



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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

**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT OF INTEREST CODES

AMENDMENT

MULTI-COUNTY: South Coast Air Quality Management District Peninsula Corridor Joint Powers Board

A written comment period has been established commencing on **July 23, 2004** and closing on **September 6, 2004**. Written comments should be directed to the Fair Political Practices Commission, Attention Cynthia A. Jones, 428 J Street, Suite 620, Sacramento, California 95814.

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

The Executive Director 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 6, 2004**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

**TITLE 2. STATE
ALLOCATION BOARD**

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD
PROPOSES TO AMEND THE FOLLOWING
REGULATION SECTIONS, ALONG WITH
ASSOCIATED FORMS, TITLE 2, CALIFORNIA
CODE OF REGULATIONS, RELATING TO
LEROY F. GREENE
SCHOOL FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO REGULATION
SECTIONS: 1859.2, 1859.33, 1859.35, 1859.77.3,
1859.82, AND 1859.83

PROPOSED AMENDMENTS TO THE
FOLLOWING FORMS:

Application for Funding, Form SAB 50-04
(Revised 03/04), Referenced in Regulation
Section 1859.2

Fund Release Authorization, Form SAB 50-05
(Revised 03/04), Referenced in Regulation
Section 1859.2

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

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend these regulations under the authority provided by Sections 17070.35, 17072.13, and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17072.13, 17072.35, 17074.15, 17074.16, 17074.56, 17075.10, 17075.15, 17077.40, 17077.42, and 17077.45 of the Education Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP).

The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

Assembly Bill 695, Chapter 858, Statutes of 1999, beginning with Education Code Section 17072.17, required a study by the State Department of Education, Department of Finance, the Legislative Analyst, and the Department of General Services to recommend necessary modifications to the method of funding the construction and modernization of school facilities for community day, county community, county community day, and continuation high school pupils, commonly referred to as "alternative education" schools. The SAB on March 24, 2004 adopted the following SFP regulatory amendments to implement the recommended improvements for funding alternative education schools as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments provide an additional specific term essential to these regulations.

Existing Regulation Section 1859.33 requires an applicant school district to categorize and report by grade level its classrooms included in the classroom inventory determined pursuant to Regulation Section 1859.31. The proposed amendment adds the requirement for districts to report their classrooms which are typically used for non-severe or severe Special Day Class education.

Existing Regulation Section 1859.35 provides a mathematical formula for school districts to calculate their existing school building capacity based upon the number of available classrooms, standard numbers of pupils to be assigned per classroom ("multipliers"), and other specific factors. The proposed amendment specifies that the multipliers to be applied for classrooms for Special Day Class pupils are those set forth on Form SAB 50-02, rather than the multipliers in this regulation section.

Existing Regulation Section 1859.77.3 sets forth the permissible purposes for the expenditure of SFP new construction grant funds. If final plans and specifications were accepted by the Division of the State Architect (DSA) after January 22, 2003, the existing regulation permits school districts to request new construction grants that exceed the capacity of the project for specific listed types of facilities, provided the district submits a written plan to adequately house its pupils. The proposed amendment adds specific types of alternative education facilities to those for which districts may request new construction grants

that exceed the capacity of the project. In addition, the proposed amendment limits funding eligibility to maximum numbers of classrooms and square footage for the different types of alternative education facilities.

Existing Regulation Section 1859.82 establishes the criteria a district must meet to be eligible for facility hardship funding, to replace or construct new classrooms and related facilities. It limits funding eligibility to maximum square footage amounts for specific types of facilities. Time limits are set forth for submittal of applications. The proposed amendment specifies the maximum square footage amounts eligible for funding for alternative education facilities.

Existing Regulation Section 1859.83 provides an additional grant amount to the School Facility Program new construction and modernization grants, as a result of unusual circumstances that create excessive project costs beyond the control of the district. The proposed amendment adds the eligibility criteria and funding determinations for Excessive Cost Hardship Grants for alternative education schools. The proposed amendment distinguishes grant determinations upon 1) whether the plans and specifications for the project were accepted by the DSA before or on/after March 24, 2004, and 2) whether the project is for an alternative education school on a site with no existing school facilities, or for additional classrooms to an existing alternative education school.

Existing Form SAB 50-04, *Application for Funding*, is submitted by school districts seeking State funding for new construction or modernization projects. The proposed amendments add instructions and corresponding data fields on the form to identify whether a project is for an alternative education school, appropriate type of excessive cost hardship grant, the construction delivery method, and dates of 1) signing the construction contract, and 2) issuing the notice to proceed. These additions require the renumbering of instructions and corresponding data fields to 20. It is also necessary to reflect the correct revision date in order to maintain consistency throughout these regulations.

Existing Form SAB 50-05, *Fund Release Authorization*, is used by school districts to request release of State funds that have been apportioned by the SAB, upon the district's certification of compliance with specific legal and SFP requirements. The proposed amendments add an instruction and corresponding data field on the form ("Part VII") to identify the construction delivery method that the district used for the project. A minor non-substantive change is being made by adding "and" to connect consecutive "bullet" items on page 3 of the form; this is consistent

with the SAB's forms. It is also necessary to reflect the correct revision date in order to maintain consistency throughout these regulations.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

ECONOMIC IMPACT

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

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

EFFECT ON SMALL BUSINESSES

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

**SUBMISSION OF COMMENTS, DOCUMENTS
AND ADDITIONAL INFORMATION**

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than September 6, 2004 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

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

Robert Young, Regulation
Coordinator

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

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

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

ADOPTION OF REGULATIONS

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

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

**SUBSTANTIAL CHANGES WILL
REQUIRE A NEW NOTICE**

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

RULEMAKING FILE

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

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

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

ALTERNATIVES

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

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

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

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

**California High School Exit Examination
(CAHSEE)**

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **8:00 a.m. on Tuesday, September 7, 2004**, at 1430 N Street, Room 1801, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on Tuesday, September 7, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
 California Department of Education
 LEGAL DIVISION
 1430 N Street, Room 5319
 Sacramento, CA 95814
 Email: dstrain@cde.ca.gov
 Telephone: (916) 319-0860
 FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Sections 12001 and 33031, Education Code.

Reference: Sections 37252, 49068, 52050, 52504, 56365, 60810(7)(d)(1), 60850, 60851, 60852, 60855 and 60900; 20 USC Section 6311.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill 2 was enacted in June 1999 to establish the California High School Exit Examination (CAHSEE). The examination is in English-language arts and mathematics and is aligned to the relevant state academic content standards.

The State Board of Education proposes to adopt amendments to Sections 1200 to 1225 in Title 5 of the California Code of Regulations (CCR). These sections concern the administration of the CAHSEE that require each pupil completing grade 12 or adult school student to successfully pass the high school exit examination as a condition of receiving a diploma of

graduation from high school. These sections also concern the administration of the examination in each public school and state special school that provides instruction in grades 10, 11, and 12. Education Code section 33031 authorizes the State Board of Education to adopt regulations to implement, interpret and make specific these requirements.

The CAHSEE Regulations serve to guide districts and schools in the administration of this examination. The purposes of the proposed changes to the current regulations are: 1) to ensure that these regulations conform with the regulations for other California testing programs (e.g., global changes for "test publisher" to "test contractor" and "test administrator" to "test examiner"); 2) to make technical corrections (e.g., Individualized Education Program not Plan); 3) to add data fields that are now required because CAHSEE is being used for state (API) and federal (NCLB) accountability purposes; and 4) to specify that districts will be held responsible for data correction costs that are not completed by the deadlines specified by the test contractor, so that mandated reporting timelines can be met (Education Code Section 60851(e)).

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: Potential costs which are believed to be covered by the existing apportionment.

Cost or savings to any state agency: Cost assumed by California Department of Education and savings.

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

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

Cost or savings in federal funding to the state: None

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

Cost impacts on a representative private person or businesses: The State 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.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic

impact on any business because the regulations only relate to local school districts and not to business practices.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Janet Chladek, Manager
Standards and Assessment Division
California Department of Education
1430 N Street, 5th Floor
E-mail: jchladek@cde.ca.gov
Sacramento, CA 95814
Telephone: (916) 445-9449

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the

originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at <http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Janet Chladek, Standards and Assessment Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 445-9449; fax, (916) 319-0969. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

School Bus and School Pupil Activity Bus (SPAB) Passenger Restraint System Use

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **1:00 p.m. on September 7, 2004**, at 1430 N Street, Room 2102, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative

Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on September 7, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
 California Department of Education
 LEGAL DIVISION
 1430 N Street, Room 5319
 Sacramento, California 95814
 Email: dstrain@cde.ca.gov
 Telephone: (916) 319-0860
 FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Sections 33031, 38047.5, 38047.6 and 39831, Education Code.
 Reference: Sections 38047.5, 38047.6, 39830, 39830.1 and 39831.5, Education Code; Sections 27316 and 27316.5, Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Title 5 CCR, Division 1, Chapter 13 contains the California Department of Education's regulations on the Use of School Buses and School Pupil Activity Buses. The proposed regulatory action adds 5 CCR 14105 as required in *Education Code* sections 38047.5 and 38047.6.

The purpose of this regulation is to reduce injuries and fatalities in school buses on the streets, roads, and highways of California by requiring, in accordance with Education Code sections 38047.5 and 38047.6, all passengers to wear lap/shoulder safety belts meeting applicable Federal Motor Vehicle Safety Standards while riding in school buses.

The proposed regulation will establish the required instruction for pupils on the use of passenger restraint systems including, but not limited to, the proper fastening and release, acceptable placement on pupils, times at which the systems should be fastened and released, and acceptable placement of the systems when not in use.

California *Vehicle Code* Section 27316 requires all Type 1 school buses manufactured on or after July 1, 2005 and all Type 2 school buses manufactured on or after July 1, 2004 which are purchased or leased for use in California to be equipped at all designated seating positions with a combination pelvic and upper torso passenger restraint system.

The provisions do not apply to passengers with a physically disabling condition or medical condition which would prevent appropriate restraint in a passenger restraint system, if the condition is duly certified by a licensed physician or licensed chiropractor who shall state in writing the nature of the condition, as well as the reason the restraint is inappropriate.

The provisions do not apply in case of any emergency that may provide, where necessary, for the loading of schoolchildren on a school bus or school pupil activity bus in excess of the limits of its seating capacity.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

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

Cost or savings in federal funding to the state: None

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

Cost impacts on a representative private person or businesses: The State 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.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations will have no affect on small businesses because they only apply to local educational agencies.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has

otherwise been identified and brought to the attention of the State 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.

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

John Green, Consultant
California Department of Education
3500 Reed Avenue
West Sacramento, CA 95605
E-mail: jgreen@cde.ca.gov
Telephone: (916) 375-7100

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Website at <http://www.cde.ca.gov/re/lr>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting John Green, School Facilities Transportation Division, 3500 Reed Avenue, Sacramento, CA, 95814; telephone, (916) 375-7100; fax, (916) 327-3954. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Standardized Testing and Reporting (STAR) Program

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **9:00 a.m. on Tuesday, September 7, 2004** at 1430 N Street, Room 2102, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on Tuesday, September 7, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
 California Department of Education
 LEGAL DIVISION
 1430 N Street, Room 5319
 Sacramento, CA 95814
 Email: dstrain@cde.ca.gov
 Telephone: (916) 319-0860
 FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Sections 12001, 33031 and 60605, Education Code.

Reference: Sections 60615, 60630, 60640, et seq.; Education Code; 20 USC Section 6311.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amendments are proposed for Division 1, Chapter 2. Pupils, Subchapter 3.75, Articles 1 and 2 of Title 5 of the *California Code of Regulations*. Article 1 includes Program definitions and Article 2 addresses the designated achievement test, the standards-based achievement tests, and the California Alternate Performance Assessment.

The purposes of the proposed amendments are to provide consistency with the regulations for the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT) by clarifying current language and adding definitions and language as needed; to make technical changes to correct inconsistent language, terms, and capitalization in the existing regulations; to add a section on test administration variations that all students may have; to modify the provisions for below-grade-level testing; to modify test material delivery and return dates to eliminate the mixture of working and calendar days; to add the California Alternate Performance Assessment (CAPA) as appropriate; to strengthen some test security language; to add a statement to the STAR Test Security Affidavit indicting that test examiners and proctors have been trained to administer the tests; to expand the student demographic data collected to meet the requirements for federal and state reporting and to match the language that is used on test documents; to clarify

requirements related to including test results in pupils' permanent records as required by *Education Code* Section 60607; to reinforce the confidentiality of summary data that is based on test results for ten or fewer pupils; and to modify the process for completing Apportionment Information Reports required by *Education Code* Section 60640(j).

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: Potential costs which are believed to be covered by the existing apportionment.

Cost or savings to any state agency: Cost assumed by California Department of Education and savings.

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

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

Cost or savings in federal funding to the state: None

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

Cost impacts on a representative private person or businesses: The State 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.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations do not have an effect on small business because they relate only to local school districts and not to business practices.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Lownes, Consultant
California Department of Education
Standards and Assessment Division
1430 N Street, 5th Floor
Sacramento, CA 95814
Telephone: (916) 319-0364
E-mail: lownes@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

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

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at <http://www.cde.ca.gov/reflr/rr/>

**REASONABLE ACCOMMODATION FOR ANY
INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Linda Lownes, Standards and Assessment Division, 1430 N Street, Sacramento, CA 95814; telephone, (916) 319-0364; fax, (916) 319-0969. It is recommended that assistance be requested at least two weeks prior to the hearing.

**TITLE 10. DEPARTMENT
OF CORPORATIONS**

NOTICE IS HEREBY GIVEN

The Commissioner of Corporations ("Commissioner") proposes to amend a regulation under the CORPORATE SECURITIES LAW OF 1968 ("CSL") relating to notice filings for securities transactions exempt from qualification pursuant to Corporations Code Section 25102(f). The Commissioner proposes to amend Section 260.102.14 of the California Code of Regulations.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department addressed to Karen Fong, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m., September 6, 2004. Written comments may also be sent to Karen Fong via electronic mail at regulations@corp.ca.gov or via fax (916) 322-3205.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Corporate Securities Law of 1968 (the "CSL," Corporations Code Section 25000, et seq.) requires the offer or sale of securities in this state to be either qualified, exempt from qualification, or not subject to qualification. Section 25102(f) of the Corporations Code sets forth an exemption from the qualification requirement for transactions where (1) the sale is to 35 or fewer persons, (2) each purchaser has a preexisting relationship with the securities issuer or business or financial experience to protect his or her own interests, (3) each purchaser represents the purchase is for that person's own account, (4) the offer or sale is not accomplished through advertising, and (5) the issuer files a notice with the Department within the time specified by the rule of the Commissioner.

Rule 260.102.14 provides instructions on the filing of the notice, requires the notice to be filed no later than 15 calendar days after the first sale of a security in the transaction in this state, and sets forth a form for the notice. Section 25102(f) of the Corporations Code provides that the exemption is not lost by the failure to file the notice as set forth by rule of the Commissioner, but upon demand by the Commissioner for the notice an issuer must file the notice and pay an alternative fee within 15 business days. The alternative fee is the fee required for the qualification of a security offering (Corporations Code Section 25608(e)). In response to the prevalent disregard of the obligation to file the notice and the ambiguity of the requirement to file after the initial 15 calendar days but before demand by the Commissioner, AB 1031 (Chap. 473, Stats. 2003) amended Section 25102(f) to clarify that an issuer must file the form and pay the alternative fee upon discovery of the failure to file the notice as set forth by rule of the Commissioner.

Pursuant to the Commissioner's authority under Section 25102(f) to set forth by rule the time period for the filing of the notice, this proposed amendment provides that a notice filed before demand by the Commissioner shall be deemed filed as provided by rule of the Commissioner, provided that the obligation to file within 15 calendar days of the first sale of a security in the transaction in this state has not been intentionally disregarded. Thus, for purposes of determining the filing fee applicable to the filing of the notice, the alternative fee would be applicable where a filer intentionally disregarded the obligation to file the notice within 15 calendar days of the first sale of a security in a transaction in this state. The objective of the proposed amendment is to achieve timely filing of the notices while preventing the alternative filing fee from adversely impacting small issuers less likely to be aware of the filing requirements.

AUTHORITY

Sections 25102(f)(4) and 25610, Corporations Code.

REFERENCE

Sections 25102 and 25608, Corporations Code.

AVAILABILITY OF MODIFIED TEXT

The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which any modified regulation is made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

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

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 37/03-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 37/03-C. These documents are also available at the Department's Website at <http://www.corp.ca.gov/pol/rm/rm.htm>. As required by the Administrative Procedure Act, the Office of Law and Legislation maintains the rulemaking file which is available for public inspection at the Department of Corporations, 1515 K Street, Suite 200, Sacramento, California.

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 listed above.

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

- Cost or savings to any state agency: none.
- Direct or indirect costs or savings in federal funding to the state: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not impose a mandate on any local agency or school district or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not significantly affect (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.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

EFFECT ON SMALL BUSINESS

It has been determined that the amendment of this regulation will affect small business.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations or questions regarding timelines or rule-making status, may be directed to Karen Fong at (916) 322-3553. The backup contact person is Kathy Womack at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Colleen Monahan, Senior Corporations Counsel at (916) 323-7384. Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Sections 230.00, 230.05, 230.10, 230.15, 230.20, 230.25, and 230.30 in Chapter 1, Division 1, Article 3.7 of Title 13, California Code of Regulations, Lien Sales.

PUBLIC HEARING

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

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., SEPTEMBER 6, 2004, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code sections 22851, 22851.3, 22851.4, 22851.8, 22851.10, and 22851.12, and Civil Code section 3072 pertaining to the disposal of vehicles low-valued vehicles.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code Section 22669 authorizes public agencies to remove vehicles that have been abandoned on the highways. This Vehicle Code Section allows immediate removal of a vehicle from the highway by a peace officer or designed employee of the state, county, or city if a vehicle is parked or resting on any highway or public right-of-way and lacks an engine, transmission, wheels, doors, windshield, or any other equipment necessary to operate the vehicle safely on the highways.

The intent of these regulations is to provide the necessary steps to process lien sales on low-valued vehicles that have been abandoned or removed by a public agency. These regulations will assist the lienholder and their agents in processing lien sales on

low-valued vehicles determined to be unsafe for the highway that will be sold to a licensed dismantler or scrap iron processor.

§ 230.00 Definition of Interested Party. Section 230.00 will establish the definition of an interested party and authorized representative for the purpose of conducting lien sales.

§ 230.05 Notification of Intended Disposal of Vehicle Valued at \$300 or Less which was Removed by a Public Agency for Reasons Other than Abandonment. Section 230.05 will establish the procedure to follow when disposing of vehicles valued at \$300 or less.

§ 230.10 Opportunity to Oppose Disposal of Vehicle Valued at \$300 or Less. Section 230.10 will establish the procedure the registered owner, lien holder, or interested party must follow in order to oppose the sale.

§ 230.15 Statement of Facts Regarding Disposal of Nonabandoned Vehicles Valued at \$300 or Less. Section 230.15 will establish the form to be used and the content of the documents the lienholder must complete and deliver to the dismantler or scrap iron processor.

§ 230.20 Notice of Intent to Dispose of Abandoned Vehicle Valued at \$500 or Less which was Removed by a Public Agency. Section 230.20 will establish the form which will be used to notify all interested parties of the pending disposal of the vehicle.

§ 230.25 Disposal of Abandoned Vehicles Valued at \$500 or Less to Dismantler or Scrap Iron Processor. Section 230.25 will establish the form to be used for this purpose and to clarify statute.

§ 230.30 Continuation of Lien Sale Process Following Inability to Effect Service of Court Action. Section 230.30 will establish the procedures necessary to continue a lien sale process if there is a failure to notify the registered owner and/or interested party(ies).

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

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

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action proposed by the department provides lienholders with the procedures to follow when conducting lien sales on vehicles low-valued vehicles. No studies or data were relied upon in support of this proposal.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. The proposed regulation is only placing into regulations the forms and procedures required when conducting lien sales on low-valued vehicles.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

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

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954, or bdewatney@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations

Coordinator, Deborah Baity, at (916) 657-5690 or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The express terms of the proposed action are written in plain English and are available from the contact person named in this notice. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

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

TITLE 14. DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED ACTION

REFUND VALUE RECEIPT REQUIREMENTS PROPOSED REGULATIONS

**TITLE 14. NATURAL RESOURCES
DIVISION 2. DEPARTMENT OF CONSERVATION**

CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling

(Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 6, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 6

Article 3. Accounting and Reporting Requirements

§ 2525 RECORDKEEPING.

Amended Subsection 2525(a) is necessary to change the refund value receipt requirement for any purchase or donation of empty beverage containers from “fifty dollars (\$50.00) or more in refund value” to “one hundred dollars (\$100.00) or more in refund value”.

Amended Subsection 2525(b) is necessary to be consistent with the changes made is Subsection 2525(a).

Amended Subsection 2525 Reference is necessary to delete an obsolete reference to Public Resources Code § 14571.9. Section 14571.9 was repealed from the California Beverage Container Recycling and Litter Reduction Act by SB 1906/Sher (Chapter 731, Statutes of 2000).

INFORMATION IS AVAILABLE UPON REQUEST

Copies of the express terms of the proposed action, the initial statement of reasons and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 “K” Street, 19th Floor, Sacramento, California. Please contact the agency contact person, Cheryl Brown, at (916) 323-0728. General or substance questions regarding this file may also be directed to Cheryl Brown. The backup agency contact person for this rulemaking file is Marty Nold, who may be contacted at (916) 327-2761.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on September 6, 2004. Additionally, written comments that do not reference a subsection or section of the proposed action, or are received by the Department

after the close of the public comment period, will not be responded to in the rulemaking file. Submit your written comments to: Cheryl Brown, Refund Value Receipt Requirement Proposed Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@consrv.ca.gov, or faxed to (916) 327-8668.

PUBLIC HEARING

A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE

Following the public comment period, the Department will adopt the regulations without further notice. However, if the Department chooses to substantially alter or revise the proposed regulatory action, a revised notice, called a renotice, and the amended version of the proposed text of the regulations will be made available to the public for another public comment period for fifteen (15) days. All persons whose comments were received by the agency during the public comment period, or who requested notification from the agency of the availability of changes to the text of the proposed regulation, will be sent any renotices.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and reduces litter of these beverage containers along the State's highways. Under this Act, the Department, through the Division of Recycling (Division), is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

On January 23, 2004, the Department received a petition from Recycling Services Centers, pursuant to Government Code § 11340.6, requesting that the Department undertake a rulemaking proceeding to amend current recycling center recordkeeping regulations. Specifically, the petition requested the refund value receipt requirement dollar amount be increased, as the current dollar level is too low. AB 28 (Chapter 753, Statutes 2003) increased the redemption and refund values from 2.5¢ to 4¢ for beverage containers less than 24 fluid ounces, and from 5¢ to 8¢

for beverage containers that are 24 ounces or more. This change in statute created a dramatic increase in the number of receipts required be prepared and maintained by recycling centers. The Director has granted the petition for this rulemaking proceeding.

The regulations proposed in this package will increase the refund value receipt requirement for any purchase or donation of empty beverage containers from "fifty dollars (\$50.00) or more in refund value" to "one hundred dollars (\$100.00) or more in refund value".

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5 (b) and 14536.

REFERENCE

Revisions to California Code of Regulations Title 14, Division 2, Chapter 5, Section 2525 are intended to make more specific Public Resources Code Sections 14537, 14538, 14552, 14575, and 14585.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations will not impose any new mandates on local agencies or local school districts.

Cost or savings to any State agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The Department has determined that the adoption of these proposed regulations will not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Cost or savings in Federal funding to the State: No costs or savings in Federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposed regulation does not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will not affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: www.consrv.ca.gov.

TITLE 14. STATE MINING AND GEOLOGY BOARD

NOTICE OF PROPOSED RULEMAKING

BOARD ADMINISTRATION FEE

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (SMGB) proposes to adopt the regulation described below after considering all comments and recommendations regarding the proposed action.

REGULATORY ACTION

The SMGB proposes to add § 3696.5 to the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. The regulation clarifies and makes specific the administration fee imposed upon each mining operation to cover the reasonable costs incurred by the SMGB when acting as lead agency in implementing the Surface Mining and Reclamation Act (SMARA, Public Resources Code § 2710 et seq.) and Chapter 2 of the Public Resources Code (PRC) as provided for in statute (PRC § 2207[e]).

PUBLIC HEARINGS AND WRITTEN COMMENTS

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. 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 SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the SMGB. The Written Comment Period closes at 4:00 P.M., September 7, 2004. The SMGB will consider only relevant comments received at the SMGB office by that time. Late submittals will not be considered.

AUTHORITY AND REFERENCE

The SMGB proposes to adopt a regulation that adds § 3696.5 to Article 8 of the California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, pursuant to its authority granted in PRC § 2207(e) and PRC § 2755. Reference: PRC § 2207(e) and PRC § 2755.

INFORMATIVE DIGEST

The Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code § 2710 et seq.) was enacted to ensure that significant adverse impacts of mining to the environment are prevented or mitigated and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming mined lands as well as proof of financial assurances to ensure those mined lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA's permit and reclamation requirements. The Department of Conservation (Department) and the State Mining and Geology Board (SMGB) provide SMARA lead agency assistance and oversight.

SMARA is a State law that is designed to be implemented primarily by local lead agencies. A lead agency is defined in PRC § 2200.5 (Chapter 2) and PRC § 2728 (Chapter 9) as a city, county, the State Mining and Geology Board (SMGB), and the San Francisco Bay Conservation and Development Commission. To prevent SMARA, and Chapter 2 of the Public Resources Code, from being unfunded State mandated programs, a lead agency is provided authority to impose a fee upon each mining operation within its jurisdiction to cover the reasonable costs incurred in implementing Chapter 2, commencing with PRC § 2200, and Chapter 9 (SMARA), commencing with PRC § 2710.

Throughout the State, lead agencies have established in their local ordinances schedules of specific fees to cover the cost of performing a lead agency service that is related to the running of the lead agency's SMARA program. These service related fees are imposed on each surface mining operation. The nature of a fee varies from a flat fee per specific service, or an hourly-rate fee to perform a service, to a combination of flat fee plus hourly-rate fee. There are 84 cities and 57 counties that are SMARA lead agencies (141 SMARA lead agencies in the State). Not all agencies have fees for the same services.

SMARA provides for, in some instances, the SMGB to assume the role of lead agency for the administration of the Act when a local lead agency is not able to perform that role (ref. PRC § 2774.4, § 2774.5). PRC § 2207(e) specifically provides for the SMGB to impose a fee upon each mining operation to cover its reasonable costs in implementing Chapter 2 and Chapter 9 of the Public Resources Code when the SMGB is acting in the capacity of SMARA lead agency. Since 1998, the SMGB has assumed the role

of SMARA lead agency 49 times. Currently, the SMGB is the SMARA lead agency for two counties and 16 cities, encompassing 37 mines.

Since 1998, the SMGB has not found it necessary to impose an administration fee on those mines within the SMGB's SMARA lead agency jurisdictions to cover the costs of administering the Act. Funds adequate to cover the SMGB's operating costs were derived solely from the Surface Mining and Reclamation Account (SMRA) in the General Fund. This Account received its money from Federal royalty payments to the State under the Mineral Lands Leasing Act. Money from this Account, also, was used to pay for the Department of Conservation's SMARA mineral programs managed by the California Geological Survey (Division of Mines and Geology) and the Office of Mine Reclamation.

The SMGB is authorized, also, to receive operating funds from the Mine Reclamation Account (MRA), which derives its moneys from the annual reporting fees collected by the Department of Conservation (DOC) each year, as well as moneys collected by the DOC or the SMGB for SMARA related actions such as the imposition of penalties on mine operators, service fees, or interest on accounts (PRC § 2207(d)(4)(A)). The SMGB has never accepted funding from the MRA account to avoid the appearance of a conflict of interest, since the SMGB establishes the annual reporting fee schedule as well as assesses penalties on mine operators for violations of SMARA.

Recently, funding to the DOC and the SMGB from the Surface Mining and Reclamation Account has been curtailed by approximately 45 percent, principally because of the effects of statutory triggers that resulted from the sale of Federal petroleum producing properties to private companies, thereby reducing royalty money going into the SMRA. No substitute funding source has been approved.

Since January 1, 1991, the SMGB has had statutory authority to assume the SMARA powers of a local lead agency; however, until 1998 the SMGB had not done so. About that time, the SMGB commenced actively enforcing SMARA's requirement that local lead agencies possess SMARA-compliant mining ordinances. Unless a city or county had a SMGB-certified mining ordinance in accordance with current SMARA, that city or county could not serve as an administrator of SMARA. Beginning in 1998, the SMGB's activities became more focused on the performances of lead agencies in their administration of the Act.

Since 1998, the SMGB has considered actions on 903 staff reports brought before it (approximately 129 reports per year) of which 323 reports were related directly to the SMGB acting in the capacity as a SMARA lead agency (approximately 36 percent of

reports). However, in the years 2002, 2003, and to date in 2004, about 60 percent of the SMGB's actions on staff reports directly were related to its SMARA lead agency responsibilities (390 staff reports overall; 232 reports dealing with SMGB SMARA oversight).

The SMGB's role as a SMARA lead agency, also, has resulted in substantial increases in overhead costs for record-keeping and file maintenance. At present, approximately 36 percent of the SMGB's active filing system is devoted to lead agencies and mines within those agencies over which the SMGB has SMARA jurisdiction. With time, these file records will continue to grow and consume additional space and maintenance, even if no additional lead agency assumptions are enacted by the SMGB. There has, likewise, been a significant increase in staff time required to maintain and process the necessary billing, accounting, document retrieval, reproduction and storage, correspondence, mailing, etc., associated with lead agency activities. In the last several years, virtually all of the SMGB's involvement in lawsuits directly has been related to its actions as a SMARA lead agency. This has resulted in additional legal expenses for the SMGB to prosecute these cases.

With reductions in its base funding from the SMRA, the SMGB is no longer able to absorb all of the overhead costs for its activities as a SMARA lead agency, and must turn to funding from another authorized source. This source is provided in PRC § 2207(e).

City and County SMARA lead agencies charge a variety of fees to fund the cost of implementing Chapter 2 and Chapter 9 (SMARA). In mid-January, 2004, the SMGB commenced a statewide survey of SMARA lead agencies to ascertain the types and amounts of fees charged to surface mine operators by these lead agencies for the administration of their SMARA programs. Although the response was not large, it appears to represent a valid spectrum of SMARA lead agencies (responding: 6 cities [7%] and 27 counties [47%]).

Almost all lead agencies charge a combination fee for a particular service; that is: (1) a basic flat fee that covers minimum time for a service, and then a cost per hour rate for time in excess of the basic flat fee; or (2) the actual cost to produce a report or permit charged by a consultant, plus an hourly rate to cover the lead agency's staff time to process the report or permit. Lead agency hourly staff rates averaged \$76 (ranged from \$30 to \$112 per hour).

PRC § 2207(e) provides for the SMGB to impose "a fee" on a surface mine operator under the SMGB's SMARA jurisdiction. The SMGB interprets this to mean a single fee, rather than a schedule of fees that range over a variety of services. There are two main

types of single fees that may be considered: (1) a flat fee per mine per year, and, (2) an hourly-rate fee for staff time and materials devoted to each mine.

For simplicity of calculation and budgeting for both mine operations and the SMGB, the SMGB recommends that a flat fee be imposed. The flat fee method recommended is a service fee per day in which a mine is under SMGB jurisdiction. The basis for the flat fee is the total hourly resource cost required to operate the SMGB of \$184, times the average hours spent on each mine per year (25.68 hours). This flat fee would calculate to be approximately \$4,725, or \$12.95 per day. However, the SMGB expects that approximately one half of this hourly cost, as it pertains solely to the SMGB's lead agency activities, will be offset by additional funds reallocated from portions of the SMRA funds previously used by the California Geological Survey and from the Office of Mine Reclamation. Therefore, the cost imposed to mine operations would be \$92 per hour times 25.68 hours or \$2,363 per year, or approximately \$6.50 per day. The SMGB recommends that this flat fee be set at \$7.00 per day (rounded to nearest dollar) per mine for each day the mine is subject to the SMGB's SMARA jurisdiction.

POLICY STATEMENT OVERVIEW

The proposed language in the regulation clarifies and makes specific the administration fees to be imposed upon each mining operation to cover the reasonable costs incurred by the SMGB when acting as lead agency in implementing the Surface Mining and Reclamation Act (SMARA, Public Resources Code § 2710 et seq.) and Chapter 2 of the Public Resources Code (PRC) as provided for in statute (PRC § 2207[e]). This regulation is necessary in order to protect the California public and environment by providing funds to the SMGB to operate its programs mandated by SMARA when the SMGB is the operating lead agency. Specifically, this regulation addresses PRC § 2207(e).

CEQA COMPLIANCE

The SMGB staff have determined that this rule making project is either not a project under Title 14, CCR § 15378 of the CEQA Guidelines, or is Categorically Exempt under Title 14, CCR § 15308 of the CEQA Guidelines.

DISCLOSURES REGARDING THE PROPOSED ACTION

The SMGB staff has made the following preliminary determinations:

Mandate on local agencies and school districts: The SMGB staff determined that adoption of this regulation does not impose any new mandates on local agencies or on local school districts.

Costs or savings to any State agency: The SMGB staff determined that this proposed regulation imposes no savings or additional expenses to state agencies.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: The SMGB staff determined this proposed regulation does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies: The SMGB staff determined that no other non-discretionary costs or savings to local agencies are imposed by the proposed regulations.

Cost or savings in Federal funding to the State: The SMGB staff determined that there are no costs or savings in Federal funding to the State.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: SMGB staff determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language.

Potential cost impact on private persons or directly affected businesses: The SMGB staff has determined that the imposition of the proposed administration fee on a directly affected local mining operation may have a small cost impact to that operation; however, the cost impact may be wholly or partially offset by a reduction of local SMARA program fees charged to the mine by the local lead agency since the local lead agency no longer is implementing its SMARA program.

Creation or elimination of jobs in California: The SMGB staff has determined that the adoption of these regulations will not:

- Create nor eliminate jobs within California;
- Create new nor eliminate existing businesses within California;
- Expand businesses currently doing business in California.

Significant effect on housing costs: The SMGB staff has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The SMGB staff has determined that the imposition of the proposed administration fee on a local mining operation (which may meet the criteria for a "small business") may have a small cost impact to that operation; however, the cost impact may be wholly or partially offset by a reduction of local SMARA program fees charged to the mine by the local lead agency since the local lead agency no longer is implementing its SMARA program. That is, some or all of the SMARA

administration fee formerly paid to the local lead agency would now be paid to the SMGB to run the local program until the local agency comes into compliance with SMARA.

CONSIDERATION OF ALTERNATIVES

The SMGB must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the SMGB 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. SMGB staff has not identified any adverse impacts resulting from the proposed regulation.

No alternatives have been considered by the SMGB at this time that would be more effective in carrying out the purpose for which the regulatory action is proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

An interested person may request a copy of the proposed regulation and the Initial Statement of Reasons, or direct questions about the proposed regulation and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the SMGB Office at 801 K Street, Suite 2015, Sacramento, California, between 9:00 A.M. and 4:00 P.M., Monday through Friday except during state holidays. Copies of the proposed regulation and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the SMGB's Internet Web Site at:

<http://www.conservation.ca.gov/smg>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the SMGB may adopt, as final, the proposed regulation substantially as described in this Notice and Informative Digest. Copies of the regulation, as finally adopted, will be sent to all persons on the SMGB's public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to the regulation are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation. The modified text will be available to the public

for at least 15 days before the SMGB adopts the regulations as revised. The SMGB will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulation will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 8, § 3696.5. A copy of the Final Statement of Reasons may be obtained by contacting the SMGB office as described under the section Contact Person.

CONFLICT WITH FEDERAL REGULATIONS

This regulation does not duplicate or conflict with existing Federal statutes or regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the Department of Conservation, and the State Mining and Geology Board, SMARA and federal law are coordinated to eliminate duplication.

CONTACT PERSON

Inquiries concerning the substance of the adopted regulation should be directed to:

Ms. Kit Gonzales, Executive Assistant
(or as a backup)

John G. Parrish, Ph. D., Executive Officer
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814

TITLE 16. BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hyatt Regency Hotel, 1209 L Street, Sacramento, CA 95814 at 2:00 p.m., on September 10, 2004. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office no later than 5:00 p.m. on September 9, 2004, or must be received by the California Board of Accountancy at the hearing. If submitted at the hearing, it is requested, although not required, that 25 copies be made available for distribution to Board members and staff. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person

designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 5010 and 5018 of the Business and Professions Code and to implement, interpret or make specific Section 5018 of the Business and Professions Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct.

Current Section 54.1 prohibits the disclosure of confidential client information without the client's permission and provides narrow exceptions to this prohibition. This proposal would revise Section 54.1 to require that the client's permission be in writing and to provide that, in the event confidential client information may be disclosed to persons or entities outside of the United States, the licensee inform the client in writing and obtain the client's written permission.

The objective of this proposal is to update Section 54.1 to help ensure that the clients of licensees have the information they need to make informed choices regarding the disclosure of their financial information.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The California Board of Accountancy has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies were relied upon in making that determination: None.

Impact on Jobs/New Businesses: The California Board of Accountancy has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The California Board of Accountancy is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The California Board of Accountancy has determined that the proposed regulation would affect small businesses.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written

request to the contact person named below or by accessing the web site listed below.

CONTACT PERSON

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

Name: Aronna Granick
Address: California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815

Telephone No.: (916) 561-1788
Fax No.: (916) 263-3675
E-Mail Address: agranick@cba.ca.gov

The backup contact person is:

Name: Mary Crocker
Address: California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815

Telephone No.: (916) 561-1713
Fax No.: (916) 263-3675
E-Mail Address: regcomment603@cba.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Aronna Granick at (916) 263-3788.

Web site Access: Materials regarding this proposal can be found at www.dca.ca.gov/cba.

TITLE 16. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Director, Department of Consumer Affairs (hereinafter referred to as "Department," Bureau of Security and Investigative Services (hereinafter referred to as "BSIS" or the "Bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 400 "R" Street, Suite 1030, Sacramento California, 95814: 1:00 p.m. to 4:30 p.m., on September 7, 2004.

Written comments, including those sent by mail, facsimile, or e-mail should be addressed to Noreene DeKoning, the contact person identified in this Notice. The Bureau must receive all written comments at its office no later than 5:00 p.m., September 7, 2004.

The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full

text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Business and Professions Code section 7581 authorizes the director to amend, adopt, or repeal regulations for the administration and enforcement of the Private Security Services Act. Business and Professions Code sections 7583.6 and 7583.7, as amended by Assembly Bill 2880 (Stats. 2002, Chapter 886; Chavez) establishes training requirements for security guards and requires the Department to develop and approve by regulation a standard course and curriculum for security guard skills training. Proposed Section 643 of Title 16 of the California Code of Regulations sets forth the training requirements for security guards.

INFORMATIVE DIGEST/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Business and Professions Code section 7581 authorizes the Director to amend, adopt, or repeal regulations for the administration and enforcement of the Private Security Services Act. Senate Bill 2880, chapter 886 of the Statutes of 2002 changed the training requirement for registered security guards in the Private Security Service's Act. Business and Professions Code sections 7583.6 and 7583.7 increased the training requirement from three (3) hours of Powers to Arrest (PTA) training to eight (8) hours of PTA prior to the submission of a guard application for registration. The new law also requires the guard, upon receipt of their guard registration, to complete an additional 16-hours of training within the first 30 days and an additional 16 hours within the first six months of the receipt of their guard registration. In addition, the legislation also requires the State Department of Consumer Affairs to develop and approve by *regulation* a standard course and curriculum (that will be required on and after July 1, 2004) for security guard skills training, and to consult with specified persons in formulating the regulations. (Bus. & Prof. Code § 7583.6 (c), Stats. 2002, ch. 886, § 2.) The adoption of Section 643 implements the legislative mandate of AB 2880 by setting forth a regulation that provides a training syllabus for the required training of registered security guards.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: NONE

Local Mandate: NONE

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

Business Impact: The Bureau has determined that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Bureau has determined that the proposed regulatory action will have a cost impact that a representative private person would necessarily incur in reasonable compliance with the proposed action. However, the increased cost is necessary to insure public safety and security.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would not affect small businesses because the regulations relate to training requirements for registered security guards.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau of Security and Investigative Services, 401 S Street, Suite 101, Sacramento, CA 95814.

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

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

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

CONTACT PERSON

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

Name: Noreene DeKoning
Address: 401 S Street, Suite 101
Sacramento, CA 95814
Telephone No.: (916) 322-7530
Fax No.: (916) 323-1182
E-Mail Address: Noreene_DeKoning@dca.ca.gov

The backup contact person is:

Name: Donna Jacobsen
Address: 401 S Street, Suite 101
Sacramento, CA 95814
Telephone No.: (916) 322-7530
Fax No.: (916) 323-1182
E-Mail Address: Donna_Jacobsen@dca.ca.gov

Website Access: Materials regarding this proposal can be found at <http://www.dca.ca.gov/bsis/>.

**TITLE 16. CONTRACTORS'
STATE LICENSE BOARD**

NOTICE IS HEREBY GIVEN that the Contractors' State License Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the headquarters of the Contractors' State License Board at 9821 Business Park Drive, Sacramento, CA 95826 on **September 23, 2004 at 10:00 a.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Contractors' State License Board at its headquarters not later than 5:00 p.m. on the day before the hearing or received by the contact person at the hearing. The Board upon its own motion or at the instance of any interested party may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person

designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 7008 and 7099.2 of the Business and Professions Code, and to implement, interpret or make specific Section 7099.2 of said Code, the Contractors' State License Board is considering changes to Division 8 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Amend Section 884 of Division 8 of Title 16 of the California Code of Regulations.

In 2003, the Legislature increased the allowed maximum civil penalty from two thousand (\$2,000) to five thousand dollars (\$5,000). The Board used the following process to revise the minimum and maximum civil penalties in Section 884 to be consistent with the new \$5,000 maximum:

- The Registrar assigned a committee to review the civil penalties. The committee examined the guidelines adopted in 1981. The committee noted that, except for an amendment in 1994 to add maximum penalties set in statute for violations of two sections of the Business & Professions Code to the Board's guidelines, there had not been any increase in the civil penalties for 23 years. The committee proposed increases to the range of civil penalties parallel to the increases in licensing fees since 1981 and consistent with the Legislature's increase of the maximum civil penalty from \$2,000 to \$5,000.
- The committee also reviewed each disciplinary section listed in Section 884 to determine its relative importance in protecting the public. The committee evaluated the severity of each violation listed and, where appropriate, suggested an increase in the minimum and maximum penalties. In some circumstances the committee recommended the penalties remain the same or be reduced.
- In addition, two new provisions are proposed concerning vulnerable victims. This proposal is consistent with the Board's commitment to consumer protection.
- Staff reviewed the regulation for clarity and recommended changes in the structure of the regulation.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies:
None

Local Mandate: None

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

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

AND

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

No studies were conducted to determine the statewide adverse economic impact on business. The data relied upon consists solely on the fact that these regulations concern only those contractors licensed in the State of California to conduct business in the State of California who repeatedly or egregiously violate Contractors' State License Law.

Impact on Jobs/New Businesses: The Contractors' State License Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Contractors' State License Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Contractors' State License Board has determined that the proposed regulations would only minimally affect small businesses.

This regulation affects only businesses that violate the Contractors' State License Law. On the occasion a civil penalty is appropriate, the Board assesses the penalty commensurate with the violation and typically adjusts the penalty according to the size and assets of the business.

CONSIDERATION OF ALTERNATIVES

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

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contractors' State License Board at 9821 Business Park Drive, Sacramento, CA 95827.

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

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

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

CONTACT PERSON

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

Name: Peter Sugar
Address: Contractors' State License Board
9821 Business Park Drive
Sacramento, CA 95827
Fax No. 916-255-1943
E-Mail Address: PSugar@dca.cslb.ca.gov
Telephone No.: 916-255-0614.

The backup contact person is:

Name: Ellen Gallagher
Address: Contractors' State License Board
9821 Business Park Drive
Sacramento, CA 95827
Fax No.: 916-264-0130
E-Mail Address: EGallagher@vpn.cslb.ca.gov
Telephone No.: 916-255-4116.

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

**TITLE 16. RESPIRATORY
CARE BOARD**

FISCAL IMPACT ESTIMATES

NOTICE OF PROPOSED CHANGES

NOTICE IS HEREBY GIVEN that the Respiratory Care Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Respiratory Care Board of California at 444 North 3rd Street, Suite 270, in Sacramento, California at 9:00 a.m. on September 15, 2004. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Respiratory Care Board at its office not later than 5:00 p.m. on September 14, 2004, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

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

Nondiscretionary Costs/Savings to Local Agencies: NONE

Local Mandate: NONE

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

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

Impact on Jobs/New Businesses: The Respiratory Care Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities: The Respiratory Care Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: NONE

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 3722 of the Business and Professions Code, and to implement, interpret or make specific section 3735.5 of said Code, the Respiratory Care Board is considering changes to Division 13.6 of Title 16 of the California Code of Regulations as follows:

EFFECT ON SMALL BUSINESS

The Respiratory Care Board has determined that the proposed regulations will not affect small businesses. Via contractual agreement, the National Board for Respiratory Care administers its Certified Respiratory Therapist examination as the California licensing examination. Therefore, the California licensing exam and the national credentialing exam are one in the same. This Certified Respiratory Therapist examination is the property of the National Board for Respiratory Care which is not a small business.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Business and Professions Code section 3735.5 states that the requirement to pass the written examination shall not apply to an applicant who at the time of his or her application has passed, to the satisfaction of the board, an examination that is, in the opinion of the board, equivalent to the examination given in this state.

CONSIDERATION OF ALTERNATIVES

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

This proposal would define under what circumstances an examination is deemed equivalent for respiratory care practitioner applicants who have previously taken and passed a national credentialing examination and possess a valid credential.

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

INITIAL STATEMENT OF REASONS
AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing by accessing the board's website at www.rcb.ca.gov or upon request from the Respiratory Care Board at 444 North 3rd Street, Suite 270, Sacramento, CA 95814.

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

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

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

CONTACT PERSON

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

Christine Molina, Staff Services Manager
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

The backup contact person is:

Stephanie Nunez, Executive Officer
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be addressed to:

Christine Molina, Staff Services Manager
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
Tracking Number 2080-2004-009-01

PROJECT: Martin Slough Fish Culvert
Replacement Project at Upper
Fairway Drive

LOCATION: Eureka, Humboldt County, California

NOTIFIER: City of Eureka, Eureka, California

BACKGROUND

The City of Eureka is proposing to replace the existing double 84-inch diameter concrete culverts on Martin Slough under Fairway Drive with a double 14-foot by 8-foot by 52-foot cast-in-place concrete box culvert system with a buried bottom. The existing culverts are inadequately sized to allow passage of storm water and are a partial barrier for juvenile salmonids. The replacement structure will restore fish passage and reduce sediment accumulation in the upstream end of the culvert which occurs during storm events.

The project could result in direct and indirect incidental take of Southern Oregon/Northern California Coast ("SONCC") coho salmon (*Oncorhynchus kisutch*). The SONCC coho salmon Evolutionary Significant Unit consists of populations from Cape Blanco, Oregon, south to Punta Gorda, California. SONCC coho salmon ("coho") is listed as threatened under the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.) and is a candidate species under the California Endangered Species Act ("CESA") (Fish & G. Code, § 2050 et seq.). Non-lethal incidental take of juvenile coho could occur in the form of pursuing, catching, and capturing coho during fish relocation activities prior to stream dewatering. There is also a potential for coho to be killed during this activity. Potential indirect impacts from the project could affect aquatic habitat parameters that occur as the result of short-term changes in substrate quality, pool volumes, and suspended sediment levels. These impacts could result in habitat modification or degradation which could affect essential coho behavioral patterns including breeding, spawning, rearing, migrating, feeding, or sheltering.

Because of the project's potential for take of listed coho, the U.S. Army Corps of Engineers ("Corps") consulted with the National Oceanic and Atmospheric Administration Fisheries Service ("NOAA Fisheries"), as required by the ESA. On May 12, 2004,

NOAA Fisheries issued the Corps a “no jeopardy” biological opinion (151422SWR02AR9080:MK). The biological opinion describes the project and sets forth measures to mitigate impacts to coho and coho habitat in the vicinity of the project. On June 10, 2004, the Director of the Department of Fish and Game received a request from the City of Eureka pursuant to Fish and Game Code section 2080.1 for a determination that the incidental take statement in the above-referenced biological opinion is consistent with CESA.

DETERMINATION

The Department has determined that the incidental take statement in the above-referenced biological opinion is consistent with CESA. The mitigation measures in the incidental take statement meet the conditions set forth in Fish and Game Code Section 2081, subparagraphs (b) and (c), which, when met, authorize the incidental take of species protected under CESA. Specifically, the Department finds that the take of coho will be incidental to an otherwise lawful activity (i.e., replacement of existing culverts under a roadway), the mitigation measures identified in the incidental take statement will minimize and fully mitigate the impacts of the authorized take on coho, and the project will not jeopardize the continued existence of coho. The mitigation measures contained in the incidental take statement include but are not limited to the following:

1. Construction shall occur in the summer months when stream flow is low and will be completed before October 15.
2. Fish exclusion fencing shall be installed and coho shall be captured and relocated before dewatering of the construction area. This activity will be coordinated by a qualified fish biologist. All electrofishing shall be conducted according to the NOAA Fisheries’s *Guidelines for Electrofishing Water Containing Salmonids Listed Under the Endangered Species Act*, dated June 2000.
3. Cofferdams will be placed upstream and downstream of the project site and stream water will be routed around the work area.
4. Turbidity shall be measured during construction and if downstream readings are found to be greater than 5% above the upstream readings, measures will be taken to reduce erosion or construction will be halted and NOAA Fisheries contacted.
5. Vegetated areas disturbed during construction will be revegetated upon project completion.

Based on the Department’s consistency determination, the city does not need to obtain authorization from the Department under CESA for take of coho during the Martin Slough Fish Culvert Replacement Project at Upper Fairway Drive, provided the

city complies with the mitigation measures and other conditions described in the incidental take statement in the above-referenced biological opinion. However, if substantive changes are made to the project or the mitigation measures, or if NOAA Fisheries amends or replaces its biological opinion for the project, the city will be required to obtain from the Department a new consistency determination or a separate incidental take permit.

TITLE 14. FISH AND GAME COMMISSION

Notice of Date Change for Public Hearing on Proposed Regulatory Action

In a notice of proposed regulatory action published in the California Regulatory Notice Register 2004, No. 21-Z, on May 21, 2004, the Fish and Game Commission proposed to amend subsection (b)(178) of Section 7.50, Title 14, CCR, regarding angling regulations for Silver King Creek (Alpine County). The date of the hearing relevant to this action has been changed from Friday, August 6, 2004 to Friday, August 27, 2004, at 8:30 a.m. The August 27, 2004 meeting will be held in the Veterans Memorial Building, 209 Surf Street, Morro Bay, CA. Written comments must be received no later than August 27, 2004, at the hearing in Morro Bay. For additional information, please refer to the notice published on May 21.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

(Continuation of Register 2003, No. 23-Z, and Commission Meeting of May 6 and June 24, 2004)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections: 200, 202, 203, 355, 713, 1050, 1526, 1528, 1530, 1570–72, 1765, and 10504, of the Fish and Game Code, and to implement, interpret or make specific Sections: 355, 711, 713, 1050, 1055.3, 1526, 1528, 1530, 1570–1572, 1585, 1764, 1765, 2006, and 10504, of said Code, proposes to amend Section 630, Title 14, California Code of Regulations, relating to Regulations for Hunting and Other Public Uses on State and Federal Areas.

Proposed changes to subsections 551(q)(27)(E) and 551(q)(42)(D) as set forth in the first notice regarding State and Federal Wildlife Areas (Notice Register 2004, No. 23-Z, published June 4, 2004) remain the same, **except for recommendations for clarity**

proposed at the Commission's June 24, 2004 meeting in Crescent City (see Updated Informative Digests below).

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW FOR SECTION 551

~~Subsection 551(q)(27)(E) (Gray Lodge Wildlife Area) (Camping and Trailers). The existing regulations do not prevent public users on the wildlife area from leaving cabover campers at the checking station parking lot where camping is permitted, causing a crowding problem, particularly during the waterfowl hunting season. These campers are often left on the wildlife area for long periods of time without being used. Since cabover campers are not a motor vehicle, they are not registered making it difficult or even impossible for staff to identify the owners. It is also time consuming to remove abandoned cabover campers or camper shells since they must be declared as abandoned property which is a lengthy process. The regulation would be amended to require that all cabover campers be attached to a registered vehicle which would allow law enforcement to quickly remove them if the Department determines they are illegally parked in the checking station parking lot or camping area.~~

Subsection 551(q)(27)(E) (Gray Lodge Wildlife Area) (Camping and Trailers). This section would be further amended as with replacement language that provides better clarity than the amendment language first proposed. The existing regulations do not prevent public users on the wildlife area from leaving unregistered campers and/or camper shells normally attached to a vehicle at the checking station parking lot where camping is permitted, causing a crowding problem, particularly during the waterfowl hunting season. This proposed regulation is not intended to apply to registered camper trailers, or tent trailers that are towed behind a vehicle. These unregistered camper shells and campers are often left on the wildlife area for long periods of time without being used. Since the subject campers, and/or camper shells are not a motor vehicle, or a towable camper trailer, they are not registered making it difficult or even impossible for staff to identify the owners. It is also time consuming to remove abandoned unregistered campers or camper shells since they must be declared as abandoned property which is a lengthy process. The regulation would be amended to require that all attached unregistered campers remain attached to a registered vehicle when on the area, which would allow law enforcement to quickly remove them if the Department determines they are illegally parked in the checking station parking lot or camping area.

Subsection 551(q)(42)(D)(Upper Butte Basin Wildlife Area)(Camping). The existing regulation permits trailers and motor homes only in checking station

~~parking lots. The proposed amendment to the regulation would add language for clarity, stating that trailers and motor homes shall not be allowed past checking station parking lots. This change would prevent large vehicles and trailers from becoming stuck, or stranded on narrow levee roads, as there are no safe areas to make U turns. The amendment would also prevent damage to roads and levees by large vehicles during periods of ground saturation. This entire subsection would be deleted since it has become evident, as currently constituted, it cannot be definitively interpreted making it unenforceable. Staff will work with public users of the area to amend the existing regulation to define, for the purpose of this regulation, the meaning of the terms "large motor home, large vehicle, and large trailer", to ensure that they do not enter areas where they can become stuck or stranded.~~

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mono Memorial Hall, 100 Sinclair Street, Bridgeport, California on August 6, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted on or before August 6, 2004, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 6, 2004 at the hearing in Bridgeport, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Robert R. Treanor or Jon D. Snellstrom at the preceding address or phone number. John Anderson, Department of Fish and Game, phone (916) 445-3472, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at

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

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal

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

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

IMPACT OF REGULATORY ACTION

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

- (a) The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These actions are proposed to provide maximum protection of wildlife and habitat, clarity to language and appropriate management for public use. These regulation changes are sufficiently minor that any economic impact, positive or negative, would not be significant.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

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

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 FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Citation and Fine Program

This is a nonsubstantive action amending the maximum administrative fine in regulation to conform to recent statutory changes (from \$2,500 to \$5,000, per Business and Professions Code section 125.9, amended by Chapter 788, Statutes of 2003).

Title 16
 California Code of Regulations
 AMEND: 472.1, 473.1
 Filed 07/09/04
 Effective 07/09/04
 Agency Contact:
 Nancy A. Eissler (916) 263-2241

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
 Specs for Basic Training Courses

This regulatory action amends the basic training course specifications for Leadership, Professionalism and Ethics and Policing in the Community.

Title 11
 California Code of Regulations
 AMEND: 1005, 1007
 Filed 07/07/04

Effective 08/15/04
Agency Contact:
Patricia Cassidy (916) 227-4847

DEPARTMENT OF FOOD AND AGRICULTURE
Oriental Fruit Fly Interior Quarantine

This emergency regulatory action establishes approximately 116 square miles surrounding an infestation in the Santa Ana area of Orange County as an area under quarantine for Oriental fruit fly.

Title 3
California Code of Regulations
AMEND: 3423(b)
Filed 07/09/04
Effective 07/09/04
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Federal Emergency Shelter Program

This action adopts all of the regulations for administration of the Federal Emergency Shelter Grants Program, including definitions and rules for allocation of funds, notice of funding availability, types of projects eligible, an application procedure and scoring criteria, contract requirements, disbursement of funds, and standards for performance, audit, and sanctions.

Title 25
California Code of Regulations
ADOPT: 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8410, 8411, 8412, 8413, 8414, 8415, 8416, 8417, 8418, 8419, 8420, 8421
Filed 07/14/04
Effective 08/13/04
Agency Contact: Lenora Frazier (916) 323-4475

DEPARTMENT OF INSURANCE
Communications Equipment Insurance Agent License

This is the third readoption of emergency regulations that deal with the licensing of communications equipment insurance agents.

Title 10
California Code of Regulations
ADOPT: 2194, 2194.1, 2194.2, 2194.3, 2194.4, 2194.5, 2194.6, 2194.7, 2194.8
Filed 07/07/04
Effective 07/07/04
Agency Contact: Julie D. Soo (415) 538-4429

DEPARTMENT OF INSURANCE
Residential Property Insurance Rating and Underwriting

This regulatory action is the readoption of the emergency regulation that dealt with the consideration of losses and loss exposure in residential property

insurance rating and underwriting. (Prior OAL files 03-0710-03E, 03-1110-02EE and 04-0702-02EE; Department of Insurance File Number ER-03030135.)

Title 10
California Code of Regulations
ADOPT: 2361
Filed 07/12/04
Effective 07/12/04
Agency Contact:
Donald P. Hilla (415) 538-4108

DEPARTMENT OF MOTOR VEHICLES
Clean Air Vehicle Decals

This regulatory action clarifies the requirements for receiving a clean air vehicle decal.

Title 13
California Code of Regulations
AMEND: 156.00
Filed 07/07/04
Effective 08/06/04
Agency Contact:
Bonnie DeWatney (916) 657-8954

DEPARTMENT OF SOCIAL SERVICES
Anticipating Income and Changes in the Food Stamp Program

This filing is a certificate of compliance for an emergency regulatory action which amended regulations concerning income changes in the food stamp program to conform to federal amendments.

Title MPP
California Code of Regulations
AMEND: 63-503, 63-504, 63-505
Filed 07/09/04
Effective 07/09/04
Agency Contact:
Maureen Miyamura (916) 653-1925

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Biennial Tiered Permit Release Report

The California Environmental Protection Agency is repealing subsection 15290(b), 15290(c)(II), and Report No. 5. The aforementioned subsections and corresponding report are being repealed due to the repeal of Health and Safety Code Sections 25171 and 25171.5 (Stats. 2001, Ch. 745). Other necessary editorial corrections are also being made.

Title 27
California Code of Regulations
AMEND: 15290 (b), 15290(c)(ii), and Report No. 5.
Filed 07/13/04
Effective 08/12/04
Agency Contact: Karl Palmer (916) 445-2625

**DEPARTMENT OF TOXIC SUBSTANCES
CONTROL**

**Temporary HHW Facility Collection PBR Liability
Assurance**

This change without regulatory effect repeals the temporary HHW Facility collection PBR liability assurance.

Title
California Code of Regulations
AMEND: 67450.4 REPEAL: 67450.16
Filed 07/14/04
Effective 08/13/04
Agency Contact: Joan Ferber (916) 322-6409

**DIVISION OF WORKERS COMPENSATION
Workers' Compensation—Claim Form, Poster**

This action makes a variety of changes to the Division of Workers' Compensation DWC 1 employee claim form and Notice to Employees poster to conform to recent statutory changes. This action is the resubmittal of OAL file number 03-0829-03S.

Title 8
California Code of Regulations
ADOPT: 9881.1, 10117.1, 10118.1 AMEND: 9810,
9880, 9881, 9883 REPEAL: 9882, 10117, 10118
Filed 07/07/04
Effective 08/01/04
Agency Contact:
Destie Overpeck (415) 703-4659

**FISH AND GAME COMMISSION
Prohibition on Pursing or Shooting Birds and
Mammals from Motor-Driven Air or Lands Vehicles,
Motorboats, Airboats, Sailboats or Snowmobiles**

This regulatory action revises the hunting regulations for mammals.

Title 14
California Code of Regulations
AMEND: 251, 311, 353, 354, 360, 361, 362, 363,
364, 365, 604, 708
Filed 07/07/04
Effective 07/07/04
Agency Contact: Jon Snellstrom (916) 653-4899

**FISH AND GAME COMMISSION
Restricted Access Fishery**

Existing regulations set the maximum harvest for those with a Tier 2 spot prawn trap vessel permit at 2500 pounds of spot prawns landed in a permit year. This regulatory action raises the maximum harvest limit to 5,000 pounds of spot prawns.

Title 14
California Code of Regulations
AMEND: 180.3
Filed 07/12/04
Effective 08/11/04
Agency Contact: Tracy L. Reed (916) 653-4899

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Pressure Testing of Pipes and Other Containers

In this regulatory action, the Occupational Safety and Health Standards Board amends a General Industry Safety Order regulation pertaining to the "Use of Compressed Air or Gases" to reference Unfired Pressure Vessel Safety Order provisions on pressure testing of objects and make other changes.

Title 8
California Code of Regulations
AMEND: 3301
Filed 07/07/04
Effective 08/06/04
Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

**Fall Protection for Residential-Type Framing
Activities**

This action revises existing CSO provisions covering required fall protection for residential-type framing construction.

Title 8
California Code of Regulations
AMEND: 1716.2
Filed 07/07/04
Effective 08/06/04
Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Guarding of Skylights

This action amends existing CSO and GISO provisions regarding the guarding of skylights.

Title 8
California Code of Regulations
AMEND: 1632, 3212
Filed 07/07/04
Effective 08/06/04
Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

**Illumination for Nighttime Highway Construction
Projects**

In this regulatory action, the Occupational Safety and Health Standards Board amends a regulation pertaining to illumination (lighting) to include provisions relating to illumination for nighttime highway construction work.

Title 8
California Code of Regulations
AMEND: 1523
Filed 07/13/04
Effective 08/12/04
Agency Contact: Marley Hart (916) 274-5721

STRUCTURAL PEST CONTROL BOARD

Approval of Activities

This rulemaking action conforms Form 43M-46 to regulation 1953, deletes from the log (Form 43M-47) information regarding name and address of the guard and time the police department was notified, requires removal of any toxicant when a termite baiting system contract is terminated, excluding liquid termiticides, requires posting of information regarding another method of treatment when the method is not chemicals, and adds requirements for reporting property addresses.

Title 16

California Code of Regulations

ADOPT: 1996.3 AMEND: 1953, 1970, 1983(j), 1996.1

Filed 07/13/04

Effective 08/12/04

Agency Contact:

Delores Coleman (916) 263-2540

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN MARCH 10, 2004
TO JULY 14, 2004**

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

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

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06/28/04 ADOPT: 599.516
06/21/04 ADOPT: 22600, 22600.1, 22600.2, 22600.3, 22600.4, 22600.5, 22600.6, 22600.7, 22600.8, 22600.9, 22601, 22601.1, 22601.2, 22601.3, 22601.4, 22601.5, 22601.6, 22601.7, 22601.8
06/15/04 AMEND: 18707.1
06/15/04 ADOPT: Div. 8, Ch. 99, Sec. 58800
06/03/04 AMEND: 2270, 2271
06/01/04 ADOPT: 20107
06/01/04 ADOPT: 1859.163.1, 1859.163.2, 1859.164.2, 1859.167.1 AMEND: 1859.2, 1859.145, 1859.145.1, 1859.160,

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05/25/04 ADOPT: 59152
05/21/04 ADOPT: 1859.123.1 AMEND: 1859.2, 1859.73.1, 1859.81, 1859.83, 1859.90, 1859.120, 1859.121, 1859.122, 1859.122.1, 1859.122.2, 1859.123, 1859.124, 1859.124.1, 1859.125, 1859.125.1, 1859.126, 1859.127, 1859.129, 1859.130
05/17/04 ADOPT: 250
05/17/04 AMEND: 48000
05/17/04 AMEND: 18616
05/17/04 AMEND: 50
05/17/04 AMEND: 50
05/13/04 ADOPT: 18531.61 AMEND: 18531.6
05/11/04 ADOPT: 22100 (renumbered to 22100 and 22100.1), 22110 (renumbered to 22100.2), 22120 (renumbered to 22100.3), and 22130 (renumbered to 22100.4)
04/26/04 ADOPT: 585
04/22/04 AMEND: 1142
04/15/04 AMEND: 599.508
04/13/04 ADOPT: 599.511 AMEND: 599.500
03/23/04 ADOPT: 649.23, 649.24, 649.25, 649.26, 649.27, 649.28
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03/23/04 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859.171 AMEND: 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1
03/22/04 AMEND: 1859.77.2
03/22/04 ADOPT: 599.517
03/11/04 AMEND: 18703.1, 18703.2, 18703.3, 18703.4, 18703.5
03/11/04 AMEND: Div. 8, Ch. 53, Section 54200
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07/09/04 AMEND: 3423(b)
07/06/04 AMEND: 3430(b)
07/06/04 AMEND: 3700(c)
07/02/04 AMEND: 3558(a)
06/25/04 AMEND: 1380.19(p), 1442.7
06/09/04 AMEND: 3700(c)
05/27/04 AMEND: 1180(a)
05/27/04 AMEND: 3428(b)
05/27/04 AMEND: 3423(b)

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05/03/04 AMEND: 3700(c)
04/27/04 ADOPT: 6487.1, 6487.2, 6487.3, 6487.4,
6487.5, 6609 AMEND: 6000, 6416, 6800,
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6486.4, 6486.5, 6486.8, 6557, 6570, 6802
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04/26/04 AMEND: 6130
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04/20/04 AMEND: 3700(c)
04/20/04 AMEND: 2676, 2681, 2735, 2783
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03/23/04 AMEND: 6462
03/23/04 AMEND: 3423(b)

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03/29/04 ADOPT: 10163, 10164 AMEND: 10152,
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06/30/04 AMEND: 19814(e)
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1859.141, 1859.142, 1859.145, 1859.147,
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05/19/04 ADOPT: 1204.5, 1211.5, 1218.6
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03/15/04 ADOPT: 19810, 19811, 19812, 12913,
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07/07/04 AMEND: 1716.2
07/07/04 AMEND: 3301
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07/06/04 AMEND: 5194
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04/20/04 ADOPT: 2020, 2021 AMEND: 250.51
04/19/04 AMEND: 2498.6
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04/30/04 ADOPT: 51.20
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 07/02/04 AMEND: 438
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 06/15/04 ADOPT: 1399.70
 05/17/04 AMEND: 1912
 05/13/04 ADOPT: 1258.4, 1277, 1277.5
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 05/04/04 ADOPT: 110226, 110242, 110251, 110336, 110337, 110355, 110485, 110547, 110615, 116004, 116018, 116036, 116038, 116042, 116061, 116062, 116063, 116100, 116102, 116104, 116106, 116108, 116110, 116114, 116116, 116118, 116120, 116122, 116124, 116130, 116132,
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