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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

STATE AGENCY:

California Electricity Oversight Board

A written comment period has been established commencing on **August 6, 2004** and closing on **September 20, 2004**. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, PhD, 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 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 20, 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 Kevin S. Moen, PhD, 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 Kevin S. Moen, PhD, 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 AND ADOPT THE
FOLLOWING REGULATION SECTIONS, ALONG
WITH AN ASSOCIATED FORM, TITLE 2,
CALIFORNIA CODE OF REGULATIONS,
RELATING TO LEROY F. GREENE
SCHOOL FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO REGULATION
SECTIONS: 1859.2, 1859.51, 1859.70, AND
1859.103

REGULATION SECTIONS PROPOSED FOR
ADOPTION: 1859.51.1 AND 1859.70.2

PROPOSED AMENDMENTS TO:

Application for Funding, Form SAB 50-04 (Revised
05/04), Referenced in Regulation Section 1859.2

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

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing amendments to and adoption of various regulation sections under the authority provided by Section 17070.35 of the Education Code. The proposals interpret and make specific reference to Sections 17052, 17070.51, 17070.63, 17071.10, 17071.25, 17071.75, 17071.76, 17072.10, 17072.12, 17072.20, 17074.10, and 17077.40 of the Education Code.

**INFORMATIVE DIGEST/POLICY
OVERVIEW STATEMENT**

The Leroy F. Greene School Facility 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 Facility Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The current SFP regulations are being amended to define a specific word, provide clarifying language changes to existing regulation sections and two sections are proposed for adoption, which provide guidance and direction to school districts for purposes of filing new construction applications with regard to school facilities constructed with local funds. They are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendment defines an additional specific word essential to these regulations, and reflects a non-substantive change.

Existing Regulation Section 1859.51 explains how new construction baseline eligibility will be adjusted and expands the components by which a new construction project's baseline eligibility will be adjusted. This Section also provides for an adjustment for new construction projects based on special day class loading standards, and provides a mechanism for adding pupils back into the eligibility baseline lost as a result of the SAB finding a material inaccuracy. The proposed amendment deletes language that is no longer applicable to this Section.

Proposed adoption of Regulation Section 1859.51.1 specifies a timeframe and delineates the manner by which a school district can request an increase to its baseline eligibility that was reduced from their initial baseline eligibility due to constructing classrooms with local funding.

Existing Regulation Section 1859.70 requires a school district to complete a designated form that calculates its funding eligibility for new construction and modernization grants. It also provides the application guidelines for school districts affected by a reorganization election. The proposed amendments set forth the conditions by which the SAB provides new construction funding.

Proposed adoption of Regulation Section 1859.70.2 sets forth specific criteria allowing new construction projects that included classrooms that were considered ineligible for State funding due to the construction contract being signed in excess of 180 days prior to submittal of an Approved Application to participate and request State funding under the SFP.

Existing Regulation Section 1859.103 identifies SFP project savings and establishes when and how the savings may be utilized. It also specifies how interest earned on financial hardship projects will be treated. Further, it identifies another component for which project savings may be used towards, and provides an

exception to the required use of savings that reduces the financial hardship grant for apportionments made for district-owned site acquisition. The proposed amendment limits the amount of funding for projects funded, pursuant to Regulation Section 1859.70.2, to eligible expenditures not to exceed the State apportionment for the project.

Existing Form SAB 50-04 is used when a school district is seeking funding for a new construction or modernization project. The proposed amendments incorporate clarifying language changes that are consistent with the proposed changes referenced in the above regulation sections.

**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 actions. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than September 20, 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:

Lisa Jones, Regulation
Coordinator

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

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

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

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

ADOPTION OF REGULATIONS

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

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

**SUBSTANTIAL CHANGES WILL
REQUIRE A NEW NOTICE**

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

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory 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 2. STATE
ALLOCATION BOARD**

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD
PROPOSES TO ADOPT AND 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, 1859.60, 1859.61, 1859.78.6
AND 1859.79.2

REGULATION SECTION PROPOSED FOR ADOPTION:
1859.78.8

PROPOSED AMENDMENTS TO THE FOLLOWING
FORMS:

Eligibility Determination, Form SAB 50-03 (Revised 06/04), Referenced in Regulation Section 1859.2

Application for Funding, Form SAB 50-04 (Revised 06/04), Referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to adopt and 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 adopt and amend these regulations under the authority provided by Sections 17070.35 and 17078.64 of the Education Code. The proposals interpret and make specific reference to Sections 17070.15, 17070.51, 17071.25, 17072.15, 17072.20, 17073.15, 17073.20, 17074.10, 17074.25, 17074.26 and 100420(c) 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.

These proposed amendments to the SFP regulations will authorize additional modernization apportionments for school facilities previously modernized with State funds, pursuant to the enactments of Assembly Bill 1244, Chapter 572, Statutes of 2003, and Senate Bill 15, Chapter 587, Statutes of 2003. The legislation allows districts to receive additional apportionments for the modernization of permanent school buildings every 25 years, or portable classrooms every 20 years, after the date of the previous State apportionment. Upon a portable classroom becoming eligible for the second time for State funding, districts will be required to replace and remove the portable unless the district can document that modernizing it is a better use of public resources.

In addition, the proposed amendments make minor clarifications to the regulatory text, including enabling districts to properly report the appropriate data to determine the eligible site-based ratio for permanent buildings at least 50 years old. The SAB on June 23, 2004 approved amendments to the SFP regulations for these purposes, and they are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments add to the definition of "Modernization Grant" a reference to newly proposed Regulation Section 1859.78.8, and references to Forms SAB 50-03 and SAB 50-04 are amended to reflect the new revised date of the forms.

Existing Regulation Section 1859.60 specifies the calculation to determine a school district's modernization baseline eligibility. The proposed amendments specify that modernization eligibility is to be calculated pertaining to each school site. The restrictions are deleted that made permanent facilities and portable classrooms ineligible to receive modernization funding more than once. The computation is clarified for determining the time period that has elapsed since a previous modernization apportionment.

Existing Regulation Section 1859.61 sets forth the factors that require making adjustments to a school district's modernization baseline eligibility. The proposed amendment specifies that a district's baseline

eligibility will be increased for facilities previously modernized with State funds, but which now qualify again for a modernization apportionment under newly proposed Regulation Section 1859.78.8. Education Code Sections 17073.15 and 17074.10 are added as reference citations.

Existing Regulation Section 1859.78.6 specifies the eligibility criteria and pupil grant amounts for modernization grants for permanent buildings that are 50 years old or older. The proposed amendments: 1) specify that modernization eligibility is to be calculated pertaining to each school site; 2) delete the restriction that made permanent facilities and portable classrooms ineligible to receive modernization funding more than once; 3) clarify that for purposes of the modernization grant for 50 year or older permanent buildings, the calculations of permanent classrooms and permanent square footage of building area exclude those previously modernized with State funds; 4) make a non-substantive change by correcting Form SAB "50-04" to "50-03"; and 5) clarify the determination of the time period that has elapsed since a previous modernization apportionment.

Proposed adoption of Regulation Section 1859.78.8 specifies that school districts may qualify to receive modernization grant State funds for facilities previously modernized with State funds provided: 1) for permanent buildings, at least 25 years have elapsed since the previous State modernization apportionment, and 2) for portable classrooms, at least 20 years have elapsed since the previous State modernization apportionment. This Section further provides that districts will be required to replace and remove the portable unless the district can document that modernizing it is a better use of public resources, and the capacity and eligibility of the school district will not be adjusted for the replacement of the portable classroom pursuant to Education Sections 17074.10(f) and 17073.15.

Existing Regulation Section 1859.79.2 specifies the permissible and impermissible uses of State modernization grant funds. The proposed amendments: 1) add Education Code Section 17074.10(f) to the listed sections for the permissible expenditure of modernization grant funds; 2) delete a sentence citing Education Code Sections 17074.25 and 100420(c) for the expenditure and utilization of modernization grant funds; and 3) add an exclusion that modernization grant funds may not be used for portable classrooms eligible for an additional apportionment pursuant to Education Code Sections 17073.15 and 17074.10(f) and as defined in new Regulation Section 1859.78.8.

Existing Form SAB 50-03, *Eligibility Determination*, is used to determine a school district's eligibility for new construction or modernization projects. The proposed amendments incorporate the amendments that are reflected in the regulatory text.

Existing SAB Form 50-04, *Application for Funding*, is used when a school district is seeking funding for a new construction or modernization project. The proposed amendments incorporate the amendments that are reflected in the regulatory text.

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 actions. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than September 20, 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 3. DEPARTMENT OF
FOOD AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3601(g) of the regulations in Title 3 of the California

Code of Regulations pertaining to Assessments for Control of Beet Leafhopper as an emergency regulation change effective July 1, 2004. The Department proposes to continue the regulations as amended and submit a Certificate of Compliance no later than October 29, 2004.

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 Department 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 Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before September 20, 2004.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Existing law provides that controlling beet leafhopper, the only known vector of the curly top virus, is in the public benefit; establishes four assessment districts consisting of all or portions of specified counties; provides that producers or producer-handlers of specified crops shall pay an assessment to the Secretary of Food and Agriculture as specified; provides that additional areas of the State may be established in districts by regulation; and provides the rate of assessment may be established by district and crop and shall be set by regulation (Food and Agricultural Code, Sections 6031, 6034, 6035 and 6036).

This amendment of Section 3601(g) increased the assessment rates per ton for all crops susceptible to curly top virus in all four control districts by twenty (20) percent as recommended by the Curly Top Virus Control Board. The increased assessment rates became effective on July 1, 2004. The effect of the change in the regulation is to provide authority for the State to collect an assessment which is twenty (20) percent more per ton of susceptible crops than the previously existing assessment to ensure the future curly top virus control program operations can be maintained at its present level of effectiveness. There is no existing, comparable federal regulation or statute regarding this regulation.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that this amendment of Section 3601(g) does not impose a mandate on local agencies or school districts. The Department has also determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

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

COST IMPACT ON AFFECTED PRIVATE INDIVIDUALS OR BUSINESSES

The cost impact of the changes in the regulations on private individuals or businesses is that producers and producer-handlers of crops susceptible to curly top virus will be required to pay an assessment that is 20 percent more than the previously existing rate for each crop in each district. The Department estimates the average increase in assessment per year is approximately \$622 per first handler or producer handler. If these costs were passed on to the producer, this will result in an increase of assessment fees of approximately \$58 per year for each producer.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not: 1) create or eliminate jobs within California; 2) create new business or eliminate existing businesses within California; or, 3) affect the expansion of businesses currently doing business within California.

SMALL BUSINESS IMPACT

This action may affect small businesses.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no alternative it considered or that has otherwise been identified or brought to its attention would be more effective in carrying out the purpose

for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 3601(g) pursuant to the authority vested by Sections 407, 6034, and 6036 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 6034, 6035, and 6036 of the Food and Agricultural Code.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations repealed by the Department 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 repeal. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 8. DIVISION OF WORKERS' COMPENSATION

NOTICE OF RULEMAKING AFTER EMERGENCY ADOPTION

Spinal Surgery Second Opinion Procedure

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), exercising the authority vested in the Administrator Director by Labor Code Sections 133, 4062, and 5307.3, has adopted regulations on an emergency basis to implement the provisions of Labor Code Section 4062 which took effect on January 1, 2004 (Statutes of 2003, Chapter 639).

The regulations adopted constitute Article 5.1 of Chapter 4.5, Subchapter 1, of Title 8 of the California Code of Regulations, Sections 9788.01-9788.91. The regulations set forth the process and manner under which employers may obtain second opinions relating to spinal surgery from physicians randomly assigned by the Administrative Director.

The emergency regulations became effective on July 2, 2004, and will remain in effect for a period of 120 days from July 2, 2004. The purpose of this rulemaking is to adopt the emergency regulations on a permanent basis.

TIME AND PLACE OF PUBLIC HEARING

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

Date: September 21, 2004
Time: 10:00 a.m.
Place: Auditorium
The Governor Hiram Johnson
State Office Building
455 Golden Gate Avenue
San Francisco, California 94102

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or any other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Adel Serafino, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

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

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

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code Sections 133, 4062, and 5307.3.

Reference is to Labor Code Section 4062.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Labor Code Section 4062, as amended by Senate Bill 228 of 2003 (Chapter 639, Statutes of 2003, effective January 1, 2004), provides that an employer may object to a treating physician's recommendation for spinal surgery, within ten days of receipt of the report recommending the surgery. Unless the employee is represented by counsel, the employer and the employee may agree on a physician to render a second opinion. If the employee is not represented, or if the parties do not agree, the Administrative Director will randomly select a qualified surgeon to render a second opinion on the need for surgery. The second opinion physician must serve his report on the recommendation within 45 days of the employer's receipt of the report recommending surgery.

The statute is not self-executing; it does not define "spinal surgery," nor does it outline how physicians will be selected to be on a list from which the Administrative Director shall randomly select the physicians. It does not provide any details as to what is to be covered by the report of the second opinion physician, whether the physician is to examine the employee, or how the physician is to be paid for the opinion. The Administrative Director had to adopt regulations to implement this section of the Labor Code. These regulations prescribed the qualifications of the physicians, the manner of their appointment and removal, the manner of selection and assignment of the second opinion physicians, and the content of their reports.

The Administrative Director determined that the emergency adoption of proposed regulations was necessary for the immediate preservation of the public peace, health and safety or general welfare. The

following described regulations were adopted as emergency regulations, effective July 2, 2004. This rulemaking would make the regulations permanent.

**DISCLOSURES REGARDING THE
PROPOSED REGULATORY ACTION**

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Adoption of this regulation will not: (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- Cost impacts on representative private person or business: The Administrative Director has determined that the proposed regulations will not have a significant adverse economic impact on representative private persons or directly affected businesses. These representative private persons or directly affected businesses are insurance companies or self-insured employers. The amount of the economic impact would depend on the number of cases in which the representative private person or directly affected business objected to a medical report recommending spinal surgery. A representative private person or directly affected business would incur the cost of one of the less expensive medical-legal examinations in each case in which it objected to a report recommending spinal surgery. The percentage of overall workers' compensation claims in which spinal surgery is recommended is very small, and the overall increase in medical-legal costs for second opinions will be a very small percentage increase. It will also be offset by large projected decreases in costs of medical treatment for spinal surgery.
- There will be no initial start-up costs to comply with the proposed regulation. The total annual ongoing costs will depend on the total number of second opinions which are requested by the insurance companies or employers.

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: None. Minimal costs to state agencies in their capacity as employers, of an additional medical-legal examination, will be offset

by reduced costs for spinal surgery, but have been imposed by the enactment of SB 228 of 2003, and not by these regulations, which merely prescribe the manner in which examinations will be conducted. Additional costs to the Department of Industrial Relations, to implement the mandated program, will amount to an estimated annual \$181,911 for personnel, postage, and supplies, all of which are to be reimbursed to the state through user-funding of the workers' compensation program.

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The potential costs imposed on all public agency employers by these proposed regulations, although not a benefit level increase, are not a new State mandate because the regulations apply to all employers, both public and private, and not uniquely to local governments. The Administrative Director has determined that the proposed regulations will not impose any new mandated programs on any local agency or school district. The California Supreme Court has determined that an increase in workers' compensation benefit levels does not constitute a new State mandate for the purpose of local mandate claims because the increase does not impose unique requirements on local governments. See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46. The potential costs imposed on all public agency employers and payors by these proposed regulations, although not a benefit level increase, are similarly not a new State mandate because the regulations apply to all employers and payors, both public and private, and not uniquely to local governments.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. (See "Local Mandate" section above.)
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed regulation does not apply to any local agency or school district. (See "Local Mandate" section above.)

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulation will not affect small businesses. The regulations apply to insurance companies and self-insured employers, which are the largest of California's employers.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Administrative Director must determine that no reasonable alternative considered or

that has otherwise been identified and brought to the Administrative Director's attention would be more effective in carrying out the purpose for which the actions are proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

The Administrative Director invites interested persons to present reasonable alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATION

A pre-adoption workshop, pursuant to Government Code Section 11346.45, is not required to implement the proposed regulations, because the issue addressed is not so complex that it cannot easily be reviewed during the comment period. The Administrative Director, however, prior to the emergency adoption of the regulations, held several informal workshops to which the public was invited, at which proposed regulations were discussed, and at which a representative group of interested parties was present.

In addition, the text of the proposed regulations was made available for two pre-adoption public comment periods through the Division's Internet message board (the DWC Forum).

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

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

In addition, this Notice, the Initial Statement of Reasons, and the text of regulations may be accessed and downloaded from the Department of Industrial Relations' Internet site at www.dir.ca.gov under the heading "Rulemaking-proposed regulations." Any subsequent changes in regulation text, and the Final Statement of Reasons will be available at that Internet site when made.

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

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

Any person may submit written comments on the proposed regulation, prior to the public hearing to:

Ms. Kathleen Llemos
Division of Workers' Compensation—9th Floor
Post Office Box 420603
San Francisco, CA 94142

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

Unless submitted prior to or at the public hearing, all written comments must be received by the agency contact person, no later than 5:00 p.m. on September 21, 2004. Equal weight will be accorded to oral and written materials.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

Due to the inherent risks of non-delivery by facsimile transmission and email transmission, the Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission or email transmission also be submitted by regular mail.

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

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

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

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

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

AVAILABILITY OF RULEMAKING DOCUMENTS ON THE INTERNET

Documents concerning this proceeding are available on the Division's website: www.dir.ca.gov. To access them, click on the "Proposed Regulations—Rulemaking" link and scroll down the list of rulemaking proceedings to find the "Spinal Surgery Second Opinion" rulemaking link.

CONTACT PERSON

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

Ms. Kathleen Llemos
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

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

BACK-UP CONTACT PERSON / CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

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

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulation as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulation is adopted. The modified text will be made available on the Division's website: www.dir.ca.gov and may be located by following the direction provided above.

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 Division's website: www.dir.ca.gov by following the directions provided above.

AUTOMATIC MAILING

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

If adopted on a permanent basis, the proposed regulation will remain in effect at Title 8, California Code of Regulations, Sections 9788.01-9788.91.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **September 23, 2004**, at 10:00 a.m. in the Auditorium, Room 102 of the Office Building 9, 744 P Street, Sacramento, California 95814-6413.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **September 23, 2004**, following the Public Meeting in the Auditorium, Room 102 of the Office Building 9, 744 P Street, Sacramento, California 95814-6413.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **September 23, 2004**, following the Public Hearing in the Auditorium, Room 102 of the Office Building 9, 744 P Street, Sacramento, California 95814-6413.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and

Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **September 23, 2004**.

1. TITLE 8: CONSTRUCTION SAFETY ORDERS
Chapter 4, Subchapter 4, Article 13
Section 1602(a)
Personal Flotation Devices
2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 2
Sections 3210 and 3212
Fall Protection at Ladderway and Stairway Entrances and Openings

A description of the proposed changes are as follows:

1. TITLE 8: CONSTRUCTION SAFETY ORDERS
Chapter 4, Subchapter 4, Article 13
Section 1602(a)
Personal Flotation Devices

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) initiated this rulemaking as the result of Petition File No. 418, submitted by Mr. Michael Grupa, STEARNS, Inc. (Petitioner). The petition was granted on October 19, 2000, to the extent that an advisory committee be convened by board staff to consider amendments to Title 8, Construction Safety Orders, section 1602. The petitioner recommended amending section 1602 to clarify which United States Coast Guard (USCG) approved personal flotation device (PFD) is required for employees working over or near water. The petitioner stated that confusion exists in the construction industry as to which type of USCG approved PFD meets the requirement in section 1602(a)(1), which states that workers must use "U.S. Coast Guard approved personal flotation devices that are of a type that will support an unconscious person's head above water."

There are five types of PFDs (I, II, III IV, and V). Although the Type I personal flotation device is an offshore PFD designed to turn most wearers face up in the water, this PFD is not guaranteed to do so in all cases. This is especially true for workers wearing equipment belts containing tools and/or equipment. Additionally, the Type I PFD is bulky and will significantly interfere with the employee's work activities, therefore creating a hazard by limiting the

workers' field of vision and restricting range of motion. For this reason the industry has widely adopted the use of the Type III and Type V PFDs at construction sites where workers work near or over water. For lifesaving boats, section 1602(a)(3) is intended to enable quick recovery of the fallen worker from the water, where the PFD keeps the worker at the water surface, making timely recovery possible. Board staff wishes to emphasize that this proposal clarifies what types of USCG approved PFDs meet the requirements of section 1602, and provides the employer with flexibility to select the most effective PFD for use by their employees, based on the specific worksite conditions.

The following actions are proposed:

Section 1602. Work Over or Near Water.
Subsection (a)(1)

Section 1602 addresses drowning hazards associated with work over or near water by requiring specific equipment to be worn by the employees, and safety equipment to be immediately available at the jobsite, including personal flotation devices (life jackets), ring buoys, lifesaving boats, and tag or safety lines. Included in section 1602(a)(1) is a requirement for U.S. Coast Guard approved personal flotation devices of a type that will support an unconscious person's head above water.

An amendment is proposed to delete the phrase "of a type that will support an unconscious person's head above water" and replace this language with "and marked or labeled Type I PFD, Type II PFD, Type III PFD, or shall be a USCG approved Type V PFD that is marked or labeled for use as a work vest for commercial use or for use on vessels." This amendment clarifies the existing requirement for USCG approved personal flotation devices that must be worn, and does not impose any new requirements.

Because current language does not provide clear direction regarding which PFD would meet the requirement in subsection (a)(1), the effect of this amendment will be to clarify that Type I PFD, Type II PFD, Type III PFD, or Type V USCG approved PFDs will provide the necessary safety when employees work at locations where the danger of drowning exists.

This proposed amendment will render Title 8 standards at least as effective as federal requirements in 29 CFR, section 1926.106, which allows any type OSHA approved PFD to be worn. Like the language of the proposed amendment, federal language limits the use of PFDs to those marked or labeled Type I PFD, Type II PFD, Type III PFD, or shall be a USCG approved Type V PFD.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed amendment clarifies an existing standard and eliminates confusion about what types of USCG approved personal flotation devices must be provided by the employer, and used by employees when working at locations where the danger of drowning exists.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one

which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

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

REASONABLE ALTERNATIVES CONSIDERED

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

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

Chapter 4, Subchapter 7, Article 2
Sections 3210 and 3212

Fall Protection at Ladderway and Stairway Entrances and Openings

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action is being initiated in response to a petition (Petition File No. 427) which raised concerns that Title 8 regulations contained in the General Industry Safety Orders, Section 3210, "Guardrails at Elevated Locations" and Section 3212, "Floor Openings, Floor Holes, Skylights and Roofs"

are not clear as to the requirements for fall protection at ladderway and stairway entrances to elevated locations such as platforms and catwalks. The proposed amendments to both Sections 3210 and 3212 were developed with the assistance of an advisory committee in order to clarify the requirements for providing fall protection at access openings to platforms from fixed ladders or stairways.

Section 3210. Guardrails at Elevated Locations.

Section 3210 defines the requirements when guardrails and/or toeboards are required on elevated locations. Subsection (a) outlines the guardrail/toeboard requirements for elevated locations such as open sides of landings, platforms, runways and catwalks that are part of a building or structure. Subsection (b) outlines the guardrail/toeboard requirements for other elevated work locations that would not be part of a building structure such as various elevated portions of large equipment or machinery, including elevated locations of aircraft.

Subsection (a)

The reference to Title 24, Part 2, Section 509.7, following the 13 exceptions listed in subsection (a), is proposed for deletion. Prior to September 30, 2002, the Board was mandated by Health and Safety Code Section 18943(b) to submit Title 8 building standards to the California Building Standards Commission for their approval and adoption into Title 24, the California Building Code.

Assembly Bill 3000 (Stats. 2002. c. 1124), which was signed by the Governor and filed with the Secretary of State on September 30, 2002, repealed Labor Code Section 142.6 and Health and Safety Code Section 18943(b), thus exempting the Board from the building standard requirements contained in these Codes. The references to Title 24 and Section 18943(b) of the Health and Safety Code in Section 3210, subsection (a) are unnecessary and proposed for deletion.

New Subsection (d)

New subsection (d) is proposed for Section 3210, which states, "Openings in guardrails for ladderway access shall be protected as required by Section 3212(a)(2) of the General Industry Safety Orders." The addition of this subsection will have the effect of ensuring that employers are aware of the specific requirements for protection at ladder access openings through perimeter guardrails that are contained in Section 3212.

Section 3212. Floor Openings, Floor Holes, Skylights and Roofs.

Existing Section 3212 addresses the requirements for the guarding of floor openings, floor holes,

skylights and roofs by means such as covers, guardrails or equivalent including the use of fall protection systems.

Subsection (a)(1)

Existing subsection (a)(1) specifies the guarding requirements for floor and roof openings and contains an exception for stairway or ladderway entrances. New subsection (a)(2) is proposed which will specifically address protection at ladderway entrances. Consequently, it is proposed to delete the reference to ladderway entrances from the exception to (a)(1). The proposed amendment will clarify that ladderway entrances are not exempt from the protection requirements contained in subsection (a) as they are addressed in proposed new subsection (a)(2).

New Subsection (a)(2)(A)

New subsection (a)(2)(A) addresses fall protection requirements specific to ladderway entrances/openings which provide access to/from floor openings or platforms. The proposed new subsection is similar to that of the counterpart federal standard contained in 29 CFR 1910.23(a)(2). The proposed new subsection will have the effect of ensuring that protection at ladderway access openings is provided.

An exception to the requirements of subsection (a)(2)(A) is proposed at ladder openings for entrance/access at perimeter roof edges where guardrail protection is not required by the provisions in Section 3212(d). Section 3212(d) requires guardrails where there is a routine need for employees to approach within 6 feet of roof edges. The proposed exception will have the effect of exempting certain ladderway entrances where the perimeter of the roof is not required to have guardrails, as there is no need to provide a swinging gate or equivalent protection at the ladder access to roofs.

New Subsections (a)(2)(B)1. and 2.

New subsections (a)(2)(B)1. and 2. are proposed which outline the vertical height and strength requirements for the swinging gate or equivalent protection required under proposed new subsection (a)(2)(A). The proposed new subsections will ensure that swinging gates or other equivalent protection provided at ladderway openings/entrances to elevated locations will be of sufficient height and strength to provide effective fall protection.

Existing subsections (a)(2) through (a)(4) are editorially renumbered as (a)(3) through (a)(5) to accommodate the inclusion of proposed new subsection (a)(2).

In addition, the Title 24 California Building Code references have been deleted in proposed subsections (a)(4) and (a)(5) as outlined in the rationale for the proposed amendments to Section 3210(a).

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states.

At the advisory committee meeting, represented industries commented that they are providing fall protection at the fixed ladder access openings to elevated locations by the use of single or double bar swinging gates, single drop bar/arm gates, and for many older installations, chains are used as barrier protection at the ladder access opening to platforms or other elevated locations.

The provisions of proposed Section 3212(a)(2) provide the employer the option to provide ladder access openings with a swinging gate or equivalent protection, or that the passageway to the ladder opening be so offset that a person cannot walk directly into the opening. The standard allows for equivalent protection to that of a swinging gate (e.g. single drop bar/arm gates or chain barriers) provided that the vertical height and strength requirements in proposed Section 3212(a)(2)(B) are met.

The Decision After Reconsideration issued by the Appeals Board in the matter of the appeal from the Daily Breeze establishes that the employer already has an obligation to provide fall protection at the ladder access end of a platform. Board staff believes that employers are already required to provide the protection clarified in the proposal and that the proposal does not mandate the use of new devices or equipment. Additionally, at the advisory committee meeting convened for this rulemaking action, it was evident that committee members are already providing either swinging gates or equivalent protection at ladder access openings to platforms or catwalks.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, these standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the

State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

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

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than September 17, 2004. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on September 23, 2004 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF REGULATIONS TO CONTROL GREENHOUSE GAS EMISSIONS FROM MOTOR VEHICLES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of regulations and incorporated test procedures, and amendment of other incorporated test procedures, to control greenhouse gas emissions from motor vehicles, pursuant to Assembly Bill (AB) 1493 (Pavley) (Stats. 2002, Ch. 200).

- DATE: September 23, 2004
- TIME: 9:00 a.m.
- PLACE: Sheraton Gateway Hotel
Los Angeles Airport
6101 West Century Boulevard
Los Angeles, California 90045

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 23, 2004, and may continue at 8:30 a.m., September 24, 2004. This item may not be considered until September 24, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before September 23, 2004, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please go to <http://inside.arb.ca.gov/as/eeo/languageaccess.htm> or contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of section 1961.1, title 13, California Code of Regulations and incorporated test procedures, and the amendments to

sections 1900, 1961 and the incorporated “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as last amended May 28, 2004.

BACKGROUND

The State of California has traditionally been a pioneer in efforts to reduce air pollution, dating back to 1963 when the California New Motor Vehicle Pollution Control Board adopted the nation’s first motor vehicle emission standards. California likewise has a long history of actions undertaken in response to the threat posed by climate change.

The earth’s climate is changing because human activities are altering the chemical composition of the atmosphere through the buildup of greenhouse gases (GHGs), primarily carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and hydrofluorocarbons (HFC). The heat-trapping property of GHGs is undisputed. Although there is uncertainty about exactly how and when the Earth’s climate will respond to increasing concentrations of GHGs, observations indicate that detectable changes are under way. There most likely are and will continue to be changes in temperature and precipitation, soil moisture, and sea level, all of which could have significant adverse effects on many ecological systems, as well as on human health and the economy.

Climate is a central factor in Californian life. It is at least partially responsible for the State’s rapid population growth in the past 50 years, and largely responsible for the success of industries such as agriculture and tourism. The potential effects of climate change on California have been widely discussed from a variety of perspectives. The signs of a global warming trend continue to become more evident and much of the scientific debate is now focused on expected rates at which future changes will occur.

NEED FOR ADOPTION

Climate change threatens California’s public health, water resources, agricultural industry, ecology, and economy. Direct health impacts due to climate change include extreme events, such as heat waves, droughts, increased fire frequency, and increased storm intensity resulting in flooding and landslides. Secondary or indirect health effects include damages to infrastructure causing, for example, sanitation and water treatment problems leading to an increase in water-borne infections. Air quality impacts such as increases in ground-level ozone due to higher temperatures may also cause secondary health impacts. Poor and immigrant populations (who often reside in urban areas where the heat island effect actually increases warming and the consequent effects of heat) are more

vulnerable to climate change as they are often without adequate resources to control their personal environment with appliances such as air conditioners, or to seek medical attention. Thus, these communities are the first to experience negative climate change impacts like heat death and illness, respiratory illness, infectious disease, and economic and cultural displacement.

Water resources in drier climates, such as California, tend to be more sensitive to climate changes. Because evaporation is likely to increase in a warmer climate, it could result in lower river flows and lake levels, particularly in the summer. If stream flow and lake levels drop, groundwater also could be reduced. The seasonal pattern of runoff into California’s reservoirs could be susceptible to climatic warming. Winter runoff most likely would increase, while spring and summer runoff would decrease. This shift could be problematic, because the existing reservoirs are not large enough to store the increased winter flows for release in the summer.

As California’s water resource systems face challenges from climate change and variability, so too do the State’s agricultural sectors. While agricultural production is potentially vulnerable to climate change risks associated with adverse water system impacts, this sector also faces other risks that come with increasingly unpredictable variations in both temperature and precipitation.

Climate change could also have an impact on many of California’s species and ecosystems. Species differ significantly in their abilities to disperse and to become established in new locations with more suitable climates. With changes in climate, the extent of forested areas in California could also change. Hotter, drier weather could increase the frequency and intensity of wildfires, threatening both property and forests. Along the Sierra, drier conditions could reduce the range and productivity of conifer and oak forests. Farther north and along the northern coast, drier conditions could reduce growth of the Douglas fir and redwood forests. A significant increase in the extent of grasslands and chaparral throughout the State could result. These changes would affect the character of California forests and the activities that depend on them.

In 2002, recognizing that global warming would impose compelling and extraordinary impacts on California, the legislature adopted and the Governor signed Chapter 200, Statutes of 2002 (AB 1493, Pavley). Chapter 200 directs the Board to adopt regulations that achieve the maximum feasible and cost effective reduction of greenhouse gas emissions from motor vehicles.

SUMMARY OF STAFF PROPOSAL

Vehicle climate change emissions comprise four main elements: (1) CO₂, CH₄ and N₂O emissions resulting directly from operation of the vehicle, (2) CO₂ emissions resulting from operating the air conditioning (AC) system (indirect AC emissions), (3) refrigerant emissions from the air conditioning system due to either leakage, losses during recharging, or release from scrappage of the vehicle at end of life (direct AC emissions), and (4) upstream emissions associated with the production of the fuel used by the vehicle. The proposed climate change emission standard incorporates all of these elements.

The staff proposal recommends that one manufacturer fleet average emission standard be established for passenger cars and the lightest trucks (PC and LDT1), and a separate manufacturer fleet average emission standard be established for heavier trucks (LDT2). Staff proposes setting near-term standards, phased in from 2009 through 2012, and mid-term emission standards, phased in from 2013 through 2016. Staff has identified a number of cost-effective technologies that are available to reduce motor vehicle greenhouse gas emissions sufficient to allow compliance with the proposed standards. Manufacturers can choose the mix of technologies that they employ, provided that the sales-weighted average emissions from their fleet meet the standards noted below. The standards are expressed in terms of CO₂ equivalent grams per mile, which means that emissions of the various greenhouse gases are weighted to take into account their differing impact on climate change.

The proposed standards are as follows:

Year	Category		Standard CO ₂ -eq g/mi	
2009	PC/LDT1	Near-term phase-in	323	
	LDT2		439	
2010	PC/LDT1		301	
	LDT2		420	
2011	PC/LDT1		267	
	LDT2		390	
2012	PC/LDT1		233	
	LDT2		361	
2013	PC/LDT1		Mid-term phase-in	227
	LDT2			355
2014	PC/LDT1			222
	LDT2			350
2015	PC/LDT1	213		
	LDT2	341		
2016	PC/LDT1	205		
	LDT2	332		

To maintain simplicity, staff proposes to use the upstream emissions for vehicles that use conventional fuels as a “baseline” against which to compare the relative merits of alternative fuel vehicles. Therefore, the emissions standards as shown above do not

directly reflect upstream emissions. Rather, when certifying gasoline or diesel-fuel vehicles manufacturers would report only the “direct,” or “on vehicle” emissions. For alternative fuel vehicles, exhaust CO₂ emission values will be adjusted in order to compensate for the differences in upstream emissions. This approach simplifies the regulatory treatment of gasoline vehicles, while at the same time allowing for appropriate treatment of alternative fuel vehicles.

Early Credits. AB 1493 directs that emission reduction credits be granted for any reductions in greenhouse gas emissions achieved prior to the operative date of the regulations. ARB staff proposes that credit for early emission reductions should be available for model years 2000 through 2008, and that the baseline against which manufacturer emissions are measured should be the fully phased-in near term standards (the model year 2012 standards).

Alternative Compliance. AB 1493 requires that the regulations “provide flexibility, to the maximum extent feasible consistent with this section, in the means by which a person subject to the regulations . . . may comply with the regulations. That flexibility shall include, but is not limited to, authorization for a person to use alternative methods of compliance with the regulations.” Thus the use of alternative compliance strategies must not undercut the primary purpose of the regulation, which is to achieve greenhouse gas reductions from motor vehicles. Accordingly, the proposed alternative compliance program is limited to the vehicles that are regulated through AB 1493 and their fuels. The major features of the staff proposal are:

- Projects must be located in California to be eligible as alternative methods of compliance.
- Only companies regulated by AB 1493 (automakers) will be permitted to apply for alternative compliance credits.
- Only those vehicles regulated under AB 1493 are eligible for alternative compliance credits. This includes model year 2009 and later passenger vehicles and light-duty trucks and other vehicles used for noncommercial personal transportation in California.
- Staff proposes that eligible projects be limited to those that achieve greenhouse gas reductions through documented increased use of alternative fuels in eligible vehicles.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that control greenhouse gas emissions from motor vehicles.

Chapter 200, Statutes of 2002 (AB 1493, Pavley), which directs the Board to adopt these regulations, provides that "If the federal government adopts a standard regulating a greenhouse gas from new motor vehicles that the state board determines is in a substantially similar timeframe, and of equivalent or greater effectiveness as the regulations that would be adopted pursuant to this section, the state board may elect not to adopt a standard on any greenhouse gas included in the federal standard." To date no such federal standards have been proposed.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the Proposed Regulatory Action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider Adoption of Regulations to Control Greenhouse Gas Emissions from Motor Vehicles.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on September 23, 2004.

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

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Ms. Eileen Tutt at (916) 445-8897 or Mr. Chuck Shulock at (916) 322-6964.

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

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

<http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please go to <http://inside.arb.ca.gov/as/eeo/languageaccess.htm> or contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

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

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

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

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

In general, the steps that manufacturers will need to take to comply with the regulatory standards are expected to lead to price increases for new light duty passenger vehicles. Many of the technological options that manufacturers will choose to comply with the regulation are also expected to reduce operating costs. The staff analysis concludes that over the lifecycle of the vehicle the reduction in operating costs will more than offset the increased initial cost, resulting in a net savings to vehicle owners.

There are about 420,000 State and local agency-owned vehicles in California. A typical agency-owned vehicle is driven an average of 12,500 miles each year. This usage rate is very similar to that of private consumers. The staff analysis indicates that for individual consumers, the increased initial cost is more than offset by operating cost savings over the life of the vehicle. Staff expects that the same would hold true for public agencies. Thus beginning in the 2009 model year state and local agencies would need to budget for increased initial vehicle costs, but savings

from the lowered operating costs of the proposed regulation would outweigh the higher price over the lifecycle of the vehicles.

Vehicles built to comply with the regulation are likely to be more efficient, which, as a consequence, means that new vehicles sold in 2009 and beyond will use less fuel. This will result in the future in reduced state and local government revenue from the excise tax and sales tax on motor vehicle fuel. This reduction will be partially offset by increased sales tax due to the increased cost of new vehicles.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The regulation directly affects automakers worldwide that manufacture California-certified light duty vehicles. Staff estimates that for large manufacturers the regulation would result in average compliance costs in model year 2009 of about \$20 per vehicle for PC and LDT1 and about \$40 per vehicle for LDT2. Compliance costs would increase over time as the standards are phased in, rising to about \$630 per vehicle for PC and LDT1 and \$960 per vehicle for LDT2 in 2016. Compliance costs for intermediate and small manufacturers would vary depending on their specific circumstances.

The climate change regulation affects only light duty vehicles whose primary use is noncommercial personal transportation. Therefore, many vehicles that businesses use would not be covered under the proposed regulation. However, if the businesses purchase the same vehicles as consumers, they would be expected to pay higher prices for the vehicles but save on operating costs. As noted above, staff expects that reduced operating costs will more than outweigh the effect of the increase in price over the life cycle of the vehicle.

Due to higher initial vehicle costs and reduced demand for fuel, the proposed regulation may adversely affect some sectors of the economy. It is very likely, however, that savings from reduced vehicle operating costs would end up as expenditures for other goods and services. These expenditures would flow through the economy, causing expansion or creation of new businesses in several sectors. Staff's economic analysis shows that on balance the proposed regulation will have a positive impact on jobs and personal income in California.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

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

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

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, September 22, 2004**, and addressed to the following:

Postal mail is to be sent to:

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

Electronic mail is to be sent to:

grnhsgas@listserv.arb.ca.gov

and received at the ARB **no later than 12:00 noon, September 22, 2004**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, September 22, 2004**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39500, 39600, 39601, 43013, 43018, 43018.5, 43101, 43104, and 43105. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 43205.

HEARING PROCEDURES

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

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. Such changes could include, but are not limited to, modifications to the regulatory standards and upstream correction factors, the proposed phase-in schedule, the compliance requirement applied to different manufacturer size classifications (i.e. small, independent low volume, intermediate and large volume manufacturers), and the early credit and alternative compliance provisions.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Section 150.06, in Chapter 1, Division 1, Article 3, of Title 13, California Code of Regulations concerning the descriptive vehicle information required when selling or transferring title of a vehicle.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly

authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on *September 20, 2004*, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code section 5900.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 5900 specifies the information that the owner of a motor vehicle must provide to the department when the vehicle is sold or transferred to another person. Statute does not define what constitutes a description of the vehicle. The department proposes to clarify the descriptive information required when informing the department that title to a California-registered vehicle has been sold or transferred by adopting Section 150.06. This information will ensure that the department has the necessary data to match the information regarding the vehicle transfer to the appropriate motor vehicle record.

DOCUMENTS INCORPORATED BY REFERENCE

There are no documents to be incorporated by reference.

FISCAL IMPACT STATEMENT

Cost Or Savings To Any State Agency: None.

Other Non-Discretionary Cost or Savings to Local Agencies: None.

Costs or Savings in Federal Funding to the State: None.

Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This regulation is a clarification of statute.

Effect on Housing Costs: None.

DETERMINATIONS

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

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will neither create nor eliminate jobs or create businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses because the proposed regulatory action clarifies what descriptive vehicle information is required when selling or transferring the title on a vehicle registered in California.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

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

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-5567, or cpatrick@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator,

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

AVAILABILITY OF MODIFIED TEXT

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

(Continuation of Register 2004, No. 28-Z, and Commission Meeting of June 24, 2004)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 219, 240, 713, 1050, 3003.1, 4001, 4005, 4006, 4009.5, 4012, and 4150, of the Fish and Game Code, and to implement, interpret or make specific Sections 200, 202, 203, 203.1, 206, 207, 211-222, 713, 1050, 3003.1, 4000-4004, 4005, 4006, 4009.5, 4012, 4150,

4152, 4180, and 4181, of said Code, proposes to amend Sections 460, 465.5, and 478 and add Sections 458.1, 458.2, 458.3, and 460.1, Title 14, California Code of Regulations, relating to Trapping Furbearers, Nongame Mammals and Nonnative Red Fox.

Proposed changes to subsections 465.5(g) as set forth in the first notice regarding exclusion of bats from structures (Notice Register 2004, No. 28-Z, published July 9, 2004) remain the same, **except for the additional exclusion period of February 15 through April 15, and September 1 through October 15, as recommended by public comment (see Updated Informative Digests below).**

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW FOR SECTION 465.5

Under current regulations (Sections 460, 461, 462, 463, 464, 465, 465.5, 466, 467, 472, 473, 474, 475, 478, 478.1, and 479 Title 14, CCR), furbearing and nongame mammals may be taken for recreation and commerce in fur and for other purposes under a Department-issued trapping license, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify furbearing and nongame mammal seasons, areas, bag and possession limits; methods of take; use of traps; hours of take; and requirements for trapping statements or reports.

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

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

- Establish a separate section regarding leg-hold trap use to clarify that they may not be used, except in extraordinary cases to protect human health or safety;
- Establish a separate section authorizing the Department of Fish and Game to charge a fee to apply for a trapping license examination to help the Department recoup its costs of administering this examination;
- Establish a separate section that exempts from the trapping license requirement the trapping of fox squirrels, gophers, ground squirrels, mice, moles, opossums, raccoons, rats, skunks, and voles that are

a nuisance or injuring crops or property. This would relieve persons, who have trapping licenses or their equivalent from the Department of Pesticide Regulation or the Structural Pest Control Board to trap these same mammals, from having to procure a second license from the Department of Fish and Game. The proposed regulation also would stipulate that no raw furs of these animals taken pursuant to this section may be sold;

- Identify the native and threatened Sierra Nevada red fox as the red fox subspecies which may not be taken at any time and distinguish it from the nonnative red fox subspecies;
- Establish a nonnative red fox hunting and trapping season and area to provide additional hunting and trapping opportunity and to control the spread of and possibly reduce the nonnative red fox population. The proposed regulation will also make unlawful the take of red fox for any profit-making purposes, which is consistent with Fish and Game Code Section 4012. The existing regulation in Section 460, Title 14, CCR, was established to protect the native Sierra Nevada red fox (*Vulpes vulpes necator*), a high-elevation subspecies now classified as threatened in California. The nonnative red fox (*Vulpes vulpes regalis*) was introduced decades ago for fur farming and hunting. It has proliferated in low elevation habitats to the extent that it is now considered an agricultural pest, and a threat to some wildlife species. This proposal adds Section 460.1, Title 14, CCR, in an effort to permit hunting and trapping for nonnative red foxes in an area of lower elevations that is far removed from the range of the native Sierra Nevada red fox. Controlling and/or reducing the nonnative red fox population in California is desirable, as these mammals prey on rodents, rabbits, reptiles, shorebirds, waterfowl, and other ground-nesting bird species, including some threatened and endangered species;
- Amend the regulation governing the use of traps in order to:
 - Exempt completely submerged traps from the daily visitation requirement because of their kill-type design and the intensive labor required to set up;
 - Allow for other practical methods of dispatch to ensure rapid death of trapped furbearing or nongame mammals;
 - Provide that the existing requirement, that trappers have written consent of the landowner to place traps within 150 yards of a structure used as a residence, apply only to body gripping traps;
 - Match the zones of protection for the Sierra Nevada red fox and San Joaquin kit fox with their current ranges;

- Add an exception to the prohibited use of conibear traps, deadfall traps, and snares within these zones to protect human health or safety, and;
- Add a provision that bats may not be trapped and may only be excluded from structures during the period October through March, except to prevent property damage, or to protect human health or safety. This would be added due to public concern regarding the protection of bats as there are 11 bat species classed as Species of Special Concern.
- Extend the bobcat trapping season an additional 51 days. Existing Section 478, Title 14, provides a 69-day trapping season. Inclement weather typically restricts or prevents trapping activity during portions of this period. In an effort to offset trapping time lost during these events and to increase trapping opportunity, while assuring bobcat harvest levels remain well below allowable thresholds, the proposed regulation change expands the season to 121 days, and;
- Adjust the bobcat hunting season so that it opens on the second Saturday of October instead of October 15. Providing for seasons to open on Saturdays is consistent with Commission policy.

Language that was originally proposed for Subsection 465.5(g) stated that bats may not be trapped and may only be excluded from structures during the period October through March, except to prevent property damage, or to protect human health or safety. Revised language amends the times during which bats may be excluded from structures to the following: February 15 through April 15, and September 1 through October 15. Wording proposed previously was intended to reduce the likelihood that young bats would be left in structures to starve if the adults were excluded during the maternity season. The new language is intended to also protect bats that may be emerging temporarily from structures during the winter roosting period.

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 Veterans Memorial Building, 209 Surf Street, Morro Bay, California on August 27, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 25, 2004, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 27, 2004 at the hearing in Morro Bay, CA. All written comments must include the true name and mailing address of the commenter.

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

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

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted

pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

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

IMPACT OF REGULATORY ACTION

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

- (a) 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.

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

ACTION

Notice of Proposed Rulemaking Title 28, California Code of Regulations

SUBJECT

Amending Execution Page, Control #2004-0296, Amending Section 1300.51 in Title 28, California Code of Regulations

PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care (Director) proposes to amend and/or adopt regulations under the Health Care Service Plan Act of 1975 (Act) relating to the Execution Pages by amending section 1300.51 in Title 28, California Code of Regulations. Before undertaking the action, the Director will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions relevant to the action described in this notice.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative may submit written statements, arguments or contentions (hereafter referred to as comments) relevant to the proposed regulatory action by the Department. Comments must be received by the Office of Legal Services, Department of Managed Health Care, by 5 p.m. on September 20, 2004, which is hereby designated as the close of the written comment period.

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

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

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

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

CONTACTS

Please identify the action by using the Department's regulation control number and title, **2004-0296 Amending Execution Page** in any of the above inquiries:

AVAILABILITY OF DOCUMENTS

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

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

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

Health and Safety Code section 1351 requires the Department to develop an application form for licensure as a health care service plan or specialized health care service plan. This form, titled Execution Page was adopted but is in need of revising since the application is now received through electronic filing. The Director proposes amending section 1300.51, California Code of Regulations to clarify and make specific the requirements of section 1351 by revising the Execution Page. These changes will enhance the Execution Page by promoting accuracy and consistency of the information entered on the execution page by licensees allowing the Department to rout and process the filings in a more accurate and efficient manner.

AUTHORITY

Health and Safety Code sections 1342, 1344 and 1351

REFERENCE

Health and Safety Code section 1300.51.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulation(s) should be addressed to Elaine Paniewski, Staff Service Analyst, at (916) 322-6727. The Director will accept written, faxed or e-mailed comments on the modified regulation(s) for 15 days after the date on which they are made available. The Director may

thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Elaine Paniewski, Staff Service Analyst, at (916) 322-6727 or available on the internet at <http://www.hmohelp.ca.gov/library/regulations/> under the heading Proposed Regulations.

ALTERNATIVES CONSIDERED

Pursuant to Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to its attention, would be more effective in carrying out the purpose for which the above action is proposed, or would be as effective and less burdensome to affected private persons than the proposed actions.

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

FISCAL IMPACT STATEMENT

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

DETERMINATIONS

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

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

The Department has determined that the regulations do not affect small businesses. Health care service

plans are not considered a small business under Government Code section 11342(h)(2).

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

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

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

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

FINDING REGARDING REPORTING REQUIREMENT

Government Code section 11346.3(c) provides as follows:

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

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

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

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

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

This information is available by request at the Department of Managed Health Care, Office of Legal Services, 980 9th St., Sacramento, CA 95814, or on our website at <http://www.hmohelp.ca.gov/library/regulations/>, under the heading, Proposed Regulations.

GENERAL PUBLIC INTEREST

DENTAL BOARD OF CALIFORNIA

**NOTICE OF PROPOSED
REGULATORY ACTION
CHANGE OF TIME FOR PUBLIC HEARING**

The California Regulatory Notice Register dated July 2, 2004, indicated that the Dental Board of California was proposing a regulation that would make changes to Sections 1016 and 1017, and Sections 1014 and 1014.1. The Dental Board of California will conduct a public hearing on this proposed regulation on Friday, August 20, 2004, at a different time other than stated in the original Notice. The hearing will begin at **11 a.m.** The location will be the same, the Westin Hotel, Los Angeles Airport, 5400 W. Century Boulevard, Los Angeles, California 90045.

For additional information, please contact Linda M. Madden (916) 263-2300, ext. 2327.

**DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contracts in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P. O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P. O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians &
Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P. O. Box 925
Middletown, CA 95461

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

**Notice of Intent to Re-Certify
Hazardous Waste Environmental Technology**

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) intends to re-certify the following hazardous waste environmental technology:

The SCIGEN NEUTRALEX technology for treating formaldehyde in waste neutral buffered Formalin from histopathology specimen preservation and use of automated histopathology tissue processors.

Applicant: SCIGEN, Inc.
333 East Gardena Blvd
Gardena, California 90249

Section 25200.1.5., Health and Safety Code, enacted by Assembly Bill 2060, authorizes DTSC to certify the performance of hazardous waste environmental technologies. Only technologies which are determined to not pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions may be certified. Incineration technologies are explicitly excluded from the certification program.

The purpose of the certification program is to provide an independent technical evaluation of technologies to identify those meeting applicable quality standards, so as to facilitate regulatory and end-user acceptance and to promote and foster growth of California's environmental technology industry.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to require additional measures for protection of public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials and their operation at a level equal to or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's proposed decision to re-certify is subject to public review and comment. Written comments must be submitted to DTSC no later than 30 days after publication of this notice. All comments will be considered and appropriate changes will be made prior to publishing DTSC's final decision.

Additional information supporting DTSC's proposed decision is available for review. Requests for additional information or comments concerning this proposed decision should be submitted to the following address:

California Environmental Protection Agency
Department of Toxic Substances Control
Office of Pollution Prevention and
Technology Development
P.O. Box 806
1001 I Street, 12th Floor
Sacramento, California 95812-0806
Attn: Dr. Bruce La Belle (916) 324-2958

BACKGROUND

The Scigen Neutralex technology was originally certified effective June 29, 1997 for a term of three years, as specified in law. The final decision to certify was published in the May 30, 1997, California Regulatory Notice Register, Volume 97, Number 22-Z. The original certification included a description of the technology, the certification statement and associated conditions and limitations, and the technical basis for the original certification decision. A copy of this information may be obtained from DTSC. Scigen has not changed their technology since the original certification was issued.

Following a re-evaluation and proposed decision with 30-day public comment period, DTSC published a final decision to re-certify the Neutralex technology for another three-year term effective June 10, 2001. A report describing the basis for that recertification decision is available from DTSC.

DTSC has now re-evaluated the Neutralex technology, and is proposing to recertify the technology for an additional three-year term.

EFFECT ON CURRENT CERTIFICATION STATUS

Pursuant to Title 22, California Code of Regulations section 68100, the existing certification shall remain valid during the public comment period for this proposed recertification decision, during the period in which DTSC responds to any comments received and prepares a final decision, and during the public notice period for the final recertification decision.

BASIS FOR RE-CERTIFICATION

The previous recertification evaluation included laboratory testing of the effectiveness of Neutralex for treating 10% neutral buffered Formalin wastes, and discussions with end users. According to Scigen, the Neutralex technology has not changed since it was originally certified. For the current recertification evaluation, DTSC staff contacted end users of the Neutralex technology to gather additional information on its performance under the conditions of use at health care facilities.

The manager of three pathology laboratories stated that they typically recycle approximately 90% of their 10% neutral buffered formalin wastes, and treat the remainder with Neutralex. The treatment is effective, but the treated waste sometimes requires pH adjustment (addition of acid) to achieve neutral pH for disposal to the drain. Representatives of seven other hospitals reported that Neutralex works well for them, and that the instructions for use were clear. None of the users reported any problems with using the technology. A regional health and safety manager for a hospital group indicated that he was not aware of any problems or health and safety issues at his hospitals

that use Neutralex. One hospital reported that they were no longer using the product after determining that their waste did not meet hazardous waste threshold.

DTSC has not received nor is aware of any complaints or reports of problems with the Neutralex technology.

REGULATORY CONSIDERATIONS

Title 22, California Code of Regulations, Section 67450.20, specifies that treatment of formaldehyde by health care facilities using any technology certified as effective for that purpose is authorized for operation under a grant of conditional exemption. The treatment must be operated pursuant to the conditions imposed on the certification. In addition, the generator conducting the treatment must comply with the conditions of the Conditional Exemption in Section 25201.5 of the Health and Safety Code. The reader should refer to these statutory and regulatory sections for additional information.

CERTIFICATION CONDITIONS

The conditions of the original certification, published in the May 30, 1997, California Regulatory Notice Register, Volume 97, Number 22-Z, remain in effect.

CERTIFICATION REFERENCE

As a holder of a valid hazardous waste environmental technology certification, Scigen is authorized to use the certification seal (California Registered Service Mark Number 046720) during the term of the certification. Scigen shall cite the certification number and date of issuance in conjunction with the certification seal whenever it is used.

When providing information on the certification to an interested party, Scigen shall at a minimum provide the full text of the original and re-certification decisions as published in the California Regulatory Notice Registers.

DURATION OF THE CERTIFICATION

This re-certification will remain in effect for the period of three years from the date of issuance, unless it is revoked for cause or amended.

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at www.oal.ca.gov. You may also request a copy of a decision by

contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225; FAX (916) 323-6826. Please request by OAL file number.

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW (Gov. Code Sec. 11349.3) OAL File No. 04-0608-03 S

DECISION REGARDING DISAPPROVAL OF A RULEMAKING ACTION

In re:

AGENCY: DENTAL BOARD OF CALIFORNIA

RULEMAKING ACTION: Adopt sections 1042, 1042.1, 1042.2, 1042.3, 1042.4, 1042.5, and 1042.6 of title 16 OAL File No. of the California Code of Regulations

SUMMARY OF RULEMAKING ACTION

This rulemaking action implements the California Dental Corps Loan Repayment Program, Business and Professions Code sections 1970–1976. The purpose of the program is to repay student loans for dentists who commit to work in underserved communities. The regulations establish guidelines for selection of applicants, specify the information required from applicants, provide for application filing periods, set application processing times, provide for a written agreement, specify how loan repayments are to be made, specify the maximum length of absence, provide for reduction of repayments, establish a process for seeking a modification of reduction of repayments, require participating dentists to maintain a license for the duration of the program, provide for termination and repayment if the dentist does not maintain a license during the program, establish a process and penalties when a dentist is unable to complete an agreed upon obligation, and establish a process for seeking reinstatement into the program.

Date July 27, 2004

MICHAEL McNAMER
Senior Counsel

for: Debra M. Cornez
Interim Director and Senior Counsel

Original: Cynthia Gatlin, Executive Officer

cc: Linda Madden

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

**BOARD OF BEHAVIORAL SCIENCES
Restructuring MFT and LCSW Examination Process**

This filing is a certificate of compliance for an emergency regulatory action which replaced the oral examination for the licensed clinical social worker and the marriage and family therapist with a written clinical vignette examination, reduced the charge for this examination from \$200 to \$100, and made other related changes.

Title 16
California Code of Regulations
ADOPT : 1829 AMEND : 1816.2, 1816.3, 1833.3, 1877 REPEAL : 1815
Filed 07/22/04
Effective 07/22/04
Agency Contact:
Julie McAuliffe (916) 445-4933 x1142

**BOARD OF EQUALIZATION
Rules of Practice**

The Board of Equalization is amending the captioned sections pertaining to petition and hearing procedures, making minor corrections as well as adding three authority citations Revenue and Taxation Code sections 7203, 7261, and 7262. Further, an internal reference to Revenue and Taxation Code section 214.15 was added to section 5061 (Stats. 199, Ch. 927)..

Title 18
California Code of Regulations
AMEND : 5010, 5011, 5012, 5024, 5031, 5032, 5033, 5034, 5035, 5036, 5041, 5042, 5043, 5052, 5055, 5056, 5061, 5063, 5072, 5073, 5074,5, 5077, 5078, 5080, 5081, 5082, 5085
Filed 07/26/04
Effective 07/26/04
Agency Contact: Diane G. Olson (916) 322-9569

**BOARD OF EQUALIZATION
Rules of Practice**

In this regulatory action, the Board of Equalization amends its regulations pertaining to its "rules of practice" (the agency's appeal and hearing procedures).

Title 18
California Code of Regulations
AMEND : 5020, 5021, 5022, 5023, 5030, 5070, 5071, 5075, 5075.1, 5076, 5076.1, 5079, 5082.1, 5083, 5090, 5091, 5093 REPEAL : 5087
Filed 07/26/04
Effective 08/25/04
Agency Contact: Diane G. Olson (916) 322-9569

**BOARD OF EQUALIZATION
Rules of Practice**

This rulemaking action specifies that when membership fees related to the anticipated retail sale of tangible personal property are taxable and the memberships are sold by an entity other than the retailer of the tangible personal property, the gross receipts from the sale of the memberships are part of the consideration for the retailer's sale of tangible personal property, and are to be included in the taxable measure of the retailer rather than that of the entity that actually sold the membership.

Title 18
California Code of Regulations
AMEND : 1584
Filed 07/27/04
Effective 08/26/04
Agency Contact: Diane G. Olson (916) 322-9569

**CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD
Waste and Used Tire Hauler Registration and
Manifesting Regulations**

The regulatory action deals with waste and used tire hauler registration and manifesting regulations. The regulatory filing is the Certificate of Compliance for sections 18464 and 18465.

Title 14
California Code of Regulations
ADOPT : 18464 AMEND : 18453, 18453.2, 18456.4, 18457, 18459.1, 18460.1, 18460.1.1, 18460.2, 18461, 18465
Filed 07/21/04
Effective 07/21/04
Agency Contact: Wendy Breckon (916) 341-6068

**DEPARTMENT OF CONSERVATION
Conflict of Interest**

The Department of Conservation is amending its conflict of interest code found at title 14, section 1670, California Code of Regulations. The amendments

were approved for filing by the Fair Political Practices Commission on June 3, 2004.

Title
California Code of Regulations
AMEND : 1670
Filed 07/27/04
Effective 08/26/04
Agency Contact: Kisha Parham- Davis

DEPARTMENT OF DEVELOPMENTAL SERVICES

Habilitation Transfer

This emergency regulatory action implements AB 1753 (Chapter 226, Statutes of 2003) which transfers administrative responsibility for the Habilitation Services Program (HSP) from the Department of Rehabilitation to the Department of Developmental Services.

Title 17
California Code of Regulations
ADOPT : 54351,58800, 58801, 58810, 58811, 5812, 58820, 58821,58822, 58830, 58831, 58832, 58833, 58834, 58840, 58841, 58842, 58850, 58851, 58860, 58861, 58862, 58863, 58864, 58870, 58871, 58872, 58873, 58874, 58875, 58876, 58877, 58878, 58879, 58880, 5888
Filed 07/22/04
Effective 07/22/04
Agency Contact: Charlene Locke (916) 654-2975

DEPARTMENT OF HEALTH SERVICES

Medi-Cal Estate Recovery Program Definitions

This emergency regulatory action provides clarification regarding the Department's authority to recover from annuities by specifying annuities in the definition of "estate," but will only affect annuities purchased on or after September 1, 2004, as part of the Department's recovery of Medi-Cal expenditures from the estates of deceased Medi-Cal beneficiaries. These emergency regulations are exempt from OAL's review pursuant to Welfare and Institutions Code section 14043.75.

Title 22
California Code of Regulations
AMEND : 50960, 50961
Filed 07/27/04
Effective 07/27/04
Agency Contact:
Michelle L. Tedrow (916) 653-1747

DEPARTMENT OF MOTOR VEHICLES

Vehicle Classification

This is the certification of compliance for an emergency action that adopted a rule for the depreciation vehicles to take the place of Revenue and Taxation Code section 10753.2, a statute covering the same subject, that became inoperative on March 1, 2004

Title 13
California Code of Regulations
ADOPT : 159.00
Filed 07/21/04
Effective 07/21/04
Agency Contact:
Bonnie DeWatney (916) 657-8954

FAIR POLITICAL PRACTICES COMMISSION

Termination and Reopening of Committees

The Fair Political Practices Commission is amending section 18404.1, title 2, California Code of Regulations, entitled "Termination of Committees."

Title 2
California Code of Regulations
AMEND : 18404.1
Filed 07/27/04
Effective 07/27/04
Agency Contact: Galena West (916) 322-5660

FAIR POLITICAL PRACTICES COMMISSION

Recall Elections, Ballot Measures Committees, Communications

The Fair Political Practices Commission is adopting section 18530.9 and amending section 18531.5, title 2, California Code of Regulations entitled "Contributions to Candidate Controlled Ballot Measure Committees" and "Recall Elections," respectively.

Title 2
California Code of Regulations
ADOPT : 18530.9 AMEND : 18531.5
Filed 07/26/04
Effective 11/03/04
Agency Contact: Scott Tocher (916) 322-5660

FISH AND GAME COMMISSION

Anadromous Waters of the Klamath River Below Iron Gate Dam

This rulemaking action sets a quota of 4700 for fall-run king salmon over 22 inches in the Klamath River basin, changes a sub-quota boundary, sets an all year daily bag limit of 1 hatchery trout or hatchery steelhead on two segments of the Trinity River, and opens the New River (a tributary to the Trinity River located near the town of Denny) to angling for two months in the fall using artificial lures with barbless hooks with a zero bag limit. The action also makes fishing gear restrictions for all anadromous waters of the Klamath River system consistent with statewide restrictions for rivers and streams.

Title 14
California Code of Regulations
AMEND : 7.50(b)(91.1)
Filed 07/22/04
Effective 08/21/04
Agency Contact: Tracy L. Reed (916) 653-4899

STATE ALLOCATION BOARD

Leroy F. Greene School Facilities Act of 1998

This emergency regulatory action will allow school districts to file new construction funding applications for projects that have already been constructed by the district with local funding and apply the State funding toward other high priority capital outlay school construction projects.

Title 2

California Code of Regulations

ADOPT : 1859.51.1, 1859.70.2 AMEND : 1859.2, 1859.51, 1859.70, 1859.103

Filed 07/22/04

Effective 07/22/04

Agency Contact: Lisa Jones (916) 322-1043

STATE CONTROLLER’S OFFICE

Reasonable Cause—Defined & Burden of Proof

Section 1577 of the Code of Civil Procedure provides in part that “any person who fails to report or pay or deliver unclaimed property within the time prescribed by this chapter, unless that failure is due to reasonable cause, shall pay to the State Controller interest at the rate of 12 percent per annum on that property or value thereof from the date the property should have been reported or paid or delivered.” This regulatory action defines “reasonable cause”, imposes the burden of proof upon the holder of the unclaimed property, and requires any claim of reasonable cause to be in an affidavit or declaration under penalty of perjury.

Title 2

California Code of Regulations

ADOPT : 1172.90, 1172.92

Filed 07/28/04

Effective 08/27/04

Agency Contact:

Ronald V. Placet (916) 445-7217

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN MARCH 24, 2004
TO JULY 28, 2004**

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

Title 1

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

Title 2

07/28/04 ADOPT: 1172.90, 1172.92

07/27/04 AMEND: 18404.1

07/26/04 ADOPT: 18530.9 AMEND: 18531.5

07/22/04 ADOPT: 1859.51.1, 1859.70.2 AMEND: 1859.2, 1859.51, 1859.70, 1859.103

07/02/04 AMEND: 1859.2, 1859.145, 1859.145.1

06/28/04 ADOPT: 599.516

06/21/04 ADOPT: 22600, 22600.1, 22600.2, 22600.3, 22600.4, 22600.5, 22600.6, 22600.7, 22600.8, 22600.9, 22601, 22601.1, 22601.2, 22601.3, 22601.4, 22601.5, 22601.6, 22601.7, 22601.8

06/15/04 ADOPT: Div. 8, Ch. 99, Sec. 58800

06/15/04 AMEND: 18707.1

06/03/04 AMEND: 2270, 2271

06/01/04 ADOPT: 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, 1859.161, 1859.162, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.167, 1859.168, 1859.171

05/25/04 ADOPT: 59152

05/21/04 ADOPT: 1859.123.1 AMEND: 1859.2, 1859.73.1, 1859.81, 1859.83, 1859.90, 1859.120, 1859.121, 1859.122, 1859.122.1, 1859.122.2, 1859.123, 1859.124, 1859.124.1, 1859.125, 1859.125.1, 1859.126, 1859.127, 1859.129, 1859.130

05/17/04 AMEND: 18616

05/17/04 AMEND: 48000

05/17/04 AMEND: 50

05/17/04 ADOPT: 250

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

Title 3

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)
 05/17/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3,
 6784 AMEND: 6000 REPEAL: 6450,
 6450.1, 6450.2, 6450.3, 9784
 05/13/04 AMEND: 3700(b)
 05/03/04 AMEND: 3700(c)
 04/27/04 ADOPT: 6487.1, 6487.2, 6487.3, 6487.4,
 6487.5, 6609 AMEND: 6000, 6416, 6800,
 6486.6 REPEAL: 6486.1, 6486.2, 6486.3,
 6486.4, 6486.5, 6486.8, 6557, 6570, 6802
 04/26/04 AMEND: 6130
 04/26/04 AMEND: 3601(g)
 04/23/04 ADOPT: 797.5 AMEND: 820.8 RE-
 PEAL: 820.7
 04/20/04 AMEND: 2676, 2681, 2735, 2783
 04/20/04 AMEND: 3700(c)
 04/01/04 AMEND: 3700(d)

Title 4

07/19/04 ADOPT: 4147, 4148
 07/19/04 ADOPT: 10163, 10164 AMEND: 10152,
 10153, 10154, 10155, 10156, 10157,
 10158, 10159, 10160, 10161, 10162
 07/19/04 ADOPT: 10300, 10302, 10305, 10310,
 10315, 10317, 10320, 10322, 10325,
 10326, 10327, 10328, 10330, 10335,
 10337 AMEND: 10325(b), 10325(B)(1),
 10325(c)(2)(B), 10325(c)(12),
 10325(d)(1)
 07/06/04 ADOPT: 12200, 12200.1, 12200.3,
 12200.5, 12200.6, 12200.7, 12200.9,
 12200.11, 12200.13, 12200.14, 12200.15,
 12200.16, 12200.17, 12200.18, 12200.20,
 12200.21, 12200.25, 12201, 12202,
 12203, 12204, 12205, 12218, 12218.5,
 12218.7, 12218.11, 12218.13, 12220,
 06/01/04 ADOPT: 12370, 12371
 04/26/04 ADOPT: 10300, 10302, 10305, 10310,
 10315, 10317, 10320, 10322, 10325,
 10326, 10327, 10328, 10330, 10335,
 10337
 04/22/04 ADOPT: 4145, 4146, 4147, 4148
 AMEND: 4140
 04/13/04 ADOPT: 144
 03/29/04 ADOPT: 10163, 10164 AMEND: 10152,
 10153, 10154, 10155, 10156, 10157,
 10158, 10159, 10160, 10161, 10162

Title 5

06/30/04 AMEND: 19814(e)
 06/23/04 ADOPT: 19810, 19811, 19812, 19813,
 19814, 19815, 19816, 19817, 19818,
 19819, 19820, 19821, 19822, 19823,
 19824, 19825, 19826, 19828, 19829,
 19830, 19831 REPEAL: 19827

06/17/04 ADOPT: 19814.1, 19832, 19833, 19834,
 19835, 19836, 19837 AMEND: 19814
 06/08/04 ADOPT: 18074, 18074.1, 18074.2,
 18074.3, 18074.4, 18074.5, 18074.6,
 18075, 18075.1, 18075.2, 18076,
 18076.1, 18076.2, 18076.3, 18220.6
 AMEND: 18413, 18428 REPEAL: 18021
 06/01/04 REPEAL: 80032.2, 80058.2, 80466,
 80523.3
 05/25/04 AMEND: 1859.61, 1859.105, 1859.106,
 1859.141, 1859.142, 1859.145, 1859.147,
 1859.148, 1859.150.1, 1859.151,
 1859.152, 1859.153
 05/24/04 AMEND: 11973, 11974, 11975, 11977,
 11978, 11979
 05/19/04 ADOPT: 1204.5, 1211.5, 1218.6
 AMEND: 1200, 1203, 1204, 1205, 1206,
 1207, 1208, 1209, 1210, 1211, 1215,
 1217 REPEAL: 1212, 1218.5, 1219.5
 05/10/04 ADOPT: 19800, 19801, 19803, 19804,
 19805
 04/22/04 ADOPT: 876

Title 8

07/20/04 AMEND: 5147
 07/13/04 AMEND: 1523
 07/07/04 AMEND: 3301
 07/07/04 AMEND: 1716.2
 07/07/04 ADOPT: 9881.1, 10117.1, 10118.1
 AMEND: 9810, 9880, 9881, 9883 RE-
 PEAL: 9882, 10117, 10118
 07/07/04 AMEND: 1632, 3212
 07/06/04 AMEND: 5194
 07/06/04 AMEND: 15220, 15220.1, 15220.3,
 15220.4
 07/02/04 ADOPT: 9788.01, 9788.19788.11,
 9788.2, 9788.3, 9788.31, 9788.32,
 9788.4, 9788.5, 9788.6, 9788.7, 9788.9,
 9788.91
 06/30/04 ADOPT: 10250
 06/28/04 AMEND: 1953
 06/15/04 ADOPT: 9789.10, 9789.11, 9789.20,
 9789.21, 9789.22, 9789.23, 9789.24,
 9789.30, 9789.31, 9789.32, 9789.33,
 9789.34, 9789.35, 9789.36, 9789.37,
 9789.38, 9789.40, 9789.50, 9789.60,
 9789.70, 9789.80, 9789.90, 9789.100,
 9789.110, 9789.111
 06/08/04 ADOPT: 32017, 32018, 51096, 71010,
 71026, 71037, 71030, 71035, 71040,
 71050, 71055, 71060, 71070, 71080,
 71090, 71095, 71100, 71110, 71115,
 71120, 71130, 71140, 71200, 71210,
 71225, 71230, 71235, 71300, 71310,
 71320, 71330, 71340, 71680, 71685,
 71700, 71
 05/24/04 AMEND: 1600, 1601

05/20/04 AMEND: 5001(b), 5008(b)
 04/29/04 AMEND: 3427
 04/23/04 AMEND: 14300.10, 14300.12, 14300.29,
 Appendix A, Appendix B, Appendix D,
 Appendix E
 04/22/04 ADOPT: 10202.1, 10203.1, 10203.2
 AMEND: 10200, 10201, 10203, 10204
 04/20/04 AMEND: 8403
 04/19/04 AMEND: 20299, 20390
 04/13/04 AMEND: 5044, 5046, 5049. and Table
 S-1, Table S-1a, Table S-11, Table S-12,
 Table S-13, and Table S-14.
 04/01/04 AMEND: 3427

Title 9

06/28/04 AMEND: 9525
 05/04/04 REPEAL: 7336, 7337, 7338, 7339, 7341,
 7342, 7343, 7344, 7345, 7346, 7347,
 7347.1, 7347.2, 7348, 7349
 04/29/04 AMEND: 1921, 1922

Title 10

07/12/04 ADOPT: 2361
 07/07/04 ADOPT: 2194, 2194.1, 2194.2, 2194.3,
 52194.4, 2194.5, 2194.6, 2194.7, 2194.8
 07/01/04 ADOPT: 2699.6608 AMEND: 2699.100,
 2699.200, 2699.201, 2699.205, 2699.209,
 2699.400, 2699.401, 2699.6500,
 2699.6600, 2699.6606, 2699.6607,
 2699.6611, 2699.6613, 2699.6617,
 2699.6619, 2699.6625, 2699.6631,
 2699.6705, 2699.6717, 2699.6725,
 2699.6801, 2699.
 05/27/04 REPEAL: 2670.1, 2670.2, 2670.3,
 2670.4, 2670.5, 2670.6, 2670.7, 2670.8,
 2670.9, 2670.10, 2670.11, 2670.12,
 2670.13, 2670.14, 2670.15, 2670.16,
 2670.17, 2670.18, 2670.19, 2670.20,
 2670.21, 2670.22, 2670.23, 2670.24
 05/17/04 AMEND: 260.102.14
 05/04/04 AMEND: 2698.30, 2698.31, 2698.32,
 2698.33, 2698.34, 2698.35, 2698.36,
 2698.37, 2698.38, 2698.39, 2698.40,
 2698.41, 2698.42 REPEAL: 2698.40,
 2698.41, 2698.42, 2698.43, 2698.44,
 2698.45
 04/29/04 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4,
 2192.5, 2192.6, 2192.7, 2192.8, 2192.9,
 2192.10, 2192.11, 2192.12
 04/26/04 AMEND: 250.30
 04/20/04 ADOPT: 2020, 2021 AMEND: 250.51
 04/19/04 AMEND: 2498.6
 04/13/04 AMEND: 260.102.14
 03/25/04 ADOPT: 2695.40, 2695.41, 2695.42,
 2695.43, 2695.44, 2695.45

Title 11

07/07/04 AMEND: 1005, 1007
 06/23/04 AMEND: 51.16
 06/21/04 ADOPT: 2037, 2038 AMEND: 2010,
 2050
 05/05/04 AMEND: 51.20
 04/30/04 ADOPT: 51.20
 04/30/04 ADOPT: 51.21
 04/26/04 ADOPT: 999.15, 999.16, 999.17, 999.18,
 999.19, 999.20, 999.21, 999.22, 999.23
 AMEND: 999.10, 999.11, 999.12,
 999.13, 999.14 REPEAL: Appendix A

Title 13

07/21/04 ADOPT: 159.00
 07/20/04 ADOPT: 2020, 2021, 2021.1, 2021.2
 07/19/04 AMEND: 1090
 07/16/04 AMEND: 712
 07/15/04 AMEND: 225.45, 225.51, 225.54
 07/07/04 AMEND: 156.00
 05/13/04 AMEND: 110.01, 110.02
 04/28/04 AMEND: 2415
 04/09/04 REPEAL: 55.01, 55.02, 55.03, 55.04,
 55.05, 55.06

Title 14

07/22/04 AMEND: 7.50(b)(91.1)
 07/21/04 ADOPT: 18464 AMEND: 18453,
 18453.2, 18456.4, 18457, 18459.1,
 18460.1, 18460.1.1, 18460.2, 18461,
 18465
 07/12/04 AMEND: 180.3
 07/07/04 AMEND: 251, 311, 353, 354, 360, 361,
 362, 363, 364, 365, 604, 708
 06/29/04 AMEND: 17383.3, 17383.8, 17402.5,
 18223
 06/28/04 AMEND: 2430, 2525, 2535
 06/25/04 ADOPT: 1052.4 AMEND: 895.1, 1052,
 1052.1
 06/15/04 AMEND: 677
 06/01/04 AMEND: 1.18
 05/13/04 AMEND: 27.80
 05/11/04 ADOPT: 3808.5
 05/10/04 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4,
 1665.5
 05/10/04 ADOPT: 18660.5, 18660.6, 18660.7,
 18660.8, 18660.9, 18660.10, 18660.11,
 18660.12, 18660.13, 18660.14, 18660.15,
 18660.16, 18660.17, 18660.18, 18660.19,
 18660.20, 18660.21, 18660.22, 18660.23,
 18660.24, 18660.25, 18660.30, 18660.31,
 18660.32, 18660.33, 18
 05/10/04 AMEND: 851.6
 05/03/04 ADOPT: 8100, 8100.01, 8100.02,
 8100.03, 8100.04, 8100.05, 8100.06,
 8100.07, 8100.08, 8100.09, 8100.10,
 8100.11, 8100.12, 8100.13

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04/30/04 AMEND: 27.60, 27.67, 27.82, 28.28,
28.29, 28.55
04/29/04 AMEND: 27.60, 28.55
03/30/04 AMEND: 27.60, 27.65, 27.82, 28.27
03/29/04 AMEND: 2000, 2200, 2305, 2310, 2320,
2401, 2500, 2501, 2518
03/29/04 AMEND: 150, 150.02, 150.03, 150.05

Title 13, 17

07/15/04 ADOPT: 2284, 2285, 93114 AMEND:
1961, 2281, 2282, 2701

Title 15

06/25/04 AMEND: 2253
06/18/04 AMEND: 3097
06/17/04 ADOPT: 3000 AMEND: 3005, 3044,
3062, 3313, 3314, 3315, 3323, 3376
REPEAL: 3045.1
05/27/04 ADOPT: 3194, 3195 AMEND: 3006,
3044, 3092, 3100, 3101, 3107, 3138,
3161, 3190, 3191, 3192, 3193 REPEAL:
3044, 3092, 3138, 3190
05/18/04 AMEND: 3426
05/13/04 AMEND: 2000, 2400, 2403
05/03/04 AMEND: 3040, 3041, 3041.1, 3041.2,
3043.5
05/03/04 AMEND: 3043.5, 3043.6, 3044
04/15/04 ADOPT: 2251.5 AMEND: 2041, 2057,
2072, 2073, 2074 REPEAL: 2050, 2051,
2052, 2054, 2055, 2056, 2701

Title 16

07/22/04 ADOPT: 1829 AMEND: 1816.2, 1816.3,
1833.3, 1877 REPEAL: 1815
07/20/04 ADOPT: 2065.8.1, 2065.8.2, 2065.8.3
AMEND: 2065, 2065.7, 2065.8
07/19/04 AMEND: 12, 12.5, 87, 87.1, 90
07/16/04 AMEND: 109, 116, 117, 121
07/13/04 ADOPT: 1996.3 AMEND: 1953, 1970,
1983(j), 1996.1
07/09/04 AMEND: 472.1, 473.1
07/02/04 AMEND: 438
07/01/04 AMEND: 1810
06/28/04 ADOPT: 325.1
06/24/04 ADOPT: 643
06/15/04 ADOPT: 1399.70
05/17/04 AMEND: 1912
05/13/04 ADOPT: 1258.4, 1277, 1277.5
05/04/04 AMEND: 1079.3
04/29/04 AMEND: 2030.2
04/22/04 ADOPT: 1399.330, 1399.349, 1399.352.5
AMEND: 1399.301, 1399.321, 1399.350,
1399.351, 1399.352, 1399.353, 1399.356,
1399.395 REPEAL: 1399.330, 1399.331,
1399.333

04/15/04 ADOPT: 1399.700, 1399.701, 1399.702,
1399.703, 1399.704, 1399.705, 1399.706,
1399.707 AMEND: 1399.650, 1399.700,
1399.705

04/12/04 AMEND: 2756

Title 17

07/22/04 ADOPT: 54351, 58800, 58801, 58810,
58811, 5812, 58820, 58821, 58822,
58830, 58831, 58832, 58833, 58834,
58840, 58841, 58842, 58850, 58851,
58860, 58861, 58862, 58863, 58864,
58870, 58871, 58872, 58873, 58874,
58875, 58876, 58877, 58878, 58879,
58880, 5888

06/07/04 AMEND: 94700

06/07/04 ADOPT: 60210 AMEND: 60200, 60201,
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