



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: INLAND EMPIRE RESOURCE CONSERVATION DISTRICT
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT
BEAUMONT CHERRY VALLEY WATER DISTRICT
ELSINORE VALLEY MUNICIPAL WATER DISTRICT

ADOPTION

MULTI-COUNTY: INDEPENDENT CITIES FINANCE CORPORATION

A written comment period has been established commencing on **January 9, 2009**, and closing on **February 23, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 428 J Street, Suite 620, Sacramento, California 95814.

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

is requested, the proposed code(s) will be submitted to the Commission for review.

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **February 23, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

**AVAILABILITY OF PROPOSED
CONFLICT OF INTEREST CODES**

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

**TITLE 10. DEPARTMENT OF
INSURANCE**

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 16th Floor
Sacramento, CA 95814**

NOTICE OF PROPOSED ACTION

**DATE: January 9, 2009 REGULATION FILE:
REG-2008-00036**

SUBJECT OF PROPOSED RULEMAKING

The Insurance Commissioner proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to add to Title 10, Chapter 5, Subchapter 9 of the California Code of Regulations the new Article 7.5. The new article, Insurer Recommendations of Automotive Repair Dealers, interprets, makes specific, and implements the provisions of Cal. Ins. Code Section 758.5 (Requirements, suggestions, or recommendations by insurer regarding repair of automobiles at specific automotive repair dealers; conditions; disclosure; powers of Commissioner).

PUBLIC HEARING

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

**Date and time: Wednesday, February 25, 2009,
at 10:00 a.m.**

**Location: Employment Development
Department
Auditorium (first door on the right)
722 Capitol Mall
Sacramento, CA 95814**

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

**PRESENTATION OF WRITTEN COMMENTS;
CONTACT PERSONS**

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on February 25, 2009. Please direct all written comments to the following contact person:

Teresa Campbell
45 Fremont St., 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4126

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

Drake Shogun
300 Capitol Mall, 16th Floor
Sacramento, CA 95814
Telephone: (916) 492-3500

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact persons at his address listed above, no later than 5:00 p.m. on February 25, 2009. Any written materials received after that time may not be considered.

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

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: ShogunD@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Drake Shogun and sent to the following facsimile number: (916) 327-3482. **Comments sent to**

other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person(s) for the hearing in order to make special arrangements, if necessary.

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code section 758.5. Insurance Code section 758.5 provides authority for this rulemaking.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW AND POLICY STATEMENT OVERVIEW

California Insurance Code Section 758.5 restricts the extent to which an insurer may suggest or recommend a claimant use a particular automobile repair dealer. SB 551 (Chapter 791, Speier, 2003) added section 758.5 to prohibit an insurer from requiring a claimant use a specific automotive repair dealer. Section 758.5 prohibits an insurer from suggesting or recommending an automobile be repaired at a specified automotive dealer, unless the claimant requested the referral, or the claimant is informed in writing of his or her rights. Insurers and automotive repair dealers clash over what information insurers can tell claimants, and when the information can be told. The application of section 758.5 is not consistent, resulting in claimants becoming confused and uncertain of their rights.

EFFECT OF PROPOSED ACTION

These regulations will provide guidance and specificity to insurers with respect to the nature and degree of involvement they may have in a consumer's choice of an automotive repair dealer.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS OR IN FEDERAL FUNDING

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

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

The Commissioner has made an initial determination that the adoption of the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurers and automotive repair dealers. The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

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

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

practices interdicted by the proposed regulation might now incur higher costs to now comply with Insurance Code Section 758.5, but the extent of the cost impact is unknown.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state.

The Commissioner does not foresee that the proposed regulation will have an impact on any of the above, but invites interested parties to comment on this issue. The extent to which jobs and businesses will be created, lost, or expanded may be relatively minor in terms of the State's aggregate economic activity.

FINDING OF NECESSITY

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

IMPACT ON HOUSING COSTS

The proposed regulations will have no significant effect on housing costs.

ALTERNATIVES

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

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed amendments will affect small businesses to the extent that it affects insurance agents. However, insurance companies, which will also be affected, are by definition not small businesses, pursuant to Paragraph (b)(2) of Government Code section 11342.610.

COMPARABLE FEDERAL LAW

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

TEXT OF REGULATIONS AND STATEMENTS OF REASONS

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

The file for this proceeding, which includes a copy of the express terms of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available by appointment for inspection and copying at 300 Capitol Mall, 16th Floor, Sacramento, California 95814, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

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

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find at the righthand side of the page the heading 'QUICK LINKS.' The third item in this column under this heading is 'For Insurers'; on the drop-down menu for this item, select 'Legal Information.' When the 'INSURERS: LEGAL INFORMATION' screen appears, click the third item in the list of bulleted items near the top of the page: 'Proposed Regulations.' The 'INSURERS: PROPOSED REGULATIONS' screen will be displayed. Select the only available link: 'Search for Proposed Regulations.' Then, when the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "REG-2009-00036" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section num-

ber that the regulations implement (for instance, “758.5”). Then, click on the ‘Submit’ button to display links to the various filing documents.

To browse, click on the ‘Browse All Regulations’ button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the ‘Insurer Recommendations of Automotive Repair Dealers’ link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

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

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF PROPOSED REGULATIONS

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

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3500, 3501, 3502, 3600, 3610, 3620, 3625, 3630, 3640, 3730, and 3740 in the California Code of Regulations (CCR), Title 15 concerning adult parole.

PUBLIC HEARING

Date and Time: March 3, 2009 – 9:00 a.m. to 10:00 a.m.
Place: Department of Corrections and Rehabilitation
Office of Training & Professional Development
10000 Goethe Road, Mt. Lassen
Room, Suite 17
Sacramento, CA 95827
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close, March 3, 2009, at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 341-7366; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 341-7390**

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

**Randy Marshall
Regulation and Policy Management Branch
Telephone (916) 341-7390**

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

**William Dunkak
Division of Adult Parole Operations
Telephone (916) 327-1136**

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed: *None*
- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

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

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

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

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

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

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

This action:

- Revises the title to the recently reorganized Subchapter 6 of the CCR, Title 15, Division 3, to more correctly reflect the content of the regulations which is Adult Parole. In addition, the title to Article 1 has been revised to now reflect "Parole Supervision" which is necessary for correct placement and organization within Subchapter 6.
- Provides in new Section 3500, the general policy, purpose and function for the release of inmates to adult parole.
- Updates text to correctly reflect the process for the recommendation and/or requirement for a parolee to attend a Parole Outpatient Clinic and if needed, any mental health assessments and/or outpatient mental health treatments.
- Updates language concerning civil addicts and the civil addict program, and any possible special requirements or exclusions that may be imposed for civil addict parolees or releasees.
- Updates the text to reflect a revision to CDC Form 1136 (Rev. 6/88), Evidence Report and Inventory Receipt. Virtually unchanged, the only changes to the form are a change of the form acronym from CDC to CDCR along with the revision date. The revised form now reflects CDCR Form 1136 (Rev. 10/06), Evidence Report and Inventory Receipt. A copy of the form has been made available for review and is included along with the revised text.
- Provides new language concerning the purpose and use of Parolee Field Files.
- Makes numerous punctuation changes along with any name or title changes that have occurred since the last revision to these regulations. This is necessary for correction and consistency, and to bring the language up to departmental standards.

**TITLE 16. BOARD OF
CHIROPRACTIC EXAMINERS**

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (hereafter "board") is proposing to amend regulations described in the Informative Digest below. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at the hearing to be held:

Victims of Crime Board
Hearing Room, 1st Floor
400 R Street
Sacramento, CA 95814

Date: February 24, 2009
Time: 10 a.m. – 2 p.m.

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received in the board's office no later than 5:00 p.m. on February 24, 2009, or must be received by the board at the hearing. The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 1000–4(b) and 1000–10 of the Business and Professions Code; and the Chiropractic Initiative Act of California Stats. 1923. 1xxxviii., and to implement, interpret or make specific Sections 1000–4(b), and 1000–10, of said Code; the board is considering changes to Title 16, Division 4, of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Add Section 318.1:

Pursuant to the Chiropractic Initiative Act Section 1000–10(a) the board may by rule or regulation adopt, amend or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and the protection of the public.

Manipulation Under Anesthesia (MUA) is the manipulation of a patient who is sedated by the administration of anesthesia by a physician and surgeon or other health care provider who is legally authorized to administer anesthesia; and is performed by a licensed chiropractor. As currently written, board regulations do not clearly establish the standard of care or procedures in which MUA may be performed. Adoption of this proposal is necessary to better protect consumers by requiring that chiropractors adhere to specific standards when performing MUA. Without any standards in place, consumers are at risk for serious injury.

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

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

Business Impact:

The board initially determined that the proposed regulation 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.

Impact on Jobs/New Businesses:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None

Effect on Small Business:

The board has determined that this regulatory proposal will not have an effect on small businesses/licensees.

This proposal clarifies the standard of care to a licensed chiropractor to ensure the health and safety of the public, and will not result in additional costs.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from

April Alameda, Program Analyst
2525 Natomas Park Drive, Suite 260
Sacramento, California 95833
(916) 263-5329
Fax: (916) 263-5369
aalameda@chiro.ca.gov

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

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

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

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Name: April Alameda, Program Analyst
Address: 2525 Natomas Park Drive,
Suite 260
Sacramento, California 95833
Telephone: (916) 263-5329
Fax: (916) 263-5369
E-mail: aalameda@chiro.ca.gov

Back-up Contact person:

Name: Brian Stiger, Executive Officer
Address: 2525 Natomas Park Drive,
Suite 260
Sacramento, California 95833
Telephone: (916) 263-5355
Fax: (916) 263-5369
E-mail: chiro.info@chiro.ca.gov

Web Site Address: Materials regarding this proposal can be found at www.chiro.ca.gov.

TITLE 16. DENTAL BUREAU OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Dental Bureau of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, 2005 Evergreen Street, Sacramento, California, at 9:00 a.m. on March 4, 2009. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Bureau of California at its office not later than 5:00 p.m. on February 23, 2009 or must be received by the Dental Bureau of California at the hearing. The Dental Bureau of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 1614 and 1645 of the Business and Professions Code, and to implement, interpret or make specific Sections 1645, 1646.5, and 1647.5 of said Code, the Dental Bureau of California is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Title 16 of the California Code of Regulations, Sections 1016 and 1017

Business and Professions Code Section 1645 specifies that the Bureau may, as a condition of license renewal, require licentiates to successfully complete a portion of the required continuing education in specific areas adopted in regulations by the bureau, and that the bureau may prescribe this coursework within the general areas of patient care, health and safety, and law and ethics.

Continuing education requirements are also simplified by eliminating the two category system, which is

confusing to licensees and continuing education providers.

The purpose of the proposed changes is to clarify continuing education course requirements for licensees and course providers. The amendments would clarify that the mandatory reporter obligations for licensees as set forth in the California Penal Code may be included in mandatory courses required for license renewal.

The amendments specify the exact requirements that a course in Basic Life Support must contain in order to gain approval for the mandatory requirement, and clarify and expand the providers that are approved to give such courses. This ensures that all licensees have this training given by approved providers in the appropriate format for patient safety.

The proposed changes would also clarify that courses in diagnostic protocols and procedures, charting, nutrition, disaster recovery, peer evaluation, administration of anesthesia or sedation, and courses relating to selection, use and care of dental instruments are allowed for credit for renewal.

Proposed amendments would allow continuing education credit for courses in cultural competencies such as bilingual dental terminology, cross cultural communication, public health dentistry and management of the special-needs patient, to better serve the dental needs of California's diverse population.

Some amendments will allow licensees to obtain continuing education credit for computerized dental office management or new technology designed primarily for improved patient care, required courses in teaching methodology, and courses in cultural competencies and management of the special needs patient.

Other amendments allow for courses that do not involve actual delivery of dental services to the patient or the community, but are necessary for access to care, such as scheduling systems, communication, dental practice management, team development and human resource management, to compose no more than 20% of a licensee's continuing education.

Proposed amendments place into regulation the longstanding practice of allowing licensees to gain continuing education credit while involved in peer evaluation, reviewing clinical evaluation procedures, case studies and studying radiographic data on behalf of the Dental Bureau and the Committee on Dental Auxiliaries.

Additional amendments clarify that courses relating to the purchase, sale or transfer of a dental practice, and courses pertaining to cosmetic enhancement outside the licensee's scope of practice shall not be recognized for continuing education credit.

Some amendments clarify the application process for becoming a continuing education provider, and the requirements and responsibilities of providers. The application and renewal forms for continuing education

providers have been revised and updated to reflect current standards, and to conform with these proposed amendments, and are incorporated by reference.

Proposed amendments require continuing education units for two new permit categories that are established as of January 1, 2010 that mirror the requirements for licensees as directed in new Business and Professions Code Sections 1750.2 and 1750.4.

Obsolete sections relative to processing times are stricken.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Requires Reimbursement: None

Business Impact:

The Bureau 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.

AND

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

These regulations will allow continuing education credits to be granted to licensees for taking courses that are currently not specifically allowed, although these courses involve actual delivery of dental services and communication and cultural competency with California's ethnically diverse population. The regulations simplify the renewal requirements for licensees and clarify the requirements of the written certification that course providers must submit to the Bureau, and set Bureau policy into regulation.

Impact on Jobs/New Businesses:

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

Cost Impact on Representative Private Person or Business:

Businesses may incur a small initial cost to reprint certificates according to the new requirements of the regulations, however these businesses will have the ability to give a wider variety of continuing education courses for credit, and licensees will have access to more courses that comply with their renewal requirements.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Dental Bureau of California has determined that the proposed regulations would not affect small businesses unless those small businesses were course providers of dental continuing education courses. If a dental continuing education provider that is a small business offered courses for dental licensees' renewal, that course provider would be able to offer a greater variety of courses and would be required to provide a sampling of the written certification issued to participants, and provide the 11-digit course registration number in the upper left hand corner of the certificate.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Bureau of California at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815.

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

March 25, 2009

9:00 a.m.

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

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

CONTACT PERSON

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

Name: Donna Kantner
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2300 x2211
Fax No.: (916) 263-2140
E-Mail Address: Donna_Kantner@dca.ca.gov

The backup contact person is:

Name: Cathleen Poncabare, Executive
Officer
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2300
Fax No.: (916) 263-2140
E-Mail Address: Cathleen_Poncabare@dca.ca.gov
Website Access: Materials regarding this proposal can be found at www.dbc.ca.gov.

TITLE 16. DENTAL BUREAU OF CALIFORNIA

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Dental Bureau of California, Department of Consumer Affairs (hereinafter "Department"), is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the:

Department of Consumer Affairs
1st Floor Hearing Room
2005 Evergreen Street
Sacramento, California on

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Bureau of California (hereinafter "Bureau") at its office not later than 5:00 p.m. on March 23, 2009 or must be received by the Bureau at the hearing. The Bureau, 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 1614 of the Business and Professions Code, and to implement, interpret or make specific Section 11400.20 of the Government Code, the Bureau is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Title 16 of the California Code of Regulations, Section 1018

Government Code Section 11400.20 allows an agency to adopt regulations to govern an adjudicative proceeding. The Bureau has not revised its Disciplinary Guidelines since 1996. The existing Disciplinary Guidelines are outdated and do not reflect current law. The existing Guidelines do not contain model language for probationary orders or the rationale for standard and optional conditions of probation that may be recommended. Section 1018 is amended to incorporate by reference the Disciplinary Guidelines as revised to include the model language, rationale and to specify the factors that may be considered by the Administrative Law Judge when determining whether a dental license should be suspended, revoked or placed on probation.

These amendments will assist the Dental Bureau's Enforcement staff and the Attorney General's Office in pursuing enforcement actions against dental licensees who are in violation of the law to better protect consumers. The amended Disciplinary Guidelines will assist the Administrative Law Judge in determining the penalty to be imposed by providing clear recommendations and rationale so that dental licensees are prevented from

practicing and consumers are protected from dental licensees who commit serious violations of the law.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Requires Reimbursement: None

Business Impact:

The Bureau 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.

AND

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

These regulations will provide direction to administrative law judges who determine penalties for dentists, registered dental hygienists and registered dental assistants who have violated provisions of statutory law or regulations.

Impact on Jobs/New Businesses:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would not affect small businesses unless those small businesses were owned by dentists who have violated the statutes or regulations contained within the Dental Practice Act.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Bureau of California at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815.

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

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

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

CONTACT PERSON

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

Name: Donna Kantner
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263–2300 x2211
Fax No.: (916) 263–2140
E-Mail Address: Donna_Kantner@dca.ca.gov

The backup contact person is:

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

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

TITLE 16. PHYSICIAN ASSISTANT COMMITTEE

NOTICE IS HEREBY GIVEN that the Physician Assistant Committee is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held in Hearing Room 1150, 2005 Evergreen Street, Sacramento, California, at 9:00 a.m., on 26 February 2009. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physician Assistant Committee at its office no later than 5:00 p.m. on 23 February 2009 or must be received by the Physician Assistant Committee at the hearing. The Physician Assistant Committee, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 3500, 3510, and 3524 of the Business and Professions Code, and to implement, interpret or make specific Sections 480, 490, 3523, and 3524 of said Code, the Physician Assistant Committee is considering changes to Division 13.8 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 3510 authorizes the Committee to adopt, amend, or repeal regulations as may be necessary to enable it to carry into effect the provisions of the Physician Assistant Practice Act. The Committee is proposing the following change:

Adopt Section 1399.514.

Business and Professions Code Section 3524 provides that a renewal application shall be on a form provided by the Committee, accompanied by the payment of all accrued and unpaid renewal fees.

This proposal would also require that the licensee respond to a question included on the renewal form which asks if the licensee, since the last renewal, has had any license disciplined by a government agency or other disciplinary body; or, been convicted of any crime in any state, the USA and its territories, military court, or a foreign country. Convictions for infractions with a fine of less than \$300 would not need to be reported by the licensee unless the infraction involved alcohol or controlled substances.

Failure to provide all of the information required would render the application for renewal incomplete and not eligible for renewal.

This proposal will provide the Committee with an additional mechanism by which to receive criminal activity information about licensees.

Receipt of this information will permit the Committee to take appropriate disciplinary action against licensees in appropriate circumstances, thus, further enhancing the Committee's mandate of consumer protection.

The regulatory proposal affects physician assistant licensees. It does not affect small businesses.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because it only affects individual licensees who are renewing their physician assistant licenses. Licensees are merely required to read the question and to check a box on the renewal application.

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

Impact on Jobs/New Businesses:

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

of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Physician Assistant Committee has determined that the proposed regulations would not affect small businesses because it only affects individual licensees who are renewing their physician assistant licenses. Licensees are merely required to read the question and to check a box on the renewal application.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The Physician Assistant Committee has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. It may be obtained at the hearing or prior to the hearing upon request from the Physician Assistant Committee at 2005 Evergreen Street, Suite 1100, Sacramento, California 95815.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physician Assistant Committee at 2005 Evergreen Street, Suite 1100, Sacramento, California 95815.

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

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

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

CONTACT PERSON

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

Name: Glenn Mitchell
Address: 2005 Evergreen Street, Suite 1100
Sacramento, CA 95815
Telephone No.: (916) 561-8783
Fax No.: (916) 263-2671
E-Mail Address: gmitchell@mbc.ca.gov

The backup contact person is:

Name: Elberta Portman
Address: 2005 Evergreen Street, Suite 1100
Sacramento, CA 95815
Telephone No.: (916) 561-8782
Fax No.: (916) 263-2671
E-Mail Address: eportman@mbc.ca.gov

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

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTING A REGULATION TO REDUCE SULFUR HEXAFLUORIDE EMISSIONS IN NON-SEMICONDUCTOR AND NON-UTILITY APPLICATIONS

The Air Resources Board (ARB or the Board) will conduct a public hearing at the time and place noted below to consider adopting a regulation to reduce sulfur hexafluoride use in non-semiconductor and non-utility applications. Sulfur hexafluoride (SF₆) is a potent greenhouse gas with a lifetime of 3,200 years and a one-hundred year global warming potential (GWP) of 23,900, the most potent greenhouse gas the IPCC has evaluated. The main uses of SF₆ in California that are not directly related to utilities or semiconductor manufacturing include:

- Magnesium casting operations
- Tracer gas (including fume hood testing, research, and bioterrorism studies)
- Medical uses (e.g. eye surgery)
- Military applications
- Other uses

This notice summarizes the proposed regulatory action. The staff report document presents the proposed regulation and information supporting the adoption of the regulation in greater detail.

DATE: February 26, 2009

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on February 26, 2009, and may continue at 8:30 a.m. on February 27, 2009. This item may not be considered until February 27, 2009. Please consult the agenda for the meeting, which will be available at least 10 days before February 26, 2009, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodations/Disability Coordinator at (916) 323-4916 by voice, or through the California Relay Services at 711, to place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>.

If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at (916) 323-7053 within 7-10 business days prior to the meeting date.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected:

Proposed adoption of California Code of Regulations (CCR), title 17, subchapter 10, article 4, new subarticle 3, sections 95340, 95341, 95342, 95343, 95344, 95345, and 95346.

Background:

In 2006 the Legislature passed and Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (AB 32; Stats. 2006, chapter

488). In AB 32 the legislature declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The Legislature further declared that global warming will have detrimental effects on some of California's largest industries including agriculture and tourism, and will increase the strain on electricity supplies. While national and international actions are necessary to fully address the issue of global warming, the Legislature recognized that action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act. AB 32 creates a comprehensive, multi-year program to reduce GHG emissions in California, with the overall goal of restoring emissions to 1990 levels by the year 2020. AB 32 requires ARB to do many things, including:

- Establishing a statewide GHG emissions cap for 2020, based on 1990 emissions;
- Adopting a scoping plan by January 1, 2009, indicating how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms and other actions;
- By June 30, 2007, adopting a list of discrete, early action GHG emission reduction measures that can be implemented and enforced no later than January 1, 2010; and
- By January 1, 2010, adopting regulations to implement the measures identified on the list of discrete early action measures.

In 2007 the Board approved a list of nine discrete early action measures. The list includes a measure entitled: "SF₆ reductions from non-electric and non-semiconductor applications." The proposed regulation is designed to implement this measure.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

The proposed regulation would achieve GHG emission reductions from SF₆ use in non-semiconductor and non-utility applications through a phase-out of use over the next several years. The regulation has several components in order to achieve the emission reductions from this sector. Cost-effective alternatives are available for most applications but may need to be tested and proven effective and usable. To allow for this testing, the regulation includes a phase-in period for particular uses. The use and sales requirements do exclude a limited number of uses such as in eye surgeries. In addition, the regulation includes a process to apply for an exemption to the restrictions if one of two criteria is met: 1) uses of sulfur hexafluoride that result in reduced green-

house gas emissions; or 2) uses of sulfur hexafluoride with no alternatives.

Applicability

The proposed regulation would apply to any individual who uses, possesses, purchases, distributes, manufactures, offers for sale, or sells SF₆, with a limited number of exemptions. Potential affected groups include manufacturers and distributors of SF₆, engineering firms and others who conduct tracer tests, magnesium casters, and others who use the goods or services of those industries or individuals.

The regulation exempts uses covered by other regulations. These include chemical vapor deposition (CVD) chamber cleaning and etching uses of SF₆ as well as dielectric or arc quenching medium uses. Additional exemptions include uses which have been determined by the Executive Officer to meet one of the two criteria for an exemption:

- 1) uses of sulfur hexafluoride that result in reduced greenhouse gas emissions; or
- 2) uses of sulfur hexafluoride with no alternatives.

Phase Out

This regulation would achieve GHG emission reductions from SF₆ use in non-semiconductor and non-utility applications through a phase-out of use over the next several years. Cost-effective alternatives are available for most applications but may need to be tested and proven effective and usable. To allow for this testing, the regulation includes a phase-in period for particular uses. The use and sales requirements do exclude a limited number of uses such as in eye surgeries. In addition, the regulation includes a process to apply for an exemption to the restrictions if one of two criteria is met: 1) uses of sulfur hexafluoride that result in reduced greenhouse gas emissions; or 2) uses of sulfur hexafluoride with no alternatives. The regulation also includes a registration, record-keeping, and reporting requirement for distributors of SF₆ and a record-keeping requirement for purchasers of SF₆.

Notice to Purchasers

The proposed regulation specifies that anyone who sells SF₆ within California must provide a copy of the final regulation to customers who have purchased SF₆. Documentation must be retained for a period of three years.

Registration, Reporting and Record-keeping

Anyone who sells SF₆ within California must register with ARB. The sellers must retain invoices for at least three years and provide an annual report to ARB including the sales by buyer and amount.

Impacts

Implementation of this regulation would reduce emissions by 0.10 million metric tonnes of carbon diox-

ide equivalent (MMTCO₂E) annually or more than 60 percent from business as usual. The regulation would affect approximately 50–125 businesses including 4 magnesium casters, 30–60 tracer gas users and other users such as universities, aerospace industry, defense industry, and national labs. Alternatives are available for most applications and an exemption process is incorporated. The regulation would also impact distributors and manufacturers of SF₆. In addition to affecting current uses and users, this regulation would act as a barrier against new uses of SF₆. The proposed regulation achieves emission reductions in a cost-effective manner.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. *The Executive Summary* of the ISOR provides an overview of the proposed amendments to the Statewide Regulation.

Copies of the ISOR and the full text of the proposed regulatory language, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on February 26, 2009.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Dr. John Herner, Manager of the Greenhouse Gas Technology and Field Testing Section, at (916) 324-9299 or by email at jherner@arb.ca.gov or Elizabeth Scheehle, Air Pollution Specialist, Greenhouse Gas Technology and Field Testing Section, (916) 324-0621 or by e-mail at escheehl@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed, are Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the informa-

tion 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 www.arb.ca.gov/regact/2009/nonsemi09/nonsemi09.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 by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings 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 cost or savings to state or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The sector as a whole is expected to experience a total annualized cost of approximately \$200,000. A typical business will experience an annualized cost of around \$20,000 and small businesses will have a similar cost. Initial costs are expected to be around \$30,000 to \$50,000 with small annual costs. Specialized firms with large uses will experience greater costs.

The Executive Officer has made an initial determination that the proposed regulatory action would 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.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. The record-keeping is expected to be in line with normal business bookkeeping operations.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, February 25, 2009**, and addressed to the following:

Postal mail: Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 30 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 and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 38510,

38560, 38560.5, 38580, 39600, 39601, 41510, 41511, and 41513. This action is proposed to implement, interpret, and make specific sections 38560, 38560.5, 38580, 39600, 39601, 41510, 41511, and 41513.

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 Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is 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 such event 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, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PROPOSED REGULATION TO REDUCE GREENHOUSE GAS EMISSIONS FROM CALIFORNIA SEMICONDUCTOR OPERATIONS

The Air Resources Board (ARB or the Board) will conduct a public hearing at the time and place noted below to consider adoption of a regulation to reduce greenhouse gas (GHG) emissions from semiconductor and related devices (semiconductor) operations.

DATE: February 26, 2009

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two day meeting of the Board, which will commence at 9:00 a.m., February 26, 2009, and may continue at 8:30 a.m., February 27, 2009. This item may not be considered until February 27, 2009. Please consult the agenda for the meeting, which will be available at least 10 days before February 26, 2009, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodations/Disability Coordinator at (916) 323-4916 by voice, or through the California Relay Services at 711, to place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>.

If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at (916) 323-7053 within 7-10 business days prior to the meeting date.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Added: Proposed adoption of California Code of Regulations, title 17, Subchapter 10, Article 4, Subarticle 2. Semiconductor Operations, sections 95320, 95321, 95322, 95323, 95324, 95325, and 95326.

Background:

The California Global Warming Solutions Act of 2006 (Assembly Bill 32, AB 32, Núñez, Ch. 486, Stats. 2006) creates a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California. AB 32 also requires the Air Resources Board (ARB or Board) to identify a list of discrete early action greenhouse gas reduction measures by June 30, 2007, and to adopt regulations to implement listed early action measures. These early action measures must be enforceable no later than January 1, 2010. Early action measures must also achieve the maximum technologically feasible and cost-effective reductions in GHGs from sources or categories of sources. In June 2007, the Board approved a discrete early action measure to reduce emissions of fluorinated greenhouse gases from semiconductor operations.

Description of Proposed Regulatory Action:

The purpose of this regulation is to reduce fluorinated gas emissions from semiconductor operations. Fluorinated gases are GHGs and are used in cleaning chemical vapor deposition (CVD) tool chambers where thin films are deposited on wafers, and in etching integrated circuits into those thin films. The regulation pertains to fluorinated gases used in these processes and requires

an owner or operator of a semiconductor operation that emits more than 0.0008 million metric tons of carbon dioxide equivalent per year to comply with emission standards effective January 1, 2012. Operators that are replacing 150 millimeter wafer process tools with newer 200 millimeter or larger wafer tools would have until January 1, 2014 to comply.

The proposed semiconductor regulation would set new maximum allowable emission limits for semiconductor operations. The emission limits for semiconductor operations are tiered, and vary depending on the quantity of wafers (thin semiconductor material from which integrated circuits or “chips” are made) processed at an operation. All new semiconductor operations established on or after January 1, 2010 will be required to meet the most stringent emission standard, regardless of the quantity of wafers produced.

Reporting requirements specify that an owner or operator must submit annual reports to the permitting agency for emissions occurring in the immediate previous calendar year. The annual reports are to include the amount of fluorinated gases used, wafer processing volume, emissions calculations, and other information.

Recordkeeping requirements specify that the owner or operator maintain records on quantities of fluorinated gases purchased, as well as records on emission control equipment malfunctions and failures.

Environmental and Economic Impacts

The proposed regulation is estimated to achieve an emissions reduction equivalent to 0.18 million metric tons of carbon dioxide per year. No significant adverse environmental impacts should occur from the proposed regulation. Semiconductor operators may use any combination of three compliance options. The first, process optimization, reduces the volume of fluorinated gases used and emitted, and does not generate by-products. The second, alternative chemistries, uses replacement gases in CVD chamber cleaning. Replacement gases are used more efficiently, and therefore result in lower emissions. The final option, abatement, uses systems that rely primarily on combustors to destroy emissions. Abatement devices generate emissions of nitrogen oxides (NO_x). Semiconductor operations are required to obtain air district permits for abatement devices to ensure that NO_x impacts are minimized. While hydrogen fluoride is also generated by combustors, it is treated effectively with water scrubbers.

Overall, the proposed regulation is not expected to have a significant impact on semiconductor businesses in California. The cost to affected businesses would be approximately \$22 million in initial capital costs and about \$850,000 in annual recurring costs. These costs correspond to \$3.7 million annually over the useful life of the regulation, assumed to be ten years. The cost-effectiveness is estimated to be 21 dollars per metric ton

of carbon dioxide equivalent reduced which corresponds to cost estimates for other GHG regulations identified in the Scoping Plan.

Staff also estimated profitability impacts on businesses by calculating the decline in the return on owner’s equity (ROE). The threshold value of 10 percent has been used consistently by the ARB staff to determine impact severity. The proposed regulation is expected to result in an average ROE decline of 0.4 percent.

COMPARABLE FEDERAL REGULATION

There is no comparable federal regulation related to reducing greenhouse gas emissions from semiconductor operations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared an Initial Statement of Reasons (ISOR) Report, which includes a summary of the economic and environmental impacts of the proposal, and which describes the basis of the proposed action in more detail. The ISOR is entitled, “Initial Statement of Reasons for Proposed Measure to Reduce Fluorinated Gas Emissions from Semiconductors and Related Devices.”

Copies of the ISOR Report with the full text of the proposed regulatory language may be accessed on the ARB’s web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, CA 95814, (916) 322–2990 at least 45 days prior to the scheduled hearing on February 26, 2009.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified below, or may be accessed on the ARB’s web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Ms. Terrel Ferreira, Manager of the Greenhouse Gas Measures Section, at (916) 445–3526, or by email at tferreir@arb.ca.gov, or Mr. Dale Trenchel, Air Pollution Specialist, at (916) 324–0208, or by email at dtrench@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322–4011, and Ms. Trini Balcazar, Regulations Coordinator, (916) 445–9564. The Board has compiled a record for this rulemaking action, which in-

cludes 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 also available on the ARB internet site for this rulemaking at <http://www.arb.ca.gov/regact/2009/semi2009/semi2009.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 by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5), the Executive Officer has determined that the proposed regulation would not impose a mandate on local agencies or school districts. The Executive Officer has further determined pursuant to Government Code section 11346.5(a)(6) that the proposed regulation would result in some additional costs to ARB. In addition, the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the state, would not create costs or savings to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500), Division 4, title 2 of the Government Code, and would not result in other nondiscretionary costs or savings to state or local agencies.

The proposed regulatory action will create costs to local air pollution control and air quality management districts (the "districts"). However, these costs to the districts are recoverable by fees that are within the districts' authority to assess (see Health and Safety Code sections 42311 and 40510).

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The Executive Officer has initially determined that there will be a potential cost impact on private persons or businesses directly affected as a result of the proposed regulatory action. As explained in the ISOR, the proposed regulation will impact some individual businesses, but the overall statewide impacts are not expected to be significant.

The Executive Officer has made an initial determination that the proposed regulatory action would 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.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, Section 4, that the proposed regulatory action would affect small businesses. Thirty-eight of 74 operations subject to the proposed regulation are small businesses, those with less than 250 employees. Five of the 38 small businesses will be required to reduce their emissions to comply with the proposed regulation.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses 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 meeting. To be considered by the Board, written comments or submissions not physically submitted at the meeting must be received **no later than 12:00 noon, Pacific Standard Time, February 25, 2009**, and addressed to the following:

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

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated

contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and other search engines.

The Board requests, but does not require, that 30 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 and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 38501, 38510, 38560, 38560.5, 38580, 39600, and 39601, Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 38501, 38505, 38510, 38550, 38551, 38560, 38560.5, 39003, 39500, 39600, and 39601, Health and Safety Code.

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 Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is 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, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 21. BUSINESS TRANSPORTATION AND HOUSING

TITLE 21. PUBLIC WORKS DIVISION 2. DEPARTMENT OF TRANSPORTATION

(Notice published. January 9, 2009)

NOTICE OF PROPOSED RULEMAKING

TO ALL INTERESTED PERSONS

The California Department of Transportation (Caltrans) proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action. Following the public hearing and comment period, the proposal may be adopted substantially as set forth without further notice.

PUBLIC HEARING

Caltrans will hold a public hearing from 9 a.m. to 12 p.m. on February 23, 2009, at 1120 N Street, Room 1450, Sacramento, California. The building is wheelchair accessible. Any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. Caltrans requests, but does not require, that persons making oral comments also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to Caltrans. The written comment period begins on January 9, 2009 and closes at 5 p.m. on February 23, 2009. Comments received by Caltrans after the closing time will not be considered. Submit comments to:

California Department of Transportation
Adopt-A-Highway Program
Attn: Terri Patterson
1120 N Street, MS-31
Sacramento, CA 95814

AUTHORITY AND REFERENCE

The California Streets and Highways Code section 91.5 authorizes Caltrans to adopt the proposed regulations, which would implement, interpret, and make spe-

cific Section 91.5 of the California Streets and Highways Code.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

In 1985, the passage of AB 2330 added Section 91.5 to the California Streets and Highways Code. This allowed Caltrans to accept materials, equipment, and services for roadside maintenance or enhancement and authorized the Director to install appropriate courtesy signs in recognition of such services.

In October 1989, Caltrans Director’s Policy Memorandum (P898–03) outlined and established the Program. Since that time, tens of thousands of participants have donated countless hours and funds to beautify California’s highway roadsides. In addition to the aesthetic benefits of cleaner and more beautiful roadsides, participants help to prevent potential pollutants from entering our waterways. The proposed regulations define the purpose of the Program, the adoption process, and the types of adoption opportunities.

Caltrans proposes to adopt Chapter 23. Adopt-A-Highway Program, Articles 1–12, Sections 2620–2645, Appendices A, B, and C, in Title 21, of the California Code of Regulations.

The California Streets and Highways Code section 91.5 authorizes and requires Caltrans to promulgate regulations to enforce the care and protection of State highways.

The proposed regulatory action will implement the Adopt-A-Highway Program (Program).

Article 1 establishes the purpose of the regulations.

Article 2 establishes definitions of terms used in this chapter.

Article 3 establishes Program eligibility requirements.

Article 4 establishes the types of adoption opportunities.

Article 5 establishes the purpose of adoption site reviews, criteria for adoptable sites, and site classification.

Article 6 establishes the purpose of courtesy signs. It also defines installation rules, location of signs, cost of the signs, appearance and content of recognition panels, and sign maintenance.

Article 7 establishes that adopters have the option to perform tasks themselves as volunteers or to sponsor an adoption by hiring an Adopt-A-Highway (AAH) service contractor to perform tasks on their behalf. It also establishes that one or more parties may participate as co-adopters, describes the relationship between AAH service contractors, sponsors, and Caltrans, and defines eligibility requirements for AAH service contractors.

Article 8 establishes the purpose of the Program Application and describes the Program Application process.

Article 9 establishes that waiting lists are to be created for adoption sites desired by more than one applicant and describes the waiting list process.

Article 10 establishes the purpose of the Permit Application and describes the Permit Application Process.

Article 11 establishes the purpose of a safety orientation, who must attend a safety orientation, and when a safety orientation is required.

Article 12 establishes the purpose of monitoring the performance of adopters and describes actions to be taken if a permit violation or Caltrans policy violation occurs.

Appendix A is the Department of Transportation Director’s Policy No. DP–01–R6, titled *Equal Employment Opportunity*. This policy ensures Caltrans’ diversified work force a work environment free from all forms of discrimination and harassment.

Appendix B establishes the guidelines for recognition panel design.

Appendix C establishes guidelines for working with AAH service contractors.

DISCLOSURES REGARDING
THE PROPOSED ACTION

Caltrans has made the following initial determinations:

Mandate on local agencies and school districts: none.

Cost or savings to any agency: none.

Cost or savings to any State agency: none.

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

Other non-discretionary cost or savings imposed on local agencies: none.

Costs or savings in federal funding to the State: none.

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

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

Adoption of these regulations will not:

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

Significant effect on housing costs: none.

SMALL BUSINESS DETERMINATION

Caltrans has determined that the proposed regulatory action will not affect small businesses. The proposed regulations will not alter existing policy governing the use of AAH service contractors.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), Caltrans must determine that no reasonable alternative was presented to or considered by Caltrans that would be more effective in carrying out the proposed action, or, which would be as effective but less burdensome to affected private persons than the proposed action.

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Terri Patterson
California Department of Transportation
Adopt-A-Highway Program
1120 N Street, MS-31
Sacramento, CA 95814
Telephone (916) 654-2926

The backup contact person for these inquiries is:

Terri Bebo
California Department of Transportation
Adopt-A-Highway Program
1120 N Street, MS-31
Sacramento, CA 95814
Telephone (916) 651-2014

Questions on the substance of the proposed regulations may be directed to either Ms. Patterson or Ms. Bebo.

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based on to Ms. Patterson or Ms. Bebo at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

Caltrans will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the aforementioned address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Ms. Patterson or Ms. Bebo at the address or phone number listed on the previous page.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, Caltrans may adopt the proposed regulations substantially as described in this notice. If Caltrans makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before Caltrans adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Patterson or Ms. Bebo at the address indicated on the previous page. Caltrans will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Patterson or Ms. Bebo at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at <http://adopt-a-highway.dot.ca.gov/>.

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING

(MANUFACTURED HOUSING PROGRAM)

NOTICE IS HEREBY GIVEN that the California Department of Housing and Community Development (HCD), proposes to permanently adopt existing emer-

agency regulations governing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modulars by adopting California Building Code ignition resistant construction standards.

PUBLIC HEARING

A public hearing has been scheduled at which time any interested party may present statements, orally or in writing, about this proposed regulatory action. The hearing will continue until all oral comments are received, and will be held as follows:

Date: February 23, 2009

Location: Department of Housing and Community
Development
1800 Third Street, Room 183
Sacramento, CA 95814

Time: 9:00 a.m.

Pre-hearing registration will be conducted prior to the hearing. Those registered will be heard in order of their registration. Anyone else wishing to speak at the hearing will be afforded an opportunity after those registered have presented their oral comments. The time allowed for each person to present oral comments may be limited if a substantial number of people wish to speak.

Individuals presenting oral comments are requested, but not required, to submit a written copy of their statements. The hearing will be adjourned immediately following the completion of the oral comments.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to HCD. All written comments must be received by HCD at this office no later than 5:00 p.m. on February 23, 2009, in order to be considered. Written comments may be submitted by mail, e-mail, or facsimile as follows:

By mail to: Department of Housing and
Community Development
Division of Codes and Standards
P.O. Box 1407
Sacramento, CA 95812-1407
ATTN: Manufactured Housing
Program

By e-mail to: ribarra@hcd.ca.gov

By facsimile to: (916) 327-4712
ATTN: Ruth Ibarra

PERMANENT ADOPTION OF REGULATIONS

Following the public comment period, HCD may adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for at least 15 days prior to its adoption from the contact person(s) designated in this Notice, and will be mailed to those persons who have submitted written or oral testimony related to this proposal or who have requested notification of any changes to the proposal. HCD will accept written comments on the modified regulations during the 15-day period.

AUTHORITY AND REFERENCE

Health and Safety Code sections 18015, 18020(a), 18028(a), 18029, 18029.5 and 18030.5 grant HCD the authority to adopt regulations governing construction, alteration, and fire safety prevention of manufactured homes, mobilehomes, and commercial modulars. The actual text of these statutes is available on the official California Legislative information website and at <http://www.leginfo.ca.gov>. The standards adopted are in Title 24, California Code of Regulations, Part 2 (California Building Code), Chapter 7A.

The purpose of these regulations is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 13143, 13108.5(a), 18015, 18020(a), 18028(a), 18029, 18029.5, and 18030.5, and Government Code Section 51189 relating to building materials and construction methods used in Wildland-Urban Interface Fire Area, as well as California Code of Regulations (CCR), Title 24, Part 2, Chapter 7A.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Federal Provisions

24 Code of Federal Regulations (CFR) §3282.11 and 42 U.S.C. Section 5403(d) prohibit any state or political subdivision of a state from establishing a construction standard for manufactured homes that is not identical to the corresponding federal standard, if a federal standard exists. Since federal construction standards for manufactured homes in 24 CFR Part 3280 do not expressly provide standards for installation of an ignition resistant construction system for manufactured homes, California proposes to establish installation requirements for ignition resistant construction systems in

manufactured homes under authority provided by the Health and Safety Code.¹

HSC Section 18015 — Existing law makes construction standards for manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modulars adopted pursuant to Part 2 (commencing with section 18000) of the Health and Safety Code applicable to all parts of the state and supersedes conflicting local ordinances. It authorizes HCD to promulgate regulations to interpret and make specific the provisions of this part relating to construction and other related or specifically enumerated activities. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction systems installed in new or existing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modular structures.

HSC Section 18020(a) — Existing law authorizes HCD to enforce the provisions of Part 2 (commencing with section 18000) of the Health and Safety Code and rules and regulations adopted pursuant to that part, except for recreational vehicle standards covered by HSC 18027.3 and manufactured home standards covered by 42 U.S.C. Section 5401, et seq., of the National Manufactured Housing Construction and Safety Standards Act (NMHCSSA) of 1974. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction systems installed in new or existing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modular structures.

HSC Section 18028(a) — Existing law authorizes HCD to adopt regulations regarding the construction of commercial modulars and special purpose commercial modulars, except mobile food facilities subject to Article 11, commencing with Section 114250 of Chapter 4 of Part 7 of Division 104, and multifamily manufactured homes, manufactured homes, and mobilehomes not subject to the NMHCSSA. HCD is authorized to determine whether the proposed regulations are reasonably necessary to protect the health and safety of the occupants and the public. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction systems installed in new or existing manufactured homes, mobilehomes, multi-

family manufactured homes and commercial modular structures.

HSC Section 18029 — Existing law authorizes HCD to adopt regulations governing the alteration or conversion of fire safety systems, installations, and equipment in manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction systems installed in new or existing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modular structures.

HSC Section 18029.5 — Existing law authorizes HCD to adopt regulations that are reasonably consistent with generally recognized fire protection standards and that govern conditions relating to the protection of life against fire in a newly-built manufactured home, mobilehome, multifamily manufactured home and commercial modular.² Under this authority, HCD proposes to permanently adopt the installation standards for ignition resistant construction systems in newly built manufactured homes and multifamily manufactured homes and commercial modulars.³

HSC Section 18030.5 — Existing law exempts manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars from compliance with local ordinances prescribing requirements in conflict with the standards prescribed by Chapter 4 (commencing with section 18025), of Part 2 of Division 13 of the Health and Safety Code and adopted regulations. Under this authority, HCD proposes to permanently adopt language preempting local ordinances prescribing requirements in conflict with the standards prescribed by Chapter 4 (commencing with section 18025), of Part 2 of Division 13 of the Health and Safety Code and adopted regulations.

Summary of Existing Regulations

Uniform statewide standards were developed to assure owners, occupants, and users of manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars protection from risks to their health and safety, and property. For manufactured homes subject to preemptive United States Department

¹ In a letter dated January 31, 2008, from William W. Matchneer III, HUD Associate Deputy Assistant Secretary of the federal Regulatory Affairs and Manufactured Housing, Mr. Matchneer states, “*Exterior fire resistance is an element of performance that is not addressed by the Federal Manufactured Home Construction and Safety Standards, 24 CFR 3280. Accordingly we would not consider the application of the WUI standards to manufactured housing to be a violation of the preemption provisions of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5403(d).*”

² HSC §18029.5 states in-part: The department may adopt rules and regulations. . .governing conditions relating to the prevention of fire or for the protection of life and property against fire in manufactured homes, mobilehomes, special purpose commercial coaches. . . commercial coaches. . . .”

³ HSC §18008.7 defines “multifamily manufactured home” and requires that, “. . .all provisions of law that apply to manufactured homes shall apply equally to multifamily manufactured homes. . . .”

of Housing and Urban Development (HUD) standards, this generally includes just the HUD standards; however, HCD also has adopted preemptive fire sprinkler standards for HUD–code homes (Title 25, CCR, Article 2, commencing with section 4300) and various installation requirements. HCD also has adopted construction standards for mobilehomes, multifamily manufactured homes, and commercial modulars in Title 25, CCR. Current conditions required emergency additions to these regulations which HCD proposes to permanently adopt to address fire safety of residents and the general public in specified wildfire areas. Current standards for ignition resistant construction are in Title 24, CCR, Part 2 (California Building Code) Chapter 7A, but are currently temporarily applicable to these manufactured structures pursuant to recently adopted emergency regulations.

Summary of Effect of Proposed Regulatory Action

The purpose of these proposed regulations is to permanently establish requirements for the installation of ignition resistant construction systems for manufactured homes, mobilehomes, multifamily manufactured homes and commercial modulars intended to be placed in areas designated as Fire Hazard Severity Zones, including both substantive and procedural requirements, by adopting by reference, the Office of State Fire Marshal standards in Title 24, Part 2, Chapter 7A.

Those sections within Title 25, California Code of Regulations, affected by this rulemaking (see “Summary of Sections Affected,” above), and the specific purpose for each requirement in these proposed regulations, is described in the Initial Statement of Reasons.

Summary of Effect of Proposed Amendments

Uniform statewide standards were developed to assure owners, occupants, and users of manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars protection from risks to their health and safety, and property. For manufactured homes subject to preemptive HUD standards, this generally includes just the HUD standards; however, HCD also has adopted preemptive fire sprinkler standards for HUD–code homes (Article 2, commencing with section 4300) and various installation requirements. Current conditions now require additions to these regulations and HCD regulations governing standards for mobilehomes, multifamily manufactured homes, and commercial modulars to address fire safety of residents and the general public in specified wildfire areas.

SECTIONS AFFECTED

- The specific sections of 25 CCR, Division 1, Chapter 3, Subchapter 2, to be permanently added by this proposed action are Article 2.3, sections 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, and 4216.

POLICY STATEMENT OVERVIEW

The Manufactured Housing Program within HCD is responsible for adopting and enforcing preemptive state regulations for the construction, alteration, conversion, sale, rent or lease of manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars and special purpose commercial modulars within California. HCD’s mission includes promoting both safety and affordability of housing and related structures in California.

HCD is proposing to adopt permanent regulations relating to the Manufactured Housing Act of 1980, sections 18000 through 18153, to incorporate the ignition resistant construction standards in Title 24, CCR, Part 2 (California Building Code), Chapter 7A.

SMALL BUSINESS IMPACT STATEMENT

Small businesses will be affected by these regulations. (See “Cost Impact on Representative Private Person or Business” paragraph, below)

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE.

Other non–discretionary costs or savings imposed upon local agencies: NONE.

Costs or savings in federal funding to the state: NONE.

Significant effect on housing costs: SOME.

BUSINESS IMPACTS

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

ever, there exists the need to permanently adopt these regulations to alleviate a potential adverse economic impact on business, should businesses manufacture certain residential and nonresidential structures for use in California without a consistent set of ignition resistant construction systems within Wildlife Urban Interface Areas requirements applicable statewide.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

There will be some additional cost impact to manufacturers of new manufactured homes, multifamily manufactured homes and commercial modular structures in the form of costs associated with specific materials and installations necessary to comply with ignition resistant construction. Cost estimates received from manufacturers of new manufactured homes revealed that the labor and material costs of construction in compliance with these regulations will add approximately \$1,000–\$2,000 to the manufacturing costs of new manufactured homes intended to be installed in a designated fire hazard area. Since all structures are not required to comply with these proposed regulations, but only structures installed in locations subject to severe fire hazards, associated costs are minimal and reasonable. Owners of existing manufactured homes, mobilehomes, multifamily manufactured homes or commercial modular structures also will have some cost impacts when intending to install or alter their structures in a Fire Hazard Severity Zone as the structures will be required to be constructed to resist fire and fire embers. Permits and inspections would be required. It should be noted that all these costs are similar to costs attributable to new conventional home construction or home alterations in the same fire hazard areas. Thus, it is the geographic location of the structure, not these regulations, which triggers the added costs. HCD estimates obtained from two dealers specializing in the purchase and resale of used mobilehomes and manufactured homes indicates that the costs associated with the alteration and repair of an existing structure may add \$10,000–\$15,000 in material and labor to the cost of the used home.

HCD's data reveals that in 2007, there were 2,701 used mobilehomes and manufactured homes sold in California that were relocated to a new site, of those approximately 642 involved transactions by licensed mobilehome dealers. Such sales represented 23% of the total number of new and used manufactured homes and mobilehomes sold in California. It is not known how

many of those relocated homes were installed in a designated fire hazard area.

The increased costs of ignition resistant construction systems are likely to be partially offset over time by reduced annual fire insurance costs as well as reduced likelihood of catastrophic damage, destruction, or personal injuries in the event of a wildland fire.

HCD is not aware of any other cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed adoption of emergency language as a permanent basis serves to improve fire resistive construction to help ensure the occupants and structures survive a wildfire.

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

HCD has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California. Due to the low number of relocated used homes sold through a dealer, HCD has determined that the impact on most dealers will not be significant and should not result in the elimination of existing businesses. However, HCD is unaware of the number of dealers who specialize primarily, in sales of used homes in designated fire areas. The effect on these dealers could be significant if potential buyers chose not to purchase or relocate a used home due to the costs to retrofit.

CONSIDERATION OF ALTERNATIVES

Throughout the development of this proposed rulemaking, HCD must determine that no alternative will be more effective in carrying out the purpose for which the action is proposed or that no alternative will be as effective as and less burdensome to affected private persons than the proposed action.

During the development of this rulemaking, the following alternatives were determined not to be acceptable and were rejected:

- New Performance-Based Requirements for Ignition Resistant Construction Systems
Performance based standards, while worthy of consideration, were found not to be acceptable because they may not be equivalent to the prescriptive requirements provided in Chapter 7A, causing resistance from local building, planning and fire marshal offices, and, as such, do not meet the objective of providing uniform standards. They also might be unnecessarily more expensive for businesses and consumers.

- Not Establishing Preemptive Statewide Standards
Not establishing preemptive statewide standards, and leaving standards to local jurisdictions, would have significant cost impacts on manufacturers and consumers because of the disruption of the factory-line production system and because unnecessarily rigorous standards could be imposed to provide extreme fire protection. This alternative did not meet the department standard of promoting both safe and affordable housing.

By mail to: Department of Housing and
Community Development
Division of Codes and Standards
P. O. Box 31
Sacramento, CA 95812-0031
ATTN: Manufactured Housing
Programs

By e-mail to: ribarra@hcd.ca.gov

By facsimile to: (916) 327-4712
ATTN: Ruth Ibarra

AVAILABILITY OF DOCUMENTS
AND CONTACT PERSON

HCD has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from HCD at the following location or from the contact people listed below:

Department of Housing and Community
Development
Division of Codes and Standards
1800 Third Street, Room 260
Sacramento, CA 95814
Fax (916) 327-4712

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the Department's website at the following address:

<http://www.hcd.ca.gov/codes/mhp/>

Questions regarding the regulatory process may be directed to:

Ruth Ibarra, Staff Services Analyst
Telephone Number: (916) 327-2796/
Fax (916) 327-4712
E-mail: ribarra@hcd.ca.gov

Clarification regarding the substance of this regulatory proposal may be directed to:

Richard Weinert, Manufactured Housing
Programs Manager
Telephone Number: (916) 327-2838/
Fax (916) 327-4712
E-mail: rweinert@hcd.ca.gov

Written comments may be submitted by any of the following methods:

**TITLE 28. DEPARTMENT OF
MANAGED HEALTH CARE**

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

SUBJECT: Timely Access to Non-Emergency
Health Care Services; Adopting Section
1300.67.2.2 in Title 28, California Code
of Regulations; Control No. 2008-1579

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Department) proposes to adopt regulations under the Knox-Keene Health Care Service Plan Act of 1975 (Act) establishing standards and requirements to ensure that enrollees of health care service plans have access to needed health care services in a timely manner.

This rulemaking action proposes to adopt section 1300.67.2.2, in Title 28, California Code of Regulations. Before undertaking this 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.

This rulemaking action relates to similar subject matter addressed in two prior rulemaking actions. The rulemaking action entitled Access to Needed Health Care Services, Control #2002-0018, was withdrawn by the Department on April 29, 2005. A subsequent rulemaking action entitled Timely Access to Health Care Services, Control #2005-0203, was disapproved by the Office of Administrative Law on February 27, 2008.

PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may submit a written request for a public hearing, pursuant

to section 11346.8(a) of the Government Code. The written request for hearing must be received by the Department's contact person, designated below, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department of Managed Health Care, Office of Legal Services, **by 5 p.m. on Monday, February 23, 2009**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email or via the Department's website:

- Website: <http://wpsso.dmhc.ca.gov/regulations/>
- Email: regulations@dmhc.ca.gov
- Mail: Department of Managed Health Care
Office of Legal Services
Attn: Regulations Coordinator
980 9th Street, Suite 500
Sacramento, CA 95814
- Fax: (916) 322-3968

Please note, if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author's name and U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Please identify the action by using the Department's rulemaking title and control number, **Timely Access to Non-Emergency Health Care Services, Control No. 2008-1579**, in any of the above inquiries.

CONTACTS

Inquiries concerning the proposed adoption of these regulations may be directed to:

Suzanne Chammout OR Emilie Alvarez	
Chief, Regulations	Regulations
Development Division	Coordinator
Department of Managed Health Care	Department of Managed Health Care
Office of Legal Services	Office of Legal Services
980 9 th Street, Suite 500	980 9 th Street, Suite 500
Sacramento, CA 95814	Sacramento, CA 95814
(916) 323-2472	(916) 445-9960
(916) 322-3968 fax	(916) 322-3968 fax
schammout@dmhc.ca.gov	ealvarez@dmhc.ca.gov

AVAILABILITY OF DOCUMENTS

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulations are based (rulemaking file). This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Sacramento, CA 95814, Attention: Regulations Coordinator.

The Notice of Proposed Rulemaking Action, the proposed text of the regulations, and the Initial Statement of Reasons are also available on the Department's website at <http://wpsso.dmhc.ca.gov/regulations/>, under the heading "Open Pending Regulations."

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Regulation Coordinator named above.

AVAILABILITY OF MODIFIED TEXT

The full 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 before the date the Department adopts the regulations. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Director will accept comments via the Department's website, mail, fax or email on the modified regulation(s) for 15 days after the date on which the modified text is made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth without further notice.

AUTHORITY AND REFERENCE

California Health and Safety Code section 1344 authorizes the Director of the Department of Managed Health Care (Director) to adopt, amend and rescind reg-

ulations as necessary to carry out the provisions of the Act, including rules governing applications and reports, and defining any terms, whether or not used in the Act, 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 the Act.

California Health and Safety Code section 1346 vests in the Director additional powers to administer and enforce the Act, including but not limited to, the power to study, investigate, research and analyze matters affecting the interests of plans, subscribers, enrollees and the public, and to promote and establish standards of ethical conduct for the administration of plans.

California Health and Safety Code section 1367.03 directs the Department to develop and adopt regulations to ensure that plans provide enrollees with timely access to needed health care services.

Section 1342 codifies the intent and purpose of the California State Legislature to promote the delivery and quality of health and medical care to enrollees of a health care service plan, including, as specified at subsection (g), ensuring that subscribers and enrollees receive available and accessible health and medical services rendered in a manner providing continuity of care.

Section 1367 establishes foundational standards and requirements for the provision of care. Subsection (d) of Section 1367 requires that plans furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice. Subsection (e) of Section 1367 requires that all services shall be readily available at reasonable times to each enrollee consistent with good professional practice and, to the extent feasible, plans shall make all services readily accessible to all enrollees consistent with Section 1367.03. Subsection (g) of Section 1367 requires that plans must have the organizational and administrative capacity to provide services to subscribers and enrollees.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department proposes to adopt section 1300.67.2.2 to establish standards and requirements for timely access as required by section 1367.03.

AB 2179 (2002) added section 1367.03 of the Health and Safety Code, directing the Department to develop and adopt regulations to ensure that enrollees have

timely access to needed health care services. In Section 1 of AB 2179 the Legislature found and declared "that timely access to health care is essential to safe and appropriate health care and that lack of timely access to health care may be an indicator of other systemic problems such as lack of adequate provider panels, fiscal distress of a health care service plan or a health care provider, or shifts in the health needs of a covered population."

Section 1367.03 contains a number of requirements regarding the development and content of the regulations, including specified factors to be considered by the Department in developing the regulations, requirements for contracts between plans and providers, and annual plan reporting requirements. The proposed regulations have been developed in accordance with the legislative directive set forth in Section 1367.03.

These proposed regulations adopt a balanced approach, to achieve workability and provide for operational flexibility, by establishing both performance standards and prescriptive time-elapsing standards; reasonable mechanisms to preserve the relevance of the clinical judgment of providers, provisions to encourage best practices for enhanced accessibility and a mechanism for enrollees to obtain assistance in determining the relative urgency of their need an appointment. These proposed regulations also strike a reasonable balance with meaningful performance standards for quality assurance monitoring by plans and their delegated provider groups.

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 the attention of the Department 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 action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the requirements of the proposed regulations during the written comment period.

SUMMARY OF FISCAL IMPACT:

- 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 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
- Other non-discretionary cost or savings imposed upon local agencies: None

DETERMINATIONS

The Department has made the following initial 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. As specified in Section 6 of AB 2179, no reimbursement is required.

The Department has determined that the regulations will have no significant effect 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 11342.610(b) and (c).

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 to compete with businesses in other states. The regulations are expected to have no detrimental fiscal impact on California business because:

- The regulations provide high flexibility for plans and their delegated providers to implement operational changes in a manner that mitigates compliance costs and therefore the Department expects that plans will be able to absorb the initial compliance costs within their existing budgets, operations and systems.

- Plans have consistently reported to the Department they currently have adequate networks and are already providing timely access as required by existing regulations, so these regulations do not constitute a new mandate.
- Costs incurred by plans or delegated provider groups from, for example, expanding existing provider networks or providing more timely health care services, are expected to be offset by equivalent or greater savings resulting from reduced utilization of emergency rooms (ER) and hospital admissions, and improved health outcomes resulting from disease prevention, and early identification and treatment. Relevant studies supporting this expectation are included in the Documents Considered, which are listed in the Initial Statement of Reasons.
- Compliance costs associated with clarified reporting requirements, for example, related recordkeeping and other paperwork, are unknown, but are expected to be absorbable in current systems and budgets, and/or offset by the expected savings from improved health outcomes, reduced ER utilization and hospitalizations. The information to be reported, e.g. appointment waiting time and timeliness of referrals, is already required to be monitored in existing plan quality assurance programs and utilized by the plans to ensure adequate provider networks. See for example section 1367(d) and (e) and Rule 1300.67.1, 1300.67.2 and 1300.70. In addition, existing statutes already require plans to update their web listing of providers quarterly. See section 1367.26.
- Administrative costs related to implementation of these regulations are also expected to be offset by the savings that will result from improved health outcomes and utilization of appropriate levels of service, e.g. reduced use of emergency rooms, reduced need for hospitalizations through early identification of health issues and conditions, and early intervention and treatment.

The benefits to consumers from the anticipated improved health outcomes cannot be quantified at this time. However, studies projecting potential savings to insurers and other payors are included in the "Documents Considered" listed in the Initial Statement of Reasons.

Because the statute, section 1367.03, requires adoption of these regulations, the Department could not consider alternatives to adoption of these regulations. However, alternatives to the format and content of the regulations were considered, including the use of prescriptive and performance standards. The regulations

utilize a balance of both prescriptive and performance standards as necessary and appropriate to mitigate implementation costs and burdens on the Department's licensees and delegated medical groups. The costs and benefits of the numerous alternatives that could be developed from different proportions of prescriptive and performance standards are not amenable to quantification in dollars. However, the proposed regulation strikes a balance of standards and requirements based on available information, including careful consideration of public input.

**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.”

The requirement for an annual plan compliance report is mandated by Section 1367.03 of the Act. These proposed regulations clarify and specify the required content of the annual plan compliance report. The Department has determined that all reporting requirements included in these regulations are necessary for the health, safety and welfare of the people of the State of California.

GENERAL PUBLIC INTEREST

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

**TITLE 27, CALIFORNIA CODE OF
REGULATIONS**

**PROPOSED AMENDMENT OF SECTION 25204
SAFE USE DETERMINATIONS**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986¹**

**NOTICE OF MODIFICATIONS TO TEXT OF
PROPOSED AMENDED REGULATION**

January 9, 2009

As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of two changes made to the proposed amended regulation: Title 27, California Code of Regulations, section 25204.² The proposed amendments to this regulation were originally the subject of a Notice of Proposed Rulemaking issued on September 12, 2008 and published in the California Regulatory Notice Register (Register 2008, No. 37-Z). A public hearing on this regulatory proposal was held on November 7, 2008. No oral comments were received at the hearing. One written comment was received during the 45-day comment period which closed on November 21, 2008.

OEHHA has reviewed the comment it received regarding the proposed amendments to the regulation and is proposing an additional minor clarification and one substantive change to the proposed amendments. The only comment received is posted on the OEHHA website at www.oehha.ca.gov or may be requested from the Proposition 65 Legal Office at (916) 323-2517.

A copy of the text of the amended proposed regulation is attached. The proposed additions are designated in underline in the proposed text. The changes made to the proposed amended text that are the subject of this notice are as follows:

1. The words “affecting the burden of proof” are added after the word “presumption” in section 25204(a). These words are added to clarify that OEHHA intends this presumption to affect the burden of proof that the activity described in the determination complies with the Act. This amendment clarifies that OEHHA is not simply intending to shift the burden of production in an enforcement action.
2. In section 25204(g), the word “accepted” has been added to indicate that the 60-day limit to submit the information requested by the OEHHA refers to the phase of a Safe Use Determination process after the request has been accepted by the agency, but before a decision has been reached. Before the

¹ More commonly known as Proposition 65, codified at Health and Safety Code Section 25249.5 et seq.

² Formerly Title 22, Cal. Code of Regulations, section 12204

Determination has been accepted by OEHHA, a 30-day limit for submission of additional information is currently required by section 25204(e).

OEHHA will accept written comments on these changes to the proposed amended regulation between January 9, 2009, and January 26, 2009. All written comments must be submitted to OEHHA by mail, fax, courier, e-mail, or hand-delivery, no later than 5:00 p.m. on **January 26, 2009**, and addressed to

Fran Kammerer, Staff Counsel
Office of Environmental Health Hazard Assessment
1001 I Street, Mailstop 25B
P.O. Box 4010
Sacramento, California 95812-4010

Fax No.: 916-324-1786
E-mail: fkammerer@oehha.ca.gov

Inquiries concerning the action described in this notice may be directed to Fran Kammerer, in writing at the address given above, or by telephone at (916) 445-4693.

**OAL REGULATORY
DETERMINATION**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS**

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

**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

**2008 OAL DETERMINATION NO. 34
(OAL FILE # CTU 2008-0717-01)**

REQUESTED BY: Martin Martinez
CONCERNING: Memorandum issued by the California Department of Corrections and Rehabilitation titled "Unauthorized Possession of Razor Blades by Inmates Housed in Administrative Segregation Units, Psychiatric Services Units, or in Security Housing Units."

Determination Issued Pursuant to
Government Code Section
11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of a "regulation" as defined in Government Code section 11342.600¹ and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of a "regulation," but was not adopted pursuant to the APA and should have been, it is an "underground regulation" as defined in California Code of Regulations, title 1, section 250.² OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

CHALLENGED RULE

On July 17, 2008, Mr. Martinez (Petitioner) submitted a petition to OAL challenging a memorandum dated February 21, 2002, titled "Unauthorized Possession of Razor Blades by Inmates Housed in Administrative Segregation Units, Psychiatric Services Units, or in

¹ Government Code section 11342.600 states:

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

² California Code of Regulations, title 1, section 250, subdivision (a) defines "underground regulation:"

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

Security Housing Units” (Memorandum).³ It was issued by the Acting Deputy Director of the Institutions Division of the California Department of Corrections and Rehabilitation (CDCR). The Memorandum provides that:

- Inmates having unauthorized possession of a razor blade while on Security Housing Unit (SHU) status, Psychiatric Services Unit (PSU) status, or Administrative Segregation Unit (ASU) may be charged with “Possession of a Deadly Weapon,” a Division A–1 offense.⁴ [First part of Memorandum]
- Incidents involving inmates housed in general population having unauthorized possession of a razor blade altered from its original manufactured state should be evaluated on a case–by–case basis. Absent evidence or information which would indicate the razor blade was intended to be used as a weapon, a more appropriate charge may be “Possession of Contraband,” a Division C offense.⁵ [Second part of Memorandum]

The Petitioner alleges that the Memorandum meets the definition of a “regulation” that should have been adopted pursuant to the APA.

DETERMINATION

OAL determines that the first part of the Memorandum, dealing with the possession of a razor blade by inmates in the SHU, PSU or ASU, is exempt from the requirements of the APA pursuant to Government Code section 11340.9, because it is the only legally tenable interpretation of existing law. The second part of the Memorandum, dealing with the possession of a razor blade by inmates in the general population, does not meet the definition of a “regulation” in Government Code section 11342.600 because it establishes that such incidents will be evaluated on a case–by–case basis.

FACTUAL BACKGROUND

On February 21, 2002, the Acting Deputy Director of the Institutions Division of CDCR issued the Memorandum to provide instruction “regarding razor blades defined as dangerous contraband or weapons.”

On July 17, 2008, Petitioner submitted the petition to OAL challenging the Memorandum as an underground regulation. On August 13, 2008, OAL accepted the petition for consideration. The acceptance was published in the California Regulatory Notice Register on August 29, 2008.

OAL received no comments from the public.

On August 25, 2008, CDCR submitted a response to the petition. CDCR argues that the Memorandum is not an underground regulation. The response acknowledges that possession of a razor blade is not specifically included as a Division A–I offense in California Code of Regulations, title 15, section 3323. However, the possession of a razor blade in the SHU is specifically designated as a deadly weapon in the classification requirements in California Code of Regulations, title 15, section 3375.3(b)(4)(F)1. Therefore, possession of a razor blade must be considered a Division A–1 offense.

The Petitioner did not submit a rebuttal to CDCR’s arguments.

UNDERGROUND REGULATIONS

Section 11340.5, subdivision (a), prohibits state agencies from issuing rules unless the rules comply with the APA:

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

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

OAL may issue a determination as to whether or not an agency issued, utilized, enforced, or attempted to enforce a rule that meets the definition of a “regulation” as defined in Government Code section 11342.600 that should have been adopted pursuant to the APA. An OAL determination that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to “due deference” in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 268 Cal.Rptr. 244.

³ A copy of the Memorandum is included with this Determination as Attachment 1.

⁴ For ease of reference, we will refer to the part of the Memorandum addressing inmates housed in the SHU, ASU or PSU as the first part of the Memorandum, and the part of the Memorandum addressing inmates housed in the general population as the second part of the Memorandum.

⁵ California Code of Regulations, title 15, section 3323, establishes a schedule of forfeitures of credit for a finding of guilt for a serious rule violation. Division A–1 includes the most serious offenses such as murder, manslaughter, battery, assault or battery with a deadly weapon, etc. Division C includes lesser offenses such as escape without force from a camp, attempted extortion by means of threat, arson, and bribery.

To determine whether an agency issued, utilized, enforced, or attempted to enforce an underground regulation in violation of Government Code section 11340.5, it must be demonstrated that the agency rule is a “regulation” and not exempt from the APA.

ANALYSIS

A determination of whether the challenged rule is a “regulation” subject to the APA depends on (1) whether the challenged rule is a “regulation” within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in Government Code section 11342.600 as:

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

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571, the California Supreme Court found that:

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

The first element of a regulation is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations. By its own terms, the first part of the Memorandum applies to all inmates housed in SHU, ASU or PSU. These inmates are a clearly defined class of persons. The first element is, therefore, met for the first part of the Memorandum.

The second part of the Memorandum requires that inmates in the general population in possession of a razor blade altered from its original manufactured state be evaluated on a case-by-case basis. A rule enforced on a case-by-case basis is not a rule of general application because the enforcement of the rule is dependent on the unique circumstances of each individual situation. In

this case, each inmate in possession of an altered razor blade in the general population is evaluated individually to determine the appropriate level of discipline. The second part of the Memorandum relating to the possession of a razor blade in the general population is not a rule of general application. The first element of *Tidewater* is not met, and therefore, we do not need to address the second element of *Tidewater* for this part of the Memorandum.

The second element established in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or administered by the agency, or govern the agency’s procedure. Penal Code section 5054 states:

Commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation.

In addition, Penal Code section 5058(a) states:

The director may prescribe and amend rules and regulations for the administration of the prisons and for the administration of the parole of persons sentenced under Section 1170 except those persons who meet the criteria set forth in Section 2962.

The rules and regulations shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this section and Sections 5058.1 to 5058.3, inclusive. All rules and regulations shall, to the extent practical, be stated in language that is easily understood by the general public.⁶

Pursuant to these statutes, CDCR is authorized to specify disciplinary offenses and penalties for inmates. The Memorandum deals with the disciplinary offense of possession of a razor blade and the penalty for a conviction. Thus, it implements, interprets or makes specific Penal Code sections 5054 and 5058, the law enforced or administered by CDCR.

The second element in *Tidewater* is, therefore, met for the first part of the Memorandum dealing with inmates housed in the SHU, ASU or PSU.

Having met both elements of *Tidewater*, OAL determines that the first part of the Memorandum meets the definition of “regulation” in Government Code section 11342.600. The second part of the Memorandum failed to meet the first element of *Tidewater*, and therefore, is not a “regulation”. A challenged rule must meet both

⁶ In 2005, the Department of Corrections was reorganized and renamed. The new Department of Corrections and Rehabilitation succeeded to all the powers and duties of the Department of Corrections pursuant to Penal Code section 5050.

elements of *Tidewater* to meet the definition of “regulation.”

The final issue to examine is whether the first part of the Memorandum falls within an exemption from the APA. Government Code section 11346 requires that an exemption from the APA must be an express statutory exemption. Pursuant to Government Code section 11340.9(f) the APA does not apply to a regulation that embodies the only legally tenable interpretation of a provision of law. While CDCR did not raise the issue of whether the Memorandum contains the only legally interpretation of a provision of law, OAL has identified it as a relevant issue as it relates to the first part of the Memorandum.

The California Supreme Court discussed the “only legally tenable interpretation” exception in *Morning Star Co. v. State Bd. of Equalization* (2006) 38 Cal.4th 324, 328, 132 P.3d 249. The court stated:

. . . the exception for the lone “legally tenable” reading of the law applies only in situations where the law “can reasonably be read only one way” (1989 Off. Admin. Law Determination No. 15, Cal. Reg. Notice Register 89, No. 44–Z, pp. 3122, 3124), such that the agency’s actions or decisions in applying the law are essentially rote, ministerial, or otherwise patently compelled by, or repetitive of, the statute’s plain language. (See Cal. Law Revision Com. com., 32D West’s Ann. Gov.Code (2005 ed.) foll. § 11340.9, p. 94; 1989 Off. Admin. Law Determination No. 15, Cal. Reg. Notice Register 89, No. 44–Z, pp. 3124–3131 [reviewing an agency interpretation of the law for compliance with the APA and concluding that although the agency had a “well-supported” rationale for its view, its was not the only legally tenable interpretation of the pertinent statute].)

OAL has previously considered a similar issue concerning the possession of razor blades in the SHU. In 1998 OAL Determination No. 44, OAL found that including a razor blade as a sharp instrument pursuant to Penal Code section 4502(a) constitutes a deadly weapon making possession of a razor blade in the SHU an A–1 offense subject to credit forfeiture was the only reasonable interpretation of California Code of Regulations, title 15, section 3323.⁷

The determination discussed Penal Code section 4502 (a) which states:

Every person who, while at or confined in any penal institution . . . possesses or carries upon his or her person or has under his or her custody or control . . . any dirk or dagger or *sharp instrument*, . . . is guilty of a felony. . . (Emphasis added.)

California Code of Regulations, title 15, section 3323 states:

(a) Upon a finding of guilt of a serious rule violation, a credit forfeiture against any determinate term of imprisonment or any minimum eligible parole date for an inmate sentenced to an indeterminate sentence, as defined in section 3000 Indeterminate Sentence Law (ISL), shall be assessed within the ranges specified in (b) through (h) below:

(b) Division “A–1” offenses; credit forfeiture of 181–360 days.

....

(8) Possession, manufacture, or attempted manufacture of a *deadly weapon* or explosive device. (Emphasis added.)

Specifically, 1998 OAL Determination No. 44 stated:

Although the courts have not specifically addressed the issue whether an unaltered razor blade constitutes a “dirk, dagger, or sharp instrument” under Penal Code section 4502, in *People v. Elguera*⁸ the prosecution of an inmate for possessing a sharp instrument while confined in state prison, centered on the issue whether the inmate knew that inside the paper packet was a razor blade. There was no question as to whether the razor blade met the definition of a sharp instrument.

The court in *Elguera* certainly implies that including a razor blade (as is) within the definition of a “sharp instrument” does not interpret or make specific Penal Code section 4502, but is the only reasonable interpretation of the phrase “sharp instrument.” Logic also mandates that a razor blade not only is a “sharp instrument,” but is also a “deadly weapon,” regardless of whether the razor blade has had a handle affixed to it. Accordingly, the Pelican Bay State Prison rule that provided for the forfeiture of up to 181 days of credit for a finding of guilt for possession of a razor blade is not an embellishment upon Title 15, CCR, section 3323, which provided for forfeiture of 181–360 days of credit time for a finding of guilt for possession of a “deadly weapon.” Since the challenged rule is merely restating the law, and is not implementing, interpreting, or making the law specific, the rule [classifying the possession of a

⁷ The concept of “only reasonable interpretation” was codified as “only legally tenable interpretation” in Government Code section 11340.9(f), in 2000. The principle was recognized by the courts in *Englemann v. State Board of Education* (1991) 2 Cal.App.4th 47, and was consistent with OAL’s practice. (See the California Law Revision Comment following Government Code section 11340.9.)

⁸ *People v. Elguera* (1992) 8 Cal.App.4th 1214.

razor blade as a Division A–1 offense] does not satisfy the second part of OAL’s two–part test of a “regulation.”

Consequently, OAL concludes that *the challenged rule concerning the forfeiture of credit time for inmates found guilty of possession of an unaltered razor blade is not a “regulation”* within the meaning of the APA. *The challenged rule is. . . the [only] reasonable interpretation of an existing regulation*, which was adopted pursuant to the APA, and codified in the Code of Regulations, which provides for the forfeiture of credit time for inmates found guilty of possession of a deadly weapon. (Emphasis in original.)

For these reasons, we find that the first part of the Memorandum which requires that inmates in SHU, ASU or PSU who have unauthorized possession of a razor blade be charged with a Division A–1 offense for possession of a razor blade is the only legally tenable interpretation of California Code of Regulations, title 15, section 3323. Accordingly, a valid exemption applies and the first part of the Memorandum is not subject to the APA.

OAL, therefore, determines that the first part of the Memorandum, dealing with the possession of a razor blade by inmates in the Security Housing Unit, Psychiatric Services Unit or Administrative Services Unit is exempt from the requirements of the APA pursuant to Government Code section 11340.9, because it is the only legally tenable interpretation of existing law. The second part of the Memorandum dealing with the possession of a razor blade by inmates in the general population, does not meet the definition of a “regulation” in Government Code section 11342.600 because it establishes that such inmates will be evaluated on a case–by–case basis, and therefore, is not a general rule.

AGENCY RESPONSE

The response acknowledges that unauthorized possession of a razor blade is not specifically included as an A–1 offense in California Code of Regulations, title 15, section 3323. However, the Department argues that the possession of a razor blade in the SHU, ASU or PSU is specifically designated as a deadly weapon in the classification requirements in California Code of Regulations, title 15, section 3375.3(b)(4)(F)1. Therefore, unauthorized possession of a razor blade must be considered a Division A–1 offense. The classification process

is used throughout the inmate’s incarceration to determine the appropriate custody level and placement.⁹

We note, however, that the decision to charge an inmate with a Division A–1 offense is made before the Classification Score Sheet is filled out. The score imposed on the score sheet is the consequence of the Division A–1 offense. It is not the definition of the offense. We do not find, therefore, that the Department’s argument is persuasive.

CONCLUSION

OAL finds that the first part of the Memorandum dealing with the possession of a razor blade by inmates in the SHU, ASU or PHU meets the definition of a regulation in Government Code section 11342.600, however it is exempt from the requirements of the APA pursuant to Government Code section 11340.9, as the only legally tenable interpretation of law. The second part of the Memorandum, dealing with the possession of a razor blade by inmates in the general population, does not meet the definition of a “regulation” in Government Code section 11342.600 because it is not a rule of general application.

Date: December 23, 2008

⁹ The classification process is explained in California Code of Regulations, title 15, section 3375:

(a) The classification process shall be uniformly applied, commencing upon reception of a person committed to the custody of the director and shall continue throughout the time the individual remains under the director’s jurisdiction. Each inmate shall be individually classified in accordance with this article.

....

(c) Each determination affecting an inmate’s placement within a [sic] institution/facility, transfer between facilities, program participation, privilege groups, or custody designation shall be made by a classification committee composed of staff knowledgeable in the classification process.

(d) The classification of felon inmates shall include the classification score system as established. A lower placement score indicates lesser security control needs and a higher placement score indicates greater security control needs.

....

California Code of Regulations, title 15, section 3375.3 provides the detailed instructions for completing the Classification Score Sheet, Form 839. Subdivision (b)(4)(F)1 requires that for each possession of a deadly weapon:

1. Four points shall be entered in Boxes 59–60 for each well documented incident of an inmate’s manufacture or possession of a deadly weapon where apparent use was intended Include possession of a razor blade (whether modified or not) in a segregated program–housing unit (e.g. Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit, etc.)

/s/
Susan Lapsley
Director

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

/s/
Kathleen Eddy
Senior Counsel

ATTACHMENT

1

As provided by Petitioner

Memorandum

Date February 21, 2002
To Wardens
Subject UNAUTHORIZED POSSESSION OF RAZOR BLADES BY INMATES HOUSED IN ADMINISTRATIVE SEGREGATION UNITS, PSYCHIATRIC SERVICES UNITS, OR SECURITY HOUSING UNITS

This memorandum will supercede instructions provided in two previous memorandums dated September 27, 1996, and January 21, 1997, by David Tristan, Deputy Director, Institutions Division, regarding razor blades defined as dangerous contraband or weapons.

Effective immediately, inmates having unauthorized possession of a razor blade(s) while on Security Housing Unit (SHU) status, Psychiatric Services Unit (PSU) status, or Administrative Segregation Unit (ASU) status may be charged with "Possession of a Deadly Weapon," a Division "A-1" offense. Additionally, any inmate attempting to introduce razor blades into any unit, or portion of a unit designated for segregated housing, to include PSU, ASU or SHU as described in California Code of Regulations (CCR) Section 3335 and Section 3341.5, may also be charged with the Division "A-1" offense. This will include inmates being placed on Disciplinary Detention Unit (DDU) status as the result of a disciplinary hearing disposition. Modification to the razor blade, i.e., attachment of a handle or other alteration beyond removing the razor blade from its manufactured casing, is not required to support this charge.

Incidents involving inmates housed in general population having unauthorized possession of a razor blade altered from its original manufactured state should be evaluated on a case-by-case basis. Absent evidence or information which would indicate the razor blade was intended to be used as a weapon, a more appropriate

charge in these types of instances may be "Possession of Contraband," as described in CCR Section 3323(e)(3), a Division "C" offense.

Any questions regarding this memorandum should be directed to Tim Rougeux, Chief, Institution Services Unit (ISU), or Gloria Colden-Hickman, Facility Captain, ISU, at (916) 323-6828.

/s/
LARRY WITEK
Deputy Director (A)
Institutions Division
cc: David Tristan
Ana Ramirez-Palmer
Wendy Still
Roderick Q. Hickman
John R. Depue
M.B. Jones
Ombudsmen's Office (7)

Michael Pickett
K. W. Prunty
Michael H. Jaime
Gregory W. Harding
Yvette M. Page
Paul Bestolarides
Gloria Rea
William A. Duncan
Sandi Grout
Merrie M. Koshell
Marilyn Kalvelage
Ernest C. Van Sant
Linda Rianda

Subject for Notice No. Z2008-1224-01

Memorandum issued by the California Department of Corrections and Rehabilitation titled "Unauthorized Possession of Razor Blades by Inmates Housed in Administrative Segregation Units, Psychiatric Services Units, or in Security Housing Units."

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2008-1212-01
BOARD OF FORESTRY AND FIRE PROTECTION
 Expiration of Performance Based Hazard Reduction Regulations

This change without regulatory effect would remove from CCR, title 14, Southern Forest District regulations, two sections that describe the purpose, plan elements, and standards for an optional method of treating slash to prevent fire and insect hazards to forests, and would remove from the regulation that prescribes the general methods of treating slash, mention of the availability of optional methods based on the performance standard.

Title 14
 California Code of Regulations
 AMEND: 957 REPEAL: 957.11, 957.12
 Filed 12/31/2008
 Agency Contact:
 Christopher Zimny (916) 653-9418

File# 2008-1114-02
BOARD OF PSYCHOLOGY
 Supervised Professional Experience (CAPIC)

The Department of Consumer Affairs, Board of Psychology amends Title 16 of the California Code of Regulations, section 1387(a)(2)(A) to allow for the acceptance of postdoctoral supervised professional experience for applicants in a formal postdoctoral training program which is a member of the California Psychology Internship Council (CAPIC) consistent with Business and Professions Code section 2911.

Title 16
 California Code of Regulations
 AMEND: 1387
 Filed 12/30/2008
 Effective 12/30/2008
 Agency Contact: Jeffrey Thomas (916) 263-1617

File# 2008-1218-06
CALIFORNIA GAMBLING CONTROL COMMISSION
 Interim Approval of Bingo Card-Minding Devices

CGCC is adopting Title 4 section 12482 to establish a process for granting interim approval for card-minding devices used for bingo. The regulations set the interim approval at one year based on the applicant's (manufacturer's) certification of compliance with requirements found in Penal Code section 326.5. The regulations set the application fee at \$50. The regulations also establish the appeal process if, during the interim approval it is found that the device is not qualified for approval. CGCC requests a later effective date of 1/1/09.

Title 4
 California Code of Regulations
 AMEND: 12482
 Filed 12/29/2008
 Effective 01/01/2009
 Agency Contact: James Allen (916) 263-0700

File# 2008-1112-01
CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

Grant Administration Policy for For-Profit Institutions
 California Institute for Regenerative Medicine (CIRM) proposes adoption of title 17, section 100501 to open its grant program to for-profit research organizations. Section 100501 incorporates by reference CIRM's Grants Administration Policy for For-Profit Organizations and CIRM's Grants Administration Policy for Academic and Non-Profit Institutions in title 17, section 100500.

Title 17
 California Code of Regulations
 ADOPT: 100501
 Filed 12/26/2008
 Effective 01/25/2009
 Agency Contact: C. Scott Tocher (415) 396-9136

File# 2008-1125-05
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
 CPT Anniversary Date

POST requires 24 hours every two years of Continuous Professional Training (CPT) for peace officers and dispatchers. In 2005, POST promulgated regulations defining the two year cycle as beginning with the individual's initial date of appointment. Now they've discovered that this is very difficult for agencies that have to track unique dates for each individual peace officer and dispatcher. The amendment to Title 11 section 1005 aims to fix the problem by setting a statewide CPT anniversary date of January 1, 2009.

Title 11
 California Code of Regulations
 AMEND: 1005(d)
 Filed 12/31/2008
 Effective 01/01/2009
 Agency Contact: Leah Cherry (916) 227-3891

File# 2008-1125-03
DEPARTMENT OF FOOD AND AGRICULTURE
 Mexican Fruit Fly Interior Quarantine

This regulatory action makes permanent an emergency action that removed approximately 78 square miles from a Mexican fruit fly quarantine in the Escondido area of San Diego County. The quarantine is no longer

necessary since the fly was officially declared eradicated from that area on July 15, 2008.

Title 3

California Code of Regulations

AMEND: 3417(b)

Filed 12/30/2008

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2008-1222-06

DEPARTMENT OF INSURANCE

Title Marketing Representative Certificate of Registration Application

This emergency regulatory action implements the provisions of SB 133 (Stats. 2008, Chap. 280) by adopting the regulatory framework for the application for certificate of registration as a title marketing representative.

Title 10

California Code of Regulations

ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55

Filed 12/31/2008

Effective 01/01/2009

Agency Contact: George Teekell (415) 538-4390

File# 2008-1125-02

DEPARTMENT OF PUBLIC HEALTH

Financial Surety

These proposed amendments update financial assurance requirements for certain radioactive material licensees to maintain adequate financial coverage for decommissioning radioactive waste sites. These changes are proposed based on changes to federal regulations with which DPH is required to comply. Each change in the regulation represents the same change in the Code of Federal Regulations.

Title 17

California Code of Regulations

AMEND: 30195.1

Filed 12/30/2008

Effective 01/29/2009

Agency Contact:

Barbara S. Gallaway (916) 440-7689

File# 2008-1216-03

DEPARTMENT OF SOCIAL SERVICES

SB 39, Child Fatality Reporting and Disclosure Requirements

This rulemaking amends the Department of Social Services' Manual of Policies and Procedures regarding procedures following the death of a child under the jurisdiction of a county. It defines previously underde-

finied terms, updates a county reporting form, itemizes documents which must be released to the public following a public request, establishes a process whereby counsel for children can challenge all or part of the release of records of a deceased child, and specifies what information must be redacted from any records which are released.

Title MPP

California Code of Regulations

ADOPT: 31-003, 31-502

AMEND: 31-002

Filed 12/26/2008

Effective 01/01/2009

Agency Contact: Sandra Ortega (916) 657-3174

File# 2008-1209-02

FISH AND GAME COMMISSION

Aquaculture

This rulemaking repeals the prohibition of importing trout, salmon and chars from Idaho, updates permit requirements for the take of aquatic plants, invertebrates, fishes and bullfrogs from the wild for use as broodstock, and updates aquaculture disease control regulations to account for new scientific progress.

Title 14

California Code of Regulations

AMEND: 243, 245 REPEAL: 241

Filed 12/29/2008

Effective 12/29/2008

Agency Contact: Jon Snellstrom (916) 653-4899

File# 2008-1113-03

STATE LANDS COMMISSION

Collection of Information Relating to Hull Husbandry Practices of Vessels for Control of Marine Invasive Species in Waters of

This action by the California State Lands Commission adopts a new Article 4.8 and one section requiring the use of incorporated form "Hull Husbandry Reporting Form" (Rev. June 6, 2008) to comply with annual hull husbandry reporting requirements pursuant to Public Resources Code section 71205(e).

Title 2

California Code of Regulations

ADOPT: 2298

Filed 12/29/2008

Effective 01/01/2009

Agency Contact: Maurya Falkner (916) 574-2568

File# 2008-1114-04

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

Reimbursement rates for mileage travel expenses

Victim Compensation and Government Claims Board submitted this action to amend Title 2, section

714(a) to revise the mileage reimbursement rate for state employees, officers, and elected state officers of the California Judiciary by setting the rate to be equal to the mileage reimbursement rate set by the Department of Personnel Administration for non-represented employees. Originally submitted as a regular APA rule-making, this action was converted to a file and print action under the rates exemption in Government Code sec. 11340.9(d).

Title 2

California Code of Regulations

AMEND: 714

Filed 12/30/2008

Effective 12/30/2008

Agency Contact:

Kevin D. Kwong (916) 491-3742

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN July 30, 2008 TO
December 31, 2008**

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

Title 2

- 12/30/08 AMEND: 714
- 12/29/08 ADOPT: 2298
- 12/15/08 AMEND: 17463, 17470, 17519
- 12/09/08 ADOPT: 25100
- 12/08/08 AMEND: 1700
- 11/03/08 AMEND: 647.1, 647.2, 647.3, 647.20, 647.20.1, 647.21, 647.22, 647.23, 647.24, 647.25, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.36, 648.1, 648.3, 648.5, 649.20, 649.21
- 10/31/08 AMEND: 18545, 18703.4, 18730, 18940.2, 18942.1, 18943
- 10/31/08 ADOPT: 18402.1 AMEND: 18427
- 10/22/08 ADOPT: 59600
- 10/21/08 ADOPT: 1859.41.1, 1859.42.1 AMEND: 1859.2, 1859.41, 1859.42, 1859.43, 1859.51, 1859.147, Form SAB 50-01, Form SAB 50-03
- 10/20/08 ADOPT: 20120, 20121, 20122, 20123, 20124, 20125, 20126, 20127
- 09/04/08 ADOPT: 18530.45
- 09/04/08 AMEND: 18946.4

- 08/14/08 AMEND: 1859.2, 1859.121, 1859.122, 1859.127, 1859.129
- 08/08/08 ADOPT: 21905.5 AMEND: 21903, 21905

Title 3

- 12/30/08 AMEND: 3417(b)
- 12/18/08 AMEND: 3417(b)
- 12/18/08 AMEND: 3406(b)
- 12/16/08 AMEND: 1358(b)
- 12/12/08 AMEND: 3434(b)
- 12/10/08 AMEND: 3589
- 12/04/08 AMEND: 3435(b)
- 11/26/08 AMEND: 3406(b)
- 11/20/08 ADOPT: 6400
- 11/12/08 AMEND: 3591.5(a)
- 11/12/08 AMEND: 3434(b)
- 11/07/08 AMEND: 3433(b)
- 10/30/08 ADOPT: 1430.142 AMEND: 1430.43 REPEAL: 1430.44.5
- 10/29/08 AMEND: 3435(b)
- 10/28/08 ADOPT: 3408
- 10/22/08 AMEND: 3700(c)
- 10/20/08 AMEND: 3433(b)
- 10/20/08 AMEND: 3434(b)
- 10/17/08 AMEND: 3423(b)
- 10/15/08 AMEND: 3433(b)
- 10/14/08 AMEND: 3434(b)
- 10/14/08 AMEND: 3423(b)
- 10/01/08 AMEND: 3434(b)
- 09/24/08 AMEND: 810.1 REPEAL: 810
- 09/23/08 AMEND: 3591.20(a)
- 09/23/08 AMEND: 3434(b)
- 09/18/08 AMEND: 3591.20(a)
- 09/17/08 AMEND: 3435(b)
- 09/11/08 AMEND: 3591.20(a)
- 09/10/08 AMEND: 3434
- 09/05/08 ADOPT: 3435
- 09/03/08 AMEND: 6452.2
- 09/02/08 AMEND: 3433(b)
- 09/02/08 AMEND: 3591.6(a)
- 08/26/08 AMEND: 3434(b)
- 08/25/08 AMEND: 3423(b)
- 08/18/08 AMEND: 6738, 6739
- 08/18/08 AMEND: 3434(b)
- 08/13/08 AMEND: 3434(b)
- 08/12/08 AMEND: 3406(b)
- 08/11/08 AMEND: 3406(b)
- 08/01/08 AMEND: 3589(a)
- 08/01/08 ADOPT: 3591.22

Title 4

- 12/29/08 AMEND: 12482
- 11/24/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12,

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 2-Z

	8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101		100011, 100012, 100013, 100014, 100015
11/17/08	AMEND: 1505	10/14/08	ADOPT: 42729
10/30/08	AMEND: 1606	09/10/08	AMEND: 41000
10/16/08	ADOPT: 12047, 12048, 12050, 12348 AMEND: 12002	09/09/08	ADOPT: 19828.3, 19837.2 AMEND: 19816, 19816.1, 19828.2, 19837.1, 19846
10/03/08	ADOPT: 12008 AMEND: 12122, 12200.14, 12200.20, 12202, 12203A, 12203.2, 12205.1, 12218.13, 12220.14, 12220.20, 12220.20A, 12222, 12237, 12301, 12342, 12343, 12344, 12345	08/11/08	AMEND: 41000
09/29/08	AMEND: 1843.2	08/04/08	ADOPT: 15575, 15576, 15577, 15578
09/02/08	AMEND: 1850	Title 8	
08/25/08	ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101	12/22/08	ADOPT: 16404, 16430, 16435.5 AMEND: 16421, 16422, 16423, 16424, 16425, 16426, 16427, 16428, 16429, 16431, 16432, 16434, 16435, 16436, 16437, 16439
08/21/08	ADOPT: 1634 AMEND: 1420	12/02/08	AMEND: 2940.6, Appendix C
08/12/08	ADOPT: 4180, 4181	12/01/08	AMEND: 5198(f)(2)(A)
08/08/08	AMEND: 12002, 12100, 12101, 12120, 12122, 12128, 12130, 12140, 12200, 12200.3, 12200.7, 12200.9, 12200.10A, 12200.10B, 12200.10C, 12200.11, 12200.13, 12200.14, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12201, 12202, 12203, 12203A, 12203.1, 12203.2, 12203.3, 12203.5, 12204, 12205, 12205.1, 12218, 12218.1, 12218.5, 12218.7, 12218.11, 12220, 12220.3, 12220.13, 12220.14, 12220.16, 12220.18, 12220.20, 12220.20A, 12220.21, 12220.23, 12221, 12222, 12223, 12224, 12225, 12225.1, 12233, 12234, 12235, 12236, 12300, 12301, 12301.1, 12302, 12303, 12304, 12305, 12306, 12308, 12309, 12310, 12335, 12341, 12342, 12343, 12344, 12345, 12347, 12358, 12359, 12360, 12370, 12400, 12401, 12402, 12403, 12404, 12405, 12460, 12463, 12464, 12466, 12550, 12552, 12554, 12556, 12558, 12560, 12562, 12564, 12566, 12568, 12590	11/19/08	AMEND: 1658(p)
08/04/08	AMEND: 1843.2	11/17/08	ADOPT: 10116, 10116.1, 10116.2, 10116.3, 10116.5, 10116.6, 10116.7, 10116.8 AMEND: 10123.1 renumbered to 10116.4, 10001 renumbered to 10116.9, 10002 renumbered to 10117, 10003 renumbered to 10118, 10004 renumbered to 10119, 10005 renumbered to 10120, 10123, 10127, 10127.1, 10128, 10133.13, 10133.14, 10133.16, 10133.22, 10133.53, 10133.54, 10133.55, 10133.56, 10133.57, 10133.58 REPEAL: 10133.3, 10133.50
Title 5		11/17/08	ADOPT: 10210, 10211, 10212, 10213, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10227, 10228, 10229, 10230, 10232, 10232.1, 10232.2, 10233, 10236, 10240, 10241, 10243, 10244, 10245, 10246, 10250, 10250.1, 10251, 10253, 10253.1, 10254, 10256, 10260, 10270, 10271, 10272, 10273, 10275, 10280, 10281, 10290, 10291, 10293, 10294, 10294.5, 10295, 10296, 10297 AMEND: 10252, 10252.1 REPEAL: 10250
12/09/08	ADOPT: 18131.1 AMEND: 18131	11/17/08	ADOPT: 10150.1, 10150.2, 10150.3, 10150.4, 10151, 10151.1, 10166.1 AMEND: 10150, 10160, 10160.1, 10160.5, 10161, 10161.1, 10162, 10164, 10165, 10166, 10167 REPEAL: 10168
11/06/08	AMEND: 42723	11/17/08	ADOPT: 10397, 10403, 10409, 10508, 10550, 10593, 10603, 10629, 10770.5, 10770.6, 10782, 10785, 10844, 10845 AMEND: 10301, 10302, 10324, 10346, 10400, 10410, 10411, 10412, 10450, 10500, 10505, 10507, 10510, 10541,
10/17/08	ADOPT: 100000, 100001, 100002, 100003, 100004, 100005, 100006, 100007, 100008, 100009, 100010,		

	10561, 10589, 10608, 10616, 10626, 10750, 10751, 10753, 10754, 10755, 10770, 10779, 10840, 10842, 10843, 10846, 10848, 10850, 10860, 10865, 10866, 10946, 10950, 10953 REPEAL: 10306, 10308, 10347, 10390, 10391, 10392, 10395, 10396, 10414, 10415, 10416, 10417, 10514, 10520, 10548, 10555, 10563, 10590, 10591, 10592, 10610, 10630, 10758, 10762, 10771, 10867, 10890, 10952, 10955, 10957, 10995, 10996	07/30/08	AMEND: 2498.6
		Title 11	
		12/31/08	AMEND: 1005(d)
		12/02/08	AMEND: 1005, 1007, 1008
		11/07/08	AMEND: 1005, 1081
		10/27/08	AMEND: 1005, 1007, 1008, 1052
		10/16/08	AMEND: 1081
		10/14/08	AMEND: 1005
		10/02/08	AMEND: 1003, 9040, 9041, 9073(b)
		10/02/08	AMEND: 1081
		09/23/08	ADOPT: 44.3
		Title 13	
		12/22/08	AMEND: 553.70
		12/05/08	AMEND: 110.04
		12/01/08	AMEND: 1956.8
		11/24/08	ADOPT: 2027
		11/03/08	AMEND: 25.06, 25.07, 25.08, 25.09, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21, 25.22
		10/20/08	ADOPT: 346.00, 346.02, 346.04, 346.06, 346.08, 346.10, 346.12, 346.14, 346.16
		10/07/08	AMEND: 935
		10/02/08	AMEND: 423.00
		10/02/08	AMEND: 15.00, 15.03
		09/08/08	AMEND: 2449
		08/29/08	ADOPT: 2660(a)(0.5), 2260(a)(0.7), 2260(a)(6.9), 2260(a)(7.5), 2260(a)(8.5), 2260(a)(10.5), 2260(a)(10.7), 2260(a)(19.7), 2260(a)(19.8), 2260(a)(23.5), 2260(a)(23.7), 2260(a)(37), 2260(a)(38), 2260(a)(39), 2262.3(d), 2264.2(a)(3), 2264.2(b)(5), 2264.2(d), 2265(c)(4), 2265.1, 2265.5, 2266(b)(3), 2266(b)(4), 2266(b)(5)
		08/13/08	ADOPT: 619.2 AMEND: 615, 615.1, 616, 617, 618, 619, 619.1
		Title 13, 17	
		12/03/08	AMEND: 2299.3, 93118.3
		10/20/08	ADOPT: 2299.5, 93118.5
		Title 14	
		12/31/08	AMEND: 957 REPEAL: 957.11, 957.12
		12/29/08	AMEND: 243, 245 REPEAL: 241
		12/17/08	ADOPT: 1032 AMEND: 895, 895.1, 929.1, 949.1, 969.1, 1032.7, 1032.9, 1037.3, 1054.5, 1055.3, 1056.3, 1090.1, 1090.2, 1090.4, 1090.6, 1090.17, 1092.03, 1092.04, 1092.06, 1092.18, 1104.3 REPEAL: 1032
		12/11/08	AMEND: Division 5, Appendix M
		12/10/08	ADOPT: 120.1, 120.2 AMEND: 120, 120.3 REPEAL: 120.01
11/12/08	AMEND: 15600, 15601, 15602, 15603, 15604, 15605, 15606, 15607, 15611		
11/06/08	AMEND: 2540.8, 2540.9, 2548.23, 2719, 2740, 2741, 2880, 2980		
10/01/08	AMEND: 3412, 3413, 3414, 3416		
09/23/08	AMEND: 5155		
09/22/08	ADOPT: 1530.1		
09/17/08	AMEND: 1512		
08/26/08	AMEND: 5168, 6775		
08/25/08	ADOPT: 9721.11, 9721.12, 9721.13, 9721.14, 9721.21, 9721.33 AMEND: 9720.1, 9720.2, 9721.1, 9721.2, 9721.31, 9721.32, 9722, 9722.1, 9722.2, 9723		
08/08/08	AMEND: 1532.1		
08/04/08	AMEND: 3649		
08/04/08	AMEND: Appendix C following section 560, Appendices A, B, and C following section 1938, and section 5001		
07/30/08	AMEND: 1524		
Title 9			
11/18/08	ADOPT: 9550		
Title 10			
12/31/08	ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55		
12/02/08	AMEND: 2652.1		
11/12/08	AMEND: 2498.4.9		
11/12/08	AMEND: 2498.4.9		
11/07/08	AMEND: 2498.5		
11/03/08	AMEND: 2498.5		
09/22/08	AMEND: 2699.6500, 2699.6803, 2699.6805		
09/15/08	AMEND: 2699.6619, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6711, 2699.6713, 2699.6715, 2699.6717, 2699.6721, 2699.6723, 2699.6725		
09/11/08	AMEND: 2330.1		
08/15/08	ADOPT: 2844 AMEND: 2840, 2842		
08/14/08	AMEND: 2699.100, 2699.201, 2699.205, 2699.207, 2699.209, 2699.400		
08/04/08	AMEND: 5000, 5110, 5111, 5112, 5113, 5114, 5116, 5117 REPEAL: 5119		

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11/24/08	AMEND: 749.3	10/15/08	ADOPT: 3999.6
11/13/08	ADOPT: 18660.40	09/15/08	ADOPT: 3269
11/07/08	AMEND: 895.1, 919.9, 939.9	09/03/08	AMEND: 2253
11/07/08	AMEND: 1038(i)	08/29/08	AMEND: 3000, 3261.1, 3261.2, 3261.4, 3261.5, 3261.7, 3267
11/07/08	AMEND: 895.1, 898, 914.8, 916, 916.2, 916.9, 916.11, 916.12, 923.3, 923.9, 934.8, 936, 936.2, 936.9, 936.11, 936.12, 943.3, 943.9, 954.8, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963	08/04/08	AMEND: 2041
10/30/08	AMEND: 29.85	08/04/08	AMEND: 3000, 3005, 3006, 3008, 3009, 3011, 3012, 3013, 3015, 3016, 3290, 3310, 3313, 3314, 3315, 3317, 3318, 3320, 3323, 3327, 3328
10/23/08	AMEND: 163, 164	07/30/08	ADOPT: 3503, 3505, 3506, 3507, 3508, 3509, 3510, 3511, new Article 2 and title, 3520, 3521, 3521.1, 3521.2, 3521.3, 3521.4, 3521.5, 3521.6, 3522, 3523, 3524, 3525, 3526, 3527, new Article 3 and title, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, new Article 4 and title, 3560, 3561, 3562, 3563, 3564, new Article 5 and title, 3570, 3571, new Article 6 and title, 3580, 3581, 3582, new Article 7 and title, new Article 8 and title, new Article 9 and title, new Article 10 and title, new Article 12 and title, 3640, new Article 13 and title, 3650, 3651, 3652, 3652.1, 3653, 3654, new Article 14 and title, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, new Article 15 and title, 3720, 3721, 3721.1, 3722, 3723, new Article 16 untitled, 3730, new Article 17 and title, new Article 18 and title, 3750, 3751, 3752, 3753, 3754, 3755, 3756, new Article 19 and title, 3760, 3761, 3762, 3763, 3764, 3765, 3766, new Article 20 and title, 3770, 3771, and 3772. AMEND: 3604, 3605, 3605.5, 3701.1, 3705, 3706, 3801, 3802, renumber old Article 2 with title, and 3815.
10/22/08	AMEND: 1052.4		
10/21/08	AMEND: 15387 Appendix C		
10/09/08	AMEND: 791, 791.7, 795		
09/22/08	AMEND: 4900 REPEAL: 4901, 4902, 4903, 4904		
09/15/08	AMEND: 502		
09/11/08	AMEND: 10310, 10360, 10810, 10820, Appendix D, Appendix F		
09/09/08	ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5, 17987.6		
09/04/08	AMEND: 670.2		
08/27/08	AMEND: 300		
08/25/08	ADOPT: 27.32 AMEND: 27.20(f), 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58		
08/18/08	AMEND: 749.3		
08/14/08	ADOPT: 3950, 3951, 3952, 3953, 3954, 3955, 3956, 3957, 3958, 3959, 3960, 3961, 3962, 3963, 3964, 3965		
08/12/08	ADOPT: 124		
08/11/08	AMEND: 503		
08/06/08	AMEND: 815.05, 818.02, 825.05, 827.02		
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12/19/08	REPEAL: 4826, 4985		
12/16/08	ADOPT: 3099		
12/15/08	ADOPT: 3334 AMEND: 3000		
12/11/08	AMEND: 3323		
12/09/08	AMEND: 3000, 3001, 3041.3, 3075.3, 3294.5, 3356, 3369.5, 3370, 3376.1, 3382, 3383, 3393, 3401, 3402, 3405, 3406, 3407, 3408, 3410, 3411, 3414, 3430, 3432, 3433		
11/26/08	ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792		
10/30/08	AMEND: 3000, 3375, 3376.1, 3379		
10/28/08	ADOPT: 3999.7		
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12/30/08	AMEND: 1387		
12/18/08	AMEND: 3340.28, 3340.29		
12/17/08	AMEND: 4170		
12/11/08	AMEND: 1336		
12/09/08	AMEND: 1399.25 REPEAL: 1399.26		
11/24/08	AMEND: 1419, 1419.1, 1419.3		
10/30/08	AMEND: 1399.571		
10/17/08	ADOPT: 1399.610, 1399.612 AMEND: 1399.502		
10/07/08	AMEND: 832.47		
10/02/08	AMEND: 3351.2		

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09/22/08	AMEND: 4154, 4155	11/24/08	AMEND: 2706-1
09/19/08	AMEND: 11.5, 12, 12.5, 37, 87.1	11/20/08	AMEND: 3254(i)-2
09/10/08	ADOPT: 1028.2, 1028.3, 1028.4, 1028.5 AMEND: 1021	11/13/08	ADOPT: 97234, 97267 AMEND: 97215, 97225, 97226, 97227, 97241, 97244, 97248
08/27/08	AMEND: 2250 REPEAL: 2274, 2277	11/06/08	AMEND: 2706-2, 3302-1, 3303.1(c)-1
08/25/08	AMEND: 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, 1399.489.1	10/29/08	AMEND: 64413.1, 64414, 64431, 64432, 64432.2, 64432.8, 64433.3, 64445.1, 64447.2, 64482
08/15/08	AMEND: 1361	10/28/08	AMEND: 87102, 87105
08/13/08	AMEND: 3394.6	10/15/08	AMEND: 2051-3
08/12/08	AMEND: 3394.4	09/26/08	AMEND: 3258-1, 3267-1, 3267-2
08/07/08	AMEND: 4161	08/07/08	AMEND: 51098.5, 51202.5, 51309.5, 51503.3
07/30/08	AMEND: 2649		
Title 17		Title 23	
12/30/08	AMEND: 30195.1	12/09/08	ADOPT: 3939.33
12/26/08	ADOPT: 100501	12/01/08	ADOPT: 3949.6
12/02/08	ADOPT: 95100, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, 95112, 95113, 95114, 95115, 95125, 95130, 95131, 95132, 95133	11/06/08	AMEND: 2200, 2200.4, 2200.5, 2200.6
10/30/08	AMEND: 100407, 100408	11/06/08	ADOPT: 3939.32
09/24/08	AMEND: 52082, 56103, 56104, 58670	11/05/08	AMEND: 1062, 1064, 1077, 3833.1
09/18/08	ADOPT: 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, 94809, 94810	10/22/08	ADOPT: 3989.7
09/05/08	ADOPT: 98100 REPEAL: 96100	10/14/08	AMEND: 3939.19
08/06/08	AMEND: 94006	10/06/08	AMEND: 3939.20
		09/17/08	ADOPT: 3919.4
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12/01/08	AMEND: 1602.5	12/05/08	ADOPT: 7150, 7151, 7152, 7153, 7154, 7155, 7156, 7157, 7158, 7159, 7160
11/14/08	AMEND: 1591, 1602	10/08/08	AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A REPEAL: 4021, 4031.5, 4047, 4047.3, 4047.6, 4550, 4560, 4570, 4580, 4600, 4603, 4605, 4619, 4624, 4626, 4665, 4670, 4680, 4800, Appendix RV-P-1
09/24/08	AMEND: 1574	08/29/08	ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
09/24/08	AMEND: 1599		
08/11/08	AMEND: 1807, 1828	Title 27	
08/05/08	AMEND: 3000	12/02/08	AMEND: 25805(b)
Title 19		09/05/08	AMEND: 25601
11/14/08	AMEND: 2900, 2910, 2915, 2920, 2930, 2940, 2945, 2950, 2955, 2960, 2965, 2966, 2970, 2980	08/08/08	AMEND: 25705(b)
09/24/08	AMEND: 560	Title 28	
09/24/08	AMEND: 906.3	09/15/08	ADOPT: 1300.71.39
08/07/08	ADOPT: 1980.00, 1980.01, 1980.02, 1980.03, 1980.04, 1980.05, 1980.06, 1980.07, 1990.00, 1990.01, 1990.02, 1990.03, 1990.04, 1990.05, 1990.06, 1990.07, 1990.08, 1990.09, 1990.10, 1990.11, 1990.12, 1990.13	Title MPP	
		12/26/08	ADOPT: 31-003, 31-502 AMEND: 31-002
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11/26/08	AMEND: 6633.2	09/18/08	AMEND: DSS MPP 63-102, 63-504
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12/09/08	AMEND: 51521		