 1991
Penicillamine	developmental	52675	January 1, 1991	Trimetrexate glucuronate	developmental	82952645	August 26, 1997
Pentobarbital sodium	developmental	57330	July 1, 1990	Triphenyltin hydroxide	developmental	76879	March 18, 2002
Pentostatin	developmental	53910251	September 1, 1996	Uracil mustard	developmental, female, male	66751	January 1, 1992
Phenacemide	developmental	63989	July 1, 1990	Urethane	developmental	51796	October 1, 1994
Phenprocoumon	developmental	435972	October 1, 1992	Urofollitropin	developmental	97048130	April 1, 1990
Pimozide	developmental, female	2062784	August 20, 1999				
Pipobroman	developmental	54911	July 1, 1990				
Plicamycin	developmental	18378897	April 1, 1990				
Polybrominated biphenyls	developmental	—	October 1, 1994				
Polychlorinated biphenyls	developmental	—	January 1, 1991				
Potassium dimethylthio- carbamate	developmental	128030	March 30, 1999				
Pravastatin sodium	developmental	81131706	March 3, 2000				

Chemical	Type of Reproductive Toxicity	CAS No.	Date Listed
Valproate (Valproic acid)	developmental	99661	July 1, 1987
Vinblastine sulfate	developmental	143679	July 1, 1990
Vinclozolin	developmental	50471448	May 15, 1998
Vincristine sulfate	developmental	2068782	July 1, 1990
Warfarin	developmental	81812	July 1, 1987
Zileuton	developmental, female	111406872	December 22, 2000

Date: July 9, 2004

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

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

NOTICE TO INTERESTED PARTIES

**CHEMICALS LISTED EFFECTIVE July 9, 2004
AS KNOWN TO THE STATE OF CALIFORNIA
TO CAUSE CANCER**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is adding “*aristolochic acids*” and “*herbal remedies containing plant species of the genus Aristolochia*” to the list of chemicals known to the state to cause cancer for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health and Safety Code section 25249.5, Proposition 65). The listing of “*aristolochic acids*” and “*herbal remedies containing plant species of the genus Aristolochia*” is effective **July 9, 2004**.

Health and Safety Code section 25249.8(a) requires that certain substances identified by the International Agency for Research on Cancer (IARC) or the National Toxicology Program (NTP), as described in Labor Code sections 6382(b)(1) and (d), be included on the Proposition 65 list. Labor Code section 6382(b)(1) references substances identified as human or animal carcinogens by IARC, and Labor Code section 6382(d) references substances identified as carcinogens or potential carcinogens by IARC or NTP. Aristolochic acids were identified by IARC as animal carcinogens. Herbal remedies containing plant species of the genus *Aristolochia*, were identified by IARC as carcinogenic to humans.

The basis for the listing of “*aristolochic acids*” and “*herbal remedies containing plant species of the genus Aristolochia*” on the Proposition 65 list was described in OEHHA’s Request for Comment on Proposed Listing of *Aristolochic Acids and Herbal Remedies Containing Plant Species of the Genus Aristolochia* As Known to Cause Cancer published in

the May 14, 2004, issue of the *California Regulatory Notice Register* (Register 2004, No. 20-Z). Specifically, IARC issued the monograph “Some Traditional Herbal Medicines, Some Mycotoxins, Naphthalene and Styrene,” (Volume 82) in 2002 in its series *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*, and concluded “there is *sufficient evidence* in experimental animals for the carcinogenicity of aristolochic acids.” In addition, IARC classified “herbal remedies containing plant species of the genus *Aristolochia* as “*carcinogenic to humans (Group 1)*.” OEHHA received four public comments supporting the listing of these chemicals.

OEHHA analyses of dose-response data to establish the no significant risk levels (NSRLs) for these chemicals under Proposition 65 have not been conducted. The priority status of the development of such analyses will be announced in a future OEHHA Proposition 65 Status Report for Safe Harbor Levels, available at <http://www.oehha.ca.gov/prop65.html>.

A complete, updated Proposition 65 list is published elsewhere in this issue of the California Regulatory Notice Register.

Cancer

Chemical	CAS No.	Toxicological Endpoints	Listing Mechanism ¹
Aristolochic acids	—	Cancer	LC
Herbal remedies containing plant species of the genus <i>Aristolochia</i>	—	Cancer	LC

¹ Listing mechanism:
LC—“Labor Code” mechanism (Labor Code sections 6382(b)(1) and (d))

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

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

**Chemicals Under Consideration For Possible Listing Via Administrative Mechanisms:
Request For Relevant Information
EXTENSION OF PUBLIC COMMENT PERIOD**

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) requires the Governor to publish, and update at least annually, a list of chemicals known to the State to cause cancer or reproductive toxicity. The Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65.

On May 28, 2004, OEHHA published a notice in the *California Regulatory Notice Register* (Register 2004,

No. 22-Z) soliciting information which may be relevant to the evaluation of certain chemicals under consideration for possible administrative listing within the context of the Proposition 65 administrative listing regulatory criteria in Title 22 of the California Code of Regulations Section 12306.

The 60-day public comment period initiated on May 28, 2004 will close, as announced, on July 27, 2004 for *1-bromopropane*. OEHHA has received a request to extend the comment period for *butyl benzyl phthalate (BBP)*, *di-n-butyl phthalate (DBP)*, *di-n-hexyl phthalate (DnHP)*, and *di-isodecyl phthalate (DIDP)* to allow for the submittal of complete and relevant scientific information. OEHHA hereby extends the public comment period for the four named phthalates to **5 p.m., Thursday, August 26, 2004**.

Written comments on these chemicals, along with supporting information, may be submitted in **triplicate** to:

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

Comments may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: coshita@oehha.ca.gov. In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered or sent by fax) by 5 p.m., Thursday, August 26, 2004.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

BOARD OF CHIROPRACTIC EXAMINERS
 License Reapplication

This regulatory action adopts the time period of two years that a person, whose license application was denied pursuant to Section 10(b) of the Act or Business and Professions Code section 480, must wait before he or she may reapply for licensure. The two-year time period also applies to anyone who proceeds through the appeal process. The two-year period begins two years from the effective date of the decision not to grant the license.

Title 16
 California Code of Regulations
 ADOPT: 325.1
 Filed 06/28/04
 Effective 07/28/04
 Agency Contact:
 Lavella Matthews (916) 263-6465

BOARD OF FORESTRY AND FIRE PROTECTION

Fuel Hazard Reduction Emergency Rule

Section 4592 of the Public Resources Code provides that, in an emergency, a registered professional forester (RPF) may file an emergency notice with the Department that shall allow commencement of timber operations. This emergency regulatory action adds fuel hazard reduction to those conditions for which emergency notice procedures under Public Resources Code section 4592 are authorized.

Title 14
 California Code of Regulations
 ADOPT: 1052.4 AMEND: 895.1, 1052, 1052.1
 Filed 06/25/04
 Effective 06/25/04
 Agency Contact:
 Christopher Zimny (916) 653-9418

BOARD OF PRISON TERMS

Postponements, Continuances, and Stipulations of Unsuitability

This emergency regulatory action amends the procedures dealing with hearing postponements, continuances, and stipulations of unsuitability.

Title 15
 California Code of Regulations
 AMEND: 2253
 Filed 06/25/04
 Effective 06/28/04
 Agency Contact: Lori Manieri (916) 445-5277

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

Security Guard Training Requirements

This emergency rulemaking action specifies curricula for the security guard standard course and security guard power to arrest course trainings required by

Business and Professions Code sections 7583.6 and 7583.7. The regulation specifies subjects to be taught, the number of hours of training in each subject, course objectives, and the contents of certificates of completion.

Title 16
 California Code of Regulations
 ADOPT: 643
 Filed 06/24/04
 Effective 06/24/04
 Agency Contact:
 Noreene DeKoning (916) 322-7530

**CALIFORNIA INTEGRATED WASTE
 MANAGEMENT BOARD**
 Construction and Demolition Reg. Corrections

This change without regulatory effect corrects typos and references to another section that had been renumbered in 2003.

Title 14
 California Code of Regulations
 AMEND: 17383.3, 17383.8, 17402.5, 18223
 Filed 06/29/04
 Effective 06/29/04
 Agency Contact: Lynn Smith (916) 341-6364

CAL-PERS
 Payment of Surcharges for Late Enrollment
 in Medicare Part B

This filing is a certificate of compliance for an emergency regulatory action which adopted the criteria for the payment of the surcharge for late enrollment in Part B of Medicare.

Title 2
 California Code of Regulations
 ADOPT: 599.516
 Filed 06/28/04
 Effective 06/28/04
 Agency Contact: Marilyn Clark (916) 326-3007

**DEPARTMENT OF ALCOHOL AND DRUG
 PROGRAMS**
 County SACPA Allocation

This action revises the formula for allocating Substance Abuse and Crime Prevention Act of 2000 funds to a county based upon population, treatment caseload, and drug arrest rate information.

Title 9
 California Code of Regulations
 AMEND: 9525
 Filed 06/28/04
 Effective 07/01/04
 Agency Contact: Mary Conway (916) 327-4742

DEPARTMENT OF CONSERVATION
 Payment by Count of Refund Value to Consumers

This rulemaking action clarifies that consumers have the option of being paid refund value, by count for up to fifty empty beverage containers of each material type

Title 14
 California Code of Regulations
 AMEND: 2430, 2525, 2535
 Filed 06/28/04
 Effective 07/28/04
 Agency Contact:
 Eloisa Hernandez (916) 327-2757

DEPARTMENT OF FOOD AND AGRICULTURE
 New Melon Container 44Q

This action adopts a new approved standard container 44Q for shipment of melons.

Title 3
 California Code of Regulations
 AMEND: 1380.19(p), 1442.7
 Filed 06/25/04
 Effective 06/25/04
 Agency Contact: Sonja A. Dame (916) 445-2180

**DEPARTMENT OF HOUSING AND
 COMMUNITY DEVELOPMENT**
 State Housing Law Updates

This action makes nonsubstantive editorial and grammatical changes and updates language to conform to statutory changes.

Title 25
 California Code of Regulations
 AMEND: 1, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 50, 52, 58, 60, 70, 122, 128, 132, 134
 Filed 06/23/04
 Effective 06/23/04
 Agency Contact: Lenora Frazier (916) 323-4475

DEPARTMENT OF JUSTICE
 Commercial Requestor Account Bond

This is a revised Motor Vehicle Bond Form that is submitted for printing only.

Title 11
 California Code of Regulations
 AMEND: 51.16
 Filed 06/23/04
 Effective 06/23/04
 Agency Contact: Anne M. Burr (415) 703-1403

DEPARTMENT OF SOCIAL SERVICES
 Quarterly Reporting in the Food Stamp Program

This action concerns Quarterly Reporting and Prospective Budgeting in the Food Stamp Program. This action is deemed an emergency pursuant to Chapter 1022, Statutes of 2002, is exempt from OAL

review, and is being submitted for filing with the Secretary of State and printing in the CCR only. The action remains in effect for no more than 180 days.

Title MPP

California Code of Regulations

ADOPT: 63-508, 63-509 AMEND: 63-034, 63-102, 63-103, 63-300, 63-301, 63-410, 63-501, 63-503, 63-504, 63-505, 63-801, 63-804

Filed 06/30/04

Effective 07/01/04

Agency Contact:

Maureen Miyamura (916) 653-1925

DIVISION OF WORKERS COMPENSATION

Medical Provider and Medical-Legal Provider

Lien Filing Fees

This action implements Labor Code section 4903.05, effective 1/1/04, which provides for the collection of a filing fee of \$100. from medical providers and medical-legal lien claimants upon the filing of an initial medical or medical-legal lien in each case.

Title 8

California Code of Regulations

ADOPT: 10250

Filed 06/30/04

Effective 06/30/04

Agency Contact: James Robbins (415) 703-4600

EDUCATION AUDIT APPEALS PANEL

Guide for Audits of K-12 Local Education Agencies

This is the certification of compliance for an action that adopts standards for the independent audits of school districts required by Education Code section 41020.

Title 5

California Code of Regulations

ADOPT: 19810, 19811, 19812, 19813, 19814, 19815, 19816, 19817, 19818, 19819, 19820, 19821, 19822, 19823, 19824, 19825, 19826, 19828, 19829, 19830, 19831

REPEAL: 19827

Filed 06/23/04

Effective 06/23/04

Agency Contact: Carolyn Pirillo (916) 595-4769

EDUCATION AUDIT APPEALS PANEL

Guide for Audits of K-12 Local Education Agencies

This change without regulatory effect repeals mention of the number of audit procedures necessary in an audit of a Morgan-Hart Class Size Reduction Program, a change made necessary because the overall audit requirement for this program was repealed in a previously approved regulatory action.

Title 5

California Code of Regulations

AMEND: 19814(e)

Filed 06/30/04

Effective 06/30/04

Agency Contact: Carolyn Pirillo (916) 595-4769

EMPLOYMENT DEVELOPMENT DEPARTMENT

Family Temporary Disability Insurance

This regulatory action sets forth the procedures for administering the paid family care leave program, otherwise known as the Family Temporary Disability Insurance (FTDI) program.

Title 22

California Code of Regulations

ADOPT: 2706-2, 2706-6, 2708(b)-1, 2708(c)-1, 3301(a)-1, 3301(d)-1, 3302-1, 3302-2, 3303-1, 3303(b)-1, 3303.1(a)-1, 3303.1(c)-1, 3306(b)-1

Filed 06/23/04

Effective 07/01/04

Agency Contact: Laura Colozzi (916) 654-7712

OCCUPATIONAL SAFETY AND HEALTH

STANDARDS BOARD

Securing Loads on Haulage Vehicle

This rulemaking action clarifies that all loads on haulage vehicles shall be secured against displacement

Title 8

California Code of Regulations

AMEND: 1953

Filed 06/28/04

Effective 07/28/04

Agency Contact: Marley Hart (916) 274-5721

OFFICE OF EMERGENCY SERVICES

California Accidental Release Prevention (CalARP)

Program

This action updates the regulations of the California Accidental Release Prevention (CalARP) program found in Chapter 4.5 of Division 2 of Title 19 of the CCR, to conform with applicable federal standards.

Title 19

California Code of Regulations

ADOPT: 2745.10.5 AMEND: 2735.3, 2735.4, 2740.1, 2745.1, 2745.3, 2745.4, 2745.6, 2745.7, 2745.10, 2750.3, 2750.9 REPEAL: 2745.3(c)

Filed 06/28/04

Effective 06/28/04

Agency Contact: Michael Warren (916) 845-8772

STATE ALLOCATION BOARD

Leroy F. Greene School Facilities Act of 1998—

COS Amendments

This action updates the critically overcrowded schools regulations to clarify the possibility of using use of grants in preliminary applications, provide hazardous material clean up money for existing schools in preliminary applications, and specify a construction cost inflation factor for new applications.

Title 2
 California Code of Regulations
 AMEND: 1859.2, 1859.145, 1859.145.1
 Filed 06/30/04
 Effective 06/30/04
 Agency Contact: Lisa Jones (916) 322-1043

**CCR CHANGES FILED WITH THE
 SECRETARY OF STATE
 WITHIN FEBRUARY 25, 2004
 TO JUNE 30, 2004**

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

03/29/04 ADOPT: 1395, 1398 AMEND: 1314, 1321, 1322, 1323, 1324, 1332, 1334, 1354, 1390, 1392

Title 2

06/30/04 AMEND: 1859.2, 1859.145, 1859.145.1
 06/28/04 ADOPT: 599.516
 06/21/04 ADOPT: 22600, 22600.1, 22600.2, 22600.3, 22600.4, 22600.5, 22600.6, 22600.7, 22600.8, 22600.9, 22601, 22601.1, 22601.2, 22601.3, 22601.4, 22601.5, 22601.6, 22601.7, 22601.8
 06/15/04 ADOPT: Div. 8, Ch. 99, Sec. 58800
 06/15/04 AMEND: 18707.1
 06/03/04 AMEND: 2270, 2271
 06/01/04 ADOPT: 1859.163.1, 1859.163.2, 1859.164.2, 1859.167.1 AMEND: 1859.2, 1859.145, 1859.145.1, 1859.160, 1859.161, 1859.162, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.167, 1859.168, 1859.171
 06/01/04 ADOPT: 20107
 05/25/04 ADOPT: 59152
 05/21/04 ADOPT: 1859.123.1 AMEND: 1859.2, 1859.73.1, 1859.81, 1859.83, 1859.90, 1859.120, 1859.121, 1859.122, 1859.122.1, 1859.122.2, 1859.123, 1859.124, 1859.124.1, 1859.125, 1859.125.1, 1859.126, 1859.127, 1859.129, 1859.130
 05/17/04 AMEND: 18616
 05/17/04 AMEND: 50
 05/17/04 ADOPT: 250
 05/17/04 AMEND: 48000

05/17/04 AMEND: 50
 05/13/04 ADOPT: 18531.61 AMEND: 18531.6
 05/11/04 ADOPT: 22100 (renumbered to 22100 and 22100.1), 22110 (renumbered to 22100.2), 22120 (renumbered to 22100.3), and 22130 (renumbered to 22100.4)
 04/26/04 ADOPT: 585
 04/22/04 AMEND: 1142
 04/15/04 AMEND: 599.508
 04/13/04 ADOPT: 599.511 AMEND: 599.500
 03/23/04 AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145
 03/23/04 ADOPT: 649.23, 649.24, 649.25, 649.26, 649.27, 649.28
 03/23/04 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859.171 AMEND: 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1
 03/22/04 ADOPT: 599.517
 03/22/04 AMEND: 1859.77.2
 03/11/04 AMEND: Div. 8, Ch. 53, Section 54200
 03/11/04 AMEND: 18703.1, 18703.2, 18703.3, 18703.4, 18703.5
 03/09/04 ADOPT: 22500, 22501, 22502, 22503, 22504, 22505, 22506, 22507, 22508, 22509, 22510, 22511, 22512, 22513, 22514, 22515, 22516, 22517, 22518, 22519
 03/02/04 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2
 03/01/04 AMEND: 1555
 02/26/04
Title 3
 06/25/04 AMEND: 1380.19(p), 1442.7
 06/09/04 AMEND: 3700(c)
 05/27/04 AMEND: 3423(b)
 05/27/04 AMEND: 1180(a)
 05/27/04 AMEND: 3428(b)
 05/17/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 9784
 05/13/04 AMEND: 3700(b)
 05/03/04 AMEND: 3700(c)
 04/27/04 ADOPT: 6487.1, 6487.2, 6487.3, 6487.4, 6487.5, 6609 AMEND: 6000, 6416, 6800, 6486.6 REPEAL: 6486.1, 6486.2, 6486.3, 6486.4, 6486.5, 6486.8, 6557, 6570, 6802
 04/26/04 AMEND: 6130
 04/26/04 AMEND: 3601(g)

CALIFORNIA REGULATORY NOTICE REGISTER 2004, VOLUME NO. 28-Z

04/23/04 ADOPT: 797.5 AMEND: 820.8 RE-
PEAL: 820.7
04/20/04 AMEND: 3700(c)
04/20/04 AMEND: 2676, 2681, 2735, 2783
04/01/04 AMEND: 3700(d)
03/23/04 AMEND: 3423(b)
03/23/04 AMEND: 6462

Title 4

06/01/04 ADOPT: 12370, 12371
04/26/04 ADOPT: 10300, 10302, 10305, 10310,
10315, 10317, 10320, 10322, 10325,
10326, 10327, 10328, 10330, 10335,
10337
04/22/04 ADOPT: 4145, 4146, 4147, 4148
AMEND: 4140
04/13/04 ADOPT: 144
03/29/04 ADOPT: 10163, 10164 AMEND: 10152,
10153, 10154, 10155, 10156, 10157,
10158, 10159, 10160, 10161, 10162
03/23/04 AMEND: 4001
03/05/04 ADOPT: 12204, 12205, 12210, 12211,
12212, 12213, 12214, 12224, 12225,
12227, 12228, 12229, 12230, 12231,
12232 AMEND: 12200, 12201, 12202,
12203, 12206, 12207, 12208, 12209,
12220, 12221, 12222, 12223, 12226
02/27/04 ADOPT: 12270, 12271, 12272

Title 5

06/30/04 AMEND: 19814(e)
06/23/04 ADOPT: 19810, 19811, 19812, 19813,
19814, 19815, 19816, 19817, 19818,
19819, 19820, 19821, 19822, 19823,
19824, 19825, 19826, 19828, 19829,
19830, 19831 REPEAL: 19827
06/17/04 ADOPT: 19814.1, 19832, 19833, 19834,
19835, 19836, 19837 AMEND: 19814
06/08/04 ADOPT: 18074, 18074.1, 18074.2,
18074.3, 18074.4, 18074.5, 18074.6,
18075, 18075.1, 18075.2, 18076,
18076.1, 18076.2, 18076.3, 18220.6
AMEND: 18413, 18428 REPEAL: 18021
06/01/04 REPEAL: 80032.2, 80058.2, 80466,
80523.3
05/25/04 AMEND: 1859.61, 1859.105, 1859.106,
1859.141, 1859.142, 1859.145, 1859.147,
1859.148, 1859.150.1, 1859.151,
1859.152, 1859.153
05/24/04 AMEND: 11973, 11974, 11975, 11977,
11978, 11979
05/19/04 ADOPT: 1204.5, 1211.5, 1218.6
AMEND: 1200, 1203, 1204, 1205, 1206,
1207, 1208, 1209, 1210, 1211, 1215,
1217 REPEAL: 1212, 1218.5, 1219.5
05/10/04 ADOPT: 19800, 19801, 19803, 19804,
19805
04/22/04 ADOPT: 876

03/15/04 ADOPT: 19810, 19811, 19812, 12913,
19814, 19815, 19816, 19817, 19818,
19819, 19820, 19821, 19822, 19823,
19824, 19825, 19826, 19827, 19828,
19829, 19830, 19831
03/11/04 ADOPT: 19802
03/08/04 AMEND: 30060
02/27/04 ADOPT: 6100, 6101, 6102, 6103, 6014,
6110, 6111, 6112, 6115

Title 8

06/30/04 ADOPT: 10250
06/28/04 AMEND: 1953
06/15/04 ADOPT: 9789.10, 9789.11, 9789.20,
9789.21, 9789.22, 9789.23, 9789.24,
9789.30, 9789.31, 9789.32, 9789.33,
9789.34, 9789.35, 9789.36, 9789.37,
9789.38, 9789.40, 9789.50, 9789.60,
9789.70, 9789.80, 9789.90, 9789.100,
9789.110, 9789.111
06/08/04 ADOPT: 32017, 32018, 51096, 71010,
71026, 71037, 71030, 71035, 71040,
71050, 71055, 71060, 71070, 71080,
71090, 71095, 71100, 71110, 71115,
71120, 71130, 71140, 71200, 71210,
71225, 71230, 1235, 71300, 71310,
71320, 71330, 71340, 71680, 71685,
71700, 71
05/24/04 AMEND: 1600, 1601
05/20/04 AMEND: 5001(b), 5008(b)
04/29/04 AMEND: 3427
04/23/04 AMEND: 14300.10, 14300.12, 14300.29,
Appendix A, Appendix B, Appendix D,
Appendix E
04/22/04 ADOPT: 10202.1, 10203.1, 10203.2
AMEND: 10200, 10201, 10203, 10204
04/20/04 AMEND: 8403
04/19/04 AMEND: 20299, 20390
04/13/04 AMEND: 5044, 5046, 5049. and Table
S-1, Table S-1a, Table S-11, Table S-12,
Table S-13, and Table S-14.
04/01/04 AMEND: 3427
03/22/04 AMEND: 1529(g)
03/18/04 ADOPT: 5148

Title 9

06/28/04 AMEND: 9525
05/04/04 REPEAL: 7336, 7337, 7338, 7339, 7341,
7342, 7343, 7344, 7345, 7346, 7347,
7347.1, 7347.2, 7348, 7349
04/29/04 AMEND: 1921, 1922
03/04/04 ADOPT: 7000.2, 7001.2, 7001.5, 7002.5,
7006, 7006.3, 7009.1, 7013.2, 7013.6,
7014, 7014.1, 7017.2, 7017.5, 7017.7,
7018.4, 7019.5, 7021.5, 7024.7, 7028.1,
7028.6, 7028.8, 7029.1, 7029.6, 7029.7,
7029.9, 7035, 7037, 7038, 7098, 7128,
7129, 7130, 7130.5, 7

Title 10

05/27/04 REPEAL: 2670.1, 2670.2, 2670.3, 2670.4, 2670.5, 2670.6, 2670.7, 2670.8, 2670.9, 2670.10, 2670.11, 2670.12, 2670.13, 2670.14, 2670.15, 2670.16, 2670.17, 2670.18, 2670.19, 2670.20, 2670.21, 2670.22, 2670.23, 2670.24

05/17/04 AMEND: 260.102.14

05/04/04 AMEND: 2698.30, 2698.31, 2698.32, 2698.33, 2698.34, 2698.35, 2698.36, 2698.37, 2698.38, 2698.39, 2698.40, 2698.41, 2698.42 REPEAL: 2698.40, 2698.41, 2698.42, 2698.43, 2698.44, 2698.45

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04/26/04 AMEND: 250.30

04/20/04 ADOPT: 2020, 2021 AMEND: 250.51

04/19/04 AMEND: 2498.6

04/13/04 AMEND: 260.102.14

03/25/04 ADOPT: 2695.40, 2695.41, 2695.42, 2695.43, 2695.44, 2695.45

03/15/04 ADOPT: 2361

03/08/04 ADOPT: 2194, 2194.1, 2194.2, 2194.3, 2194.4, 2194.5, 2194.6, 2194.7, 2194.8

03/01/04 ADOPT: 2698.102, 2698.600, 2698.602, 2698.604 AMEND: 2698.100, 2698.200, 2698.201, 2698.202, 2698.203, 2698.204, 2698.205, 2698.206, 2698.207, 2698.208, 2698.300, 2698.301, 2698.302, 2698.303, 2698.401, 2698.403, 2698.405, 2698.407, 2698.500, 2698.501,

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06/21/04 ADOPT: 2037, 2038 AMEND: 2010, 2050

05/05/04 AMEND: 51.20

04/30/04 ADOPT: 51.21

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04/26/04 ADOPT: 999.15, 999.16, 999.17, 999.18, 999.19, 999.20, 999.21, 999.22, 999.23 AMEND: 999.10, 999.11, 999.12, 999.13, 999.14 REPEAL: Appendix A

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04/28/04 AMEND: 2415

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03/01/04 ADOPT: 159.00

02/25/04 AMEND: 1900, 1960.1(k), 1961(a)(d), 1962

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06/28/04 AMEND: 2430, 2525, 2535

06/25/04 ADOPT: 1052.4 AMEND: 895.1, 1052, 1052.1

06/15/04 AMEND: 677

06/01/04 AMEND: 1.18

05/13/04 AMEND: 27.80

05/11/04 ADOPT: 3808.5

05/10/04 AMEND: 851.6

05/10/04 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5

05/10/04 ADOPT: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11, 18660.12, 18660.13, 18660.14, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31, 18660.32, 18660.33, 18

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04/29/04 AMEND: 27.60, 28.55

03/30/04 AMEND: 27.60, 27.65, 27.82, 28.27

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06/24/04 ADOPT: 643

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04/22/04 ADOPT: 1399.330, 1399.349, 1399.352.5
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05/25/04 AMEND: 1614
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06/28/04 ADOPT: 2745.10.5 AMEND: 2735.3,
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