



California Regulatory Notice Register

REGISTER 2002, NO. 30-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JULY 26, 2002

PROPOSED ACTION ON REGULATIONS

TITLE 02. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest—Notice File No. Z02-0716-04..... 1517

TITLE 08. DEPARTMENT OF WORKERS' COMPENSATION

*Annual Collection of the Workers' Occupational Safety and Health Education Fund Fee—
Notice File No. Z02-0709-01*..... 1518

TITLE 08. DIVISION OF WORKERS' COMPENSATION

Workers' Compensation—Health Care Organizations—Notice File No. Z02-0709-02 1521

TITLE 10. DEPARTMENT OF INSURANCE

Exemptions from Insurance Agent/Broker Licensure—Notice File No. Z02-0715-01 1529

TITLE 10. DEPARTMENT OF INSURANCE

Low Cost Auto Program Plan of Operations—Notice File No. Z02-0716-13 1533

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Hardwood Cover—2002—Notice File No. Z02-0716-10 1536

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Road Rules—Notice File No. Z02-0716-11 1538

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Archeological—2002/Timber Harvest Plan—Notice File No. Z02-0716-12 1544

TITLE 17. DEPARTMENT OF DEVELOPMENTAL SERVICES

Anticipated Rate Adjustments—Notice File No. Z02-0710-01 1547

TITLE 18. BOARD OF EQUALIZATION

Race Horse Breeding Stock—Notice File No. Z02-0716-01 1548

TITLE 18. BOARD OF EQUALIZATION

Interest and Penalties/Sales and Use Tax—Notice File No. Z02-0716-02 1550

(Continued on next page)

*Time-
Dated
Material*

TITLE 18. BOARD OF EQUALIZATION	
<i>Computers, Programs, and Data Processing—Notice File No. Z02-0716-03</i>	1551
TITLE 22. DEPARTMENT OF HEALTH SERVICES	
<i>Medi-Cal Provider Rates—Notice File No. Z02-0709-06</i>	1553

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME	
<i>Arroyo Trabuco Golf Course Project</i>	1556
DEPARTMENT OF FISH AND GAME	
<i>State Route 71 Widening Project</i>	1557
DEPARTMENT OF HEALTH SERVICES	
<i>Medi-Cal Long Term Care Rates</i>	1558
DEPARTMENT OF HEALTH SERVICES	
<i>Reductions to Medi-Cal Rates</i>	1558

DISAPPROVAL DECISIONS

DEPARTMENT OF FOOD AND AGRICULTURE.....	1560
---	------

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State.....	1560
Sections Filed, March 13, 2002 to July 17, 2002	1563

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.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order, call (916) 445-5391. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Room 104, Sacramento, CA 95814-0212.

PROPOSED ACTION ON REGULATIONS

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT OF INTEREST CODES

ADOPTION

STATE AGENCY:

Consumer Power and Conservation Financing Authority

A written comment period has been established commencing on **July 26, 2002** and closing on **September 9, 2002**. Written comments should be directed to the Fair Political Practices Commission, Attention Jeanette Turvill, 428 J Street, Suite 620, Sacramento, CA 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 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 or 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 or 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 **September 9, 2002**. 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 costs has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Section 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 revisions 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 Jeanette Turvill, 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 Jeanette Turvill, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**TITLE 8. DIVISION OF
WORKERS' COMPENSATION**

(DEPARTMENT OF INDUSTRIAL RELATIONS)

OFFICE OF THE DIRECTOR

**Subject Matter of Proposed Amendment to
Regulations: Annual Collection of the
Workers' Occupational Safety and
Health Education Fund Fee**

PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Director of the Department of Industrial Relations, (hereinafter "Director") acting pursuant to the authority granted by Labor Code Sections 50.5, 54 and 55 proposes to amend an existing regulation, and adopt a new regulation to implement the provisions of Labor Code Section 6354.7, Statutes 2002, Chapter 6, Sections 1 and 84 (AB 749 (Calderon, 2001-2002)).

Labor Code Section 6354.7, effective January 1, 2003 will require the Director to levy and collect fees from workers' compensation insurers for the purposes of funding a workers' occupational safety and health training and education program administered by the Commission on Health and Safety and Workers' Compensation and an insurance loss control services coordinator. The fees collected are to be deposited in the Workers' Occupational Safety and Health Education Fund, which will be established as a special account in the state treasury. These fees and the fund will replace the loss control certification fee and loss control certification fund which will both be eliminated.

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

Date: Friday, September 13, 2002

Time: 10:00 a.m.

Place: Auditorium

**The Governor Hiram Johnson
State Office Building
455 Golden Gate Avenue
San Francisco, California 94102**

The public hearing room is wheelchair accessible. Persons requiring additional accommodation of a disability are requested to alert the contact person identified below so that special arrangements may be made.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or

5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

AUTHORITY AND REFERENCE

The Director is undertaking this regulatory action pursuant to the authority vested in the Director of the Department of Industrial Relations by Labor Code Sections 50.5, 54 and 55 to implement and make specific the provisions of Labor Code Section 6354.7 (Statutes 2002, Chapter 6, Section 84, (AB 749—Calderon, 2001-2002,) effective January 1, 2003.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Director proposes to amend an existing administrative regulation to eliminate the loss control certification fee regulation and to replace that regulation with two regulations to govern the manner and procedure for collecting the new fee required by Labor Code Section 6354.7 to fund the Commission on Health and Safety and Workers' Compensation's workers' occupational safety and health training and education program and an insurance loss control services coordinator. Once adopted, the regulations, as amended and adopted, will have an effective date of January 1, 2003.

This regulations are required by a legislative enactment, Statutes 2002, Chapter 6, Section 84, which enacts Labor Code Section 6354.7, effective January 1, 2003.

Labor Code Section 6354.7 will require the Director to levy and collect fees from workers' compensation insurers for the purposes of funding a workers' occupational safety and health training and education program administered by the Commission on Health and Safety and Workers' Compensation and an insurance loss control services coordinator. The fees collected are to be deposited in the Workers' Occupational Safety and Health Education Fund.

Labor Code Section 6354.7 will provide that the fee assessed against any insurer shall not exceed the greater of one hundred dollars (\$100) or 0.0286 percent of paid workers' compensation indemnity claims as reported by the insurer for the previous calendar year to the designated rating organization for the analysis required under subdivision (b) of Section 11759.1 of the Insurance Code.

Section amended: Title 8, California Code of Regulations, Section 339.8.

The existing regulation provides for the collection of a fee for application for certification and/or recertification of loss control consultation services.

The regulation as amended will provide for the annual collection of the workers' occupational safety and health training and education program fee.

Specifically, the regulation as amended will provide that:

- The Director designates the Commission on Health and Safety and Workers' Compensation to collect the workers' occupational safety and health training and education program fee.
- On or before April 1 of each year, each insurer required to do so shall pay to the Commission on Health and Safety and Workers' Compensation the workers' occupational safety and health training and education program fee required by Labor Code Section 6354.7. The fees collected are to be deposited in the Workers' Occupational Safety and Health Education Fund.
- The annual fee required shall be the greater of one hundred dollars (\$100) or 0.0286 percent of paid workers' compensation indemnity claims as reported for the previous calendar year to the designated rating organization for the analysis required under Insurance Code Section 11759.1(b).
- Along with the required payment, each insurer shall submit:
 - A copy of the insurer's response to the annual "Call for California Workers' Compensation Experience" for the preceding calendar year.
 - A summary report, on a form CHSWC-1 "Workers' Occupational Safety and Health Education Fee Annual Report. (Rev.1/03)" A copy of the form CHSWC-1 will be provided to the insurer by the Commission not later than February 1 of the year in which the fee is collected.

The report will require the following information:

- the name of the insurer submitting the report, including a list of all insurer names used to write workers' compensation insurance in California. For each insurer listed, copy of each insurer's Certificate of Authority, issued by the California Department of Insurance, to write workers' compensation insurance will be required to be submitted as an attachment.
- the name and contact information for a company officer to be contacted concerning the insurer's loss control services or the workers' occupational safety and health training and education program;

- the amount of paid indemnity as reported by the insurer for the previous calendar year to the Workers' Compensation Insurance Rating Bureau in response to the annual "Call for California Workers' Compensation Experience;" and,
- the amount of the fee being paid by the insurer.
- A group of insurers under the same management, direction and control may elect to submit a single consolidated payment so long as the information required by the Commission is separately provided for each insurer.

Section adopted: Title 8, California Code of Regulations, Section 339.9.

The Director also proposes to adopt a new regulation, Section 339.9, in order to adopt the form CHSWC-1 "Workers' Occupational Safety and Health Education Fee Annual Report" form that insurers will be required by Section 339.8 to submit with their fee payment. In addition to requiring the information specified in Section 339.7, the proposed form CHSWC-1 form will advise the insurer that payment is due on or before April 1 of the current year and provide a space for the insurer to calculate the fee owed by the insurer.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. The economic effects of the proposed regulations will be minor and will be limited to insurance companies who transact workers' compensation insurance. These effects are discussed in the analysis of the fiscal impact of these proposed amendments, dated July 8, 2002. This document is included in the rulemaking file.
- 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, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- Cost impacts on representative private person or business: The Division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations would only apply to workers' compensation insurers. A representative workers' compen-

sation insurer would incur minimal compliance costs as described in the analysis of the economic impact of these proposed amendments, dated July 8, 2002. This document is included in the rulemaking file.

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: None. The proposed regulations will not affect any federally funded program.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district.
- Cost to any local agency or school district for which Government Code Sections 17500 through 17630 require reimbursement: None. The proposed regulations do not apply to local agencies or school districts.
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed regulations do not apply to local agencies or school districts.

EFFECT ON SMALL BUSINESS

The proposed regulations will not affect small businesses. The proposed regulations only apply to insurance companies. Government Code Section 11342.610(b)(2) provides that the term "small business" does not include an insurance company.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code Section 11346.45, is not required to implement the proposed regulations because the issues addressed are not so complex that they cannot easily be reviewed during the comment period.

CONSIDERATION OF ALTERNATIVES

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

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

Pursuant to Government Code Section 11346.3(c), the Director finds that it is necessary for the health, safety, or welfare of the people of the state that the

reporting requirement imposed by Section 339.8 apply to the insurers subject to that section.

This finding is based on need to accurately account for the fees owed by and collected from the insurers. Accurate accounting is required in order to ensure that adequate and uninterrupted funding is provided for the continuing operation of the workers' occupational safety and health training and education program and the insurance loss control services coordinator.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations have been prepared and are available from the contact person named in this notice. The express terms of the proposed regulations are written in plain English, and are available from the contact person named in this notice.

The entire rulemaking file will be made available for inspection and copying at the address indicated below or a copy will be provided upon written request.

As of the date of this notice, the rulemaking file consists of the notice, the Initial Statement of Reasons, the proposed text of the regulations in strikeout/underline format and the Form 399. In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Department of Industrial Relations' website at www.dir.ca.gov

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present oral and/or written statements, arguments or evidence at the public hearing. If you provide a written comment, it will not be necessary to present your comment as oral testimony at the public hearing.

Any person may submit written comments on the proposed regulations, prior to the public hearings to:

Ms. Marcela Reyes,
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142-0603

Unless submitted prior to or at the public hearing, all written comments must be received by the agency contact person, no later than 5:00 p.m. on September 13, 2002. Equal weight will be accorded to oral and written materials.

COMMENTS TRANSMITTED BY
E-MAIL OR FACSIMILE

The Director will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: dwcrules@hq.dir.ca.gov

The Director will also accept written comments transmitted by facsimile provided they are directed to the attention of Marcela Reyes and sent to the following facsimile number: (415) 703-4720.

Due to the inherent risks of non-delivery by electronic communications, the Director suggests, but does not require, that a copy of any comments transmitted electronically be submitted by regular mail.

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.

AVAILABILITY OF RULEMAKING FILE AND
LOCATION WHERE RULEMAKING FILE
MAY BE INSPECTED

Any interested person may inspect a copy or direct questions about the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file.

The rulemaking file, including the Initial Statement of Reasons, the complete text of the proposed regulations and all documents relied upon in this rulemaking may be inspected during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, excluding public holidays) at the following location:

Division of Workers' Compensation
455 Golden Gate Avenue, Ninth Floor
San Francisco, California 94102

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Ms. Marcela Reyes
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The telephone number of the contact person is (415) 703-4600.

BACK-UP CONTACT PERSON/CONTACT
PERSON FOR SUBSTANTIVE QUESTIONS

To obtain responses to questions regarding the substance of the proposed regulations, or in the event the contact person is unavailable, inquiries should be directed to: James M. Robbins, Industrial Relations Counsel, at the same address and telephone number as noted above for the contact person.

AVAILABILITY OF CHANGES FOLLOWING
PUBLIC HEARING

If the Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon the completion of this rulemaking, a Final Statement of Reasons will be prepared. The Final Statement of Reasons will be available upon request from the contact person named in this notice or it may be accessed on the website: www.dir.ca.gov

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, will automatically be sent to those interested persons on:

- the Division of Workers' Compensation's mailing list;
- the Division of Occupational Safety and Health Loss Control Certification Unit's mailing list; and,
- all insurers admitted to transact workers' compensation insurance in California.

If adopted, the regulations as amended will appear in Title 8, California Code of Regulations, Section 339.8.

**TITLE 8. DIVISION OF
WORKERS' COMPENSATION**

(DEPARTMENT OF INDUSTRIAL RELATIONS)

**Subject Matter of Proposed Amendments to
Regulations: Workers' Compensation—
Health Care Organizations**

PROPOSED REGULATORY ACTIONS

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), acting pursuant to the authority granted by Labor Code Sections 133, 4600.3, 4600.5, 4600.7 and 5307.3. proposes to amend existing regulations to implement

the amendments to Labor Code Section made by AB 749 (Calderon, 2001–2002, Statutes 2002, Chapter 6, Section 61). The effective date of these amendments will be January 1, 2003.

The Administrative Director is also proposing to amend existing regulations to conform the language of these regulations to prior changes in the statutory provisions that the regulations implement and make specific.

The proposed amendments will also make changes to an existing form to clarify and streamline the annual enrollment process for employees whose employers contract with an HCO.

The proposed amendments will also require payment of an existing administrative fee in one single payment instead of two payments.

Finally, the proposed amendments will also repeal an existing provision that provides for HCOs that received provisional certification under prior provisions of the current regulations to obtain full certification upon payment of the remaining balance of the application fee required by the current regulations.

The proposed amendments are to Sections 9771, 9771.2, 9771.66, 9772, 9779, 9779.1, 9779.3, 9779.4, 9779.45 and 9779.5. These sections concern:

- The procedures under which an entity may apply for certification as a Health Care Organization (hereinafter “HCO”);
- an HCO’s continuing obligation to furnish information concerning its operations,
- prohibitions against deceptive advertising by HCOs;
- the general standards an HCO must meet to obtain and maintain its certification;
- the length of time for which certification is valid and the process for recertification;
- the procedure under which the Division of Workers’ Compensation will conduct on-site surveys of HCOs;
- the obligations to its employees of an employer covered by a contract with an HCO;
- the content of the form that employers who contract with an HCO must annually provide to their employees;
- the minimum periods of employer medical control over employees enrolled in an HCO; and,
- the payment by HCOs of administrative fees to the Administrative Director.

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

Date: Friday, September 13, 2002

Time: 10:00 a.m.

Place: Auditorium

**The Governor Hiram Johnson
State Office Building
455 Golden Gate Avenue
San Francisco, California 94102**

The public hearing room is wheelchair accessible. Persons requiring additional accommodation of a disability are requested to alert the contact person identified below so that special arrangements may be made.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code Sections 133, 4600.3, 4600.5, 4600.7 and 5307.3.

Reference is to Labor Code Sections 4600, 4600.3, 4600.5, 4600.6 and 4600.7.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Labor Code Section 4600.3 allows employers to contract with HCOs to provide the employer’s employees with treatment for work-related injuries and illnesses. This code section also specifies how long an employee who is being treated by an HCO must wait before he or she may choose to receive treatment from their own physician.

Labor Code Section 4600.5 specifies the requirements for various entities to apply for and receive certification as an HCO.

Labor Code Section 4600.7 creates the Workers’ Compensation Managed Care Fund in the State Treasury and authorizes the Administrative Director to establish a schedule of fees and revenues to be charged to certified HCOs and applicants for certification to fund the administration of the HCO program.

1. Proposed Amendment to Section 9771— Applications for Certification:

Subdivision (a)(1):

This subdivision, which provides for an entity licensed as a full service health care service plan under

Section 1353 of the Health and Safety Code (Knox-Keene Health Care Service Plan Act) to apply for certification as an HCO, is being repealed.

Effective January 1, 2003 Labor Code Section 4600.5 will provide that if an HCO is a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, that organization (an "HMO") shall be deemed to be a health care organization able to provide health care pursuant to Section 4600.3 without further application.

Subdivision (a)(2):

This subdivision is merely being renumbered as (a)(1) to conform to the repeal of the existing subdivision (a)(1).

Subdivision (a)(3):

This subdivision permits an entity authorized as a workers compensation health care provider organization (WCHCPO) by the Commissioner of Corporations pursuant to Part 3.2 of Division 4 of the Labor Code to apply for certification as an HCO. (A WCHCPO is any applicant for certification or any certified HCO that is not a disability insurer licensed by Department of Insurance or a Knox-Keene Health Care Service Plan Act licensed HMO. Examples of WCHCPOs include a hospital network, a PPO or an industrial medicine clinic network.)

The subdivision is being amended to delete the reference to authorization by the Commissioner of Corporations. Responsibility for authorizing WCHCPOs was legislatively transferred from the Commissioner of Corporations to the Administrative Director by SB 1063 (Peace, 1997-1998, Statutes 1997, Chapter 346, Section 5).

This subdivision is also being renumbered as (a)(2) to conform to the repeal of the existing subdivision (a)(1).

Subdivision (c):

The subdivision is being amended to delete the reference to WHCHPOs. Responsibility for authorizing WCHCPOs was legislatively transferred from the Commissioner of Corporations to the Administrative Director by Statutes 1997, Chapter 346, Section 5.

The proposed amendment will also change a reference in this subdivision from the "Commissioner of Corporations" or the "Department of Corporations" to the "Director of the Department of Managed Health Care" or the "Department of Managed Health Care." This amendment will conform the language of the regulation to the 1999 and 2000 amendments to Labor Code Section 4600.5. (Statutes 1999, Chapter 525 Section 22 and Statutes 2000, Chapter 857, Section 19.)

Subdivision (d):

The proposed amendment deletes references to the "Department of Corporations". The amendment will conform the language of the regulation to the 1999 and 2000 amendments to Labor Code Section 4600.5. (Statutes 1999, Chapter 525 Section 22 and Statutes 2000, Chapter 857, Section 19.)

Subdivision (e):

The proposed amendment corrects an erroneous cross-reference from subdivision (f) to (b).

Subdivision (f):

The subdivision is being amended to delete the reference to WHCHPOs. Responsibility for authorizing WCHCPOs was legislatively transferred from the Commissioner of Corporations to the Administrative Director by Statutes 1997, Chapter 346, Section 5.

The proposed amendment will also change a reference in this subdivision from the "Commissioner of Corporations" or the "Department of Corporations" to the "Director of the Department of Managed Health Care" or the "Department of Managed Health Care." This amendment will conform the language of the regulation to the 1999 and 2000 amendments to Labor Code Section 4600.5. (Statutes 1999, Chapter 525 Section 22 and Statutes 2000, Chapter 857, Section 19.)

Subdivision (g):

Effective January 1, 2003 Labor Code Section 4600.5(c) will be amended to provide that an HMO licensed pursuant to the Knox-Keene Health Care Service Plan Act shall be deemed to be an HCO without further application. Those HCOs will be required to maintain good standing with the Department of Managed Health Care and meet additional requirements as specified, including complying with any other requirement the Administrative Director determines is necessary to provide medical services to injured employees consistent with the intent of Article 2 of Chapter 2 of Part 2 of Division 4 of the Labor Code, including, but not limited to, a written patient grievance policy.

The proposed new subdivision will provide that in lieu of an application for certification, an HMO deemed to be an HCO pursuant to Labor Code Section 4600.5(c) shall submit to the Administrative Director a concise description of how the plan will satisfy the requirements of Labor Code Section 4600.5(c)(1-5) and Title 8, California Code of Regulations, Sections 9772 through 9778, inclusive. The Administrative Director considers compliance with Sections 9772 through 9778 necessary for an HMO deemed an HCO to adequately provide medical services to injured employees.

Proposed new subdivision (g)(1) will also require that at the time the materials required by this subdivision are submitted to the Administrative Director for review, the plan shall pay a nonrefundable documentation processing and review fee of \$10,000.

Proposed new subdivision (g)(1) will also require a written certification that the health plan is not in violation of any provision of law or rules or orders of the Director of the Department of Managed Health Care, and that there are no outstanding orders, undertakings, or deficiency letters which involve the health plan. The requirement of this subdivision may be satisfied by verified statement under penalty of perjury by the president or managing officer of the health plan that the plan meets the requirements of this subdivision, subject to verification by the Administrative Director.

Finally, Labor Code Section 4600.7 is being added to the authority note for Section 9771.

**2. Proposed Amendment to Section 9771.2—
Information to be Furnished as it Becomes
Available:**

Subdivision (b)(1):

Effective January 1, 2003 Labor Code Section 4600.5(c) will be amended to provide that an HMO licensed pursuant to the Knox-Keene Health Care Service Plan Act shall be deemed to be a HCO without further application.

The first proposed amendment will therefore delete the reference to an HMO being an applicant for certification as an HCO.

The proposed amendments will also change references in this section from the “Commissioner of Corporations” or the “Department of Corporations” to the “Director of the Department of Managed Health Care” or the “Department of Managed Health Care.” The amendment will conform the language of the regulation to the 1999 and 2000 amendments to Labor Code Section 4600.5. (Statutes 1999, Chapter 525 Section 22 and Statutes 2000, Chapter 857, Section 19.)

Finally, the proposed amendments will also provide that the requirements of this subdivision will also apply to an HMO deemed an HCO pursuant to Labor Code Section 4600.5(c) while the Administrative Director is reviewing the documentation required by Section 9771, subdivisions (g)(1) and (2) prior to issuing the HMO its certification as an HCO.

Subdivision (3):

The subdivision is being repealed as unnecessary. Responsibility for authorizing WCHCPOs was legislatively transferred from the Commissioner of Corporations to the Administrative Director by Statutes 1997, Chapter 346, Section 5.

**3. Proposed Amendment to Section 9771.66—
Deceptive Advertising:**

Subdivision (c):

The proposed amendment merely changes a reference in this section from the “Department of Corporations” to the “Department of Managed Health Care.” The amendment will conform the language of the regulation to the 1999 and 2000 amendments to Labor Code Section 4600.5. (Statutes 1999, Chapter 525 Section 22 and Statutes 2000, Chapter 857, Section 19.)

**4. Proposed Amendment to Section 9772—General
Standards:**

Subdivision (7):

Labor Code Section 4600.3(a)(1), as amended effective January 1, 2003, will provide that if the health care organization offered by the employer is the workers’ compensation insurer that covers the employee or is an entity that controls or is controlled by that insurer, as defined by Section 1215 of the Insurance Code, this information shall be included in the notice of contract with a health care organization. (Statutes 2002, Chapter 6, Section 61.)

The proposed amendment will require any applicant for certification as an HCO that is owned in whole or in part or controlled by a workers’ compensation insurer or self-insured employer to demonstrate, in addition to the other requirements set forth in this section, that the organization’s claims function shall have no influence or control over medical decision-making.

The proposed amendment will also require such an applicant to demonstrate that the clear authority of its Medical Director over all medical decisions is reflected both in its organizational chart and any internal procedure manual or other internal description of HCO operations.

**5. Proposed Amendment to Section 9779—
Certification**

New Subdivision (b):

Effective January 1, 2003 Labor Code Section 4600.5(c) will be amended to provide that an HMO licensed pursuant to the Knox-Keene Health Care Service Plan Act shall be deemed to be a HCO without further application. Those HCOs will be required to maintain good standing with the Department of Managed Health Care and meet additional requirements as specified, including complying with any other requirement the Administrative Director determines is necessary to provide medical services to injured employees consistent with the intent of Article 2 of Chapter 2 of Part 2 of Division 4 of the Labor Code, including, but not limited to, a written patient grievance policy.

The proposed new subdivision will provide that once the Administrative Director has determined that an entity licensed as a full service health care service plan under Section 1353 of the Health and Safety Code (a Knox-Keene Health Care Service Plan Act) and deemed to be an HCO pursuant to Labor Code Section 4600.5(c) has complied with the requirements of Section 9771 subdivisions (g)(1) and (2) the Administrative Director shall certify the organization as an HCO, pursuant to Section 4600.5(c), for a period of three years unless earlier revoked or suspended.

Existing Subdivision (b):

This subdivision is merely being renumbered as (c) to conform to the adoption of a new subdivision (b).

Subdivision (c):

The proposed amendment will repeal as unnecessary the provision for applicants that received provisional certification under prior provisions of the current regulations to obtain full certification upon payment of the remaining balance of the application fee required by the current regulations.

No remaining HCO applicants provisionally certified under prior provisions of the current regulations exist.

This subdivision is also being renumbered as (d) to conform to the adoption of the new subdivision (b).

6. Proposed Amendment to Section 9779.1—On-Site Surveys:

Subdivision (a):

The proposed amendment merely changes a reference in this section from the “Department of Corporations” to the “Department of Managed Health Care.” The amendment will conform the language of the regulation to the 1999 and 2000 amendments to Labor Code Section 4600.5. (Statutes 1999, Chapter 525 Section 22 and Statutes 2000, Chapter 857, Section 19.)

7. Proposed Amendment to Section 9779.3—Obligations of an Employer Covered by Contracts with Health Care Organization:

Labor Code Section 4600.3 allows employees to choose to be treated by an HCO for on-the-job injuries and illnesses.

Labor Code Section 4600.3 also requires that every employee whose employer contracts with an HCO shall be given an affirmative choice at the time of employment and at least annually thereafter to designate or change the designation of an HCO or a personal physician, personal chiropractor, or personal acupuncturist. The choice must be memorialized in writing and maintained in the employee’s personnel records.

Labor Code Section 4600.3 also currently requires that an employee must be allowed to choose from at least two HCOs, of which at least one must be compensated on a fee-for-service basis. If one or more of the HCOs offered by the employer is the workers’ compensation insurer that covers the employee or is an entity that controls or is controlled by that insurer, as defined by Section 1215 of the Insurance Code, the employee shall be allowed to choose from at least one additional health care organization, that is not the workers’ compensation insurer that covers the employee, or entities that control or are controlled by that insurer, of which at least one must be compensated on a fee-for-service basis.

Finally, existing Labor Code Section 4600.3(c)(3) provides that if an employee is receiving or is eligible to receive health care coverage for nonoccupational injuries or illnesses provided by the employer, and his or her physician, chiropractor, or acupuncturist for nonoccupational illnesses or injuries is participating in at least one of the HCOs offered to the employee, and he or she has chosen treatment by one of these health care organizations for occupational injuries or illnesses, the employee may be treated by a physician, chiropractor, or acupuncturist of his or her own choice or at a facility of his or her own choice within a reasonable geographic area if the employee or his or her physician, chiropractor, acupuncturist, or other agent notifies his or her employer in writing only after 365 days from the date the injury was reported, or upon the date of contract renewal or open enrollment, whichever occurs first, but in no case until 90 days from the date the injury was reported.

AB 749 (Calderon, 2001–2002, Statutes 2002, Chapter 6, Section 61), effective January 1, 2003 will repeal the requirement to contract with two HCOs. AB 749 will also repeal Labor Code Section 4600.3(c)(3) and cap the employer’s medical control at 180 days.

Section 9779.3 sets forth the requirements for employers to provide notice to their employees regarding the HCO enrollment process. The section specifies the information that must be provided to employees not more than 30 days after hiring, not more than 15 days after HCO enrollment and annually thereafter.

Section 9779.3 also provides that for an employee enrolled in an HCO pursuant to paragraph (3) of subdivision (c) of Section 4600.3 of the Labor Code, the employee’s personal physician or chiropractor for non-occupational care must be available to the employee within an HCO offered by the employer for the treatment of work injuries or illnesses.

Section 9779.3 also specifies that if one of the HCOs offered by an employer is owned or controlled by the same individual or entity, the employer must be

provided with an additional HCO that is not controlled by the same individual or entity and the employer must provide information to explain the nature of any material and significant differences between the HCOs in a manner that would allow the employee to make an informed choice between the HCOs.

Subdivision (a):

The proposed amendments to subdivisions (1)–(4) will conform the regulation to Labor Code Section 4600.3, as it will be amended effective January 1, 2003 by deleting:

- the requirement to offer a choice between at least two HCOs and to identify by name the HCOs offered;
- the requirement that if one or more of the HCOs offered by the employer is owned or controlled by the same individual or by the same corporate or business entity, the employer must provide information to explain the nature of any material and significant differences between the HCOs in a manner that would allow the employee to make an informed choice between HCOs; and,
- the requirement in subdivision (a)(4) that for an employee enrolled in an HCO pursuant to paragraph (3) of subdivision (c) of Section 4600.3 of the Labor Code, the employee’s personal physician or chiropractor for non-occupational care must be available to the employee within an HCO offered by the employer for the treatment of work injuries or illnesses.

Subdivision (a)(5) is merely being renumbered as (a)(4) to conform to the repeal of the existing subdivision (a)(4).

Subdivision (b):

This subdivision is being amended to provide that an employee who designates on a form DWC 1194 that he or she does not wish to enroll in an HCO and wishes instead to pre-designate their own personal physician or chiropractor shall pre-designate that physician or chiropractor on the Form 1194.

Finally, existing subdivision (b) also provides that if an employee chooses to change from one HCO to another HCO or to designate a personal physician, the employee must designate such choice on a DWC Form 1194.

As the requirement to offer more than one HCO is being eliminated by statute, subdivision (b) is being amended to provide that this designation requirement will only apply if the employer offers more than one HCO.

Subdivision (c):

Existing subdivision (c) provides that for an employee enrolled in an HCO pursuant to paragraph (3) of subdivision (c) of Section 4600.3 of the Labor

Code, the employee’s personal physician or chiropractor for non-occupational care must be available to the employee within an HCO offered by the employer for the treatment of work injuries or illnesses.

As AB 749 will repeal Labor Code Section 4600.3(c)(3), which is the statutory authority for subdivision 9779.3(c), subdivision (c) is being repealed.

8. Proposed Amendment to Section 9779.4—DWC Form 1194:

Labor Code Section 4600.3(a)(1) requires that every employee shall be given an affirmative choice at the time of employment and at least annually thereafter to designate or change the designation of an HCO or a personal physician, personal chiropractor, or personal acupuncturist. The choice must be memorialized in writing and maintained in the employee’s personnel records. The employee who has designated a personal physician, personal chiropractor, or personal acupuncturist may change their designated caregiver at any time prior to the injury. Any employee who fails to choose between health care organizations or to designate a personal physician, personal chiropractor, or personal acupuncturist may be enrolled in the HCO selected by the employer.

Section 9779.4 provides an annual enrollment form that complies with Labor Code Section 4600.3(a)(1)’s requirements.

The proposed amendments will conform the annual enrollment form to the changes in the proposed revised regulations as set forth above.

Specifically, the proposed amendments:

- delete all references to the requirements to offer more than one HCO and revise the grammatical structure accordingly;
- inform the employee if the employer’s insurer owns or controls the HCO being offered;
- delete the reference to one year medical control;
- add to the title on the back of the form the phrase “For Workers’ Compensation Health Care;”
- advise the employee that if they choose to pre-designate a physician or chiropractor, they should do so on the form in the space provided on the form
- provide a space for writing the pre-designated physician or chiropractor’s name and address;
- clarify that the “date” on the form is the date that the employee signs the form.

9. Proposed Amendment to Section 9779.45—Minimum Periods of Enrollment:

Labor Code Section 4600.3(c) provides that if an employee is receiving or is eligible to receive health care coverage for nonoccupational injuries or illnesses provided by the employer, and his or her physician,

chiropractor, or acupuncturist for nonoccupational illnesses or injuries is participating in at least one of the HCOs offered to the employee, and he or she has chosen treatment by one of these health care organizations for occupational injuries or illnesses, the employee may be treated by a physician, chiropractor, or acupuncturist of his or her own choice or at a facility of his or her own choice within a reasonable geographic area if the employee or his or her physician, chiropractor, acupuncturist, or other agent notifies his or her employer in writing only after 365 days from the date the injury was reported, or upon the date of contract renewal or open enrollment, whichever occurs first, but in no case until 90 days from the date the injury was reported.

For the convenience of the regulated public, Section 9779.45 sets forth the respective amounts of time Labor Code Section 4600.3 requires to elapse before an employee who is enrolled in an HCO may obtain treatment from a private physician chiropractor, or acupuncturist of his or her own choice, with the required time depending on whether the employer offers non-occupational health coverage. Subdivision (c) restates the provisions of Labor Code Section 4600.3(c).

AB 749 (Calderon, 2001–2002, Statutes 2002, Chapter 6, Section 61), effective January 1, 2003 will repeal Labor Code section 4600.3(c) and cap the maximum employer medical control at 180 days.

The proposed amendment will delete subdivision (c).

**10. Proposed Amendment to Section 9779.5—
Reimbursement of Costs to the Administrative Director; Obligation to Pay Share of Administrative Expense:**

Labor Code Section 4600.7 establishes the Workers' Compensation Managed Care Trust Fund in the State Treasury and requires the Administrative to establish a schedule of fees and revenues to be charged to HCOs and applicants for certification in order to fully fund the administration of the program and to repay a loan from the General Fund to the Workers' Compensation Managed Care Trust Fund.

The existing regulation requires all organizations certified as HCOs or WCHCPOs to pay an annual assessment to the Workers' Compensation Managed Care Fund representing that entity's share of the costs and expenses reasonably incurred in the administration of the HCO program. The annual assessment may be paid in two equal installments, with the first payment falling due on or before July 1 and the second installment falling due on or before December 15.

The proposed amendment would require the annual assessment to be paid in a single payment due on or before July 1.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. The only economic impact of the regulations will be to impose a \$10,000 documentation processing and review fee on an entity licensed as a full service health care service plan under Section 1353 of the Health and Safety Code (a Knox-Keene Health Care Service Plan Act) and deemed to be an HCO pursuant to Labor Code Section 4600.5(c), when that entity seeks certification as an HCO. This is half the fee required of non-HMO applicants for certification.
- 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, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- Cost impacts on representative private person or business: The Administrative Director is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Only an entity licensed as a full service health care service plan under Section 1353 of the Health and Safety Code (a Knox-Keene Health Care Service Plan Act) and deemed to be an HCO pursuant to Labor Code Section 4600.5(c), would be required to pay the \$10,000 documentation processing and review fee created by Section 9771(g)(1), and then only if that entity chooses to seek certification as an HCO.

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: None.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The proposed amendments to not apply to any local agency or school district.
- 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: None. The proposed amendments do not apply to any local agency or school district.

- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed amendments to not apply to any local agency or school district.

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations may affect small businesses.

The express terms of proposed action written in plain English are available from agency contact person named in this notice. The Administrative Director has drafted the regulations in plain English. Furthermore, the "Informative Digest" above constitutes a plain English policy statement overview.

CONSIDERATION OF ALTERNATIVES

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

The Administrative Director 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.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code Section 11346.45, is not required to implement the proposed regulations, because the issues addressed are not so complex that it cannot easily be reviewed during the comment period.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below or a copy will be provided upon written request.

As of the date of this notice, the rulemaking file consists of the notice, the Initial Statement of Reasons, the proposed text of the regulations in strikeout/underline format, and the Form 399. In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Department of Industrial Relations' Internet site at www.dir.ca.gov

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present oral and/or written statements, arguments or evidence at the public hearing. If you provide a written comment, it will not be necessary to present your comment as oral testimony at the public hearing.

Any person may submit written comments on the proposed regulations, prior to the public hearings to:

Ms. Marcela Reyes,
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (415) 703-4720. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@hq.dir.ca.gov

Unless submitted prior to or at the public hearing, all written comments must be received by the agency contact person, no later than 5:00 p.m. on September 13, 2002. Equal weight will be accorded to oral and written materials.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Administrative Director will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: dwcrules@hq.dir.ca.gov

The Administrative Director will also accept written comments transmitted by facsimile provided they are directed to the attention of Marcela Reyes and sent to the following facsimile number: (415) 703-4720.

Due to the inherent risks of non-delivery by electronic communications, the Administrative Director suggests, but does not require, that a copy of any comments transmitted electronically be submitted by regular mail.

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.

AVAILABILITY OF RULEMAKING FILE AND LOCATION WHERE RULEMAKING FILE MAY BE INSPECTED

Any interested person may inspect a copy or direct questions about the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file.

The rulemaking file, including the Initial Statement of Reasons, the complete text of the proposed regulations and all documents relied upon in this rulemaking may be inspected during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, excluding public holidays) at the following location:

Division of Workers' Compensation
455 Golden Gate Avenue, Ninth Floor
San Francisco, California 94102

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested directed to the contact person at the same address. The contact person is:

Ms. Marcela Reyes
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The telephone number of the contact person is (415) 703-4600.

BACK-UP CONTACT PERSON/CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

To obtain responses to questions regarding the substance of the proposed regulations, or in the event the contact person is unavailable, inquiries should be directed to: James M. Robbins, Industrial Relations Counsel, at the same address and telephone number as noted above for the contact person.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website: www.dir.ca.gov

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, will automatically be sent to those interested persons on the Administrative Director's mailing list and the DWC Managed Care Program's mailing list.

If adopted, the regulations as amended will appear in Title 8, California Code of Regulations, Sections 9771, 9771.2, 9771.66, 9772, 9779, 9779.1, 9779.3, 9779.4, 9779.45 and 9779.5.

TITLE 10. DEPARTMENT OF INSURANCE

STATE OF CALIFORNIA
300 Capitol Mall, 17th floor
Sacramento, California 95814

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

RH-01013338
July 26, 2002

SUBJECT OF HEARING

A hearing will be held regarding the permanent adoption of emergency regulations pertaining to clerical activities, activities involving clerical changes to insurance policies, and indirect marketing and servicing support activities exempt from insurance producer licensure. The Insurance Commissioner ("Commissioner") adopted the regulations on an emergency basis as ER 01013139, effective June 17, 2002. The regulations are codified in Title 10, Chapter 5, Subchapter I, Article 10, Sections 2193 through 2193.3, California Code of Regulations.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present oral or written statements or arguments relevant to the adoption of these regulations as follows:

Date and Time: September 23, 2002 at 10:00 A.M.
Location: S.F. Civic Center Complex
Conference Center
455 Golden Gate Avenue,
Hearing Room 9
San Francisco, California

AUTHORITY AND REFERENCE

The Commissioner proposes the adoption of these regulation pursuant to the authority provided in Section 8 of Assembly Bill 393, Chapter 321, Statutes of 2000 ("AB 393"). The purpose of these regulations is to implement, interpret, and make specific the provisions of California Insurance Code ("CIC") Sections 1631 and 1635.

**PRESENTATION OF WRITTEN AND/OR ORAL
COMMENTS AND CONTACT PERSON**

All persons are invited to present oral and/or written comments on the regulations at the scheduled public hearing. The Commissioner requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

Written comments not presented at the hearing should be addressed to the following contact person:

Steven Suchil, Senior Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, California 95814
Telephone: 916-492-3500

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

Elaine LaFrance, Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, California 95814
Telephone: 916-492-3500

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Commissioner, c/o the contact person at the address listed above, no later than 5:00 P.M. on September 16, 2002. Any written materials received after that time will not be considered.

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

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: suchils@insurance.ca.gov. The Commissioner will also accept written comments transmitted by telephone facsimile provided that they are sent to (916) 324-1883. Comments sent to other e-mail addresses or to other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.

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 listed above in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Subchapter 4.5, Title 10, of the California Code of Regulations, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address, in order to inquire about the appropriate procedures:

Office of the Public Advisor
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, California 95814
(916) 492-3500

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the above listed contact person. Please contact the Office of the Public Advisor for further information.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

AB 393 amended the regulatory and licensing scheme for insurance agents/brokers. Under CIC Sections 1631 and 1635, as amended by AB 393, persons cannot solicit, negotiate, or effect contracts of insurance unless licensed by the Commissioner to act in such capacities.

CIC Section 1635 specifies certain exemptions from insurance agent/broker licensure. CIC Section 1635, subdivision (l), added by AB 393, states that licensure as insurance producers is not required for insurer or producer officers, directors or employees whose executive, administrative, managerial or clerical activities are indirectly related to soliciting, negotiating or effecting the sale of insurance. Subdivision (m) of CIC Section 1635, also added by AB 393, states that licensure as insurance producers is not required for employees whose activities are limited to making clerical changes to existing insurance policies or providing indirect marketing and servicing support to determine general interest in insurance products. Section 8 of AB 393 requires the Commissioner to adopt regulations to implement the bill.

New regulation Sections 2193, 2193.1, 2193.2 and 2193.3 implement, interpret, and make specific the provisions of CIC Sections 1631 and 1635(l) and (m).

Section 2193: Definitions

New Section 2193 sets forth two definitions for new Article 10, which will provide the activities exempt from licensure by the Commissioner as insurance producers—agents, brokers or solicitors—under Chapter 5, Part 2, Division 1 of the CIC. “Licensee” is defined to mean those persons licensed by the

Commissioner to act as insurance producers under Insurance Code Sections 1621 through 1624. Conversely, "unlicensed person" is defined to mean a person not so licensed.

Section 2193.1: Clerical Activities Exempt From Insurance Producer Licensing

CIC Section 1635(l) states that insurance producer licensure is not required for insurer or producer officers, directors or employees whose executive, administrative, managerial or clerical activities are indirectly related to soliciting, negotiating or effecting the sale of insurance. New Section 2193.1 provides those clerical activities indirectly related to the solicitation, negotiation or effecting sale of insurance exempt from licensure.

Under new Section 2193.1 clerical activities exempt from licensure include, but are not limited to: distribution of brochures, business cards, or other general information advertising insurers, insurance agencies, or insurance products, services or promotions; preparing insurance coverage applications; obtaining information from persons other than the insureds or applicants for coverage; and, preparation of insurance related documentation under the supervision of producer licensees and for the review and signature of licensees.

Section 2193.2: Activities Involving Clerical Changes to Insurance Policies and Indirect Marketing and Servicing Support Exempt From Insurance Producer Licensing

CIC Section 1635(m) states that insurance producer licensure is not required for employees whose activities are limited to making clerical changes to existing insurance policies or providing indirect marketing and servicing support to determine general interest in insurance products.

Under new Section 2193.2 the activities exempt from insurance producer licensure involving making changes to existing insurance policies or providing indirect insurance marketing and servicing support include but are not limited to: dissemination of insurance buyers' guides, coverage applications, and other forms in response to consumer requests; receiving or recording information from customers; scheduling appointments with producer licensees; communicating with customers to obtain factual information requested by producer licensees; accepting insurance premiums to deliver to producer licensees; receiving and recording insureds' requests for additions or deletions to existing policies and preparing endorsement forms for the signatures of

producer licensees; informing insureds, in response to their inquiries, as to existing policy information, including financial limits, premium balances due, and effective coverages; answering the telephone, receiving faxes and other general secretarial or administrative functions; and, foreign language translation between producer licensees and customers.

Section 2193.3: Activities Requiring Licensure as an Insurance Producer

CIC Section 1631 provides that persons cannot solicit, negotiate or effect insurance contracts, or act in the capacities of insurance agents, life agents, insurance brokers or insurance solicitors, unless licensed by the Commissioner to act in such capacities.

New Section 2193.3 implements CIC Sections 1631 and 1635 by stating those activities which are not exempt from licensure because they are directly related to the solicitation, negotiation or effecting the sale of insurance.

The activities for which insurance producer licenses required are: explaining or interpreting, and offering of opinions or recommendations on, insurance coverages, exposures, limits, premiums, rates, deductibles, payment plans, or other insurance contract terms; recommending, advising or urging customers to purchase particular insurance policies or to insure with particular companies or insurers; and, binding insurance coverages.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

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

The Commissioner has determined that there will be no nondiscretionary costs or savings to any local agency, state agency or school district from the regulations, and that the regulations will not affect federal funding to the State.

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

The Commissioner has made an initial determination that the regulations may not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states. AB 393, Section 8, however, requires the adoption of these

regulations pertaining to exemptions from insurance agent/broker licensure. The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals.

POTENTIAL COST IMPACT ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

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

IMPACT ON HOUSING COSTS

The 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 purposes for which the regulations are imposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations. Section 8 of AB 393, however, requires the adoption of regulations to implement the bill.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed regulations may affect small businesses. Section 8 of AB 393, however, requires the adoption of regulations to implement the bill.

COMPARABLE FEDERAL LAW

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

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared the express terms of the regulations and an initial statement of reasons that sets forth the reasons for the regulations. Upon written

or e-mailed request, the regulations and initial statement of reasons will be made available for inspection and copying. Written requests for the regulations and initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above.

Upon written or e-mailed request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, any information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying by prior appointment at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

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

POSTING ON CDI WEBSITE

Documents concerning this proceeding are available on the Department's website at <http://www.insurance.ca.gov>. To access this information, find the major heading "Protecting Consumers". In this section, scroll down to the subheading "Be Informed". Click on the "Search for Proposed Regulations" link. When the search field appears, enter "RH01013338", CDI's regulation file number for these regulations. Alternatively, search for the CIC section number that the regulations implement—for instance, "1635", or search by key word, "broker-agent licensing exemption", or "clerical exemption". Then, click on the "Submit" button to display links to the various documents pertaining to this filing.

MODIFIED LANGUAGE

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

**TITLE 10. DEPARTMENT
OF INSURANCE**

STATE OF CALIFORNIA
45 Fremont Street, 21st Floor
San Francisco, California 94105

**RH-01016587
July 26, 2002**

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

SUBJECT OF HEARING

Notice is hereby given that California Insurance Commissioner Harry W. Low will hold a public hearing on September 19, 2002, at 1:00 p.m., in San Francisco, regarding proposed amendments to the California Low Cost Automobile Insurance Program Plan of Operations pertaining to transfer procedures under a buy-out contract for Program policies already in force.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes changes to the California Automobile Insurance Low Cost Program Plan of Operations, referenced in Title 10, Chapter 5, Subchapter 3, Article 8, Section 2498.6 of the California Code of Regulations, pursuant to the authority vested in him by California Insurance Code Sections 11629.7, 11629.79, 11629.9 and 11629.99. The purpose of these amendments is to implement, interpret, and make specific the provisions of California Insurance Code Sections 11623.5, 11629.7, 11629.79, 11629.9, and 11629.99.

HEARING DATES AND LOCATIONS

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations at the following date, time, and place:

**Date and Time: September 19, 2002
1:00 p.m.**

**Location: State Building, Hearing Room 9
455 Golden Gate Avenue
San Francisco, California
94102**

ACCESS TO HEARING ROOM

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 (listed below) for this hearing in order to make special arrangements, if necessary.

**WRITTEN AND/OR ORAL COMMENTS:
AGENCY CONTACT PERSON**

All persons are invited to submit written comments to the Insurance Commissioner on the proposed regulations. Comments should be addressed to the contact person for this proceeding:

Mary Ann Shulman, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Shulmanm@insurance.ca.gov
Telephone: (415) 538-4133
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
MohrE@insurance.ca.gov
Telephone: (415) 538-4112
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on September 19, 2002**. Any written materials received after that time will not be considered.

Comments submitted by e-mail and facsimile transmission will be accepted and considered.

QUESTIONS REGARDING REGULATIONS

General and substantive questions regarding the regulations should be directed to the contact person listed above.

INFORMATIVE DIGEST

Summary of Existing Law

California Insurance Code (CIC) Sections 11629.7 through 11629.84 establish, within the California Automobile Assigned Risk Plan (CAARP), a low-cost automobile insurance pilot program for the County of Los Angeles. California Insurance Code Sections 11629.9 through 11629.995 establish, within the California Automobile Assigned Risk Plan, a low-cost automobile insurance pilot program for the City and County of San Francisco.

The pilot programs are authorized to commence operations on January 1, 2000, and shall be fully operational no later than July 1, 2000. The low-cost

policy satisfies the financial responsibility laws and provides coverage of \$10,000 for liability for bodily injury or death to one person, subject to a cumulative limit of \$20,000 for all persons in one accident, and \$3,000 for liability for damage to property. Annual premium rates and payment installment options are set forth in the statute, as well as procedures for adjusting the rates. In certain cases, surcharges are added to the base rate. The statute sets forth eligibility and application requirements, as well as grounds for cancellation and nonrenewal of policies.

Existing law, CIC 11629.7 and 11629.9, requires the Commissioner to approve or issue a reasonable plan for the equitable apportionment, among insurers, of persons residing in the County of Los Angeles and the City and County of San Francisco who are eligible to purchase a low-cost automobile insurance policy through the pilot programs. CIC Sections 11629.79 and 11629.99 require the Commissioner, in consultation with the California Automobile Assigned Risk Plan, to adopt regulations to implement the low cost automobile insurance pilot programs. These amendments to the regulation are intended to comply with those statutory mandates.

Because the low cost automobile insurance pilot programs are established and administered through the California Automobile Assigned Risk Plan, established under Section 11620 of the Insurance Code, the procedures and requirements applicable to the low cost automobile insurance pilot programs are the same as the procedures and requirements applicable to the assigned risk plan, where appropriate and not inconsistent with the low cost automobile insurance statutes.

Section 2498.6 of the California Code of Regulations (Title 10, Chapter 5, Subchapter 3) references the separate California Automobile Insurance Low Cost Program Plan of Operations, approved by the Commissioner, and sets forth procedures for obtaining a copy of the Plan of Operations. The regulation implements, interprets, and makes specific CIC §§ 11629.7–11629.995.

The proposed amendments refer to sections of the Plan of Operations.

POLICY STATEMENT OVERVIEW

The proposed amendments to the statutorily required plan are intended to clarify procedures regarding the transfer of policies already in force under a buy-out contract. Because the current provision in the Plan of Operations was written before the low cost automobile insurance program began, it does not address policies in force when an insurer decides to enter into a buy-out contract with another insurer to assign its low-cost automobile insurance business. The purpose of the proposed amendments is to address a situation that was not contemplated in the existing

Plan of Operations. The proposed changes fill this gap to avoid confusion as to the obligations of the buy-out company and servicing company.

Section 8 B. Limited Assignment Distribution Procedure

Section 8 B on Limited Assignment Distribution Procedures in the current Plan of Operations sets forth general standards for buy-out arrangements of an insurer's low-cost automobile insurance quota. It does not specifically set forth standards for the transfer of policies already in force. A new proposed provision, subsection 7, clarifies transfer requirements and procedures for a policy already in force at the time an insurer enters into a buy-out agreement to assign its program renewal business. The new provision makes clear the obligations of the buy-out company with respect to the transfer of program policies already in force.

The other proposed changes re-number existing sections of the Plan of Operations for clarity and sequential consistency as a result of the addition of the new subsection.

COMPARABLE FEDERAL LAW

There are no existing comparable federal regulations or statutes.

PRE-NOTICE PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to California Government Code Section 11346.45, the Insurance Commissioner has not circulated this regulatory language prior to publication of this Notice because these regulations were initiated, recommended, and the text drafted by AIPSO and the Advisory Committee of CAARP, on behalf of industry subscribers. Persons interested in the substance of these regulations have provided input to AIPSO and CAARP on the proposed regulations. That input has been considered in the drafting of these regulations. Moreover, these regulations do not involve a complex subject and the regulations can easily be reviewed during the comment period.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposed regulations will not result in any new program mandates on local agencies or school districts.

COST OR SAVINGS TO STATE AGENCIES

The Insurance Commissioner has initially determined that the proposed regulations do not impose any cost on or result in any savings to any state agency.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS/FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposed regulations will not result in any cost to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement. Nor will the proposal affect federal funding to the state.

NONDISCRETIONARY COSTS OR SAVINGS TO LOCAL AGENCIES

The Insurance Commissioner has initially determined that the proposed regulations do not impose other nondiscretionary costs or savings on local agencies

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Insurance Commissioner 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 JOBS AND BUSINESSES IN CALIFORNIA

The Insurance Commissioner has further determined that the adoption of these regulations will have no effect on the creation or elimination of jobs in California, the creation of new businesses or the elimination of existing businesses in California, and will have no effect on the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by them. The proposed regulations require the buy-out company to maintain policies in force and transfer policies to the servicing company at renewal only upon affirmatively determining eligibility for renewal. These are the same requirements for renewal imposed on insurers who do not assign their low cost auto insurance business. At this time, the Insurance Commissioner does not expect that a representative private person or business would necessarily incur any cost impact in reasonable compliance with the proposed action.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposed regulations will not affect housing costs.

IMPACT ON SMALL BUSINESSES

The Insurance Commissioner has initially determined that the proposed regulations will not have a significant effect on small businesses because they merely clarify existing standards.

ALTERNATIVES

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

The agency 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.

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Those technical terms are defined in plain English.

AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons which sets forth the reasons for the regulations. The Initial Statement of Reasons, together with the text of the proposed regulations, and this Notice of Proposed Action are available for inspection or will be provided at no charge upon request to a contact person listed above.

ACCESS TO COPIES OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

Any interested person may inspect a copy of or direct questions about the proposed regulations, the statement of reasons, the information upon which the proposal is based, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. By prior appointment, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, which contains the general substance of the proposed regulations, the Initial Statement of Reasons,

and the text of the proposed regulations will automatically be sent to all persons on the Insurance Commissioner's mailing list.

**AVAILABILITY OF MODIFIED TEXT
OF REGULATIONS**

If the regulations adopted by the Department differ from but are sufficiently related to the original text, the Department will make the modified text available to the public for at least 15 days prior to the date of adoption.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon completion, a copy of the Final Statement of Reasons may be obtained by contacting the contact person listed above.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

The Initial Statement of Reasons, the text of the proposed regulations, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

**TITLE. 14 BOARD OF FORESTRY
AND FIRE PROTECTION**

[Notice Published July 26, 2002]

Hardwood Cover 2002

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following section of Title 14 of the California Code of Regulations (14 CCR):

§§ 932.9 and 952.9

**Cumulative Impacts Assessment Checklist
Appendix Technical Rule Addendum # 2
C. Biological Resources**

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 A.M., on Thursday, September 12, 2002, at the Radisson Hotel, 300 South Court, Visalia, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information pre-

sent to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, September 9, 2002. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: James L. Mote
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551, 4551.5, 4552 and 4553 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4513(b) of the Public Resources Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Existing statute 4513(b) of the Public Resources Code (PRC) states that one of the goals of the Z'berg-Nejedly Forest Practice Act is to give consideration to wildlife.

Existing regulation in 14CCR §§ 939 and 959 states that timber operations shall be planned and conducted to maintain suitable habitat for wildlife species.

Existing regulation in the hardwood cover subsection of the biological resources portion of the Appendix to Technical Rule Addendum # 2 of 14CCR §§ 932.9 and 952.9 states hardwoods provide an important element of habitat diversity in the coniferous forest and are utilized as a source of food and/or cover by a large proportion of the state's bird and mammal species. Productivity of deer and other species has been directly related to mast crops. Hardwood cover can be estimated using the basal area per acre provided by hardwoods of all species.

Existing regulation in the special habitat elements subsection of the biological resources portion of the Appendix to Technical Rule Addendum # 2 of 14CCR §§ 932.9 and 952.9 states the loss of a key habitat element may have a profound effect on a species even though the habitat is otherwise suitable. Each species may have several key limiting factors to consider. For example, a special need for some large raptors is large decadent trees/snags with broken tops or other features. Deer may have habitat with adequate food and cover to support a healthy population size and composition but dependent on a few critical meadows suitable for fawning success. These and other key elements may need special protection.

Existing regulation in 14CCR § 959.15 (a) states, for the southern subdistrict, that where present at time of timber harvest, 400 sq. ft. basal area of oak per 40 acres should be retained and protected, giving preference to deciduous oaks. Oaks should be retained on areas designated by DFG as deer migration corridors, holding areas, or key ranges when consistent with good forestry practices. Although this regulation does not apply to the state as a whole, it demonstrates the necessity to consider hardwood retention when planning timber harvests.

The proposed regulation is designed to emphasize the need to consider hardwood retention in all of California.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None

- Significant statewide adverse economic impact on business, including the ability of California businesses to compete with businesses in other states: The Board has made an initial determination that there will be no significant statewide adverse economic impact directly effecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers 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.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
 Attn: James L. Mote
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460
 Telephone: (916) 653-9418 or,
 (916) 653-8007

The designated backup person in the event Mr. Mote is not available is Daniel Sendek, Executive Officer of the Board of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board 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 Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Road Rules

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following sections of Title 14 of the California Code of Regulations (14 CCR):

- § 895.1 Definitions
- § 914.2 [934.2, 954.2] Tractor Operations
- § 914.6 [934.6, 954.6] Waterbreaks
- § 914.7 [934.7, 954.7] Timber Operations, Winter Period
- § 914.8 [934.8, 954.8] Tractor Road Watercourse Crossing
- § 916.7 [936.7, 956.7] Reduction Soil Loss
- § 923 [943, 963] Logging Roads and Landings
- § 923.1 [943.1, 963.2] Planning for Roads and Landings
- § 923.2 [943.2, 963.2] Road Construction
- § 923.3 [943.3, 963.3] Watercourse Crossings
- § 923.5 [943.5, 963.5] Landing Construction
- § 923.8 [943.8, 963.8] Planned Abandonment of Roads, Watercourse Crossings, and Landings
- § 1050 Erosion Control Maintenance

The Board proposes to adopt the following sections of Title 14 of the California Code of Regulations (14 CCR):

- § 916.14 [936.14, 956.14] Effectiveness and Implementation Monitoring

PUBLIC HEARING

The Board will hold a public hearing on Thursday, September 12, 2002, starting at 10:00 a. m., at the Radisson Hotel 300 South Court, Visalia, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, September 9, 2002. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
 Attn: James L. Mote
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
 Room 1506-14
 1416 9th Street
 Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:
 (916) 653-0989

Written comments may also be delivered via e-mail at the following address:
board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551 authorizes the Board to adopt such Rules and regulations as it determines are reasonably necessary to enable it to implement, interpret, or make specific sections 4513, 4514.3, 4551.5, 4551.7, 4552, 4553, 4562.5, 4562.7, 4562.9, 4582, and 4584 of the Public Resources Code. PRC § 4513(b) states that one of the goals of the Z'berg-Nejedly Forest Practice Act is to consider watershed, wildlife, and fisheries. These regulatory changes will further that goal.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) established the Legislature's concern throughout the State relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources provide watershed protection and fisheries maintenance. The Legislature declared that it is the policy of the State to encourage responsible forest management that consid-

ers the public's need for watershed protection and fisheries (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to watershed, wildlife, and fisheries (ref. PRC § 4513). Public Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect fish and water resources, including but not limited to streams, lakes, and estuaries.

In 1996, the State Fish and Game Commission listed Coho salmon south of San Francisco Bay as threatened under the State Endangered Species Act (ESA). Then in 1997, the National Marine Fisheries Service (NMFS) listed Coho salmon as threatened throughout its range in California under the Federal ESA. Steelhead trout was listed by NMFS as a threatened species in the Northern California ESU on June 7, 2000. In April 2001, the State Fish and Game Commission accepted a petition to list Coho salmon as endangered north of San Francisco Bay. In May of 2001, the Fish and Game Commission adopted an emergency regulation, which established the Coho salmon as a threatened species. The Commission also adopted the Board Interim regulations as the minimum protection to be provided to the species for the effects of timber harvesting.

Among many other sources of information considered by the Board in preparing the Board Interim rule proposal and this proposed change, a comprehensive review of the California Forest Practice Rules (FPRs), with regard to their adequacy for the protection of salmonid species, has been prepared for the Board (Report of the Scientific Review Panel [SRP report], 1999). Following an extensive review of the regulations, "The SRP concluded the FPRs, including their implementation (the 'THP process') does not ensure protection of anadromous salmonid populations" (Report of the Scientific Review Panel, 1999). Although this report was specific to the North Coast region, the Board believes that many of the recommendations made in the report could be effectively applied throughout the State to ensure the protection of the beneficial uses of water, including fisheries and other aquatic habitat.

The Board of Forestry and Fire Protection recognized the substantial concerns raised by other agencies additionally charged with the protection of the State's valuable watershed resources. The Board is also extremely aware of the need to protect listed species that may be impacted by practices that are regulated under the Board's purview, regardless of their location

within the State. Furthermore, the Board recognized the potential for economic impacts to timberland owners and others that could be imposed from certain types of restrictions or requirements. Considering these factors, the Board adopted changes to the Forest Practice Rules under a previous rulemaking package (Protection for Threatened and Impaired Watersheds, 2000).

It should be noted that pursuant to PRC §§ 4512, 4513, 4551, 4551.5, 4552, and 4553; the Board is moving forward with action to further analyze the effectiveness of the rules to protect listed species and the beneficial uses of water. In order to clarify the Board's intent to address the protection of listed aquatic species and watercourses listed as impaired (pursuant to section 303(d) of the Clean Water Act) on a watershed basis, the Board chose to establish a specific period of time that the rule changes adopted July 1, 2000, would be effective.

By imposing a limit on the effective period of the rule changes, the Board is allowed to work with landowners, scientists and other parties during the balance of the year 2000 to investigate whether an alternative regulatory approach could be developed. The Board established a group (Ad Hoc Watershed Committee) to research whether an alternative approach can be developed that would use enhanced scientific analysis and the principals of watershed analysis to determine, among other things, the potential cumulative environmental impacts of proposed timber harvesting operations and associated activities.

The Ad Hoc Watershed Committee has met several times since being appointed to evaluate the current accumulation of knowledge applicable to specific watershed basins. The Committee recognizes that information continues to accumulate through efforts such as the North Coast Watershed Assessment Program (NCWAP). Information such as this will not be available in the near term (5–7 years). The Board cannot wait that long to take action.

The Board held a Watershed Assessment/Evaluation workshop at Blodgett Experimental Forest in April 2000. At this workshop and through the SRP and other information the Board determined that roads and landings are one of the biggest sources of the limiting factor of sediment to listed species. The Board is confident that many of the protections afforded in the Board Interim Rules on Road and Landings are reducing the impacts to listed species by sediment. The Committee has recommended the protections contained in the regulatory proposal be adopted as permanent changes to the forest practice rules.

The Board hopes that an accumulation of knowledge applicable to specific watersheds and basins will continue and ultimately be brought together by the various agencies and the public. This knowledge will then be used to tailor site-specific forest practices to avoid any significant environmental impacts from individual timber harvesting plans, or cumulative impacts from various activities in a watershed that could combine with the effects of timber harvesting. Although advances have been made toward this goal, it is a complex issue and much remains to be done. The Board Ad Hoc Watershed Committee is continuing to accumulate knowledge from the evaluation and research efforts of other agencies and institutions.

The Ad Hoc Watershed Committee will continue the accumulation of knowledge during the upcoming year. The Committee will continue refining application of the best science available to select the appropriate tools to address watershed evaluation or assessment. This is consistent with the Board mandate under Section 4553 of the Public Resources Code. Further work is still necessary, any identified improvements that can be made will be proposed in the upcoming year. The complexity of this regulatory effort is not only in the science of watershed evaluation and assessment but in the "art" of translating that science into regulatory language. Regardless, the Board is continuing to put forward regulations for the protection of salmonid species and the beneficial uses of water, which are based on the best science and protective practices available.

14 CCR § 895.1

Definitions

The Board is committed to the intent to move forward with further actions to address protection of aquatic species and watersheds defined as impaired by the Board. The Board has determined that several of the definitions in the Board Interim Rules are needed on a permanent basis. Additionally, the Board determined that there were terms utilized in the regulations that required a definition for clarity in the application of the regulation. Those definitions are included in this proposal to provide clarity to the application of the protective measures provided in the rules affecting roads and landings.

14 CCR § 914.2 [934.2, 954.2]

Tractor Operations

The Board in considering the Threatened and Impaired rules determined that tractor operations were permitted on slopes that are too steep to hold loose soil. Soil which is sidecast on slopes of 65% will move downhill towards watercourses. The Board is changing this standard to 60% slopes for heavy equipment limitations. The term THP is changed to plan for clarity.

14 CCR § 914.6 [934.6, 954.6]

Waterbreaks

The Board in adopting the rules for Threatened and Impaired watersheds determined that the timing of the installation of waterbreaks should be guided by actual physical events, rather than projected time patterns. The Board has determined that this is more effective through application of the Threatened and Impaired Watershed (T&I) rules. Thus, this standard is being removed from the T&I rules and adopted permanently in this section. Drainage facilities are to be installed as soon as practical. Either before the start of rain that results in runoff or any day the Weather Service predicts a 30% chance of a flash flood warning.

14 CCR § 914.7 [934.7, 954.7]

Timber Operations, Winter Period

The Board determined that the current rule addressing timber operations during the Winter Period did not specifically address roads and landings. Road and landing construction and reconstruction has been identified by the SRP and other sources as one of the biggest contributors to sediment entering watercourse and becoming a limiting factor to listed species such as the Coho. Similarly, road surfacing activities have been found to contribute to sedimentation. Thus, the Board included these activities in a list of activities that must be addressed in a winter operating plan. Two other standards from the T&I rules had been found effective and have been determined to belong in this section permanently. Those standards are 1) a 200 foot limitation on construction and reconstruction of tractor roads for WLPZ's ; 2) a prohibition of the use of logging roads and tractor roads when unstable soil conditions exist, with specified exceptions.

14 CCR § 914.8 [934.8, 954.8]

Tractor Road Watercourse Crossing

This section is amended in two ways. It is made clear that watercourse crossings must provide for the unrestricted passage of all life stages of fish when the crossing is in use. It does provide for the use of alternative practices if approved by the Department of Fish and Game under a 1601 and 1603 permit. Existing tractor road watercourse crossings are to be used unless alternative locations can be shown to reduce impacts to the resource at risk.

14 CCR § 916.7 [936.7, 956.7]

Reduction of Soil Loss

The Board determined that portions of the T&I Rules were effective in providing an incremental reduction of soil loss and has chosen to adopt those permanently in this section. The additional standards are: 1) soil stabilization measures will be described in the plan, 2) during summer periods soil erosion

treatments will be completed before a day with a 30% chance of showers that would result in overland flow of water, 3) the traveled surface of logging roads shall be treated to prevent waterborne transport of sediment, 4) a list of areas requiring specific additional treatment of disturbances is provided, 5) additional treatment shall be applied where natural ground conditions would allow sediment to enter the waters of the state, and 6) identify active erosion sites in the proposed plan area and define any feasible measures to reduce the impacts of those sites.

14 CCR §§ 916.14 [936.14, 956.14]

Effectiveness and Implementation Monitoring

The current permanent Forest Practice Rules do not require that effectiveness monitoring be conducted to determine whether the mitigation measures employed under the provisions of a Timber Harvesting Plan have resulted in adequate protection of resources. The existing section 916.11 [936.11, 956.11] will sunset December 31, 2002. This type of effectiveness monitoring is especially important to determine if mitigation measures have been adequate to protect the beneficial uses of water including the protection of anadromous fish species. The Board applied such a requirement with the T&I interim rules and found it to be effective. This regulatory proposal adopts these standards permanently.

Where fish and other water-related values are already threatened or impaired, the project proponents may be required to demonstrate that such operations can take place without causing additional threat or damage. The proposed rule language under 14 CCR §§ 916.14 [936.14, 956.14] is intended to include evaluation of potential land failures, accelerated rate of road and landing construction or harvesting within a watershed, concentration or intensity of harvesting activity near watercourses, and potential for accelerated windthrow. The design and implementation of the evaluation shall be done in consultation with the Director, the RWQCB or DFG, and THP submitter.

14 CCR § 923 [943, 963]

Logging Roads and Landings

The Board has noted that other environmental planning documents contain detailed plans to address road and landing construction, reconstruction, and maintenance. This section is amended to recognize those other planning efforts and allow them to stand in the stead of the current road and landing rules as long as equal or better protection is provided. A subsection is also added which requires water drafting to meet the goals of this Article.

14 CCR § 923.1 [943.1, 963.1]

Planning for Roads and Landings

Subsection (k) is added as an amendment to this section. This subsection is to provide additional protective measures to prevent sedimentation on roads with steep grades from reaching watercourses. A subsection is added which requires additional information in plans which involve a WLPZ. That information is: 1) a description of Class I watercourse crossings, and 2) a set of clear and enforceable standards to prevent degradation of the beneficial uses of water.

14 CCR § 923.2 [943.2, 963.2]

Road Construction

Additional subsections are added as an amendment to this section. Subsection (w) provides that new and reconstructed roads will be single-lane, out sloped, use rolling dips, and utilize the smallest turnouts possible. Subsection (x) provides additional restrictions for road and landing construction or reconstruction on slopes greater than 50% where there is a potential of material reaching a watercourse. Subsection (y) provides that erosion control facilities or structures shall be designed to accommodate increased risk of failure where certain conditions exist and damage may result to the beneficial uses of water. Subsection (z) is added to define limited specific activities allowed in the channel zone.

14 CCR §§ 923.3 [943.3, 963.3]

Watercourse Crossings

In 1996, the State Fish and Game Commission listed Coho salmon south of San Francisco Bay as threatened under the State Endangered Species Act (ESA), and the Department of Fish and Game subsequently executed a 2090 agreement with the California Department of Forestry and Fire Protection (CDF) to provide additional protection for Coho salmon. In 1997, the National Marine Fisheries Service (NMFS) listed Coho salmon as threatened throughout its range in California under the Federal ESA, and Steelhead trout have been designated as candidate species.

The Z'berg-Nejedly Forest Practice Act of 1973 established the legislature's intent to protect and give consideration to the public's need for long-term watershed protection, fisheries and wildlife, and it directed the State Board of Forestry (BOF) to adopt regulations to control unreasonable effects on the beneficial uses of the State's waters. It now appears appropriate to establish regulations that specifically address timber harvesting operations in watersheds with threatened or impaired values. The proposed additional rule language under 14 CCR §§ 923.3 [943.3, 963.3] is intended to ensure that all watercourse crossings are constructed to allow passage of

debris to prevent blockage by requiring them to accommodate the waters from a 100 year flood event. The proposed additional rule language is also intended to provide minimum specifications for permanent culverts installed within Class I watercourses to ensure the adequate protection of aquatic species. These specifications are intended to address upstream and downstream movement of aquatic species at all life stages, as well as the transport of water, sediment, and debris at 100-year flood levels.

14 CCR § 923.5 [943.5, 963.5]

Landing Construction

A new subsection is added which strictly limits the situations where equipment may operated in the channel zone. Exceptions are provided for where approved under a Fish and Game Code 1601-1603 permit. The term THP is changed to plan for clarity.

14 CCR § 923.8 [943.8, 963.8]

Planned Abandonment of Roads, Watercourse Crossings, and Landings

The section is amended by adding subsection (f). The intent is to address the risk of long-term effects that can result from the abandonment of portions of the timber harvesting transportation system.

14 CCR § 1050

Erosion Control Maintenance

A standard in subsection (f) has been added to clarify that the erosion control maintenance period for permanent and seasonal logging roads and associated landings will be three (3) years.

SPECIFIC PURPOSE OF THE REGULATIONS

To provide protection for aquatic species from significant impacts that may result from timber harvesting. Also, to protect, and to the greatest extent feasible, restore the beneficial uses of water within watersheds with threatened or impaired values.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.

- Significant adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The rule proposal will affect businesses and small business related to the timber industry by increasing the cost for timber harvesting. These extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, and additional cost of professional consultations. There may also be additional cost associated with additional inspections.

Although the Board staff has identified the potential for increased costs associated with the changes to the Rules, the Board staff also identified the potential for increased benefits to other sectors of business in the State. Some of the benefits derived from the change in the Rules could be contributed to both market and non-market values related to increases in anadromous fish populations, reduction in the costs of flood control, and the ability of land managers to continue to harvest timber without the restrictions that could result from a determination of "take" by the National Marine Fisheries Service. Benefits will also be derived from potentially enhanced beneficial uses of water for drinking and other recreational uses besides those related to sport fishing.

The Board staff does not anticipate that the increased costs will result in a significant adverse economic impact directly affecting business, nor has it determined that it will affect the ability of California businesses to compete with businesses in other states a significant adverse impact on the ability of businesses to compete with businesses in other states.

(Note: cost and benefit estimates for the individual Rules are presented in the *Initial Statement of Reasons*.)

- Potential cost impact on private persons or directly affected businesses: As indicated above, the rule proposal will affect businesses and large and small landowners with an interest in the timber products industry by increasing the cost for timber harvesting. These extra costs are associated with planning, operations, and monitoring, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, and additional cost of professional consultations
- The Board staff anticipates that offsetting benefits will be derived from increases in recreation and commercial fishing, as well as reductions in the costs of flood control in some areas.

(Note: cost and benefit estimates for the individual Rules are similar to those referenced above and are presented in the *Initial Statement of Reasons*.)

- Significant effect on housing costs: None are known.
- Adoption of these regulations may create or eliminate jobs within California. It is estimated that the reduction in long term sustained yield resulting from the reduction in timber available for harvest could result in the loss of some 4,800 jobs over the long term. However, the increase in fish populations and enhanced recreational values that could result from the increased protection measures over the long term could result in the creation of jobs in the fishing industry and related industries over the long term, offsetting the loss of jobs in other sectors of the economy.
- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers 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.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
 Attn: James L. Mote
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460
 Telephone: (916) 653-9418 or,
 (916) 653-8007

The designated backup person in the event Mr. Mote is not available is Daniel Sendek, Assistant Executive Officer of the Board of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using the following styles is also available from the contact person named in this notice:

- 1) language existing before 7/01/00 is shown in **PLAIN TEXT**,
- 2) language existing as part of the 2001 interim rules is **DOUBLE-SPACED AND SINGLE UNDERLINED**,
- 3) Proposed adoptions, deletions and amendments to the current and interim language are shown as **~~STIKETHROUGH~~** and **DOUBLE-UNDERLINED**.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board 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 Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) Requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

[Notice Published July 26, 2002]

Archeological Rules—2002

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following section of Title 14 of the California Code of Regulations (14 CCR):

§ 895.1	Definitions.
§§ 929.1 [949.1, 969.1]	Plan, and Emergency Notice Preparation.
§§ 929.2 [949.2, 969.2]	Protection Measures for THPs and Emergency Notices 3 Acres and Larger.
§§ 929.3 [949.3, 969.3]	Post Review Site Discovery.
§§ 929.4, [949.4, 969.4]	Archaeological Training Requirements.
§§ 929.5, [949.5, 969.5]	Site Recording.
§§ 1037.5(a)	Review Teams to be Establish.
§§ 1052	Emergency Notice.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:00 A.M., on Thursday, September 12, 2002, at the Radisson Hotel, 300 South Court, Visalia, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed

regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, September 9, 2002. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: James L. Mote
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551, 4551.5, 4552 and 4553 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513, 4582(f) and 4592 of the Public Resources Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing statute 4582(f) of the Public Resources Code (PRC) requires a timber harvest plan contain special provisions to protect any unique area within the area of timber operations. Existing statute 21002 states that the Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects, and that the procedures required by this division are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such

significant effects. The Legislature further finds and declares that in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.

Existing regulations contained in 14CCR § 895.1 provide definitions that must be used in the rules to convey clear meaning to the regulated public. This rulemaking proposes to clarify several definitions and establish others that will be used in preparing the Confidential Archeological Addendum (CAA) that is attached to a timber harvest plan (plan). The rulemaking further proposes to remove from regulation the Confidential Archeological Addendum form because it merely serves as an attachment to a timber harvest plan and the required information is found in other sections of the regulations. The CAA form will still be available from the Department of Forestry and Fire Protection (Department) for use by the regulated public but the information will not have to be presented on that particular form. This regulation change should have no adverse effect on the regulated public.

Existing regulations contained in §§ 929 [949, 969] through 929.7 [949.7, 969.7] outlines the requirements needed to protect archeological and historical sites found in the plan area.

Existing regulations contained in 14CCR §§ 929.1 [949.1, 969.1] describes requirements for securing known archeological or historical information, notifications of Native Americans and recording new sites discovered. This rulemaking proposes to clarify the information needed in Native American notifications and transfer the role of providing site information to the Native American Heritage Commission from the RPF to the Department. This regulation change should have no adverse effect on the regulated public in fact transferring the role of providing site information to the Native American Heritage Commission from the RPF to the Department will more than balance the burden placed on the regulated public regarding noticing in this section.

Existing regulations contained in 14CCR §§ 929.2 [949.2, 969.2] describes the requirements for protection of significant archeological and historical sites. This rulemaking proposes to clarify the registered professional forester's and the licensed timber operator's responsibilities in this regard. This regulation change should have no adverse effect on the regulated public.

Existing regulations contained in 14CCR §§ 929.3 [949.3, 969.3] describes requirements when a new site is discovered. This rulemaking proposes to clarify the minimum information the person who discovers the

site must provide the Department. This regulation change should have no adverse effect on the regulated public.

Existing regulations contained in 14CCR §§ 929.4 [949.4, 969.4] describes training requirements needed to surveys. Changes are only editorial in nature and will have no adverse effect on the regulated public.

Existing regulations contained in 14CCR §§ 929.5 [949.5, 969.5] describes who is responsible for developing site information. Changes are only clarifying in nature and will have no adverse effect on the regulated public.

Existing regulations contained in 14CCR § 1037.5 with regard to archeology only identifies who the Director of Forestry and Fire Protection may seek archeological advise from when reviewing plans. Changes are editorial in nature and will have no adverse effect on the regulated public. They reflect the new definition proposed.

Existing regulations contained in 14CCR § 1052 with regard to archeology documents what archeology information is required when submitting a emergency notice. Changes are clarifying in nature and will have no adverse effect on the regulated public.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- Significant statewide adverse economic impact on business, including the ability of California businesses to compete with businesses in other states: The Board has made an initial determination that there will be no significant statewide adverse economic impact directly effecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. While parts of this regulation adds some costs to representative private persons and businesses, it eliminates others, which offset the additional costs.

- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. While parts of this regulation add some costs to businesses, it eliminates others, which offset the additional costs.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers 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.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: James L. Mote
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418 or,
(916) 653-8007

The designated backup person in the event Mr. Mote is not available is Daniel Sendek, Executive Officer of the Board of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board 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 Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 17. DEPARTMENT OF DEVELOPMENTAL SERVICES

Special Incident Reporting Procedures

The Department of Developmental Services (DDS) proposes to amend Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 17 by amending Section 58420.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action of DDS. The written comment period closes at 5:00 p.m. on September 13, 2002. Please submit any written comments to the DDS

contact persons designated below by 5:00 p.m. on September 13, 2002. There will be no public hearing on this rulemaking. Any interested person may request a public hearing no later than 15 days prior to the close of the written comment period.

AUTHORITY AND REFERENCE

Authority: Section 11152, Government Code, Sections 4691 and 4691.5, Welfare and Institutions Code.

Reference: Sections 4691 and 4691.5. Welfare and Institutions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Welfare and Institutions Code Division 4512 and 4690 mandates for respite services for families of consumers. DDS proposes to assure the availability of respite services to families of consumers by taking steps to ensure the financial viability of in-home respite service agencies. DDS also proposes that respite agencies' rates be adjusted when vendors have increased usage.

Section 58420 (a), (b), (c), (e)

Changes are proposed to delete the term "program" when referring to types of rate changes allowed under regulations relating to anticipated and unanticipated rate changes.

Section 58420 (b)(3)

A new subsection (b)(3) is proposed which would allow in-home respite service agency vendors to apply for rate changes under the anticipated change regulations when they experience an increase or decrease of 25% or more in the units of service purchased by regional centers.

SMALL BUSINESS DETERMINATION

DDS has determined that the proposed regulations may affect small business.

LOCAL MANDATE DETERMINATION AND FISCAL IMPACT STATEMENTS

DDS has determined that the proposed regulatory action do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any other state agency other than a cost to DDS of approximately \$250,570, which will be absorbed by DDS; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630; 4) other nondiscretionary costs or savings imposed on local agencies; or 5) costs or savings in federal funding to the state.

ASSESSMENT STATEMENT

DDS has determined that the proposed regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California.

DDS has made an initial determination that the proposed regulations will not have:

- 1) a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states; or
- 2) a significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

ALTERNATIVES CONSIDERED

DDS must determine that no reasonable alternative is considered or that has otherwise been identified and brought to the attention of DDS 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.

DDS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Comments and inquiries concerning the proposed action may be directed to:

Attention: Lorna White
Associate Governmental Program Analyst
Department of Developmental Services
Community Rate Section
1600 Ninth Street, Room 310, MS 3-21
Sacramento, California 95814
email: lwhite@dds.ca.gov
Phone: (916) 654-2200
FAX: (916) 654-1578

Attention: Glenda Davis, Chief
Department of Developmental Services
Community Rate Section
1600 Ninth Street, Room 310, MS 3-21
Sacramento, California 95814
email: gdavis@dds.ca.gov
Phone: (916) 654-2201
FAX: (916) 654-1578

Inquiries regarding the substance of the proposed action may be directed to:

Lorna White
Department of Developmental Services
Community Rate Section
1600 Ninth Street, Room 310, MS 3-21
Sacramento, California 95814
email: lwhite@dds.ca.gov
Phone: (916) 654-2200
FAX: (916) 654-1578

AVAILABILITY OF RULEMAKING DOCUMENTS

DDS has prepared and has copies ready for public review of the exact text of the proposed regulations, an Initial Statement of Reasons for the proposed regulations, and all of the information upon which the proposed regulations are based. Copies of the initial statement of reasons and text of the proposed regulations, along with all other public records, reports, documentation or other material related to the proposed regulations will be contained in the rulemaking file and will be available for inspection and copying throughout the rulemaking process from the contact person at the above address. In addition, the text, Initial Statement of Reasons and other materials for the rulemaking may be viewed over the internet at www.dds.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DDS may adopt the proposed regulations as described in this notice. If DDS makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available for public comment at least 15 days before DDS adopts the regulations as revised. If the text is modified, the text may be viewed over the internet at www.dds.ca.gov. Please send requests for copies of any modified regulations to the contact persons named above.

FINAL STATEMENT OF REASONS

When the Final Statement of Reasons is available, it may be viewed over the internet at www.dds.ca.gov. Additionally, requests for the Final Statement of Reasons could be made to the contact persons named above.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation

1535, Racehorse Breeding Stock, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on September 11, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by **September 11, 2002**.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law, Revenue and Taxation Code section 6358(b), provides an exemption from tax for sales and purchases of animals the products of which are ordinarily for human consumption or for resale. Sales and purchases of racehorse breeding stock are subject to tax.

Proposed Regulation 1535, Racehorse Breeding Stock, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 6358.5, which provides and exemption for state, but not from local or district, sales and use tax for sales and purchases of racehorse breeding stock. The proposed regulation provides definitions of terms used in the statute and clarification with respect to the application of the partial exemption to the sale and use of racehorse breeding stock. The proposed regulation has an operative date of September 1, 2001.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment does not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1535 will not have a significant statewide adverse economic impact directly affecting business.

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

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

COST IMPACT ON PRIVATE PERSON OR BUSINESSES

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

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1535 has no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Sections 6358.5 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez (916) 324-2952, at 450 N Street, Sacramento, CA 95814, e-mail Mariflor.Jimenez@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

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

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

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. These documents and other related documents to the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

**TITLE 18. BOARD
OF EQUALIZATION**

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1703, Interest and Penalties, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on Septem-

ber 11, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by **September 11, 2002**.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Current law, Revenue and Taxation Code sections 6485 and 6514, provide for penalties in the event that the Board finds that the failure to pay tax in the situations enumerated in those statutes was the result of fraud. Those statutes do not prescribe a burden of proof that the Board must meet to demonstrate fraud.

Regulation 1703, Interest and Penalties, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code sections 6485 and 6514. Amendments are proposed to declare that the applicable burden of proof for a finding of fraud is "clear and convincing evidence."

**COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed amendments and regulations do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.53(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1703 will have no significant statewide adverse economic impact directly affecting business.

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

The amendment to the regulation as proposed and the new regulations will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulations may affect small business.

COST IMPACT ON PRIVATE PERSON
OR BUSINESSES

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

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1703 and the proposed change have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Sections 6485 and 6514 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez (916) 324-2952, at 450 N Street, Sacramento, CA 95814, e-mail Mariflor.Jimenez@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

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

AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking

file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

**TITLE 18. BOARD
OF EQUALIZATION**

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1502, Computers, Programs, and Data Processing, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on September 11, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by **September 11, 2002**.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Liability for sales tax or use tax is measured by “sales price” (use tax) or “gross receipts” (sales tax). Current law, Revenue and Taxation Code sections 6011 and 6012, regarding “sales price” and “gross receipts,” respectively, provide in part that these terms include services that are a part of the sale of tangible personal property. Charges for services not part of the sale are thus excluded from the measure of tax. Neither statute, however, prescribes a method for determining how to apportion between the two.

Regulation 1502, Computers, Programs, and Data Processing, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6011 and 6012. Amendment is proposed to provide that 50 percent of the lump-sum charge for an optional software maintenance agreement is for the sale of tangible personal property and is subject to tax, and the remaining 50 percent of the lump-sum charge is a nontaxable charge for repair; to make non-substantive revisions throughout the regulation that reformat text and language consistent with current standards and delete references to obsolete computer processes; to conform the definition of digital prepress instructions to the language used in recently amendments to Regulations 1540, *Advertising Agencies and Commercial Artists*, and 1541, *Printing and Related Arts*, and to remove gender-specific language.

**COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed amendment does not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1502 will not have a significant statewide adverse economic impact directly affecting business.

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

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

**COST IMPACT ON PRIVATE PERSON
OR BUSINESSES**

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

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1502 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Sections 6011 and 6012 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez (916) 324-2952, at 450 N Street, Sacramento, CA 95814, e-mail Mariflor.Jimenez@boe.ca.gov or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board’s consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

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

AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. These document and other related documents to the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

**TITLE 22. DEPARTMENT OF
HEALTH SERVICES**

ACTION: Notice of Emergency Rulemaking
Title 22, California Code of Regulations
SUBJECT: Medi-Cal Provider Rates, R-24-01E

PUBLIC PROCEEDINGS: Notice is hereby given that the California Department of Health Services will conduct a public hearing commencing at 10 a.m. on September 11, 2002, in the auditorium at 714 P Street, Sacramento, CA, 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. Any written statements, arguments or contentions must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, CA 94234-7320, by 5 p.m. on September 13, 2002, which is hereby designated as the close of the written comment period. It is requested but not required that written statements, arguments or contentions sent by mail or hand-delivered be submitted in triplicate.

Comments by FAX (916-657-1459) or email (regulation@dhs.ca.gov) must be received before 5:00 p.m. on the last day of the public comment period. All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

CONTACTS

In any of the following inquiries, please identify the action by using the Department regulation control number, R-24-01E:

1. In order to request a copy of this regulation package be sent to you, please call (916) 654-0381 or email regulation@dhs.ca.gov.
2. Inquiries regarding the substance of the emergency regulations described in this notice may be directed to Lynn McNamara of the Medi-Cal Policy Division, Rate Development Branch at (916) 657-4470.
3. All other inquiries concerning the action described in this notice may be directed to Jasmin Delacruz of the Office of Regulations at (916) 657-0501, or to the designated backup contact person, Allison Branscombe, at (916) 657-0692.

Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Welfare and Institutions (W & I) Code, Section 14105(a) authorizes the Department of Health Services to establish maximum reimbursement rates for health care services provided by the California Medicaid (Medi-Cal) Program, and requires the Department to adopt regulations necessary to carry out this provision. This section further requires that the Department adopt regulations establishing reimbursement rates that reflect budgeting decisions of the

Legislature within one month after enactment of the Budget Act or any other appropriation that changes the level of funding for Medi-Cal services.

The policy objective of these regulations is to implement changes in maximum reimbursement rates for selected Medi-Cal services provided for by the Legislature in the Fiscal Year 2000–2001 Budget Act, Assembly Bill 1740, Chapter 52, Statutes of 2000. The Department began paying these increased rates during the 2000/2001 fiscal year for dates of service on or after August 1, 2000 in accordance with the Budget Act of 2000. Consequently, these regulatory amendments that incorporate the rates will be effective August 1, 2000.

Medi-Cal maximum reimbursement rates which are affected by this regulatory action are amended in several sections of Title 22, California Code of Regulations (CCR), as follows: Section 51503, Physician Services; Section 51503.2, Reimbursement for Services Rendered by a Nurse Midwife, a Certified Family Nurse Practitioner, or a Certified Pediatric Nurse Practitioner; Section 51504, Comprehensive Perinatal Services; Section 51505.1, Podiatry Services; Section 51505.2, Nurse Anesthetist Services; Section 51505.3, Psychology Services; Section 51507, Physical Therapy; Section 51507.1, Occupational Therapy; Section 51507.2, Speech Therapy and Audiology; Section 51507.3 Respiratory Care Practitioner; Section 51509 Hospital Outpatient Departments; Section 51509.1, Organized Outpatient Clinics; Section 51514, Chiropractic Services; Section 51517, Hearing Aids; Section 51521, Durable Medical Equipment; Section 51527, Medical Transportation Services; Section 51529, Pathology Services; and Section 51535.5, Local Educational Agency Services.

Section 51503 is also being amended to eliminate the incorporation by reference of the 1969 California Relative Value Studies in describing physician rates, and to instead incorporate by reference a new document entitled “Schedule of Medi-Cal Physician Rates”, published June 2002 by the Department of Health Services. This Schedule is comprised of the following: 1) Descriptions of Terms and Guidelines, 2) Table of Conversion Indicators and Factors, 3) Valid Medi-Cal Physician Modifiers, and 4) Table of Unit Values and Indicators.

The Legislature appropriated funding for rate increases for selected physician and related services, and allied health services. The rate changes contained in these regulations are as follows:

<u>Increase</u>	<u>Purpose of Augmentation</u>
Average 16.7%	Rates for physician services (includes a 40% increase for services provided in emergency rooms)

33%	California Children’s Services (CCS) physician services
11%	Rates for comprehensive perinatal services
30%	Rates for neonatal intensive care
30%	Rates for psychology services
30%	Rates for physical, occupational, and speech therapy and audiology
10%	Rates for respiratory care practitioners
130%	Rates for chiropractic services
54%	Rates for mammograms
150%	Rates for breast pumps
20%	Rates for medical transportation services
100%	Rates for hearing aids and dispensing fee (100% increase for hearing aids includes a 30% increase for dispensing fee)
Average 19%	Rates for local educational agency services

Concurrently with these regulations being submitted to the Office of Administrative Law, at least two legislative bills were pending that could require different rates than some of those provided for by these regulations. In order to avoid any confusion regarding what rates are to be paid if one of these pending bills become law, language is being added to the regulations to clarify that any subsequently enacted statutorily required rate shall be paid if different from any of the rates contained in these regulations.

AUTHORITY

Sections 208, 309(b), and 1188.877, Health and Safety Code; and Sections 10725, 14105, 14105.97, 14124.5, 14125, and 14132.41, Welfare and Institutions Code

REFERENCE

Sections 1206, 1220, 1272, 1272.6, 4063.7, Business and Professions Code; Section 56340 et seq., Education Code; Section 95020, Government Code; Sections 1188.877, 101150–101165, 124980, 124985, 124990, 124995, Health and Safety Code; Sections 14000, 14005, 14018.2, 14023.7, 14053, 14059, 14075, 14077, 14087.3, 14088.16, 14100.2, 14103.7, 14105, 14105.97, 14106, 14115, 14115.4, 14123, 14124.1, 14124.5, 14124.90, 14132, 14132.1, 14132.4, 14132.41, 14132.42, 14133, 14133.1, 14134, 14134.2, 14134.5, 14136.5, 14148.4, and 14170 Welfare and Institutions Code; Statutes of 1982, Chapter 1594, Sections 77 and 79; Statutes of 1983, Chapter 323, Section 149; Statutes of 1984, Chapter 258, Items 4260-106-001 and 890; Statutes of 1984, Chapter 268, Section 66; Statutes of 1985,

Chapter 111, Items 4260-106-001 and 890; Statutes of 1986, Chapter 186, Items 4260-106-001 and 890; Statutes of 1992, Chapter 722, Section 88; Statutes of 1998, Chapter 324, Items 4260-101-0001 and 0890; Statutes of 1999, Chapter 50, Items 4260-101-0001 and 4260-101-0890; Statutes of 2000, Chapter 52, Items 4260-101-0001 and 0890; Title 42, Code of Federal Regulations, Sections 433.123, 433.139, 1001.201 through 1001.1701 and 1002.2; Title 42, United States Code, Sections 263a, Section 1395w-2 [Section 1846 of the federal Social Security Act], Section 1395x(s) [Section 1861(s) of the federal Social Security Act], Section 1396a(a)(9)(C) [Section 1902(a)(9)(C) of the federal Social Security Act], Section 1396a(a)(25), Section 1396a(a)(30) [Section 1902(a)(30) of the federal Social Security Act] and 1396a(p) [Section 1902(p) of the Social Security Act].

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None
- B. Fiscal Effect on State Government: The fiscal impact for fiscal year 2000–2001 was \$186,350,000 (\$93,175,000 General Fund.) The fiscal impact for fiscal year 2001–2002 and annually thereafter is \$203,282,000 (\$101,641,000 General Fund.)
- C. Fiscal Effect on Federal Funding of State Programs: The federal financial participation for fiscal year 2000–2001 is \$93,175,000. The federal financial participation for fiscal year 2001–2002 is \$101,641,000.
- D. All cost impacts, known to the Department at the time the notice of emergency action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the emergency action: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the emergency action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

DETERMINATIONS

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

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

Provider participation in the Medi-Cal program is voluntary; there is no statutory mandate for providers to provide services to Medi-Cal beneficiaries. The proposed changes will not result in any new reporting, compliance or record keeping requirements for participating Medi-Cal providers

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

No reduction to the overall scope of benefits or annual program payments will result from the emergency action.

The Department has determined that the regulations will affect small businesses since many Medi-Cal providers meet the criteria for small business.

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the emergency regulations, all the information upon which the emergency regulations are based, and the text of the emergency regulations. A copy of the initial statement of reasons and a copy of the text of the emergency regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the emergency regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the emergency regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

Please note: The “Schedule of Medi-Cal Physician Rates” (“Schedule”), published by the Department of Health Services, and incorporated by reference in these emergency regulations is available for viewing at the above website. This “Schedule” was not sent to persons who have requested notice of all Medi-Cal regulations, due to its size (400 + pages), and because it is on the above website. However, interested persons may contact this office to request a copy of this document be mailed to them during this public comment period.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the emergency action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

ADDITIONAL STATEMENTS AND COMMENTS

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

Other regulation changes may be scheduled for hearing at the same time appointed for public hearing on the action described in this notice. An agenda for the public hearing will be posted at the time and place of hearing designated above.

Sign language interpreting services at a public hearing or other reasonable accommodation will be provided upon request. Such request should be made no later than 21 days prior to the close of the written comment period, and addressed to the Office of Civil Rights within the Department of Health Services by phone (916-657-1411); FAX (916-657-0153); TDD (916-657-2861); or email (civilrights-ra@dhs.ca.gov).

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
Tracking Number 2080-2002-015-05

- PROJECT: Arroyo Trabuco Golf Course (SAA No. R5-2001-0269)
LOCATION: City of Mission Viejo and unincorporated County lands, Orange County
NOTIFIER: DMB San Juan Golf Associates

BACKGROUND

The proposed action is to construct an 18-hole championship golf course located within an approximately 230-acre footprint. Within this footprint, approximately 55-acres will remain as natural open space. In addition to the golf course, the project will include construction of an unlighted practice range, clubhouse, parking lot, and standard golf course

facilities such as cart paths, restrooms, putting greens, and maintenance areas. Also included in the project design are seven storm drains which will outlet to Trabuco Creek, two bridge crossings of Trabuco Creek, and the creation of a regional riding and hiking trail. The proposed project is located within Rancho Mission Viejo in Southern Orange County. A portion of the project site is within the City of Mission Viejo, and the remaining portion of the site is located within the County of Orange. The project site is generally bounded by Crown Valley Parkway to the north, undeveloped land on the west, developed areas on the south, and Ladera open space on the east. The project will impact 8.317-acres of State jurisdictional waters: 4.263-acres are permanent impacts, and 4.054-acres are temporary impacts. Based on the Service's Biological Opinion (FWS-OR-918.5), the action will result in the removal of approximately 12.41-acres of riparian habitat.

The action would adversely affect least Bell's vireo (Vireo bellii pusillus; vireo) through the removal of suitable foraging riparian habitat. Indirect effects include degradation of adjoining habitat through edge effects, habitat isolation, and fragmentation. Least Bell's vireo is a species listed as endangered under the California Endangered Species Act, Fish and Game Code 2050, et seq. ("CESA") and is also listed as an endangered species under the Federal Endangered Species Act.

On June 11, 2002, the U.S. Fish and Wildlife Service issued Biological Opinion No. FWS-OR-918.5 describing the project actions and setting forth measures to mitigate impacts to the least Bell's vireo (Vireo bellii pusillus) and its habitat.

On June 14, 2002, the Director of the Department of Fish and Game (Department) received a notice from DMB San Juan Golf Associates, seeking a determination pursuant to section 2080.1 of the Fish and Game Code that the biological opinion was consistent with CESA.

DETERMINATION

Based on the terms and conditions in Biological Opinion No. FWS-OR-918.5, the Department finds that the project is consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code section 2081(b) and (c) to avoid take of species protected under CESA while providing certain mitigation. Important to the Department's findings are several measures from the federal Biological Opinion, which address expected or potential impacts to the vireo. These include, but are not limited to, the following:

The project applicant will create 16.0 acres of wetland or riparian habitats located primarily between the golf course and areas of existing riparian habitats.

The 16.0 acres will consist of 7.6 acres of “transitional” riparian habitat, 1.4 acres of southern willow scrub, and 7.0 acres of wet meadow or emergent marsh.

The project applicant will dedicate approximately 360 acres of open space, of which approximately 88 acres will be added to the Ladera Ranch Open Space Conservation Easement, 49 acres will be dedicated via conservation easement to CDFG, and 223 acres will be dedicated in fee to O’Neill Regional Park. The dedicated areas include the following:

- A. 55.2 acres of coastal sage scrub that support a total of 10 pairs of gnatcatchers and 2 single male gnatcatchers.
- B. 99.6 acres of riparian that support 11 pairs of vireos and 1 single male vireo.
- C. 28.9 acres of marsh/wetlands, 1.5 acres of freshwater swale, and 0.75 acres of open water.
- D. 60.2 acres of Valley needlegrass grassland, 28.8 acres of annual grassland, 4.2 acres leymus grassland, and 0.4 acre laurel sumac grassland.
- E. 77.1 acres of other land cover types comprised of 29 acres of developed area, 47.1 acres of disturbed habitat, and 1.0 acre of ornamental.

The project applicant will ensure funding by providing the Department with a letter of credit in an amount sufficient to cover the cost of creating 16 acres of riparian habitat. In addition, the applicant will endow the approximately 49-acre conservation easement with sufficient funds to provide for perpetual management of said acres. Management of the approximately 49-acre conservation easement will be provided by the Ladera Land Conservancy and will be consistent with the management of the adjacent Ladera Ranch Open Space Conservation Easement.

The project applicant, including all of their agents/contractors, shall minimize the effects of the project on sensitive resources, including individual vireos and their habitat by implementing the following Terms and Conditions: 1) During construction, a construction monitoring program will be implemented by DMB San Juan Golf Associates, or its agent Rancho Mission Viejo, to minimize temporary impacts to vireo. Prior to mass grading, the applicant will have qualified monitoring biologists conduct vireo nest surveys to determine the location, number, and status of nesting pairs. The monitoring biologist will be onsite and present during vireo breeding season to monitor activity at nests and to determine if avoidance and minimization measures are effective. If a nest is found within 300 feet of clearing and grubbing areas, work will be postponed within and adjacent to not less than 300 feet of the nest. 2) Prior to grading, all areas of habitat to be avoided by construction equipment will be marked with temporary construction fencing. 3) A

construction education program will be conducted to ensure that construction personnel are aware of the sensitive biological resources.

Pursuant to section 2080.1 of the Fish and Game Code, incidental take authorization under CESA will not be required for the vireo. Any substantive changes to the project as described in the biological opinion, including changes to the mitigation measures, will require the applicant to obtain a new Consistency Determination or a CESA incidental take permit from the Department.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 Tracking Number 2080-2002-014-06

- PROJECT: State Route 71 Widening, Riverside County
- LOCATION: Between post mile 0.0 at the Los Angeles County line and post mile 2.7 within the County of Riverside
- NOTIFIER: Mr. Nathaniel Pickett, California Department of Transportation, District 8, MS-822, 464 West Fourth Street, 6th Floor, San Bernardino, CA 92401-1400

BACKGROUND

The California Department of Transportation proposes to widen State Route 71 between post mile 0.0 at the Los Angeles County line and post mile 2.7 within the County of Riverside. The proposed project is expected to relieve congestion and improve safety by the addition of two lanes to the existing two-lane freeway section, providing two lanes in each direction, a safety median barrier, and shoulders. The project construction is scheduled to begin in fall 2002 and be completed by February 2004.

The construction of this project will impact 0.58 acres of least Bell’s vireo (*Vireo bellii pusillus*) habitat. The action would adversely affect least Bell’s vireo and their habitat. Least Bell’s vireo is a species listed as endangered under the California Endangered Species Act, Fish and Game Code 2050, et seq. (“CESA”). On June 7, 2002, the U.S. Fish and Wildlife Service issued Biological Opinion #FWS-WRIV-2760.2 describing the project actions and setting forth measures to mitigate impacts to the least Bell’s vireo and its habitat. On June 21, 2002, the U.S. Fish and Wildlife Service issued an Amendment (#FWS-WRIV-2760.3) which includes additional conservation measures proposed by the California Department of Transportation. On June 21, 2002, the Director of the Department of Fish and Game (“Department”) received a notice from the California Department of

Transportation seeking a determination pursuant to section 2080.1 of the Fish and Game Code that the biological opinion was consistent with CESA.

DETERMINATION

After reviewing the above-referenced biological opinion, its amendment, and other relevant documents, the Department has determined that Biological Opinion #FWS-WRIV-2760.2 and the Amendment to the Biological Opinion (#FWS-WRIV-2760.3) are consistent with CESA because the project and mitigation measures meet the conditions set forth in Fish and Game Code section 2081 (b) and (c) for authorization of incidental take of species protected under CESA. Measures incorporated into the project and described in the federal biological opinion require: 1) all vegetation removal to occur between August 15 and March 15 to avoid bird nesting seasons; 2) the construction of two open span bridges with soft bottoms designed to facilitate wildlife movement; 3) the revegetation of 2.5 acres of riparian and riparian transitional habitat surrounding and under the two bridges; 4) the revegetation of 11 acres of native upland habitat on site by hydroseeding; and 5) the revegetation of approximately 0.30 acres of native upland vegetation in the vicinity of extended culverts.

Pursuant to section 2080.1 of the Fish and Game Code, incidental take authorization under CESA will not be required for incidental take of least Bell’s vireo as a result of the project. Any substantive changes to the project as described in the biological opinion, including changes to the mitigation measures, will require the notifier to obtain a new consistency determination or a CESA incidental take permit from the Department.

DEPARTMENT OF HEALTH SERVICES

ADOPT REGULATIONS TO IMPLEMENT CHANGES FOR MEDI-CAL RATES

This notice is being given to provide information of public interest with respect to the setting of Medi-Cal reimbursement for long term care (LTC) services. It is the intent of the Department of Health Services (DHS) to adopt emergency regulations, subject to the approval by the State Office of Administrative Law, to implement Medi-Cal rate changes for the above services, effective August 1, 2002, pursuant to the authority expected to be granted in the State Budget Act of 2002.

BAY AREA PEER GROUP CHANGE

The Long Term Care rate setting methodology has been changed to add Napa and Sonoma counties to the definition of Bay Area counties. This change reflects

that these counties are more compatible with the Bay Area peer group. A State Plan amendment reflecting this change has been approved by the federal Centers for Medicare & Medicaid Services, and will be effective August 1, 2002.

ANNUAL EXPENDITURES

States are required to give public notice of significant proposed changes in methods and standards for setting payment rates, including the fiscal impact. DHS has determined that it is also appropriate to give notice regarding changes in the reimbursement rate. The chart below represents the anticipated increases in total annual expenditures:

<u>LEVEL OF CARE</u>	<u>ANTICIPATED ANNUAL INCREASE (MILLIONS)*</u>
LONG TERM CARE	<u>18.2</u>
TOTAL	18.2

* Subject to change in accordance with the State Budget Act of 2002, or pending facility audits.

PUBLIC REVIEW

The changes discussed above are available for public review at local county welfare offices throughout the State. In addition, copies of this notice may be requested and comments may be sent by writing to Gene Morrow, Acting Chief, Long Term Care Reimbursement Unit, Department of Health Services, 714 P Street, Room 1550, Sacramento, CA 95814.

Any written statements or arguments regarding the proposed emergency regulations must be received by the Office of Regulations, Department of Health Services, 714 P Street, Room 1000, P.O. Box 942732, Sacramento, California 94234-7320, not later than 45 days after publication of the “Notice of Emergency Rulemaking”. The date for a public hearing, if one is scheduled, will be published in the California Administrative Notice Register after the regulations have been approved by the Office of Administrative Law.

DEPARTMENT OF HEALTH SERVICES

IMPLEMENT STATUTORILY REQUIRED REDUCTIONS TO MEDI-CAL RATES

This notice is being given to provide information of public interest with respect to the Medi-Cal reimbursement rates paid for physician and other non-institutional services. It is the intent of the Department of Health Services (DHS) to implement rate changes required by the State Budget Act of 2002 and related legislation. State law may require reductions in some or all of the rates that DHS has paid for physician and other non-institutional services since August 2000.

Following is a summary of rate changes for physician and other non-institutional services that were implemented effective August 2000.

PHYSICIAN SERVICES

- Rates for physician services were increased by an average of 16.7 percent (included a 40 percent increase for services provided in emergency rooms).
- Rates for the California Children's Services Program were increased by an additional 33%
- Rates for California Perinatal Services Program (CPSP) services were increased by 11%.
- Rates for EPSDT Screening services were increased by 20%.
- Rates for Neonatal Intensive Care services were increased by 30%.

OTHER MEDICAL SERVICES

- Rates for Blood Bank services were increased by 70%.
- Rates for PAP Smear Laboratory services were increased by 53%.
- Rates for Mammograms were increased by 54%.

HOME HEALTH SERVICES

- Rates for Shift Nursing for EPSDT and Waiver services were increased by 10%.
- Rates for home health agency services were increased by 10%.

DENTAL SERVICES

Rates for dental services were increased by an average of 6.8%.

NON-EMERGENCY MEDICAL TRANSPORTATION

Rates for wheelchair/litter van transportation services were increased by 20%.

CHIROPRACTIC CARE SERVICES

Rates for chiropractic services were increased by 130%

THERAPY SERVICES

Rates for psychology, audiology, physical, occupational, and speech therapy services were increased by 30%.

RESPIRATORY CARE SERVICES

Rates for respiratory care services were increased by 10%.

HEARING AIDS

Rates for hearing aids were increased by 100%, including a 30% increase in the dispensing fee.

DURABLE MEDICAL EQUIPMENT

Rates for manual breast pumps were increased by 150%

MOTHER'S MILK BANK

Rates for Mothers' Milk Bank were increased by 20%.

LOCAL EDUCATION AGENCIES (LEA)

Rates for non-case managed LEA services were increased by an average of 19%.

**POSSIBLE CHANGES TO RATES
EFFECTIVE AUGUST 1, 2002**

Pursuant to Section 447.205 of Title 42 of the Federal Code of Regulations, DHS is required to issue a notice prior to the effective date of Medi-Cal rate adjustments, which typically occur August 1st of each year. At the time this notice was prepared for publication in mid-July 2002, the Legislature had not determined the Medi-Cal rate adjustments that would ultimately be enacted into law effective August 1, 2002. The proposal included in the Governor's May 2002 Medi-Cal Estimate estimated a reduction in expenditures of \$236.2 million Total Funds. Section 103 of Assembly Bill 442 (AB 442), which was pending at the time this notice was prepared, would require DHS to eliminate all of the above mentioned August 2000 rate increases beginning August 1, 2002, except for the supplemental rate for California Children's Services, home health services, shift nursing, nonemergency medical transportation, and family planning services. Additionally, the rate reductions included in AB 442 would not apply to rates paid to certain institutional providers such as general acute care hospitals that may provide any of the above mentioned services.

To the extent that AB 442 or any other bill enacted into law requires DHS to reduce any Medi-Cal reimbursement rates effective August 1, 2002 for any providers, those providers will be entitled only to the statutorily required reduced rates for dates of service on or after August 1, 2002. Even though the Legislature may require that the rate reductions be effective for services on or after August 1, 2002, a certain amount of time is necessary to incorporate new rates into the claims processing system for claims payment. Therefore, providers subject to any statutorily required rate reductions are hereby notified that as soon as administratively feasible, DHS will retroactively recoup the difference between payments made and the amount these providers were entitled to based on any statutorily required rate reductions for services provided on or after August 1, 2002.

On January 1, 2000, and on July 1, 2002, DHS increased reimbursement to pharmacists by \$.25 and \$.15, respectively, per prescription for all drug

prescriptions claims reimbursed through the Medi-Cal Program. Section 58 of the same bill discussed above, AB 442, would reduce reimbursement to pharmacists by the increases received on January 1, 2000 and July 1, 2002 except that claims submitted by pharmacists for beneficiaries residing in a nursing facility are exempt from this reduction. Section 58 of AB 442, if enacted, would become inoperative on July 1, 2004.

PUBLIC REVIEW AND COMMENTS

The proposed changes discussed above are available for public review at local county welfare offices throughout the State. In addition, copies of this notice may be requested and comments may be sent in writing to Kathy Menda, Chief, Professional Provider Unit, Department of Health Services, 714 P Street, Room 1550, Sacramento, CA 95814.

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are published at www.oal.ca.gov Decisions. You may request a copy of a decision by contacting Mike Ibold, Law Librarian at the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, California 95814-4339, (916) 323-8906—FAX (916) 323-6826. Please request by OAL file number.

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW
OAL File No. 02-0521-03 C**

SHERRY KAUFMAN
Staff Counsel

For: DAVID B. JUDSON
Deputy Director/Chief Counsel

In re:

AGENCY: DEPARTMENT OF FOOD AND AGRICULTURE

REGULATORY ACTION: Title 3, California Code of Regulations

AMEND SECTIONS: 1392.1, 1392.2, 1392.4, 1392.9.1)

DECISION SUMMARY

The proposed action would amend the conditions under which certified producers may sell their agricultural products at certified farmers' markets. The

amendments would require certified producers who sell products under their own primary certificate and also sell products under a partnership to comply with all requirements with which individual certified producers are required to comply including selling for and/or representing for no more than two other producers on a certified producer's certificate in a 12-month period. On July 3, 2002, the Office of Administrative Law ("OAL") notified the Department of Food and Agriculture ("Department") that the proposed amendment of sections 1392.1, 1392.2, 1392.4, and 1392.9.1 was disapproved for incorrect procedure and inadequate response to comments made regarding the proposed action.

For the reasons set forth above, OAL has disapproved the amendment of sections 1392.1, 1392.2, 1392.4, 1392.9.1 Title 3 of the California Code of Regulations. If you have any questions, please contact me at (916) 324-1921.

July 10, 2002

Original: William Lyons, Jr., Agency Secretary

Cc: Sonja A. Dame

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

BOARD OF FORESTRY AND FIRE PROTECTION Watershed Protection Extension 2002

The Board of Forestry and Fire Protection in the years 2000 and 2001 adopted and amended watershed protection regulations designed to protect endangered and threatened fish species and beneficial uses of water in relation to timber operations. This regulatory action would extend the expiration date of these watershed protection regulations from December 31, 2002 to December 31, 2003.

Title 14

California Code of Regulations

AMEND: 895.1, 898, 914.8, 934.8, 954.8, 916, 936, 956, 916.2, 936.2, 956.2, 916.9, 936.9, 956.9, 916.11, 936.11, 956.11, 916.12, 936.12, 956.12,

923.3, 943.3, 963.3, 923.9, 943.9, 963.9
 Filed 07/12/02
 Effective 01/01/03
 Agency Contact: James L. Mote (916) 653-9418

**BOARD OF FORESTRY AND FIRE PROTECTION
 Inerim Watershed Mitigation Addendum—2001**

This regulatory action provides for the preparation of an interim water mitigation addendum to the Timber Harvest Plan in lieu of complying with existing regulatory requirements for the protection and restoration of watersheds with threatened or impaired values. (Previous OAL file # 01-1016-02S)

Title 14
 California Code of Regulations
 ADOPT: 916.13, 936.13, 956.13, 916.13.1, 936.13.1, 956.13.1, 916.13.2, 936.13.2, 956.13.2, 916.13.3, 936.13.3, 956.13.3, 916.13.4, 936.13.4, 956.13.4, 916.13.5, 936.13.5, 956.13.5, 916.13.6, 936.13.6, 956.13.6, 916.13.7, 936.13.7, 956.13.7, 916.13.8, 936
 Filed 07/15/02
 Effective 01/01/03
 Agency Contact: James L. Mote (916) 653-9418

**BOARD OF PSYCHOLOGY
 Supervision Training Requirement**

Section 2914 of the Business and Professions Code requires that applicants for licensure from the Board of Psychology engage for at least two years in supervised professional experience under the direction of a licensed psychologist. Existing subsection (b) of section 1387.1 of title 16 of the California Code of Regulations requires that a primary supervisor certify on his/her verification form that he/she has completed at least six hours of formal training in supervision which training can be accomplished in a number of specified ways. Effective January 1, 2003, this regulatory action eliminates the training requirement in existing subsection (b) and, pursuant to a new subsection (c), requires a primary supervisor to complete a minimum of six hours of supervision coursework every two years.

Title 16
 California Code of Regulations
 AMEND: 1387.1
 Filed 07/17/02
 Effective 01/01/03
 Agency Contact: Kathy Bradbury (916) 263-0712

**CALIFORNIA HIGHWAY PATROL
 CVSA Out-of-Service Criteria**

This action (CHP-R-01-06) updates the incorporation by reference of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria to the current standard (April 1, 2001). The specific criteria will uniformly determine whether or

not a vehicle and/or driver, inspected by a member of the CHP, is in a condition likely to constitute a hazard on a highway, to provide consistency throughout California with neighboring states, Canada and Mexico.

Title 13
 California Code of Regulations
 AMEND: 1213.1, 1230, 1239
 Filed 07/10/02
 Effective 08/09/02
 Agency Contact: Joe McEnulty (916) 445-1865

**COMMISSION ON TEACHER CREDENTIALING
 Child Development Permit with School-Age Emphasis**

This rulemaking action would establish a School-Age Emphasis for all Child Development Permits, specifying the type and quantity of course work which would qualify the permit holder as a school age specialist.

Title 5
 California Code of Regulations
 AMEND: 80105, 80109, 80110, 80111, 80112, 80113, 80114, and 80115
 Filed 07/15/02
 Effective 07/15/02
 Agency Contact:
 Nadine Noelting (916) 327-2966

**DEPARTMENT OF CONSERVATION
 SB 528 Quality Glass Incentive Payment Emergency Regulations**

Senate Bill 528, Chapter 874, Statutes of 2001, was enacted as an urgency measure effective October 14, 2001. Under the prior statutes only curbside programs were eligible for "quality glass" incentive payments. Quality glass is color-sorted glass beverage containers that are substantially free of contaminants. SB528 extended the eligibility for the quality glass incentive payments to any certified entity. This filing is a readoption of emergency regulations concerning the qualifications for the payments, the process and criteria for obtaining authorization to submit claims, approval, denial, suspension and revocation criteria, procedures for authorization, two forms, and accounting and reporting requirements.

Title 14
 California Code of Regulations
 AMEND: 2090, 2105, 2420, 2425, 2530, 2690 renumbered to 2850
 Filed 07/17/02
 Effective 07/23/02
 Agency Contact: Marty Nold (916) 327-2761

CALIFORNIA REGULATORY NOTICE REGISTER 2002, VOLUME NO. 30-Z

DEPARTMENT OF CORPORATIONS
Calif. Finance Lenders Law Long and Short Form for
Licensure

This emergency regulatory action adopts the forms
for licensure to do business as a finance lender or
broker. (Previous OAL file #02-0312-01E)

Title 10
California Code of Regulations
ADOPT: 1422, 1423
Filed 07/10/02
Effective 07/15/02
Agency Contact: Kathy Womack (916) 322-3553

DEPARTMENT OF CORRECTIONS
A&E Firm Selection/Professional Consulting Services

This action amended regulations affecting Private
Architectural and Engineering Firm Selection Policy
and Selection of Professional Consulting Services. It
would amend the definition of firm to include
landscape architecture, environmental services, land
surveying or construction project management. The
proposed action would also make optional the
departmental procurement services choice of retaining
a firm for one year or longer to complete the
contracted services and would allow the Department to
determine how to proceed if fewer than three qualified
submittals are received.

Title 15
California Code of Regulations
AMEND: 3000, 3454, 3456, 3457, 3458, 3459,
3460, 3462, 3463, 3464
Filed 07/12/02
Effective 08/11/02
Agency Contact: Peggy McHenry (916) 324-6775

DEPARTMENT OF FOOD AND AGRICULTURE
Oak Mortality Disease Control

This emergency rulemaking adds the entire counties
of Contra Costa and Humboldt to the regulated areas
for Oak mortality disease.

Title 3
California Code of Regulations
AMEND: 3700(b)
Filed 07/11/02
Effective 07/11/02
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF HEALTH SERVICES
Medi-Cal Provider Rates

This action updates the rates paid to providers of
Medi-Cal services and equipment to conform with
current practice.

Title 22
California Code of Regulations
AMEND: 51503, 51503.2, 51504, 51505.1,
51505.2, 51505.3, 51507, 51507.2, 51507.3, 51509,

51509.1, 51514, 51517, 51521, 51527, 51527,
51529, 51535.5
Filed 07/16/02
Effective 07/16/02
Agency Contact:
Jasmin Delacruz (916) 657-0501

DEPARTMENT OF HEALTH SERVICES
Disease Reporting to Assess Potential Bioterrorism
Events

Beginning with a series of Presidential Decision
Directives in 1995, all 50 states are now engaged in
the development of programs to detect biological
attacks and effectively counter an attack. The CDC
and bioterrorism experts have focused on 7 disease
agents/conditions for intensive surveillance and rapid
reporting. These are the agents of anthrax, botulism,
brucellosis, plague, smallpox, tularemia, and viral
hemorrhagic fevers. This filing is a certificate of
compliance for emergency regulations which made
these agents immediately reportable by health care
providers, directors of medical laboratories, and local
health officers. In addition, health care providers and
local health officers are required to immediately report
varicella (deaths only), occurrences of any unusual
disease, or outbreaks of any disease.

Title 17
California Code of Regulations
ADOPT: 2638 AMEND: 2500, 2502, 2505, 2551,
2552, 2553, 2596, 2614, 2626
Filed 07/17/02
Effective 07/17/02
Agency Contact:
Barbara S. Gallaway (916) 657-3197

DEPARTMENT OF HEALTH SERVICES
National Environmental Laboratory Accreditation
Fees

This emergency regulatory action re-adopts the fees
for accreditation in the National Environmental
Laboratory Accreditation Program (NELAP). (Previous
OAL file # 01-1105-02E, 02-0226-01EE)

Title 22
California Code of Regulations
ADOPT: 64860
Filed 07/15/02
Effective 07/15/02
Agency Contact:
Charles E. Smith (916) 657-0730

DEPARTMENT OF MANAGED HEALTH CARE
Acts of War Exclusions

This certificate of compliance, for an emergency
action (LS 35-01) effective February 14, 2002,
concerns health care service plan exclusions of
coverage based upon acts of war. Customary "Acts of
War" exclusions contained in plan contracts violate

the Knox-Keene Act; health care service plans must provide all basic health care services to their enrollees.

Title 28
 California Code of Regulations
 ADOPT: 1300.67.05
 Filed 07/17/02
 Effective 07/17/02
 Agency Contact:
 Lyn Amor Macaraeg (916) 322-9727

FAIR POLITICAL PRACTICES COMMISSION
 Appointed Members of Boards and Commissions

The Fair Political Practices Commission is amending section 18707.4 of title 2, California Code of Regulations, pertaining to appointed members of boards and commissions with regards to the "public generally" exception for the purposes of Government Code section 87103, which states in part: "A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following* * *" The Office of Administrative Law has filed the above regulatory action with the Secretary of State in accordance with the decision of the Third District Court of Appeal in *Fair Political Practices Commission v. Office of Administrative Law, et al.*, 3 Civil CO 10924, dated April 27, 1992.

Title 2
 California Code of Regulations
 AMEND: 18707.4
 Filed 07/11/02
 Effective 08/10/02
 Agency Contact: Hyla Wagner (916) 322-5660

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 Live Loads

This rulemaking requires the posting of live load information in commercial and industrial buildings utilizing metal signs.

Title 8
 California Code of Regulations
 AMEND: 3241(a)
 Filed 07/11/02
 Effective 08/10/02
 Agency Contact: Marley Hart (916) 274-5721

PUBLIC EMPLOYEES' RETIREMENT SYSTEM
 CalPERS Board Election Ballot Counting and Runoff Elections

Two paragraphs are being designated subsections in order to improve clarity and avoid misinterpretation due to format. This is a change without regulatory

effect pursuant to section 100(a) (1&4) of title 1 of the California Code of Regulations.

Title 2
 California Code of Regulations
 AMEND: 554.6
 Filed 07/11/02
 Effective 07/11/02
 Agency Contact: Joe Parilo (916) 326-3484

STATE ALLOCATION BOARD
 Federal School Repair and Renovation Program

This emergency regulatory action implements the Federal School Repair and Renovation Program established by Section 1(a)(1), United States Department of Education Consolidated Appropriations Act of 2001 (Public Law 106-554). (Previous OAL file #02-0305-10E)

Title 2
 California Code of Regulations
 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220
 Filed 07/11/02
 Effective 07/11/02
 Agency Contact: Lisa Jones (916) 322-1043

STATE WATER RESOURCES CONTROL BOARD
 TMDL for trash for the Los Angeles River

This action establishes no trash as the total maximum daily load of trash allowed to be discharged into the Los Angeles River, and adopts a schedule for the progressive attainment of this standard over a period of about twelve years.

Title 23
 California Code of Regulations
 ADOPT: Publish new section 3935
 Filed 07/16/02
 Effective 08/15/02
 Agency Contact: Joanna Jensen (916) 657-1036

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN MARCH 13, 2002 TO JULY 17, 2002

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

Title 2

07/11/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220

07/11/02 AMEND: 554.6

07/11/02 AMEND: 18707.4

06/27/02 ADOPT: 18450.3, 18450.4, 18450.5
AMEND: 18402

06/27/02 ADOPT: 2351

06/25/02 AMEND: 1189.10

06/20/02 AMEND: 561.2, 561.3

06/20/02 REPEAL: 548.96

06/17/02 AMEND: 18239, 18615, 18616

06/06/02 ADOPT: 18572

05/28/02 ADOPT: 1896.300, 1896.310, 1896.320, 1896.330, 1896.340, 1896.350, 1896.360, 1896.370

05/22/02 AMEND: 571(a)(5)

05/13/02 AMEND: 18428

05/10/02 AMEND: 18351

05/09/02 AMEND: 20202, 20206, 20210, 20224, 20234, 20298, 20350, 20363, 20910
REPEAL: 20106, 20205, 20213

05/02/02 ADOPT: 1859.104.1, 1859.104.2, 1859.104.3 AMEND: 1859.2, 1859.21, 1859.50, 1859.51, 1859.61, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.91, 1859.95, 1859.100, 1859.101, 1859.102,

04/26/02 ADOPT: 18520 AMEND: 18521, 18523, 18523.1

04/19/02 ADOPT: 18537.1

04/10/02 ADOPT: 1859.74.4 AMEND: 1859.2, 1859.20, 1859.21, 1859.30, 1859.33, 1859.40, 1859.41, 1859.42, 1859.43, 1859.50, 1859.51, 1859.60, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1, 1859.74.4, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.

04/04/02 ADOPT: 60, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 60.10

03/27/02 ADOPT: 59100

03/19/02 ADOPT: 599.930

03/18/02 AMEND: 599.502, 599.508

03/15/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210,

1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220

03/13/02 AMEND: 56800

Title 3

07/11/02 AMEND: 3700(b)

07/03/02 AMEND: 1392.1, 1392.2, 1392.4, 1392.9.1

07/01/02 ADOPT: 1180.3.1, 1180.3.2 AMEND: 300(c)

06/20/02 REPEAL: 3431, 3591.17

06/13/02 AMEND: 2303(t)

06/13/02 ADOPT: 1366

06/11/02 AMEND: 3425(b)

06/10/02 AMEND: 3406(b)

06/10/02 AMEND: 6391, 6393, 6394, 6395

06/04/02 AMEND: 3591.16(a)

05/29/02 AMEND: 1380.19, 1436.38, 1446.7, 1454.14, 1462.15

05/16/02 AMEND: 1428.12, 1428.16

05/02/02 AMEND: 3700(a), (b), & (c)

04/23/02 AMEND: 3591.12(a)

04/23/02 ADOPT: 899.2 AMEND: 899.1

04/18/02 AMEND: 6510, 6793

04/12/02 AMEND: 3423(b)

04/11/02 ADOPT: 3664, 3665, 3666, 3667, 3668, 3669

04/08/02 AMEND: 6450.2, 6450.3, 6784

04/04/02 AMEND: 3033.2, 3033.3, 3033.4

04/02/02 ADOPT: 480.9 AMEND: 480.7

Title 4

07/08/02 AMEND: 2049

07/01/02 ADOPT: 12100, 12102, 12104, 12106, 12108, 12110, 12120, 12130

05/13/02 ADOPT: 8110, 8111, 8112, 8113, 8114, 8115, 8116, 8117, 8118, 8119, 8120, 8121, 8122, 8123, 8124, 8125

05/07/02 ADOPT: 3005, 3006, 3007, 3008, 3009, 3010 AMEND: 1928

04/16/02 AMEND: 1405, 1527

03/21/02 ADOPT: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101

03/19/02 ADOPT: 12100, 12102, 12104, 12106, 12108, 12120, 12130

Title 5

07/15/02 AMEND: 80105, 80109, 80110, 80111, 80112, 80113, 80114, 80115

06/28/02 ADOPT: 11983.5

06/11/02 AMEND: 11530, 11531

06/05/02 AMEND: 59311, 59328, 59342

05/21/02 AMEND: 80026.4, 80026.6, 80122

05/20/02 ADOPT: 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219 AMEND: 55316.5, 58003.1, 58003.3, 58007,

CALIFORNIA REGULATORY NOTICE REGISTER 2002, VOLUME NO. 30-Z

- 58009, 58051, 58056 REPEAL: 55317, 55352, 55370, 55372, 55374, 55376, 55378, 55380
- 05/08/02 ADOPT: 80434 AMEND: 80001
- 05/03/02 ADOPT: 54045.5, 58003.6
- 03/25/02 ADOPT: 11980, 11981, 11982, 11983, 11984, 11985, 11986
- 03/20/02 AMEND: 50500
- 03/20/02 AMEND: 59300, 59302, 59303, 59304, 59305, 59306, 59310, 59311, 59320, 59322, 59324, 59326, 59327, 59328, 59329, 59330, 59333, 59334, 59336, 59338, 59339, 59340, 59342, 59350, 59351, 59352, 59354, 59358, 59360, 59362
- 03/15/02 ADOPT: 11963, 11963.1, 11963.2, 11963.3, 11963.4
- Title 7**
- 04/04/02 ADOPT: 237
- Title 8**
- 07/11/02 AMEND: 3241(a)
- 07/01/02 ADOPT: 417.5 AMEND: 406, 411.1, 415, 417.3 REPEAL: 411.2, 411.3, 411.4
- 06/20/02 AMEND: 3700, 3702
- 06/18/02 AMEND: 5189
- 06/12/02 AMEND: 9791.1, 9792.5, 9793, 9795
- 06/03/02 AMEND: 5034(f)
- 06/03/02 AMEND: 4885
- 05/28/02 AMEND: 3650, 3664
- 05/20/02 AMEND: 32125, 32130, 32140, 32603, 32604, 32720, 32735, 32738, 32739, 32744, 32752, 32763, 32980
- 05/07/02 ADOPT: 11080, 11090, 11100, 11110, 11120, 11130, 11150 REPEAL: 11080, 11090, 11100, 11130, 11130, 11150
- 05/06/02 AMEND: 3089
- 05/02/02 AMEND: 100, 106, 107
- 05/01/02 ADOPT: 11140 AMEND: 11140
- 05/01/02 ADOPT: 1716.2 AMEND: 1632, 1635, 1671, 1709, 1710
- 04/22/02 AMEND: 2320.2 of the Low voltage Electrical safety orders
- 04/03/02 AMEND: 1626
- 03/28/02 ADOPT: 341.15
- Title 8, 24**
- 05/08/02 AMEND: 3011(d), 3120.1 and 3122.0
- Title 9**
- 06/28/02 ADOPT: 9526, 9531 AMEND: 9500, 9505, 9515, 9530, 9535
- Title 10**
- 07/10/02 ADOPT: 1422, 1423
- 07/02/02 AMEND: 6070
- 06/24/02 ADOPT: 2698.68
- 06/20/02 AMEND: 2498.6
- 06/20/02 ADOPT: 2729.5, 2790.6, 2846.1 AMEND: 2790.1, 2791.8, 2792, 2800, 2810, 2811, 2910, 2911, 2912, 2930
- 06/17/02 ADOPT: 2193, 2193.1, 2193.2, 2193.3
- 06/07/02 AMEND: 5.2001 and Appendix
- 06/06/02 AMEND: 2698.70, 2698.71 REPEAL: 01-1219-06 E
- 06/03/02 ADOPT: 2187.3 AMEND: 2186.1, 2187.1, 2187.2
- 06/03/02 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4, 2192.5, 2192.6, 2192.7, 2192.8, 2192.9, 2192.10, 2192.11, 2192.12, 2192.13
- 05/01/02 ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5
- 04/29/02 ADOPT: 1729, 1741.5, 1950.302 AMEND: 1741.5
- 04/29/02 ADOPT: 2699.6606, 2699.6711, 2699.6631, 2699.6631, 2699.6717 AMEND: 2699.6500, 2699.6600, 2699.6605, 2699.6607, 2699.6611, 2699.6613, 2699.6617, 2699.6623, 2699.6625, 2699.6629, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6800, 2699.6801, 2699.6809
- 04/16/02 AMEND: 2698.73
- 03/27/02 ADOPT: 260.204.9
- 03/26/02 AMEND: 250.30
- 03/22/02 AMEND: 2698.200, 2698.201, 2698.301, 2698.302
- 03/21/02 ADOPT: 2130, 2130.1, 2130.2, 2130.3, 2130.4, 2130.5, 2130.6, 2130.7.8
- 03/18/02 ADOPT: 1422 & 1423
- Title 11**
- 07/02/02 ADOPT: 410, 411, 415, 416, 417, 418, 419, 419.1, 419.2, 419.3, 420, 421, 422, 423, 424, 425, 426 REPEAL: 410, 411, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426
- 07/01/02 AMEND: 1081
- 06/27/02 AMEND: 987.1
- 06/19/02 ADOPT: 999.10, 999.11, 999.12, 999.13, 999.14, Appendix A
- 05/24/02 AMEND: 1005
- 05/21/02 AMEND: 1005
- 05/06/02 ADOPT: 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 48
- 04/26/02 AMEND: 1005, 1008
- 04/25/02 ADOPT: 1081(a)(32)
- 04/23/02 AMEND: 3000. 3001, 3003, 3007, 3008
- 04/22/02 AMEND: 900, 901, 902, 903, 904, 905, 906, 907, 908, 911

CALIFORNIA REGULATORY NOTICE REGISTER 2002, VOLUME NO. 30-Z

04/15/02 ADOPT: 999.10, 999.11, 999.12, 999.13,
999.14 and Appendix A
03/14/02 ADOPT: 1081(a) [31]

Title 13

07/10/02 AMEND: 1213.1, 1230, 1239
07/05/02 ADOPT: 225.00, 225.03, 225.06, 225.09,
225.12, 225.15, 225.18, 225.21, 225.24,
225.27, 225.30, 225.33, 225.36, 225.39,
225.42, 225.45, 225.48, 225.51, 225.54,
225.57, 225.60, 225.63, 225.66, 225.69,
225.72
06/24/02 ADOPT: 1962.1 AMEND: 1900, 1962
06/24/02 AMEND: 1270
06/18/02 AMEND: 1
06/03/02 AMEND: 565
05/24/02 AMEND: 1900, 1960.1 (k), 1961, 1962 &
the Incorporated Test Procedure
04/29/02 AMEND: 350.44
04/04/02 ADOPT: 565
03/25/02 AMEND: 345.04, 345.41
03/20/02 ADOPT: 1235.1, 1235.2, 1235.3, 1235.4,
1235.5, 1235.6 AMEND: 1200

Title 14

07/17/02 AMEND: 2090, 2105, 2420, 2425, 2530,
2690 renumbered to 2850
07/15/02 ADOPT: 916.13, 936.13, 956.13,
916.13.1, 936.13.1, 956.13.1, 916.13.2,
936.13.2, 956.13.2, 916.13.3, 936.13.3,
956.13.3, 916.13.4, 936.13.4, 956.13.4,
916.13.5, 936.13.5, 956.13.5, 916.13.6,
936.13.6, 956.13.6, 916.13.7, 936.13.7,
956.13.7, 916.13.8, 936
07/12/02 AMEND: 895.1, 898, 914.8, 934.8,
954.8, 916, 936, 956, 916.2, 936.2, 956.2,
916.9, 936.9, 956.9, 916.11, 936.11,
956.11, 916.12, 936.12, 956.12, 923.3,
943.3, 963.3, 923.9, 943.9, 963.9
06/28/02 ADOPT: 708 AMEND: 265, 308, 360,
361, 362, 363, 364, 365, 367, 368, 401,
555, 601, 711 REPEAL: 370, 371, 372,
373
06/27/02 ADOPT: 4971
06/25/02 AMEND: 7.50
06/24/02 AMEND: 791, 791.5, 791.7, 792, 793,
794, 795, 796, and 797.
06/20/02 ADOPT: 17211, 17211.1, 17211.2,
17211.3, 17211.4, 17211.5, 17211.6,
17211.7, 17211.8, 17211.9
06/19/02 AMEND: 2030
06/19/02 AMEND: 2135
06/18/02 AMEND: 11900
06/13/02 ADOPT: 17402.5(c)(6), 17402.5(d)(3)
AMEND: 17400, 17402, 17402.5
06/06/02 ADOPT: 749.1

06/05/02 AMEND: 1.1, 6159, 6170, 6170.5, 6171,
6179, 6184, 6185, 6200, 6206, 6222,
6243, 6254, 6255, 6262
05/30/02 AMEND: 1104.1
05/23/02 ADOPT: 52.10
05/22/02 AMEND: 1037.4, 1092.19
05/21/02 ADOPT: 17367, 17368, 17369, 17370.1,
17370.2, 18225
05/20/02 AMEND: 149
04/29/02 AMEND: 27.80
04/11/02 ADOPT: 104.1
04/10/02 AMEND: 17943(b)(26)
04/10/02 AMEND: 27.67
04/04/02 AMEND: 670.2
03/26/02 AMEND: 28.59
03/25/02 AMEND: 2090, 2105, 2420, 2425, 2530,
2690
03/25/02 ADOPT: 180.15
03/14/02 AMEND: 150
03/14/02 AMEND: 180.3
03/13/02 ADOPT: 18627

Title 14, 27

06/21/02 AMEND: 18104.8, 18105.9, 18105.10,
21140

Title 15

07/12/02 AMEND: 3000, 3454, 3456, 3457, 3458,
3459, 3460, 3462, 3463, 3464
05/08/02 ADOPT: 4746.5
05/06/02 AMEND: 3104
04/17/02 AMEND: 3276
03/20/02 AMEND: 3401.5

Title 16

07/17/02 AMEND: 1387.1
07/03/02 AMEND: 3394.4 and 3394.6
07/01/02 ADOPT: 638, 639, 640, 641
06/12/02 ADOPT: 4, 9, 12, 12.5, 13, 14 AMEND:
6, 7, 9, 9.1, 10, 11.5, 37, 50
06/03/02 AMEND: 2034, 2036
05/29/02 ADOPT: 980.1 AMEND: 974
05/28/02 AMEND: 3340.42
05/24/02 ADOPT: 832.06 AMEND: 832.05
05/21/02 ADOPT: 1356.5
05/21/02 AMEND: 2006
05/21/02 ADOPT: 2412 AMEND: 2411, 2418
05/16/02 AMEND: 832.54
05/08/02 AMEND: 832.09
05/02/02 AMEND: 3303, 3353, 3361.1
04/09/02 AMEND: 2010.1, 2024, 2025
04/02/02 AMEND: 2068.5
03/29/02 REPEAL: 1044.4
03/29/02 AMEND: 2620.5, 2649, 2671
03/26/02 AMEND: 1950, 1950.2, 1970.4 RE-
PEAL: 1990.1, 1991.1
03/25/02 AMEND: Section 1888
03/20/02 AMEND: 1083

Title 17

07/17/02 ADOPT: 2638 AMEND: 2500, 2502, 2505, 2551, 2552, 2553, 2596, 2614, 2626
 06/28/02 AMEND: 6508
 06/10/02 AMEND: 90700, 90701, 90702, 90703, 90704, 90705 & to the tables in Section 90705
 05/16/02 AMEND: 6508
 05/02/02 ADOPT: 2641.5, 2641.10, 2641.15, 2641.20, 2641.25, 2641.30, 2641.35, 2641.45, 2641.50, 2641.55, 2641.60, 2641.65, 2641.70, 2641.75, 2641.77, 2641.80, 2641.85, 2641.90, 2643.5, 2643.10, 2643.15, 2643.20.
 04/22/02 AMEND: 70500, 70600
 04/11/02 AMEND: 58420
 04/10/02 ADOPT: 54327.2 AMEND: 54302, 54327, 54327.1, 56002, 56026, 56093, 58651
 03/27/02 AMEND: 57310, 57332, 57530

Title 18

07/02/02 ADOPT: 1533.2
 06/11/02 ADOPT: 1123, 1124, 1161, 1178, 1435, 1436 AMEND: 1101, 1105, 1120, 1132, 1134, 1420, 1422, 1430 REPEAL: 1103, 1104, 1106, 1107, 1108, 1114, 1115, 1116, 1117, 1118, 1119, 1121, 1131, 1133, 1151, 1152, 1153, 1154, 1155, 1171, 1172, 1173, 1174, 1175, 1176
 06/11/02 ADOPT: 255, 263, 264, 265 AMEND: 252, 254, 261, 304 REPEAL: 253, 256, 262
 06/11/02 AMEND: 21 REPEAL: 23, 24, 25, 26
 06/07/02 AMEND: 1533.1
 06/07/02 ADOPT: 1525.7
 06/07/02 ADOPT: 1533
 06/06/02 ADOPT: 1507
 06/05/02 AMEND: 1111, 1122, 1137, 1177, 1413, 1470; section 1470 withdrawn from the instant filing.
 06/04/02 AMEND: 135
 05/29/02 AMEND: 23101.5
 05/20/02 ADOPT: 138
 05/16/02 ADOPT: 139
 05/15/02 AMEND: 1699
 05/14/02 AMEND: 905
 05/14/02 AMEND: 1603
 05/13/02 ADOPT: 4011 AMEND: 4061
 05/13/02 ADOPT: 1434
 04/17/02 ADOPT: 305.3
 04/16/02 AMEND: 1532
 04/16/02 AMEND: 1668
 04/16/02 AMEND: 1525.2
 04/03/02 AMEND: 25110
 04/03/02 ADOPT: 138

04/02/02 AMEND: 25111-1
 04/02/02 AMEND: 25114
 03/19/02 AMEND: 25112
 03/13/02 AMEND: 24411

Title 19

05/22/02 ADOPT: 2000
 05/16/02 REPEAL: 596.15 & 596.16 & Article 12 thru Article 2
 04/02/02 ADOPT: 2575, 2575.1, 2575.2, 2576, 2576.1, 2577, 2577.1, 2577.2, 2577.3, 2577.4, 2577.5, 2577.6, 2577.7, 2577.8, 2578, 2578.1, 2578.2

Title 20

06/03/02 ADOPT: 1342, 1343, 1344 AMEND: 1302, 1303, 1306, 1307, 1308, 1340, 1341, 2503, 2505, 2507 REPEAL: 1342, 1343, 1344, 1349

Title 22

07/16/02 AMEND: 51503, 51503.2, 51504, 51505.1, 51505.2, 51505.3, 51507, 51507.2, 51507.3, 51509, 51509.1, 51514, 51517, 51521, 51527, 51527, 51529, 51535.5
 07/15/02 ADOPT: 64860
 07/03/02 ADOPT: 66268.31.5 AMEND: 66261.32, 66261.33, Ch. 11 App. VII, Ch. 11 App. VIII, 66268.7, 66268.33, 66268.39.5, 66268.40 and table entitled "Treatment Standards for Hazardous Wastes, 66268.48, 66268.49, Ch. 18 App. VII.
 06/19/02 ADOPT: 67900.1, 67900.2, 67900.3, 67900.4, 67900.5, 67900.6, 67900.7, 67900.8, 67900.9, 67900.10, 67900.11, 67900.12
 06/10/02 ADOPT: 100178.1 AMEND: 100177, 100178
 04/30/02 AMEND: 51515(c), 51515(e), 51518(b), 51521(1), 51527(b)
 04/18/02 AMEND: 4304-12
 04/16/02 AMEND: 12000
 04/16/02 AMEND: 4408, 4409, 4414
 04/11/02 AMEND: 66261.6
 04/04/02 AMEND: 66262.54, 66264.71, 66264.71, 66265.71, 66265.72, 66270.30, Appendix
 04/04/02 AMEND: 66270.69, 67800.1, 67800.5
 04/04/02 ADOPT: 66270.42.5, 66271.20 AMEND: 66270.42, 66271.18, 66270.21
 03/26/02 ADOPT: 66273.6, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, 66273.90 AMEND: 66261.9, 66273.1, 662173.8, 66273.9
 03/21/02 AMEND: 926-3, 926-4, 926-5

03/19/02 ADOPT: 110250, 110374, 117016,
117019, 117021, 117025, 117030,
117036, 117042, 117047, 117049,
117052, 117054, 117064, 117074,
117080, 117083, 117085, 117089,
117091, 117094, 117200, 117300,
117301, 117302, 117303, 117400,
117401, 117402, 117403, 117404,

Title 22, MPP

06/26/02 ADOPT: 89202, 89261, 89319, 89323,
89370, 89372, 89374, 89376, 89388,
89400, 89405 AMEND: 87000, 87001,
87005, 87006, 87007, 87009, 97010,
97010.1, 87010.2, 87017, 87018, 87019,
87019.1, 87019.2, 87020, 87021, 87024,
87026, 87027, 87028, 87029, 87031,
05/29/02 ADOPT: Title 22 section 119184 RE-
PEAL: MPP section 12-225.3
05/02/02 ADOPT: 110411, 110625, 111110,
111120, 111210, 111220, 111230 RE-
PEAL: MPP 12-000, 12-003, and Appen-
dix I
04/08/02 ADOPT: 85081, 87593 AMEND: 85001,
87101
03/25/02 ADOPT: 110385, 110449, 110554,
118020, 118203 REPEAL: 12-301.1, 12-
301.2, 12-301.3, 12-302.1, 12-302.2, 12-
302.3, 12-302.4, 12-302.5

Title 23

07/16/02 ADOPT: Publish new section 3935
06/07/02 ADOPT: 510, 511, 512, 513, 514, 515,
516, 517
05/23/02 ADOPT: 3962
05/03/02 AMEND: 3961
04/17/02 AMEND: Article 6, section 645
04/03/02 AMEND: 3954
04/03/02 AMEND: 2712(e)

Title 25

04/26/02 AMEND: 7060, 7062.1, 7078.2, 7078.4,
7078.5
04/04/02

Title 27

05/09/02 AMEND: 22200, 22228, 22233, 22248,
Form CIWMB 106 (08/2001)

Title 28

07/17/02 ADOPT: 1300.67.05
07/08/02 REPEAL: 1300.75.4.2, 1300.75.4.4
04/24/02 ADOPT: 1300.41.8

Title MPP

07/03/02 ADOPT: 69-209, 69-210 AMEND: 69-
201, 69-202, 69-203, 69-204, 69-205,
69-206, 69-207, 69-208, 69-211, 69-212,
69-213, 69-214, 69-215, 69-216, 69-217,
69-301, 69-302, 69-303, 69-304, 69-205,
69-306 REPEAL: 69-210, 69-221
06/28/02 ADOPT: 40-107.141, 40-107.142, 40-
107.143, 40-107.144, 40-107.15, 40-
107.151, 40-107.152, 42-302.114, 42-
302.114(a)-(c), 42-302.21(h)(1), 42-
302.3, 44-133.8, 82-833 AMEND: 40-
107.14, 40-107.16, 40-107.17, 40-107.18,
40-107.19, 42-301.2, 44-133.51, 82-8
06/25/02 AMEND: 31-001, 31-002, 31-075, 31-
401, 31-405, 31-410, 31-420, 31-440,
31-445
05/09/02 ADOPT: 44-302 AMEND: 25-301, 25-
302, 25-303, 25-304, 25-305, 25-306,
25-310.3, 25-330.9, 25-506, 44-304, 44-
305, 44-325, 44-327, 80-310
04/26/02 ADOPT: 16-001, 16-003, 16-005, 16-
010, 16-015, 16-105, 16-120, 16-130,
16-201, 16-215, 16-301, 16-310, 16-315,
16-320, 16-325, 16-401, 16-410, 16-501,
16-505, 16-510, 16-515, 16-517, 16-520,
16-601, 16-610, 16-701, 16-750, 16-801
AMEND: 20-300, 44-302,

