



# California Regulatory Notice Register

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. OCEAN PROTECTION COUNCIL**

**NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE OCEAN PROTECTION COUNCIL**

NOTICE IS HEREBY GIVEN that the Ocean Protection Council, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Ocean Protection Council proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment conforms existing positions within the agency to reflect current personnel classification titles and makes other technical changes to reflect the current organizational structure of the Council. The amendment also modifies reportable interests to conform to the requirements of Government Code § 87302(a) and 2 Cal. Code of Regs. 18703.1. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than September 28, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than September 14, 2009, by contacting the Contact Person set forth below.

The Ocean Protection Council has prepared a written explanation of the reasons for the proposed amend-

ments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Ocean Protection Council has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Ocean Protection Council must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons that the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Jonathon Gurish  
1330 Broadway, Suite 1300  
Oakland, CA 94612  
(510) 873-6431  
Email: jgurish@scc.ca.gov

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

**Board of Forestry and Fire Protection (Board)  
Title 14 of the California Code of Regulations**

[Notice Published August 14, 2009]

**NOTICE OF PROPOSED RULEMAKING**

**Watersheds with Threatened or Impaired Values Extension, 2009**

The proposed changes to the Forest Practice Rules (FPRs) amend sections related to "Protection and Restoration in Watersheds with Threatened or Impaired

Values”, 14 CCR § 916.9 [936.9, 956.9], and are generally termed Threatened or Impaired rules (T/I rules). These regulations define planning and operational requirements for timber harvesting and planning watersheds where State or federally listed threatened, endangered or candidate populations of anadromous salmonids are present or where they can be restored. The T/I rules currently expire on December 31, 2009. The proposed regulatory amendments, entirely and solely involve changing the expiration date of the regulations to December 31, 2010.

**PROPOSED REGULATORY ACTION**

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

Amend:

|                           |   |
|---------------------------|---|
| § 895.1                   | Definitions   |
| § 898                     | Feasibility Alternatives  |
| § 914.8 [934.8, 954.8]    | Tractor Road Watercourse Crossing   |
| § 916 [936, 956]          | Intent of Watercourse and Lake Protection                                   |
| § 916.2 [936.2, 956.2]    | Protection of the beneficial Uses of Water and Riparian Functions           |
| § 916.9 [936.9, 956.9]    | Protection and Restoration in Watersheds with Threatened or Impaired Values |
| § 916.11 [936.11, 956.11] | Effectiveness and Implementation Monitoring                                 |
| § 916.12 [936.12, 956.12] | Section 303(d) Listed Watersheds  |
| § 923.3 [943.2, 963.3]    | Watercourse Crossings   |
| § 923.9 [943.9, 963.9]    | Roads and Landings in Watersheds with Threatened or Impaired Values         |

**PUBLIC HEARING**

**The Board will hold a public hearing on starting at 8:00 a.m., on October 7, 2009, at the Resources Building Auditorium, 1<sup>st</sup> Floor, and 1416 Ninth Street Sacramento, California.** At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1,

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

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 p.m., on Monday, September 28, 2009.** The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

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

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

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

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

(916) 653-0989

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

board.public.comments@fire.ca.gov

**AUTHORITY AND REFERENCE**

Public Resources Code (PRC) § 4551 and 4554.5 authorize the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4513, 4551.5, 4561 and 21080.5.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Board recognizes the need to protect anadromous salmonid populations listed under the State En-

dangered Species Act (ESA) and the Federal ESA that may be impacted by forest practices regulated under the Board's purview. In prior years the Board addressed this by adopting changes to the FPRs in 2000 under a previous rulemaking package (Protection for Threatened and Impaired Watersheds {T/I}, 2000, OAL File No. Z00-0118-14). The Board subsequently extended these rules in 2001, 2002, 2003, 2006, 2007 and 2008.

The T/I rules were adopted and readopted on a temporary basis in order for the Board to review alternatives to the T/I regulations adopted in 2000. Currently, the T/I rules expire on December 31, 2009. Although advances have been made towards reviewing appropriate long term regulatory needs, the Board has not completed its review of the T/I rules.

Given the current expiration date of December 31, 2009, the proposed regulation is necessary to address the pending expiration of the regulation.

#### SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to extend the existing T/I rules for a period of one year to complete and consider the results of the literature review, input from the public and other factors. Specific changes to the proposed regulations in this Notice, entirely and solely involve changing the expiration date of the regulations to December 31, 2010.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

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

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

- Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. The changes proposed under this rulemaking action would extend the effective date of rules until December 31, 2010. There are no other proposed regulatory changes under this proposal. As such, there would be no additional economic relief or burden on any impacted business beyond what is imposed by the existing T/I rules.
- The proposed rules do not conflict with, or duplicate Federal regulations.

#### BUSINESS REPORTING REQUIREMENT

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

#### CONSIDERATION OF ALTERNATIVES

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

#### CONTACT PERSON

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

Board of Forestry and Fire Protection  
 Attn: Christopher Zimny  
 Regulations Coordinator  
 P.O. Box 944246  
 Sacramento, CA 94244-2460  
 Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS

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

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

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

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

[http://www.fire.ca.gov/BOF/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

AVAILABILITY OF CHANGED  
OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

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

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the

modified regulations for 15 days after the date on which they are made available.

**TITLE 14. DEPARTMENT OF  
CONSERVATION**

NOTICE OF PROPOSED ACTION

DIVISION OF RECYCLING INTEGRATED  
INFORMATION SYSTEM  
PROCESSOR AND RECYCLER REPORTING  
PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES  
DIVISION 2. DEPARTMENT OF CONSERVATION  
CHAPTER 5. DIVISION OF RECYCLING

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

SUBCHAPTER 2. GENERAL REQUIREMENTS

Article 4. General Accounting Requirements

§ 2090. REPORTS, NOTICES AND CLAIMS  
SUBMITTED TO THE DIVISION

Subsection 2090(f): This subsection has been deleted. The deletion of this subsection will eliminate the consolidated shipping report. The purpose of this action is to eliminate the number of shipping reports that must be completed by certified recycling centers and processors, thus reducing the amount of hard copy documents prepared. However, with electronic reporting, the system will be able to accommodate entering data and submitting shipping reports much more quickly than the current amount of time required to complete a consolidated shipping report. Based on the Division's visits to recycling centers that are using consolidated shipping reports, it appears that most of these recycling centers will be using the Division of Recycling Integrated Information System (DORIIS) to report electronically, instead of submitting hardcopy consolidated shipping reports. The recycling centers that do not want to use DORIIS to report electronically will still be able to use the paper shipping reports but will need to create individual shipping reports instead of submitting a consolidated shipping report.

Figure 8: This figure has been deleted. The consolidated shipping report form is no longer needed because we have eliminated the consolidated shipping report from the regulations. Please see the explanation in subsection (f) above.

SUBCHAPTER 5. PROCESSORS

Article 3. Accounting and Reporting Requirements

§ 2425. Reporting

Subsection 2425(a): This subsection has been amended to allow processors to submit processor invoice reports either electronically or by hardcopy. Processors will be allowed to submit up to thirty reports per calendar month, instead of up to eight reports per calendar month. Allowing for processor invoices to be submitted up to thirty times per month will significantly reduce the current cycle time for submission of processor claims and reimbursement by the state.

Subsection 2425(a)(1): This subsection has been amended to allow the processor 30 days after the last day of the reporting period to submit reports instead of no later than the 10<sup>th</sup> day.

Subsection 2425(a)(3): This subsection has been amended to allow multiple amended processor invoices instead of no more than two amended processor invoices. The amended processor invoices are required to be submitted no later than 30 days after the due date of the processor invoice being submitted, instead of 90 days after the due date of the processor invoice being submitted because it is anticipated that the need to amend processor invoices will be significantly reduced because the auto-calculation and summation functionality of DORIIS will significantly reduce, if not eliminate, the types of errors that typically result in the need to amend original processor invoices.

Subsection 2425(a)(4): This subsection has been amended to delete the phrase “which will result in money being owed to the State of California”. This phrase has been deleted because the Division will accept amended processor invoices whether or not money is owed to the State of California.

Subsections 2425(c)(3) and (4): These subsections have been deleted because the processor invoice requires the processing payment and the administrative fee to be reported in Subsection 2425(c)(2). There is no need in DORIIS for this information to be repeated. Processors not using DORIIS will not be affected by this change.

Subsection 2425(c)(3): This subsection has been renumbered from subsection 2425(c)(5) due to the deletion of subsections 2425(c)(3) and (4). The word “paid” has been added to this section after “refund value” and “administrative fees” and “processing payments” to

clarify that refund value, administrative fees and processing payments being requested from the Division have been paid by the processor. The word “and” has been removed because there is no subsection following.

Subsection 2425(c)(6): This subsection has been deleted because these “for recycling” and “not for recycling” fields are seldom, if ever, used and these amounts would be negligible and serve no purpose.

Subsection 2425(e)(1): The name and telephone number of a contact person have been deleted, as well as the address of the company shipping the material to the processor. The contact person submitting the report and company addresses are populated by DORIIS based upon the master data associated with the certification number that is entered. The contact name and phone number was required to provide the Division’s payment and report processing contractor and/or for a Division reference to contact, if necessary. This information was not provided for the benefit of the processors.

Subsection 2425(e)(5): The word “redemption” has been removed and the word “total” added and the phrase “of empty beverage containers purchased by basis for the refund value payment (e.g. segregated and weighed; commingled and weighed, segregated and counted)” was also added; because this section applies to recyclers and not processors, and indicates the required information on the shipping report received by the processor from the recyclers. It allows recyclers to enter their purchases by basis which is how most recyclers keep their daily records and the redemption weight and refund value is automatically calculated for them. Recyclers will still be allowed to complete and submit paper copies of shipping reports, if they choose not to use DORIIS.

Subsection 2425(e)(9): The word “printed” and the word “title” have been removed from this section. The word “printed” and the word “title” are not necessary for the processor to complete this report.

Subsection 2425(e)(10): The phrase “and weight ticket number” has been added to this section to require the processor to list the weight ticket number on the shipping report prepared by the processor. This requirement will enable the processor to match the weight ticket date to the weight ticket number.

Subsection 2425(e)(12): The word “printed” and the word “title” have been removed from this section. The word “printed” and the word “title” are not necessary for the processor to complete on this report.

SUBCHAPTER 6. RECYCLING CENTERS

Article 3. Accounting and Reporting Requirements

§ 2525 RECORDKEEPING

Subsection 2525(i): The phrase “or the weight by basis for the refund value payment (e.g., segregated and

counted, segregated and weighed, commingled, or, if no refund value is paid, indicated scrap only”) has been added to this subsection. The current requirement requires that the recycler must provide the total weight and corresponding refund value on their daily summary. This change gives the recycler the option of continuing to use the total weight or the total refund value. In the DORIIS system, the recycler will use a web-based interface to prepare their required shipping reports. The DORIIS system will allow the recycler to enter the segregated, commingled, and purchases by count as recorded on their receipts and logs and Daily Purchase Summaries in the appropriate fields in the web-based shipping report interface. The redemption weight and refund values will be automatically calculated. If they choose not to use this method, the recycler may continue to enter the total refund value, as calculated from their daily summary and the redemption weight will automatically be calculated.

§ 2530 REPORTING

New Subsection 2530(e)(4)(A): This subsection has been added to the text. This section will allow recyclers to enter the applicable weight purchased by basis taken from their Daily Purchase Summaries directly into the DORIIS shipping report interface. It will no longer be necessary for the recycler to perform the series of additional calculations currently necessary to obtain the redemption weight and refund value information for inclusion on the shipping reports. The system auto calculation of the total refund value using these values will result in a significant reduction in the number and frequency of errors currently made by recyclers. This revision will not change the current process for recyclers not using DORIIS because they will still be able to calculate and enter the total redemption weight based upon the calculated total refund value from their daily summaries.

Subsection 2530(e)(4)(B): This subsection has been renumbered from subsection 2530(e)(4)(A) due to the addition of new subsection 2530(e)(4)(A).

Subsection 2530(e)(4)(C): This subsection has been renumbered from subsection 2530(e)(4)(B) due to the addition of new subsection 2530(e)(4)(A).

Subsection 2530(f)(1): The word “address” has been deleted from this subsection. The company address is populated by DORIIS based upon the master data associated with the certification number that is entered.

Subsection 2530(f)(6): The word “printed” and the word “title” have been deleted from this subsection. The word “printed” and the word “title” are not necessary for the recycling center to complete this report.

Subsection 2530(f)(7): The word “printed” and the word “title” have been deleted from this subsection.

The word “printed” and the word “title” are not necessary for the recycling center to complete this report.

Subsection 2530(f)(8): The phrase “weight ticket date and” has been added to this section to require the processor to list the weight ticket date on the shipping report prepared by the recycling center. This requirement will enable the processor to match the weight ticket date to the weight ticket number.

Section 2530: Section 14571.9 has been deleted from the reference section because it is not a section currently in the California Beverage Container Recycling and Litter Reduction Act (Act).

INFORMATION IS AVAILABLE UPON REQUEST

Copies of the text, the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request from our agency contact person and at our website: [www.conservation.ca.gov](http://www.conservation.ca.gov). The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 “K” Street, 19th Floor, Sacramento, California. Please contact the agency contact person, Karen Denz, at (916) 322-1899. General or substance questions regarding this file may also be directed to Karen Denz. The backup agency contact person for this rulemaking file is Sharon Siozon, who may be contacted at (916) 322-1760. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on September 28, 2009. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Karen Denz, Division of Recycling Integrated Information System Processor and Recycler Reporting Permanent Regulations, Department of Conservation, Division of Recycling, 801 “K” St., MS 19-02, Sacramento, CA 95814. During the 45-day

comment period, written comments may also be E-mailed to: [DORRegulations@consrv.ca.gov](mailto:DORRegulations@consrv.ca.gov), or faxed to (916) 327-8668.

### PUBLIC HEARING

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

### AVAILABILITY OF MODIFIED TEXT

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

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

In June 2007, the Department of Conservation, Division of Recycling initiated the Division of Recycling Integrated Information System (DORIIS) project. This project will improve the management processes for the Division's workflow, document tracking, financial reporting, participant tracking, audits and investigations, education and outreach and allow the Division to provide better customer service. DORIIS is a free, Internet-based tool for the recycling community. DORIIS will improve business processes, eliminate duplicative data entry, provide program participants with timely and accurate information and improve data analysis and

reporting. This online system will also reduce paper use. DORIIS is a Web-based tool that can be accessed from any computer with an Internet browser.

As a result of DORIIS, the Division has identified several changes that will facilitate the recordkeeping and reporting for recycling centers and processors but will require changes in the regulations. The Division is proposing to change the allowable frequency and timing for submitting processor claims. These proposed changes actually increase the frequency of allowable submissions. The Division is also proposing changes associated with the daily purchase information which is currently required to be captured by all recycling centers on a daily basis, but not currently required to be reported in the same format on the applicable shipping report.

DORIIS will allow, but not require, participants to report electronically and receive or make payments electronically. The Division will continue to allow program participants to submit paper copies of all required documents and to send payments or receive payments by mail.

### AUTHORITY

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

### REFERENCE

Public Resources Code Sections 14504, 14511.7, 14515.5, 14518.5, 14519.5, 14526.6, 14537, 14538, 14539, 14541, 14549.1, 14550, 14551, 14552, 14552.51, 14553, 14575, 14585, and 18015.

### DISCLOSURES REGARDING THE PROPOSED ACTION

### PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulation changes pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and are written to be easily understood by the parties that will use them.

### FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

**MANDATE ON STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS**

Department staff has determined that the proposed regulations do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630; 4) other nondiscretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

**FINDINGS ON NECESSITY OF REPORTS**

Department staff has found that the requirements for specific reports are necessary to allow program participants to report electronically or to submit paper copies of all required documents.

**COST IMPACT ON 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. These proposed regulations will serve to clarify and make specific existing statutory requirements.

**EFFECT ON HOUSING COSTS**

The Department has determined that the proposed regulations will not have a significant effect on housing costs.

**EFFECT ON BUSINESSES**

Department staff have made an initial determination that the proposed regulation changes would not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with other states.

**EFFECTS ON SMALL BUSINESSES**

The Department has determined that the adoption of these proposed regulations may affect small businesses. The Department has determined that these regulations will have no significant impact on small businesses because small businesses are not required to submit documents to the Department electronically. These proposed regulations do not mandate actions upon private persons or businesses.

**EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA**

The Department has determined that the adoption of these regulations will not:

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

**CONSIDERATION OF ALTERNATIVES**

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

**FINAL STATEMENT OF REASONS**

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

**ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE**

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: [www.conservation.ca.gov](http://www.conservation.ca.gov).

**TITLE 14. DEPARTMENT OF FISH AND GAME**

**[Notice published August 14, 2009]**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the Department of Fish and Game ("Department") proposes to amend its fee schedule for lake and streambed alteration agreements in section 699.5 in title 14 of the California Code of Regulations by adjusting the fees in the fee schedule for inflation in 2007, 2008, and 2009.

PUBLIC HEARING

The Department will conduct one public hearing regarding this proposed regulatory action. The hearing will be held on **September 29, 2009** from 9:30 a.m. to 11:30 a.m. at the 1st Floor Auditorium in The Resources Building located at 1416 Ninth Street in Sacramento, California. The Auditorium is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed regulatory action described below in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

AUTHORITY AND REFERENCE

Fish and Game Code sections 702 and 1609 authorize the Department to adopt the proposed amendments to the regulations described below in the Informative Digest. This regulation implements, interprets, or makes specific Fish and Game Code section 1609.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary

Fish and Game Code section 702 authorizes the Department to administer and enforce the provisions of the Fish and Game Code through regulations adopted by the Department. Fish and Game Code section 1609 authorizes the Department to charge fees to any entity subject to Fish and Game Code section 1600 *et seq.* in an amount necessary to pay the total costs the Department incurs in administering and enforcing Fish and Game Code section 1600 *et seq.*, including, but not limited to, preparing and submitting agreements and conducting inspections. The Department's existing fee schedule is in section 699.5 in title 14 of the California Code of Regulations ("fee schedule").

Fish and Game Code section 1609 also allows the Department to adjust the fee schedule pursuant to Fish and Game Code section 713. Fish and Game Code section 713, subdivision (b), requires the Department to annually adjust for inflation any fees it charges for licenses, stamps, permits, tags, or other entitlements issued by the Department. In doing so, the Department must use changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services published by the United States Department of Commerce ("IPD") as the index to determine the annual rate of increase or decrease in the fees, referred to as the "index rate." (Fish & G. Code, § 713, subd. (a).) Fish and

Game Code section 713, subdivision (c), allows the Department to recalculate the current fees charged for each license, stamp, permit, tag, or other entitlement issued by the Department that have not been increased each year since the 1985/86 fiscal year to determine that all appropriate indexing has been included in the current fees.

Purpose of Proposed Amendments

In November 2005, the Department repealed its then existing fee schedule and added a new fee schedule. In calculating the fees in the new fee schedule, the Department took the 2006 IPD into account. The Department has not amended the fee schedule since it was adopted in November 2005. As a result, in accordance with Fish and Game Code section 713, the Department proposes to amend the fee schedule by adjusting the fees in the schedule based on the IPD for 2007, 2008, and 2009.

The Department needs to adjust for inflation the fees in the fee schedule in order to recover the total costs it incurs to administer and enforce Fish and Game Code section 1600 *et seq.*, including, but not limited to, preparing and submitting agreements and conducting inspections in accordance with Fish and Game Code section 1609. If the Department does not adjust the fees, it will experience a budget shortfall that will affect its ability to administer and enforce Fish and Game Code section 1600 *et seq.*, the purpose of which is to protect and conserve the state's fish and wildlife resources. If because of the shortfall the Department had to eliminate positions in its Lake and Streambed Alteration Program, it would be even more difficult for the Department to meet that objective.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Department has made the following initial determinations regarding its proposed regulatory action:

Mandates on local agencies and school districts: None.

Costs or savings to any state agency: Adoption of the proposed amendments will not result in any savings to any state agency, but will increase the cost to state agencies to obtain a lake or streambed alteration from the Department.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 *et seq.*: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

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

Cost impacts on a representative private person or business: Adoption of the proposed amendments to the fee schedule will increase the fees in the schedule by approximately 12%. The adjustment accounts for three years of inflation (2007, 2008, and 2009) and does not represent a significant increase over the existing fees.

Adoption of the proposed amendments to the fee schedule will not:

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

Business reporting requirement: None.

Small Business Determination: The Department has determined that adoption of the proposed amendments to the fee schedule would affect small businesses that need a lake or streambed alteration agreement by increasing the cost of obtaining one by approximately 12%. However, the Department does not consider the cost increase significant.

Significant effect on housing costs: None.

#### CONSIDERATION OF ALTERNATIVES

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

The Department invites interested person to present statements or arguments with respect to alternatives to the proposed regulatory action at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed regulatory action may be directed to:

Gina Ford  
1416 Ninth Street, Suite 1260  
Sacramento, California 95814  
(916) 651-7821  
gford@dfg.ca.gov

The backup contact person for inquiries is:

Cathie Vouchilas  
1416 Ninth Street  
Sacramento, California 95814  
(916) 651-1190  
cvouchilas@dfg.ca.gov

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Ford at the above mailing or email address.

#### WRITTEN COMMENT PERIOD

Any interested persons may submit written comments relevant to the proposed regulatory action to the Department. The comment period closes at **5:00 p.m. on September 29, 2009**. The Department will consider only comments received at the Department's headquarters by that time. Please submit comments to Gina Ford at her above mailing or email address.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial Statement of Reasons for its proposed regulatory action, has available all the information upon which its proposal is based, and has available the express terms of the proposed regulatory action. The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its headquarters at the above address. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the text of the proposed amendments to the fee schedule, and the Initial Statement of Reasons. Copies may be obtained by contacting Gina Ford at her mailing or email address or telephone number above.

#### AVAILABILITY OF THE CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed amendments substantially as described in this notice. If the Department makes changes which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the text as revised. This requirement will not apply if the change is (1) non-substantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result

from the originally proposed regulatory action. Please send requests for copies of any modified regulations to Gina Ford at her mailing or email address or telephone number above.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, a copy of the Department's Final Statement of Reasons may be obtained by contacting Gina Ford at her mailing or email address or telephone number above.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of this notice, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout in addition to any other documents that that will be part of the Department's rulemaking file can be accessed through the Department's website at [www.dfg.ca.gov](http://www.dfg.ca.gov).

**TITLE 14. STATE COASTAL CONSERVANCY**

**NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE STATE COASTAL CONSERVANCY**

NOTICE IS HEREBY GIVEN that the State Coastal Conservancy, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The State Coastal Conservancy proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment also conforms existing positions within the agency to reflect current personnel classification titles and makes other technical changes to reflect the current organizational structure of the Conservancy. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than September 28, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than September 14, 2009, by contacting the Contact Person set forth below.

The State Coastal Conservancy has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The State Coastal Conservancy has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the State Coastal Conservancy must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons that the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Jonathon Gurish  
 1330 Broadway, Suite 1300  
 Oakland, CA 94903  
 (510) 873-6431  
 Email: [jgurish@scc.ca.gov](mailto:jgurish@scc.ca.gov)

**TITLE 23. STATE WATER RESOURCES  
CONTROL BOARD**

NOTICE OF PROPOSED RULEMAKING

TITLE 23. WATERS  
DIVISION 3. RESOURCES CONTROL BOARD  
CHAPTER 16. UNDERGROUND STORAGE  
TANK REGULATIONS  
ARTICLE 3. NEW UNDERGROUND  
STORAGE TANK DESIGN, CONSTRUCTION  
AND MONITORING REQUIREMENTS

*NOTICE IS HEREBY GIVEN* that the State Water Resources Control Board (State Water Board) proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Water Board proposes to add section 2631.2 to Article 3 (commencing with section 2630), chapter 16, division 3, title 23 of the California Code of Regulations, which would provide a variance from specific independent testing and approval requirements for underground storage tank (UST) systems storing certain biodiesel blends.

PUBLIC HEARING

A public hearing has not been scheduled for this proposed action. A public hearing will be held if any interested person, or duly authorized representative of an interested person, submits a written request for a public hearing to the State Water Board no later than 15 days before the close of the written comment period. If a request for a public hearing is made, the State Water Board shall provide notice of the time, date and place of the hearing in accordance with Government Code section 11346.4 by mailing the notice to every person who has filed a request for notice with the State Water Board. In addition, as prescribed by Government Code section 11340.85, notice may be provided by means of electronic communication to those persons who have expressly indicated a willingness to receive notice by this means.

WRITTEN COMMENT PERIOD

The State Water Board requests comments from interested persons to present any statements, arguments,

or contentions relating to the proposed regulation. The comments must be submitted in writing and received by the State Water Board before the close of the written comment period in order to be considered by the State Water Board before it adopts the proposed regulation. **The written comment period begins August 14, 2009, and closes at 5:00 p.m., Pacific Daylight Time, on Monday, September 28, 2009.**

Comments may be hand delivered, or submitted by U.S. mail, facsimile transmission, or electronic mail. Comments delivered by hand should be taken to 1001 I Street, Sacramento, California, and addressed to the attention of Ms. Laura Fisher, Division of Water Quality, 15<sup>th</sup> Floor, State Water Resources Control Board. Comments submitted by U.S. mail should be addressed as follows:

Ms. Laura Fisher  
Division of Water Quality  
State Water Resources Control Board  
P.O. Box 2231  
Sacramento, CA 95812  
(916) 341-5870  
E-mail address: [lfisher@waterboards.ca.gov](mailto:lfisher@waterboards.ca.gov)

Comments sent by facsimile should be sent to the following facsimile phone number: (916) 341-5808. Comments submitted by electronic mail should be sent to the following e-mail address: [lfisher@waterboards.ca.gov](mailto:lfisher@waterboards.ca.gov).

To be added to the mailing list for this rulemaking and to receive notification of updates of this rulemaking, please notify Laura Fisher at the mailing address or e-mail address indicated above. Also, you may subscribe on the internet at [http://www.waterboards.ca.gov/resources/email\\_subscriptions/UST\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/UST_subscribe.shtml). On the Underground Storage Tanks Program — Email List Subscription Form, select the category entitled “Program Requirements and Guidance.”

**Persons who receive this notice by mail or electronic mail are already on the mailing list.**

AUTHORITY AND REFERENCE

Health and Safety Code section 25299.3 authorizes the State Water Board to adopt regulations to implement Chapter 6.7 of the Health and Safety Code. Reference sections are Health and Safety Code sections 25281, 25286, 25290.1, 25290.2, 25291, and 25404.1.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Summary of Existing Laws and Regulations and Effect of Proposed Action. Chapter 6.7 of the Health and Safety Code requires that the primary containment of a

UST be compatible with the stored substance, and that the secondary containment be constructed to prevent structural weakening as a result of contact with any released substance. State Water Board promulgated regulations require that: a) A UST be approved by an independent testing organization; b) An owner or operator of a UST use system components made of, or lined with, materials that are compatible with the hazardous substances stored in the UST, c) The components approved for the installation of a UST system, on and after July 1, 2004, include a list of compatible products tested and the measured permeation rate of those products; and d) The leak detection equipment be tested by an independent testing laboratory and be approved to function with the substance stored.

Biodiesel is a renewable fuel that can be manufactured from new and used vegetable oils, animal fat, and recycled restaurant grease. Biodiesel can be blended and used in many different concentrations, which include B100 (pure biodiesel), B20 (20% biodiesel, 80% petroleum diesel), B5 (5% biodiesel, 95% petroleum diesel).

With the exception of biodiesel blends up to B5, USTs manufactured to date and in use in California have not received independent testing organization approvals for pure biodiesel or other biodiesel blends as required under the State Water Board regulations. The estimated time period to obtain independent testing organization approval is two years from when the UST manufacturer submits the product to the testing organization. Leak detection method approvals have not been obtained for pure biodiesel or any blend of biodiesel. The estimated time period for obtaining approval of a leak detection method is 12 months from when the material is submitted. The effect of the proposed regulation is to allow for the storage of biodiesel blends up to and including B20 in UST systems that have been approved for storing petroleum diesel if other specified criteria are satisfied.

The proposed action does not differ substantially from existing comparable federal law.

Policy Statement and Objectives. The State of California and the United States Environmental Protection Agency have found that greenhouse gas (GHG) emissions pose a threat to human health and welfare. Using alternative fuels, including biodiesel blends, assists with the reduction of GHG emissions. Testing and approval of USTs has not kept up with the introduction of and desire to use biodiesel blends in California. The overall objective of this regulation is to facilitate the use of biodiesel blends in California to combat GHG emissions. The specific objective is to provide a variance from third-party testing and approval requirements so that biodiesel blends up to B20 can be stored in UST

systems in a manner that does not create any significant risk of adverse impacts to water quality.

**Mandate on Local Agencies or School Districts**

The State Water Board has determined that the proposed regulation does not impose a mandate on local agencies or school districts.

**Fiscal Impact Estimates**

State Agencies: The State Water Board has determined that the regulation will involve no additional costs or savings to any state agency.

Reimbursable Cost to Local Agencies or School Districts: The State Water Board has determined that the proposed regulations will not result in any additional cost or savings 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.

Other Non-discretionary Cost or Savings Imposed on Local Agencies: The State Water Board has determined that there is no cost or savings imposed on local agencies as a result of the proposed regulation.

Cost or Savings in Federal Funding to the State: The State Water Board has determined that there is no cost or savings in federal funding to the state as a result of the proposed regulation.

ECONOMIC IMPACT STATEMENTS

Statement of Significant Statewide Adverse Economic Impact Directly Affecting Business: The State Water Board has made the initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The variance established by this regulation is optional. During the emergency rulemaking process, the State Water Board received testimony and comments indicating that failing to authorize this variance would have a significant adverse economic impact on business.

The California Biodiesel Alliance stated that the inability to lawfully store biodiesel in California USTs is “creating real harm to California’s nascent biodiesel industry, federally regulated fleets and the environment. Urgent action is required to address these harmful impacts to California’s general welfare. Without urgent action, a large portion of California’s biodiesel industry will fail, with the loss of a significant number of jobs and setting California environmental policy back years.” (Letter from California Biodiesel Alliance dated April 30, 2009.)

The California Biodiesel Alliance also stated that there are over ten biodiesel plants in California either currently producing biodiesel or nearing their start-up

phase. These plants reported that they had lost a significant amount of business due to their customers' inability to store biodiesel blends in USTs in California. Without adoption of the emergency regulations, many, if not most, of these plants will almost certainly go out of business and over 100 jobs would be lost. (Letter from California Biodiesel Alliance dated May 29, 2009.)

Cost Impacts on Representative Private Persons Or Businesses: The State Water Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

Effect on Creation Or Elimination of Jobs within California: The State Water Board has determined that the proposed regulation will not adversely affect the creation of jobs or that it will eliminate jobs within California.

Effect On Creation of New Businesses or Elimination of Existing Businesses within California: The State Water Board has determined that the proposed regulation will not adversely affect the creation of new business or that it will eliminate existing business in California.

Effect On Expansion of Businesses Currently Doing Business within California: The State Water Board has determined that the proposed regulation will not adversely affect the expansion of businesses currently doing business within California.

Effect on Small Businesses: The State Water Board has determined that the proposed regulation does not adversely affect small businesses. The variance established by this regulation is optional. During the emergency rulemaking process, the State Water Board received testimony and comments indicating that failing to authorize this variance would have a significant adverse economic impact on business.

Consideration of Alternatives: In accordance with Government Code section 11346.5, subdivision (a)(13), the State Water Board must determine that no reasonable alternative considered by it or that has otherwise been identified and 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 regulation.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulation during the written comment period or at any hearing in this matter.

AVAILABILITY OF INITIAL STATEMENT  
OF REASONS AND TEXT OF  
PROPOSED REGULATION

The State Water Board has prepared an Initial Statement of Reasons for the proposed regulation. The Initial

Statement of Reasons includes the specific purpose of the regulation proposed for adoption and the rationale for the State Water Board's determination that adoption is reasonably necessary to carry out the purpose for which the regulations are proposed. The Initial Statement of Reasons, the express terms of the proposed regulation, and all information on which the proposed action is based are available from the agency contact person named in this notice.

The rulemaking file is available for inspection and copying through the rulemaking process at the Division of Water Quality, 1001 I Street, 15<sup>th</sup> floor, Sacramento, California. As of the date that this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the express terms of the proposed regulation, the Initial Statement of Reasons, and the rulemaking file for the emergency regulation that became effective on June 1, 2009.

The rulemaking file will also be published and made available at the following State Water Board Internet website:

<http://www.waterboards.ca.gov/ust/>

AVAILABILITY OF CHANGED  
OR MODIFIED TEXT

After holding any hearing that is requested and considering all timely and relevant comments received, the State Water Board may adopt the proposed regulation substantially as described in this notice. If the State Water Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) days before the State Water Board adopts the regulation. A copy of any modified regulation may be obtained by contacting Ms. Laura Fisher, the primary contact person identified below. The State Water Board will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

AVAILABILITY OF FINAL  
STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting either of the persons listed below. A copy may also be accessed on the State Water Board website previously identified.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Ms. Laura Fisher  
 Division of Water Quality  
 State Water Resources Control Board  
 P.O. Box 2231  
 Sacramento, CA 95812  
 (916) 341-5870  
 E-mail address: [lfisher@waterboards.ca.gov](mailto:lfisher@waterboards.ca.gov)

Address: 2005 Evergreen Street, Suite  
 1400  
 Sacramento, CA 95815-3831  
 Telephone No.: (916) 263-2622  
 FAX No.: (916) 263-2697  
 E-Mail Address: [linda\\_kassis@dca.ca.gov](mailto:linda_kassis@dca.ca.gov)

The backup contact person for these inquiries is:

Ms. Lori Brock  
 Office of Chief Counsel  
 State Water Resources Control Board  
 P.O. Box 100  
 Sacramento, CA 95812  
 (916) 341-5185  
 E-mail address: [lbrock@waterboards.ca.gov](mailto:lbrock@waterboards.ca.gov)

Questions regarding the substance of the proposed regulations may be directed to either contact person.

Please direct to Ms. Laura Fisher requests for copies of the proposed text (the "express terms") of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or any other information upon which this proposed rulemaking is based.

|                                |
|--------------------------------|
| <b>GENERAL PUBLIC INTEREST</b> |
|--------------------------------|

**TITLE 16. BOARD OF PSYCHOLOGY**

**Notice of Proposed Regulatory Action**

**Change of Location for Public Hearing**

The California Regulatory Notice Register dated June 26, 2009 indicated that the Board of Psychology was proposing a regulation that would define the requirements for a degree from an approved educational institution for the purpose of meeting the qualifications for examination or licensure as a psychologist.

The Board of Psychology will conduct a public hearing on this proposed regulation on August 15, 2009, at a different location than stated in the original notice. The new hearing location is:

Department of Consumer Affairs  
 2005 Evergreen Street, 1st Floor Hearing Room  
 Sacramento, CA 95815

The hearing will begin at 9:00 a.m.  
 For additional information, please contact:

Name: Linda Kassis, Administrative  
 Services Coordinator  
 Board: Board of Psychology

**TITLE 16. BOARD OF PSYCHOLOGY**

**Notice of Proposed Regulatory Action**

**Change of Location for Public Hearing**

The California Regulatory Notice Register dated June 26, 2009 indicated that the Board of Psychology was proposing a regulation that would limit the cumulative total of time that a psychological assistant can be registered to practice to a total of six years (72) months from the date of issuance or six years (72) months from the date of a psychological assistant's next registration, if currently registered.

The Board of Psychology will conduct a public hearing on this proposed regulation on August 15, 2009, at a different location than stated in the original notice.

The new hearing location is:

Department of Consumer Affairs  
 2005 Evergreen Street, 1st Floor Hearing Room  
 Sacramento, CA 95815

The hearing will begin at 9:00 a.m.

For additional information, please contact:

Name: Linda Kassis, Administrative  
 Services Coordinator  
 Board: Board of Psychology  
 Address: 2005 Evergreen Street, Suite  
 1400  
 Sacramento, CA 95815-3831  
 Telephone No.: (916) 263-2622  
 FAX No.: (916) 263-2697  
 E-Mail Address: [linda\\_kassis@dca.ca.gov](mailto:linda_kassis@dca.ca.gov)

**TITLE 4. CALIFORNIA GAMBLING  
 CONTROL COMMISSION**

**NOTICE OF RESCHEDULED  
 PUBLIC HEARING AND  
 EXTENSION OF THE PUBLIC COMMENT  
 PERIOD CONCERNING  
 INTERIM APPROVAL OF BINGO  
 CARD-MINDING DEVICES  
 CGCC-GCA-2008-04-C**

**NOTICE IS HEREBY GIVEN** that the California Gambling Control Commission (Commission) has re-

scheduled the public hearing originally set for July 2, 2009 in the Notice of Proposed Action duly published in the *California Regulatory Notice Register* (Z-2009-0505-05, Register 2009, No. 20-Z, 05/15/2009), and subsequently rescheduled for August 20, 2009. The new date and location of the public hearing is October 15, 2009, at 10:00 a.m., at 2399 Gateway Oaks Drive, First Floor Hearing Room, Suite 100, Sacramento, CA 95833-4231.

Beginning July 1, 2009, the Remote Caller Bingo Program, which includes the approval of card-minding devices, is required to be self-funded from application fees. The Commission has not received any applications to conduct remote caller bingo games and does not have funding to cover the expense of this program. As a result, the Commission has, effective July 1, 2009, held this program in abeyance until there is sufficient demand and revenue to cover program costs. This hearing is being postponed and rescheduled in order to preserve the Commission's rulemaking options should the program be reactivated in the near future.

#### PUBLIC COMMENT PERIOD

The written comment period has also been extended. Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period, or may be received by the Commission at the above referenced hearing. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on October 15, 2009**. Written comments not submitted at the hearing should be directed to the contact person named below.

#### CONTACT PERSON

All comments and inquiries concerning the substance of the proposed action should be directed to the following contact person:

James B. Allen, Regulatory Actions Manager  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231  
Telephone: (916) 263-4024  
Fax: (916) 263-0499  
E-mail: [Jallen@cgcc.ca.gov](mailto:Jallen@cgcc.ca.gov)

## DEPARTMENT OF FISH AND GAME

### CALIFORNIA DEPARTMENT OF FISH AND GAME CONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 Tracking Number 2080-2009-007-00

**PROJECT:** Ongoing Operation of California State Water Project Delta Facilities  
**LOCATION:** In and Around the California Delta and Central Valley  
**NOTIFIER:** California Department of Water Resources

#### BACKGROUND

The proposed project (Project) by the Department of Water Resources (DWR) is the continued operation of the State Water Project (SWP) and other water diversion, storage, and transport related actions that are described in and covered by the current State water operations Operating Criteria and Plan (OCAP), and addressed in the federal Biological Opinion (BO) issued by the U.S. Fish and Wildlife Service (USFWS) as a result of the OCAP Biological Assessment (BA) consultation for the protection of delta smelt (*Hypomesus transpacificus*).

Existing facilities in the Delta include Clifton Court Forebay, John E. Skinner Fish facility, Harvey O. Banks Pumping Plant (collectively referred to as the Banks Pumping Plant Complex), and the North Bay Aqueduct at Barker Slough (NBA). Facilities which run in coordination with the federal Central Valley Project (CVP) are the Suisun Marsh Salinity Control Gates, Roaring River Distribution System, Morrow Island Distribution System, Goodyear Slough Outfall, and the South Delta Temporary Barriers Project (TBP). The TBP has four rock barriers across south Delta channels (at Middle River near Victoria Canal, Old River near Tracy, Grant Line Canal near Tracy Boulevard Bridge, and the head of Old River near the confluence of Old River and San Joaquin River) which can be installed and removed during the spring and fall. Other facilities of the SWP include Oroville Dam which is operated for flood control and water supply.

The SWP is operated to provide flood control and water for agricultural, municipal, industrial, recreational, and environmental purposes. Water from Oroville facilities and Sacramento-San Joaquin River flows are captured in the Delta and conveyed to SWP contractors. Water is conserved in Oroville Reservoir and released to serve three Feather River area contractors and two

NBA contractors, and water is delivered to the remaining 24 contractors in the SWP service areas south of the Delta from the Harvey O. Banks Pumping Plant.

Facilities of the SWP are permitted by the California State Water Resources Control Board (SWRCB) to divert water in the Delta and to re-divert water that is stored in upstream reservoirs. The U.S. Bureau of Reclamation (USBR) and DWR coordinate the operations of the SWP and CVP to meet water quality, quantity, and operational criteria in the Delta set by the SWRCB and to meet federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) requirements for delta smelt, winter and spring-run Chinook salmon, steelhead, and green sturgeon.

The Central Valley and California Delta system, where the above-described SWP and CVP facilities are located, supports populations of delta smelt, which is distinguished as a threatened species under both the federal ESA and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). Flow disruption, loss of habitat, and entrainment caused by Project related water export and management activities result in incidental take of delta smelt.

Because the Project has the potential to take a species listed under ESA, the USBR, on behalf of DWR, consulted with the USFWS under Section 7 of the ESA. On December 15, 2008, USFWS issued a Biological Opinion (Ref. No. 81420-2008-F-1481-5), which includes an incidental take statement (hereafter, the BO). The BO describes the Project, including conservation measures developed to minimize impacts to delta smelt, and sets forth measures to mitigate any remaining impacts to delta smelt and its habitat. The measures in the BO include one "Reasonable and Prudent Alternative" with five components (RPAs) which must be implemented and adhered to. The RPA actions are to be implemented using an adaptive approach with specific defined constraints. The BO includes a detailed description of the adaptive process, its framework, and the rationale for each of the RPA components. On June 17, 2009, the Director of the Department of Fish and Game (DFG) received correspondence from Lester A. Snow, Director of DWR, requesting a determination from DFG that the BO and its incidental take statement are consistent with CESA pursuant to Fish and Game Code Section 2080.1.

#### DETERMINATION

DFG has determined that the BO, including all RPA requirements and the related incidental take statement, is consistent with CESA because the mitigation measures therein meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for DFG to authorize incidental take of CESA listed spe-

cies. This determination is limited to only those actions specifically identified and analyzed in the December 15, 2008 BO. Specifically, DFG finds that take of delta smelt will be incidental to an otherwise lawful activity (i.e., SWP operations); the measures and RPAs identified in the BO to modify flow requirements and restore habitat will minimize and fully mitigate the impacts of the taking of delta smelt; and the Project, with the prescribed measures and RPAs in place, will not jeopardize the continued existence of the species. The avoidance, minimization, and mitigation measures in the BO include, but are not limited to, the following:

#### Minimization and Mitigation Measures

**Avoidance and Minimization Actions:** The BO requires SWP operational actions which are expected to provide flow conditions that reduce entrainment of delta smelt and retain necessary outflow and habitat to support all its life stages. Specific flow modification requirements are presented in RPA Components 1 and 2, including the information necessary to determine delta smelt risk. The requirements include a defined real time scientific evaluation process to develop timely flow augmentations to avoid situations that increase delta smelt risk.

**Mitigation Measures:** The BO includes two actions to increase the area of suitable delta smelt habitat in the estuary: 1) Delta outflow augmentation in the fall following wet and above normal water years and, 2) restoration of at least 8,000 acres of intertidal and associated subtidal habitat in the Delta and Suisun Marsh.

**Reporting and Monitoring Actions:** Conditions of the BO and respective RPAs require DWR to develop and follow specific monitoring programs to adaptively evaluate specific flow requirements and action triggers to achieve the RPA objectives. Participation in (including DFG among others), review of, and reporting requirements for these processes are all a condition of and detailed within the BO and RPAs. The BO outlines a monitoring and reporting process to determine specific operational actions set forth in RPA Components 1 and 2. RPA Components 3 and 4 include similar requirements for the design, monitoring, and adaptive management of fall flow actions to improve delta smelt habitat, as well as the implementation of required habitat restoration actions. RPA Component 5 ensures that information is gathered and reported appropriately.

**Ensured Funding:** All SWP operational actions are a conditional requirement of the BO RPAs. RPA Component 4 lays out specific conditions for DWR to create or restore the required 8,000 acres of intertidal and associated subtidal habitat in the Delta and Suisun Marsh. Included in these conditions is the requirement that an endowment or other secure financial assurance and easement be held in place by a third-party or DFG, and

approved by the USFWS. This also includes secure financial assurances to fund the monitoring effort and operation and maintenance of the restoration site. To fund these mitigation actions, DWR has the statutory authority to require reimbursement in the SWP contracts for water and power for any costs DWR incurs for SWP-related fish and wildlife preservation. (See Wat. Code, §§12937, 12938.)

Based on this consistency determination, DWR does not need to obtain authorization from DFG under CESA for incidental take of delta smelt that occurs in connection with the Project, provided DWR implements the Project as described in the BO, and complies with the measures, RPAs and other conditions described in the BO. However, if the Project as described in the BO, including the mitigation measures therein, changes after the date of the BO, or if the USFWS amends or replaces the BO, including any of the RPAs, DWR will need to obtain from DFG a new consistency determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081).

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| <p><b>OAL REGULATORY<br/>DETERMINATIONS</b></p> |
|---|

**OFFICE OF ADMINISTRATIVE LAW**

**ACCEPTANCE OF PETITION TO REVIEW  
ALLEGED UNDERGROUND REGULATIONS**

**(Pursuant to title 1, section 270, of the  
California Code of Regulations)**

**CENTRAL VALLEY REGIONAL WATER  
QUALITY CONTROL BOARD**

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Kathleen Eddy, Senior Counsel  
Office of Administrative Law  
300 Capitol Mall, Ste. 1250  
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Bill Jennings  
c/o California Sportfishing Protection Alliance  
3536 Rainier Avenue  
Stockton, CA 95204

Agency contact:

Pamela Creedon, Executive Officer  
Central Valley Regional Water Quality Control  
Board  
11020 Sun Center Drive, # 200  
Rancho Cordova, CA 95670-6114

Please note the following timelines:

Publication of Petition in Notice Register:  
August 14, 2009  
Deadline for Public Comments:  
September 14, 2009  
Deadline for Agency Response:  
September 28, 2009  
Deadline for Petitioner Rebuttal: No later than 15  
days after receipt of the agency's response  
Deadline for OAL Decision: December 14, 2009

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

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For Petitioner California Sportfishing Protection Alliance

BEFORE THE OFFICE OF  
ADMINISTRATIVE LAW

**In the Matter of Improper Underground  
Regulation; Guidance for Salinity in Waste  
Discharge Requirements; California Regional  
Water Quality Control Board — Central Valley  
Region**

**PETITION FOR REVIEW**

Pursuant to Section 11340.5 of California Government Code and Title 1 Section 260 of the California Code of Regulations, the California Sportfishing Protection Alliance (“CSPA” or “petitioner”) petitions the Office of Administrative Law to review the underground regulations employed by the California Regional Water Quality Control Board for the Central Valley Region (“Regional Board”), as outlined in the Management Guidance for Salinity in Waste Discharge Requirements (Memorandum). The Regional Board has used the Memorandum in preparing and adopting Waste Discharge Requirements for numerous wastewater dischargers. CSPA requests the Office of Administrative Law to accept the petition and issue a determination, pursuant to Section 270 of the California Code of Regulations that the Regional Board’s policy for control of salinity is an illegal underground regulation.

**1. Petitioner’s Identifying Information:**

California Sportfishing Protection Alliance  
3536 Rainier Avenue, Stockton, CA., 95204  
Tel: 209-464-5067  
E-Mail: deltakeep@aol.com

**2. State agency or department being challenged:**

California Regional Water Quality Control Board,  
Central Valley Region

**3. Description of the purported underground regulation.**

Memorandum from the Executive Management Group of the California Regional Water Quality Control Board, Central Valley Region (Regional Board), to Program Managers with the subject “Management Guidance for Salinity in Waste Discharge Requirements,” dated April 26, 2007.

**4. Description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation.**

Since the Regional Board’s Executive Management Group issued the Memorandum, the Regional Board has adopted numerous permits regulating waste discharges to surface waters and ground waters (formally

known as Waste Discharge Requirement Orders or WDRs Orders) and enforcement actions that address salinity based upon direction provided within the Memorandum. The Memorandum has the affect of generally authorizing degradation and ultimately pollution of state and federal waters for salinity based pollutants<sup>1</sup>. Establishing discharge limitations, prohibitions, clean-up levels, and other regulatory requirements necessary to implement, interpret or otherwise apply the law must be based upon requirements in law, not the Memorandum. While the Regional Board has been careful to not overtly cite the Memorandum in its decisions and actions, it is clear that actions of the Regional Board incorporate language and theory from the Memorandum.

Additionally, in other forums not necessarily part of the administrative record for any particular Regional Board action, Executive Management, Regional Board staff, and members of the regulated community have made reference to the Memorandum as the new regulatory approach with respect to salinity in the Central Valley.

*While the plans are being formulated, the Board continues to address salinity through traditional means: waste discharge requirements, permits, conditional waivers and enforcement orders. In April 2007, Regional Board management issued a guidance memo on implementing measures to address salinity through those traditional means.*

*Since the spring of 2007, more than 30 orders have included effluent, receiving, and/or groundwater limits for salt; at least 25 orders have required salt evaluation and minimization plans; and at least 15 orders called for groundwater monitoring to track salinity changes and/or groundwater assessment studies. These were primarily for industrial facilities or municipal wastewater plants. Staff has prepared a preliminary list of orders containing salt-related requirements that have been prepared since issuance of the Salinity Guidance Memo. [October 2008 meeting of the Regional Board sponsored “Central Valley Salinity Policy Group” meeting; handout prepared by Regional Board staff]*

<sup>1</sup> “Salinity” can and is measured in several manners. Most common is the use of “electrical conductivity” or “EC” and “total dissolved solids” or “TDS”. EC is a measure of the ability of a solution to conduct an electrical charge; the greater the ability to conduct, the more ‘salinity’ in the solution. The most common, and regulatory standard, unit of measure for EC is “micromhos per centimeter” (µmhos/cm). TDS is a measure of the concentration of dissolved solids (i.e., “salts” in solution, usually reported as mg/L or parts per million (ppm).

In some situations it is possible to develop a reliable empirical correlation between EC and TDS, but not always.

([http://www.swrcb.ca.gov/rwqcb5/water\\_issues/salinity/policy\\_group/plcy\\_grp\\_salt\\_mgt\\_activities.pdf](http://www.swrcb.ca.gov/rwqcb5/water_issues/salinity/policy_group/plcy_grp_salt_mgt_activities.pdf))

*This is a partial list of Regional Board orders that contain salt requirements prepared since issuance of the Salinity Guidance Memorandum in May 2007. It was compiled for the purpose of reporting to the Salinity Policy Group at their October 30, 2008 meeting. It is not a complete list, nor has it been thoroughly reviewed by Regional Board staff to ensure complete accuracy. [October 20008 meeting of the Regional Board sponsored “Central Valley Salinity Policy Group” meeting; attachment to handout prepared by Regional Board staff]*

([http://www.swrcb.ca.gov/wrqb5/water\\_issues/salinity/programs\\_policies\\_reports/rb\\_salt\\_related\\_orders.pdf](http://www.swrcb.ca.gov/wrqb5/water_issues/salinity/programs_policies_reports/rb_salt_related_orders.pdf))

*“Salinity and the Water Board — The regulatory approach to addressing salinity through new and existing permits” presentations by Pamela Credon, Executive Officer of the CVRWQCB, and Ken Landau, Assistant Executive Officer of the Central Valley Regional Water Quality Control Board on the recently issued Salinity Guidance memo issued by the Regional Board’s Executive Management Group. [Item on a draft agenda for June 28, 2007 meeting of the Central Valley Salinity Policy Group Steering Committee] ([http://www.swrcb.ca.gov/rwqcb5/water\\_issues/salinity/committees/exec\\_committee/sc28jun07-ag.pdf](http://www.swrcb.ca.gov/rwqcb5/water_issues/salinity/committees/exec_committee/sc28jun07-ag.pdf))*

*Upcoming events to be discussed in the next LDG meeting (July 17, Fresno) will be an overview of Pamela Credon’s presentation on “Salinity and the Water Board — The regulatory approach to addressing salinity through new and existing permits” on the recently issued Salinity Guidance memo from the Regional Board’s Executive Management Group. [July 2007 issue of “Clean Water News” published by the Central Valley Clean Water Association. CVCWA represents wastewater agencies in the Central Valley] ([http://www.cvcwa.org/pdf%20files/Newsletters/Newsletter\\_V1\\_I3.pdf](http://www.cvcwa.org/pdf%20files/Newsletters/Newsletter_V1_I3.pdf))*

The following are a few examples of how the Regional Board has applied the “Management Guidance for Salinity in Waste Discharge Requirements.”

**CASE 1: Mozerella Fresca, Inc., Tipton Cheese Processing Plant, Tulare County; WDRs Order No. R5–2007–0122, adopted on September 14, 2007**

Discharge salinity (finding No. 12):

Average EC = 1,400 µmhos/cm

Average TDS = 1,200 mg/L

Source Water (finding No. 27):

EC = 212 µmhos/cm

TDS = 140 mg/L

Water Quality Objective (finding No. 35 a and b):

EC = The maximum EC shall not exceed the EC of the source water plus 500 µmhos/cm up to a maximum of 1,000 µmhos/cm

Effluent Limitation (B.2):

EC = 1600 µmhos/cm

TDS = none

**Discussion:** An effluent limit of 1600 µmhos/cm for this discharge, represents a “performance based” limit since it essentially reflects the maximum salinity discharged (i.e., it matches the salinity “performance” of the facility). The Memorandum instructs staff to “Prescribe an interim effluent limit that caps the current effluent salinity” (page 7).

The Porter–Cologne Water Quality Control Act requires effluent limitations necessary to protect beneficial uses to be protected and water quality objectives required for that purpose<sup>2</sup>. In this case, the Tulare Lake Basin Plan<sup>3</sup> establishes a numerical water quality objective for EC of a maximum incremental increase of 500 µmhos/cm over source water supply up to a maximum 1,000 µmhos/cm (the basis for Finding No. 35).

[http://www.swrcb.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/tulare/r5-2007-0122.pdf](http://www.swrcb.ca.gov/centralvalley/board_decisions/adopted_orders/tulare/r5-2007-0122.pdf)

**CASE 2: City of San Joaquin Wastewater Treatment Facility, Fresno County; WDRs Order No. R5–2007–0100, adopted on August 2, 2007**

Discharge salinity (finding No. 12):

Average EC = 1,380 µmhos/cm

Average TDS = not available.

Source Water (finding No. 31):

EC = 530 µmhos/cm

TDS = 275 mg/L

Water Quality Objective (finding No. 38 a and b):

EC = The maximum EC shall not exceed the EC of the source water plus 500 µmhos/cm up to a maximum of 1,000 µmhos/cm

Effluent Limitation (B.5):

EC = 1500 µmhos/cm (interim annual average)

TDS = none

**Discussion:** An effluent limit of 1500 mmhos/cm for this discharge, represents a “performance based” limit since it essentially reflects the maximum salinity dis-

<sup>2</sup> California Water Code sections 13241, 13263

<sup>3</sup> [http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml)

charged (i.e., it matches the salinity “performance” of the facility). The Memorandum instructs staff to:

*“Prescribe an interim effluent limit that caps the current effluent salinity”* (page 7).

The Memorandum further states:

*“if sufficient information does not exist to prescribe any of the effluent limitations discussed above, or if the discharger cannot immediately comply with a prescribed effluent limit for EC and/or TDS, a interim effluent limits and a time schedule (as appropriate) can be prescribed”* (page 5).

*“This document provides guidance to staff developing individual WDRs/Permits where salinity issues have not previously been addressed to be consistent with the Basin Plans and applicable laws and policies of the Regional Board”* (Page 1).

The Porter–Cologne Water Quality Control Act requires effluent limitations necessary to protect beneficial uses to be protected and water quality objectives required for that purpose<sup>4</sup>. In this case, the Tulare Lake Basin Plan establishes a numerical water quality criteria for EC of a maximum incremental increase of 500 µmhos/cm over source water supply up to a maximum 1,000 µmhos/cm (the basis for Finding No. 38).

In the Information Sheet of WDRs Order No. R5–2007–0100 (page 5) there is an apparent reference to the Memorandum (referring to it as “policy”).

*“The proposed Order would establish an effluent limitation for EC that reflects the Regional Water Board policy for managing the salts within the Tulare Lake Basin. The City is unable to immediately comply with the effluent limitations set forth in the Basin Plan (an effluent EC of 1,000 µmhos/cm or 500 µmhos/cm over source water), as the WDRs Order No. 2002–0103 did not establish an effluent limitation for EC. In the interim, the proposed WDRs would establish an EC effluent limitation of 1,500 µmhos/cm, which reflects the current discharge quality (based on the 2006 influent EC values). This performance-based limit will be re-opened upon completion of the provisions required by this proposed order.”* Emphasis added.

[http://www.swrcb.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/fresno/r5-2007-0100.pdf](http://www.swrcb.ca.gov/centralvalley/board_decisions/adopted_orders/fresno/r5-2007-0100.pdf)

**Case 3: City of Tracy Wastewater Treatment Plant, NPDES Permit R5–2007–0036 adopted in 2007**

**Discussion:** For wastewater discharges to surface waters Federal Regulations, 40 CFR 122.44(d), re-

quires that effluent Limitations must be included in permits where pollutants will cause, have reasonable potential to cause, or contribute to an exceedance of the State’s water quality standards. US EPA has interpreted 40 CFR 122.44(d) in Central Tenets of the National Pollutant Discharge Elimination System (NPDES) Permitting Program (Factsheets and Outreach Materials, 08/16/2002) that although States will likely have unique implementation policies there are certain tenets that may not be waived by State procedures. These tenets include that “where calculations indicate reasonable potential, a specific numeric limit MUST be included in the permit. Additional “studies” or data collection efforts may not be substituted for enforceable permit limits where “reasonable potential” has been determined.”

Implementation of the recommendations of the Memorandum omits Effluent Limitations contrary to Federal Regulation. This is the case for the City of Tracy’s wastewater treatment plant. A review of the Discharger’s monitoring reports from July 1998 through December 2004 shows an average effluent EC of 1753 µmhos/cm, with a range from 1008 µmhos/cm to 2410 µmhos/cm for 305 samples. The Water Quality Control Plan for the San Francisco/Sacramento–San Joaquin Delta Estuary contains site-specific water quality objectives for electrical conductivity for the South Delta established by the State Water Resources Control Board.<sup>5</sup> The water quality objectives have been established at 700 µmhos/cm (from 1 April to 31 August) and 1000 µmhos/cm (from 1 September 1 to 31 March) based on a 30-day running average for protection of agricultural beneficial uses. The Regional Board found that the discharge presented a reasonable potential to exceed the water quality standards for electrical conductivity.

However, Effluent Limitation No. 1(i) states that: *“The EC in the discharge shall not exceed a monthly average of 700 umhos/cm (April 1 to August 31) and a monthly average of 1,000 umhos/cm (September 1 to March 31), unless:*

1. *The Discharger implements all reasonable steps as agreed by the Executive Officer to obtain alternative, lower salinity water supply sources; and*
2. *The Discharger develops and implements a salinity source control program as approved by the Executive Officer that will identify and implement measures to reduce salinity in discharges from residential, commercial, industrial and infiltration sources in an effort to meet the interim salinity goal of a maximum 500 umhos/cm electrical conductivity increase over the weighted*

<sup>4</sup> California Water Code sections 13241, 13263

<sup>5</sup> [http://www.waterrights.ca.gov/baydelta/docs/2006\\_plan\\_final.pdf](http://www.waterrights.ca.gov/baydelta/docs/2006_plan_final.pdf)

average electrical conductivity of the City of Tracy's water supply; and

3. When notified by the Executive Officer, the Discharger participates financially in the development of the Central Valley Salinity Management Plan.

Failure to meet conditions 1) through 3), above, shall result in the final effluent limitation becoming effective."

The Effluent Limitations 1(i) for electrical conductivity in the Tracy NPDES Permit were suspended provided that the Discharger conducts the appropriate studies and participates financially in the development of the Regional Board's salt management plan. Unfortunately, this underground policy fails to comport with state and federal regulations.

[http://www.swrcb.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/san\\_joaquin/r5-2007-0036.pdf](http://www.swrcb.ca.gov/centralvalley/board_decisions/adopted_orders/san_joaquin/r5-2007-0036.pdf)

**Case 4: University of California, Davis Campus Wastewater Treatment Plant, NPDES Permit R5-2008-0183 adopted in December 2008**

**Discussion:** The NPDES permit for the University of California at Davis Campus Wastewater Treatment Plant wastewater discharge is similar to the Tracy Permit. The permit states, in Finding No. R, that:

*"Salinity Limitations. This Order contains interim effluent limitations for Electrical Conductivity (EC) that are to remain in effect for the term of the Order. This Order requires the Discharger to study appropriate EC levels to protect agricultural beneficial use in areas irrigated with water from the Putah Creek diverted downstream from the discharges. A final EC effluent limitation will be included in the subsequent renewal of this Order when site-specific water quality and agriculture-related information is available."*

The wastewater EC discharge monthly average is 1,091 umhos/cm with a maximum measured value of 1,679 umhos/cm. This level exceeds the EC concentration the California Department of Fish and Game considers necessary to support a good mix of aquatic life and approaches the upper tolerance limit for fish. EC clearly threatens to degrade the aquatic life beneficial use of Putah Creek and exceeds the applicable water quality standards and objectives. The requirement to conduct additional studies was included in the permit despite the fact that the University had already submitted exhaustive studies regarding salinity and expressly contrary to the above-cited regulation and EPA's interpretation. Failure to include protective Effluent Limitations fails to protect the beneficial uses of the receiving waters.

[http://www.swrcb.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/solano/r5-2008-0183.pdf](http://www.swrcb.ca.gov/centralvalley/board_decisions/adopted_orders/solano/r5-2008-0183.pdf)

5. **The legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code AND that no express statutory exemption to the requirements of the APA is applicable.**

The Memorandum makes the following declarations regarding how discharge permits and enforcement actions should be developed and implemented:

- "guidance to staff for developing individual WDRs/Permits" (page 1);
- "corrective action may be influenced by this guidance" (page 2);
- "The following is guidance for implementation of current Basin Plan and other policies relevant to salinity. . ." (page 4); and
- "The following guidance is provided for implementing existing policy and regulation to increase consistency and reasonableness of WDRs and NPDES relative to salinity control" (page 5).

The title of the flow chart intended to show a general approach to conducting studies and developing salinity-related limitations is *"General Guidance to Establish Salinity Limitations in Waste Discharge Requirements and NPDES Permits under Existing Salinity Policies."*

The California Regional Water Board, Central Valley Region is not exempt from the requirements of the Administrative Procedures Act when adopting regulations, policy and other non quasi-judicial decisions. The Memorandum was not adopted pursuant to legally mandated rule-making procedures. Application of the Memorandum has resulted in the degradation of the state's surface and ground waters.

6. **Information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.**

California's surface and ground waters are identified as severely degraded and incapable of supporting unidentified beneficial uses because of excessive salt (EC) discharge and accumulation.<sup>6</sup> The Regional Board's underground regulation/policy for addressing waste discharges of salt ignores legally promulgated state and

<sup>6</sup> See: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/303d\\_lists2006.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/303d_lists2006.shtml) and [http://www.waterboards.ca.gov/centralvalley/water\\_issues/salinity/initial\\_development/swrcb-02may06-ovrvw-rpt.pdf](http://www.waterboards.ca.gov/centralvalley/water_issues/salinity/initial_development/swrcb-02may06-ovrvw-rpt.pdf) and [http://www.waterboards.ca.gov/centralvalley/water\\_issues/salinity/programs\\_policies\\_reports/econ\\_rpt\\_final.pdf](http://www.waterboards.ca.gov/centralvalley/water_issues/salinity/programs_policies_reports/econ_rpt_final.pdf)

federal regulations and illegally extends the timeframe for controlling discharges of salts thereby ensuring that degradation of surface and ground waters will continue to occur and even increase. Petitioner believes this to be an issue of considerable public importance.

By definition<sup>7</sup>, discharges to waters of the state that exceed the water quality objective developed for the purpose of protecting the defined beneficial uses result in pollution. For example, in Case 1 (Mozerella Fresca, Inc., Tipton Cheese Processing Plant, Tulare County), the average EC of groundwater in the area of the discharge ranges from 351 to 445 mmhos/cm (finding No. 29). Since salinity is considered to be “conservative” (e.g., it is not removed by plants or otherwise ‘treated’ in soil) all excess EC will eventually be in the groundwater. The authorized discharge of 1600 mmhos/cm essentially represents pollution sixty percent greater than maximum allowed by law (1000 mmhos/cm). It is inevitable that the currently unpolluted groundwater will be polluted for EC. Beneficial uses identified for the groundwater include municipal, agricultural, industrial, and wildlife habitat. In effect, existing policy (i.e., the Water Quality Control Plans) states that people will likely be drinking or attempting to irrigate agricultural land. The WDRs Order, with limitations adopted pursuant to guidance in the Memorandum, ensures that those activities will ultimately occur with polluted water.

This is a pattern occurring across the Central Valley following the introduction of the Memorandum. Based on guidance contained in the Memorandum, the Regional Board is allowing high quality water to be or become polluted and allowing polluters to continue polluting to the detriment of public health, the environment and the livelihoods of those who depend upon unpolluted water representing a matter of considerable public importance requiring prompt attention.

Many of the cited wastewater and sewage discharges where groundwater has been “polluted” would be required to comply with strict prescriptive standards to control their waste in accordance with California Code of Regulations Title 27. Discharges of wastewater may be exempted from CCR Title 27 requirements (§20090, SWRCB — Exemptions, (C15: §2511)) only if: waste discharge requirements have been issued; the discharge is in compliance with the applicable Basin Plan, and; the wastewater is not hazardous (Section 20090). The Water Quality Control Plan for the Tulare Lakes Basin contains water quality objectives for groundwater. The Basin Plan *Water Quality Objectives for Groundwater* requires groundwater not exceed: 2.2 MPN/100 ml for coliform organisms; the maximum contaminant levels (MCLs) from CCR Title 22 for drinking water; taste or

odor producing substances that cause nuisance or adversely affect beneficial uses, and; toxic substances that produce detrimental physiological responses in human, plant, animal or aquatic life associated with designated beneficial uses. The Basin Plan also includes the State and Regional Board Antidegradation Policy (Resolution 68–16). The Antidegradation Policy requires the maintenance of high quality waters. In accordance with the Antidegradation Policy changes in water quality are allowed only if the change is consistent with maximum benefit to the people of the state; does not unreasonable affect present and anticipated beneficial uses; does not result in water quality that exceeds water quality objectives, and; best practicable treatment and control of the discharge is provided. The Memorandum does not once mention CCR Title 27 and attempts to negate the regulatory requirements of the regulation.

The situation is similar for discharges of wastewater to surface waters that require an NPDES permit pursuant to the federal Clean Water Act. For example, in Case 3 (City of Tracy Wastewater Treatment Plant), the EC of ambient or receiving waters was identified as averaging 640 umhos/cm while the average of the effluent averaged 1,753 umhos/cm. Despite clear “reasonable potential” to exceed the water quality standard, no final limit was included in the permit. The Regional Board is routinely allowing wastewater discharges containing EC levels far above Basin Plan requirements and where no assimilative capacity for continued or increased salt loading exists.

The Regional Board has routinely cited the Tulare Lake Basin Plan (*an effluent EC of 1,000 μmhos/cm or 500 μmhos/cm over source water*) in NPDES Permits located under the jurisdiction of the Sacramento/San–Joaquin Basin Plan. The Sacramento/San–Joaquin Basin Plan contains no such salinity objective. This improper use of the Tulare Lake Basin Plan can allow an exceedance of water quality standards and objectives included in the Sacramento/San–Joaquin Basin Plan. The Regional Board cites that “best practicable treatment and control” (BPTC) is established by the Tulare Lake Basin Plan. Application of the Tulare Lake Basin Plan water quality objective for EC in the Sacramento/San–Joaquin Basin, without going through the official rule making process would also appear to be application of an underground regulation.

It should also be noted that the Regional Board’s underground regulation allows up to twenty years for compliance with salinity limitations despite explicit Basin Plan requirements to the contrary. The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, page IV–17.00, allows the Regional Board to establish compliance schedules if water quality objectives cannot be immediately achieved. The Basin Plan requires that time schedules be included for

<sup>7</sup> CWC sections 13050 and 13241

completion of specific actions that demonstrate reasonable progress toward the attainment of objectives or criteria. Compliance schedules are required by the Basin Plan to be as short as practicable to achieve compliance and in no event may a schedule exceed ten years. The Regional Board's underground Memorandum allows schedules of compliance that far exceed those permitted by the Basin Plan and ignores the requirement that schedules be as short as practicable. Emphasis added.

**7. Additional relevant information that will assist OAL in evaluating your petition.**

Petitioner has described the technical and legal issues involved in this petition as succinctly as possible. If you have any questions, please don't hesitate to contact us. For technical matters, we suggest you contact Richard McHenry at 916-851-1500. Mr. McHenry was a long-time supervising engineer with the Regional Board in charge of developing NPDES permits for the Sacramento Valley.

**8. Certifications:**

I certify that I have submitted a copy of this petition and all attachments to the state agency which has issued, used, enforced, or attempted to enforce the purported underground regulation:

Name of person in agency to whom petition was sent:

Ms. Pamela Creedon, Executive Officer  
California Regional Water Quality Control Board,  
Central Valley Region  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-6114  
(916) 464-4839.

If you have any questions regarding this petition, please contact Bill Jennings at (209) 464-5067 or Andrew Packard at 707-763-7227.

I certify that all of the above information is true and correct to the best of my knowledge.

Dated: 26 May-2009

/s/

Bill Jennings, Executive Director  
California Sportfishing Protection Alliance

Attachment: Management Guidance for Salinity in Waste Discharge Requirements

**OFFICE OF ADMINISTRATIVE LAW**

**ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS**

**(Pursuant to title 1, section 270, of the California Code of Regulations)**

**DEPARTMENT OF CORRECTIONS AND REHABILITATION**

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Kathleen Eddy, Senior Counsel  
Office of Administrative Law  
300 Capitol Mall, Ste. 1250  
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

John Rogers, V-45028  
P.O. BOX 7500  
Crescent City, CA 95532

Agency contact:

Timothy Lockwood, Chief of Regulations & Policy  
Management Branch  
Department of Corrections and Rehabilitation  
P.O. BOX 942883  
Sacramento, CA 94283-0001

Please note the following timelines:

Publication of Petition in Notice Register:  
August 14, 2009  
Deadline for Public Comments:  
September 14, 2009  
Deadline for Agency Response:  
September 28, 2009  
Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response  
Deadline for OAL Decision: December 14, 2009

**PETITION TO THE OFFICE OF ADMINISTRATIVE LAW**

**RE:** Alleged Underground Regulations  
**FROM:** John Rogers V45028 (Petitioner)  
**DATE:** 5-5-09

Use of this form is optional. It requests the information required by California Code of Regulations, title 1, section 260, for a petition challenging an alleged underground regulation. Although you are not required to use this specific form, the mandatory information required by California Code of Regulations, title 1, section 260, including the supporting documentation, must be included in your petition. If you create a separate petition, or if you use this form and need to add extra pages, be sure that each page is labeled clearly.

1. Identifying Information:

Your name: John Rogers V45028

Your address: P.O. Box 7500, Crescent City, Ca

Your telephone number (if you have one): n/a

Your email (if you have one): n/a

2. State agency or department being challenged:

California Dept. of Corrections and Rehabilitation

3. Provide a complete description of the purported underground regulation. Attach a written copy of it. If the purported underground regulation is found in an agency manual, identify the specific provision of the manual alleged to comprise the underground regulation. Please be as precise as possible.

Please see attached supplement labelled "Supplement to Part 3."

4. Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulations.

Please see attached supplement labelled "Supplement to Part 4."

5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code AND that no

express statutory exemption to the requirements of the APA is applicable.

Please see attached supplement labelled 'Supplement to Part 5'

6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.

Please see attached supplement labelled 'Supplement to Part 5'

7. (Optional) Please attach any additional relevant information that will assist OAL in evaluating your petition.

8. Certifications:

I certify that I have submitted a copy of this petition and all attachments to the state agency which has issued, used, enforced, or attempted to enforce the purported underground regulation:

Name of person in agency to whom petition was sent:  
Agency: Deputy Director of California Dept. of Corrections (Div. of Adult Institutions)

Address: P.O. Box 942883, Sacramento, Ca 94283

Telephone number:

I certify that all of the above information is true and correct to the best of my knowledge.

/s/

John Rogers

Signature of Petitioner

5-18-09

Date

Supplemental Attachment PELICAN BAY PRISON  
SECURITY & CONTROL UNIT

Supplement to Part 3

On 1-6-06 a memorandum was generated by the Deputy Director <sup>UNIT C-6</sup> Division of Adult Inst. to all Wardens and Institutional Staff - The memo would now allow 'Rule Violation Reports' to be the basis of applying the Violent ('Vio') Felony Administrative Determinant when classifying inmate. This is in direct opposition of the CCRT title 15 § 3375.2(b)(25) which regulates the application of the 'Vio' Administrative Determinant to prior convictions only, with no mention of applying to 'Rule Violation Reports' (Please see Exhibit A for Memo)

Supplement to Part 4

On 4-9-08 I was brought to committee with no notice of and totally unaware of the content of this memo or the new regulation CDC was trying to impose. The committee subsequently imposed the 'Vio' administrative determinant pursuant to this memo.

Supplement to Part 5

The 1-6-06 memo generated by CDC is an underground rule and there is no exception to the requirements of the APA. P.C. § 5053(a) allows the director to amend rules and regulations for the administration of the prisons, however, the rule or regulation must be promulgated by the APA. This memo came out 1-2006 as of 5-2009 they have not promulgated it.

The regulation the CDC is now enforcing allows prisons to place a 'Vio' administrative determinant without providing inmates any notice or criteria for this new regulation. For instance, 'The 6 Elements of a 'Vio' Case by Case Review' section never outline what any of the 6 steps are or set forth the criteria to determine if the information meets the threshold of that step. P.C. 2080 specifically states that a copy of all rules and regulations must be furnished to each prisoner. ~~Thus~~ Therefore, CDC can now impose a 'Vio' determinant even though he is unaware of the regulation or any of its guidelines and he is denied any reasonable opportunities to defend himself against these allegations. This is a denial of the inmates due process rights. *P. v. Ryan (1992) 9 Cal App 4 1855, B In re Carr (1981) 166 Cal App 3d*

Supplement to Part 6

Aside from the above-mentioned due process abuses. This goes against any type of fair hearing. The thought that an inmate can be punitively punished by a rule that he is unaware of and is in opposition to the CCRT 15. This rule is being applied wide spread, it lengthens inmates sentences, keeps them in higher custody prisons, keeps them out of vocations and lengthens their parole.

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

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

File# 2009-0624-01  
BOARD OF BARBERING AND COSMETOLOGY  
Building Standards

The Board of Barbering and Cosmetology (Board) submits this nonsubstantive rulemaking pursuant to Title 1 of the California Code of Regulations, section 100. The Board changes existing citations found in Title 16, California Code of Regulations section 995 relating to building and plumbing codes within Title 24 to update the citations to reflect current and accurate Title 24 citations.

Title 16  
California Code of Regulations  
AMEND: 995  
Filed 08/05/2009  
Agency Contact: Kevin Flanagan (916) 575-7104

File# 2009-0618-01  
BOARD OF EQUALIZATION  
Sales for Resale

This regulatory action provides that the acceptable resale designation on a purchase order is not limited to the phrase "for resale" and may include comparable terminology, such as, "resale = yes," "nontaxable," "taxable = no," or similar terminology on a purchase, indicating that tax or tax reimbursement should not be added to the sales invoice and will be regarded as designating that the property described is purchased for resale provided the combination of the purchase order and the qualified resale certificate contains all the essential elements provided in section 1668. Other amendments include providing that a purchase order where the applicable amount of tax is shown as \$0 or is left blank will not be accepted as designating that the property is purchased for resale, unless the purchase order also includes the phrase "for resale" or other terminology described above to specify that the property is purchased for resale.

Title 18  
California Code of Regulations  
AMEND: 1668  
Filed 07/30/2009  
Effective 08/29/2009  
Agency Contact:  
Richard Bennion (916) 445-2130

File# 2009-0623-08  
BOARD OF PHARMACY  
Ethics Course

The Board of Pharmacy is adopting criteria for board approval of an ethics course. Currently in regulation, the Board's Disciplinary Guidelines (16 C.C.R. 1760) allow for imposition of an ethics course as an optional term of probation. These amendments specify course duration, faculty, educational objectives, method of instruction, content, class size, record retention and program completion.

Title 16  
California Code of Regulations  
ADOPT: 1773.5 AMEND: 1773  
Filed 08/04/2009  
Effective 09/03/2009  
Agency Contact: Carolyn Klein (916) 574-7913

File# 2009-0723-02  
CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING  
AUTHORITY  
Renewable Energy Program

The Public Resources Code creates the California Alternative Energy and Advanced Financing Authority (Authority) and authorizes it to fix fees and charges for projects to fund expenses incurred by the Authority in carrying out its duties. Existing section 10020 of title 4 of the California Code of Regulations sets fees for projects generally, but there are no specific fees established for renewable energy projects. This emergency regulatory action adds a separate fee structure to section 10020 to establish a renewable energy program and lower the cost of financing these technologies while allowing the Authority to be self sustaining. This regulatory action was deemed necessary for the immediate preservation of the public peace, health and safety, and general welfare by the Legislature pursuant to section 26011.6(b) of the Public Resources Code.

Title 4  
California Code of Regulations  
AMEND: 10020  
Filed 07/31/2009  
Effective 07/31/2009  
Agency Contact: Brian Gorban (916) 651-8006

File# 2009-0722-01  
CALIFORNIA ENERGY COMMISSION  
California Home Energy Rating System Program

This action is the resubmittal of amendments to the California Energy Commission's existing structure establishing a statewide home energy rating program for residential buildings. The initial rulemaking (OAL file number 2009-0304-03S) was withdrawn by the Commission on April 15, 2009.

Title 20  
California Code of Regulations  
AMEND: 1670, 1671, 1672, 1673, 1674, 1675  
Filed 08/03/2009  
Effective 09/01/2009  
Agency Contact: Helen Lam (916) 651-3007

File# 2009-0619-09  
CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY  
Children's Hospital Program of 2008

The Children's Hospital Bond Act of 2008 (the "Act"), passed by the voters on November 4, 2008, charges the California Health Facilities Financing Authority (the "Authority") with implementing a \$980 million grant program funded by general obligation bonds for California children's hospitals. With the passage of the Act, the voters recognized the need to increase and expand the health care services provided by these hospitals to California's critically ill children. These regulations establish evaluation criteria and a process for awarding grants to eligible participating general acute care hospitals for purposes of financing capital outlay projects.

Title 4  
California Code of Regulations  
ADOPT: 7051, 7052, 7053, 7054, 7055, 7056, 7057, 7058, 7059, 7060, 7061, 7062, 7063, 7064, 7065, 7066, 7067, 7068, 7069, 7070, 7071  
Filed 07/31/2009  
Effective 07/31/2009  
Agency Contact: Barry Scarff (916) 654-5711

File# 2009-0623-05  
CALIFORNIA HORSE RACING BOARD  
Examination Required

In this rulemaking action, the California Horse Racing Board proposed amendment to Title 4, California Code of Regulations, section 1853, Examination Required, to allow a thoroughbred horse to run without horseshoes provided that its unshod participation is declared at the time of entry and noted in the official program.

Title 4  
California Code of Regulations  
AMEND: 1853  
Filed 08/04/2009  
Effective 09/03/2009  
Agency Contact: Colleen Germek (916) 274-6049

File# 2009-0730-04  
DEPARTMENT OF FOOD AND AGRICULTURE  
Light Brown Apple Moth Interior Quarantine

This emergency regulatory action expands the area under quarantine for Light Brown Apple Moth in Sonoma, Santa Clara, and Solano counties and removes the Parkfield area of Monterey County. It also adds specified commercially produced crops to the list of those exempted from the quarantine.

Title 3  
California Code of Regulations  
AMEND: 3434(b), 3434(c)  
Filed 08/05/2009  
Effective 08/05/2009  
Agency Contact:  
Stephen S. Brown (916) 654-1017

File# 2009-0731-03  
DEPARTMENT OF FOOD AND AGRICULTURE  
Oriental Fruit Fly Interior Quarantine

This emergency regulatory action establishes approximately 84 square miles in the La Verne area of Los Angeles County as a quarantine area for the Oriental fruit fly ("Bactrocera dorsalis").

Title 3  
California Code of Regulations  
AMEND: 3423(b)  
Filed 08/04/2009  
Effective 08/04/2009  
Agency Contact:  
Stephen S. Brown (916) 654-1017

File# 2009-0729-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
White Striped Fruit Fly Interior Quarantine

This emergency regulatory action will establish a quarantine area of approximately 81 square miles in Los Angeles and San Bernardino counties for the white striped fruit fly (*Bactrocera albistrigata*). The proposed emergency will also establish the articles and commodities covered and the restrictions on the articles and commodities covered. The effect of the proposed adoption of this regulation is to provide authority to the State to conduct quarantine activities against the white striped fruit fly in the quarantine area.

Title 3  
 California Code of Regulations  
 ADOPT: 3436  
 Filed 07/31/2009  
 Effective 07/31/2009  
 Agency Contact:  
 Stephen S. Brown (916) 654-1017

File# 2009-0617-06  
 DEPARTMENT OF INSURANCE  
 Title Marketing Representative Certificate Application and Renewal

This is the Certificate of Compliance filing making permanent the prior emergency adoption of application and renewal procedures for obtaining a certificate of registration as a title marketing representative. The prior emergency action made permanent here was OAL file number 2008-1222-06E.

Title 10  
 California Code of Regulations  
 ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55  
 Filed 07/29/2009  
 Agency Contact: George Teekell (415) 538-4390

File# 2009-0623-01  
 DEPARTMENT OF INSURANCE  
 Title Insurance Statistical Plan and Financial Data Reporting

This action revises the information reporting requirements applicable to title insurance companies concerning the business of title insurance, including the activities of underwritten title companies and controlled escrows, eliminating many of the requirements and delaying the initial reporting from April 30, 2010 to May 31, 2012.

Title 10  
 California Code of Regulations  
 ADOPT: 2355.1, 2355.2 AMEND: 2359.4 amended and renumbered to 2355.3, 2359.7 renumbered to 2355.4, 2359.8 renumbered to 2355.5 REPEAL: 2355.1, 2355.2, 2355.3, 2355.4, 2355.5, 2355.6, 2355.7, 2355.8, 2356.1, 2356.2, 2356.3, 2356.4, 2356.5, 2356.6, 2356.7, 2356.8, 2356.9, 2357.1, 2357.2, 2357.3, 2357.4, 2357.5, 2357.6, 2357.7, 2357.8, 2357.9, 2357.10, 2357.11, 2357.12, 2357.13, 2357.14, 2357.15, 2357.16, 2357.17, 2357.18, 2357.19, 2358.1, 2358.2, 2358.3, 2358.4, 2358.5, 2358.6, 2358.7, 2358.8, 2358.9, 2359.1, 2359.2, 2359.3, 2359.5, 2359.6  
 Filed 08/04/2009  
 Effective 09/03/2009  
 Agency Contact: Alec Stone (415) 538-4113

File# 2009-0702-01  
 DEPARTMENT OF REHABILITATION  
 Accreditation of CRPs

This rulemaking action amends section 7331 of Title 9 of the California Code of Regulations regarding the timing of Community Rehabilitation Program certification by the California Department of Rehabilitation. The rulemaking also exempts, for Department of Rehabilitation purposes, the requirement of Commission on Accreditation of Rehabilitation Facility accreditation for small rehabilitation programs with average annual expenditures of \$50,000 or less.

Title 9  
 California Code of Regulations  
 AMEND: 7331  
 Filed 08/04/2009  
 Effective 09/03/2009  
 Agency Contact: Joely Walker (916) 558-5825

File# 2009-0619-08  
 DEPARTMENT OF SOCIAL SERVICES  
 Adult Residential Facility Age Regulations

These regulatory changes address Adult Residential Facilities (ARFs) and when adults 59 years and older may be accepted or retained in them. Department of Social Services (DSS) adopted a regulation (Title 22, section 85068.4) in 2005 providing that licensees of adult residential facilities "shall not admit, but may retain, persons who are over 59 years of age whose needs are compatible with other clients, if they require the same level of care and supervision as do the other clients in the facility, and the licensee is able to meet their needs." California Association of Mental Health Patients' Rights Advocates (CAMHPRA) sued for an injunction and declaratory relief based on federal and state disability laws. The amendments to sections 80001 and 85068.4 are to address the stipulated agreement entered into between the parties which provides for the acceptance and retention of those 59 and over in ARFs under specified circumstances. The proposed amendments to section 85002 (DEFINITIONS — FORMS) have been withdrawn.

Title 22/MPP  
 California Code of Regulations  
 AMEND: 80001, 85002 and 85068.4  
 Filed 07/31/2009  
 Effective 08/30/2009  
 Agency Contact: Sandra Ortega (916) 657-2586

File# 2009-0715-01  
 NEW MOTOR VEHICLE BOARD  
 Conflict of Interest Code

The New Motor Vehicle Board is amending its conflict of interest code found at section 599, title 13, California Code of Regulations. The Fair Political Practices

Commission approved the changes for filing on June 26, 2009.

Title 13  
California Code of Regulations  
AMEND: 599  
Filed 07/29/2009  
Effective 08/28/2009  
Agency Contact:  
Howard Weinberg (916) 445-2080

File# 2009-0619-04  
OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD  
Riding on Rolling Scaffolds

Occupational Safety and Health Standards Board proposed this regulatory action to amend the Construction Safety Order for riding on rolling scaffolds by amending sections 1637 and 1646 of title 8 of the California Code of Regulations. Amendments to these sections provide additional safety requirements for using rolling scaffolds and adopt new provisions to allow the use of manually self-propelled rolling scaffolds. The amended sections include updated standards for both rolling scaffolds and self-propelled rolling scaffolds to meet or exceed recent federal standards.

Title 8  
California Code of Regulations  
AMEND: 1637, 1646  
Filed 07/31/2009  
Effective 08/30/2009  
Agency Contact: Marley Hart (916) 274-5721

File# 2009-0701-03  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
Disciplinary Guidelines

This is the resubmission of a disapproved rulemaking regarding the Physical Therapy Board's amendments to their Disciplinary Guidelines.

Title 16  
California Code of Regulations  
AMEND: 1399.15  
Filed 08/05/2009  
Effective 09/04/2009  
Agency Contact: Elsa Ybarra (916) 561-8262

File# 2009-0723-01  
STATE TREASURER  
Redemption of Registered Warrants

This emergency regulatory action creates a new regulatory scheme to notify the public about the requirements for redeeming registered warrants (also known as IOUs). It also adopts regulations with requirements for redeeming IOUs that have been purchased from the person who was issued the registered warrant. These regulations also set out how the Treasurer will notify the public when registered warrants are called for redemp-

tion — this may be earlier than the maturity date. Finally these regulations inform the public about the manner in which the Treasurer intends to publicize financial institutions that are willing to accept registered warrants.

Title 2  
California Code of Regulations  
ADOPT: 1899.570, 1899.575, 1899.580, 1899.585  
Filed 07/30/2009  
Effective 07/30/2009  
Agency Contact: Mark Paxson (916) 651-6846

File# 2009-0626-02  
STATE WATER RESOURCES CONTROL BOARD  
BPA to Revise Standards for Surface Waters of the Antelope Hydrologic Unit

On November 29, 2007, the Lahontan Regional Water Quality Control Board (Regional Board) adopted Resolution R6T-2007-0036 amending the Water Quality Control Plan for the Lahontan Region (Basin Plan). This Basin Plan amendment: (1) established site-specific beneficial uses for Amargosa Creek, the Piute Ponds and wetlands, and Rosamond Dry Lake, (2) established site-specific water quality objectives for ammonia for Amargosa Creek and the Piute Ponds and wetlands, and (3) corrected a numerical error in the existing water quality objective for ammonia. The State Water Resources Control Board approved the amendment of the Basin Plan in Resolution No. 2009-0018 on March 17, 2009.

Title 23  
California Code of Regulations  
ADOPT: 3959.2  
Filed 08/05/2009  
Effective 09/04/2009  
Agency Contact: Peter Martin (916) 341-5557

File# 2009-0623-06  
VICTIM COMPENSATION AND GOVERNMENT  
CLAIMS BOARD  
Victim Compensation Program Hearing Procedures

This action updates the hearing procedures applicable to hearings conducted under the Victim Compensation Program (VCP) and Indemnification of Citizens Benefiting the Public programs.

Title 2  
California Code of Regulations  
ADOPT: 647.5, 647.25, 647.36, 647.37.1 AMEND: 647.1, 647.2, 647.3, 647.4, 647.20, 647.20.1, 647.22, 647.23, 647.24, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.38 REPEAL: 647.25, 647.34  
Filed 08/03/2009  
Effective 09/02/2009  
Agency Contact: Roslyn Mack (916) 491-3752

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN March 4, 2009 TO  
August 5, 2009**

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

**Title 2**

- 08/03/09 ADOPT: 647.5, 647.25, 647.36, 647.37.1  
AMEND: 647.1, 647.2, 647.3, 647.4,  
647.20, 647.20.1, 647.22, 647.23,  
647.24, 647.26, 647.30, 647.31, 647.32,  
647.33, 647.35, 647.38 REPEAL:  
647.25, 647.34
- 07/30/09 ADOPT: 1899.570, 1899.575, 1899.580,  
1899.585
- 07/20/09 ADOPT: 721
- 07/07/09 AMEND: 18450.4
- 07/06/09 AMEND: 18940.2
- 06/15/09 ADOPT: 18746.4 AMEND: 18741.1,  
18746.1, 18746.3
- 06/12/09 ADOPT: 649.14, 649.17, 649.18, 649.23,  
649.25, 649.29, 649.32, 649.33, 649.48  
AMEND: 647.4, 649, 649.2, 649.4,  
649.7, 649.8, 649.11, 649.12, 649.13,  
649.15, 649.16, 649.22, 649.24, 649.26,  
649.27, 649.28, 649.30, 649.31, 649.35,  
649.36, 649.50, 649.51, 649.57, 649.58,  
649.59, 649.62 REPEAL: 649.3, 649.6,  
649.9, 649.10, 649.14, 649.23, 649.25
- 06/09/09 ADOPT: 18405
- 06/01/09 ADOPT: 250.1
- 05/21/09 AMEND: 18705.1
- 05/14/09 ADOPT: 21000, 21001, 21002, 21003,  
21004, 21005, 21006, 21007, 21008,  
21009
- 05/08/09 ADOPT: 18410 AMEND: 18402
- 04/30/09 AMEND: 1859.129, 1859.197
- 04/28/09 AMEND: div. 8, ch. 111, section 59560
- 04/22/09 ADOPT: 1859.148.2, 1859.166.2  
AMEND: 1859.2, 1859.121, 1859.164.2,  
1859.197
- 03/05/09 AMEND: 18704

**Title 3**

- 08/05/09 AMEND: 3434(b), 3434(c)
- 08/04/09 AMEND: 3423(b)
- 07/31/09 ADOPT: 3436

- 07/24/09 AMEND: 3434(b)
- 07/22/09 ADOPT: 3591.23
- 07/22/09 AMEND: 3406(b)
- 07/21/09 AMEND: 3591.2(a)
- 07/20/09 AMEND: 3591.20(a)
- 07/13/09 AMEND: 625
- 07/07/09 AMEND: 3435
- 07/02/09 AMEND: 3423(b)
- 06/30/09 AMEND: 3434(b)
- 06/22/09 AMEND: 3434(b)
- 06/19/09 AMEND: 3591.20(a)
- 06/15/09 AMEND: 3406(b)
- 06/15/09 AMEND: 3434(b)
- 06/01/09 AMEND: 3406(b)
- 06/01/09 ADOPT: 3408
- 05/26/09 AMEND: 3434(b)
- 05/20/09 AMEND: 3434(b)
- 05/20/09 AMEND: 3434(b)
- 05/13/09 AMEND: 6800
- 05/04/09 AMEND: 3434(b)
- 04/27/09 AMEND: 3434(b)
- 04/20/09 AMEND: 6452.2
- 03/30/09 AMEND: 3434(b)
- 03/25/09 AMEND: 6860
- 03/23/09 AMEND: 3423(b)
- 03/19/09 ADOPT: 1210, 1211, 1212, 1213, 1214,  
1215, 1216, 1217, 1218, 1219, 1220,  
1221, 1222.1, 1222.4, 1209, 1209.1,  
1245.1, 1245.2, 1245.3, 1245.4, 1260.2,  
1269, 1269.1, 1269.2, 1271 AMEND:  
1200, 1201, 1202, 1204, 1205, 1206,  
1207, 1208, 1222, 1223, 1223.1, 1235,  
1236, 1238, 1239, 1240, 1241, 1242,  
1243, 1244, 1245, 1245.1, 1245.2,  
1245.3, 1245.4, 1245.5, 1245.6, 1245.7,  
1245.8, 1245.9, 1245.10, 1245.11,  
1245.12, 1245.13, 1245.14, 1245.15,  
1245.16, 1246, 1247, 1248, 1249, 1250,  
1251, 1252, 1253, 1254, 1255, 1256,  
1257, 1258, 1259, 1260, 1260.1, 1261,  
1262, 1263, 1264, 1265, 1266, 1267,  
1268, 1269, 1270 REPEAL: 1203, 1210,  
1211, 1212, 1213, 1214, 1215, 1216,  
1217, 1218, 1219, 1220, 1221, 1224,  
1225, 1226, 1227, 1228, 1229, 1230,  
1231, 1237
- 03/18/09 AMEND: 3435(b)
- 03/10/09 AMEND: 3434
- 03/05/09 AMEND: 3591.20(a)
- 03/04/09 AMEND: 3435

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- 08/04/09 AMEND: 1853
- 07/31/09 AMEND: 10020

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07/31/09 ADOPT: 7051, 7052, 7053, 7054, 7055,  
7056, 7057, 7058, 7059, 7060, 7061,  
7062, 7063, 7064, 7065, 7066, 7067,  
7068, 7069, 7070, 7071  
07/21/09 AMEND: 1979, 1979.1  
07/21/09 REPEAL: 1950.1  
06/25/09 ADOPT: 12486  
06/22/09 ADOPT: 8078.1 AMEND: 8070, 8072,  
8076, 8078  
06/04/09 AMEND: 106  
05/18/09 ADOPT: 12488, 12508, 12510, 12511,  
12514 AMEND: 12480, 12486  
05/18/09 ADOPT: 12482  
05/12/09 AMEND: 406  
05/12/09 ADOPT: 12591  
04/24/09 ADOPT: 12480, 12492, 12494, 12496,  
12498, 12499, 12501, 12502, 12504  
AMEND: 12482  
04/24/09 AMEND: 12482  
03/23/09 AMEND: 10175, 10176, 10177, 10182,  
10185, 10187, 10188, 10189, 10190  
03/11/09 AMEND: 1865  
03/10/09 ADOPT: 12388, 12410  
03/05/09 ADOPT: 2066  
03/05/09 ADOPT: 1504.5 AMEND: 1481, 1486  
03/04/09 AMEND: 2073

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07/21/09 ADOPT: 43200  
07/21/09 ADOPT: 43220  
07/21/09 AMEND: 42920  
07/21/09 ADOPT: 40411  
07/09/09 AMEND: 18100  
07/03/09 ADOPT: 80027.1, 80048.7 AMEND:  
80027  
06/29/09 ADOPT: 19821.5, 19825.1, 19828.4,  
19837.3, 19839, 19845.2 AMEND:  
19815, 19816, 19816.1, 19828.3,  
19837.2, 19845.1, 19846  
05/28/09 AMEND: 9521  
05/11/09 AMEND: 80023, 80024.4, 80024.5,  
80024.6, 80025.5, 80026, 80026.1,  
80026.6, 80034.5 REPEAL: 80024.3,  
80026.4, 80042, 80042.5, 80569  
05/11/09 AMEND: 24002, 24003, 24005  
05/07/09 ADOPT: 3090, 3090.1, 3091, 3092,  
3093, 3094, 3095, 3096, 3096.1, 3096.2,  
3097, 3098, 3098.1, 3098.2, 3099  
04/30/09 ADOPT: 26000  
03/27/09 AMEND: 3001, 3051, 3060, 3061, 3062,  
3063, 3064, 3065, 3066, 3067, 3068,  
3069, 3070  
03/05/09 AMEND: 80225

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07/31/09 AMEND: 1637, 1646

07/27/09 AMEND: 5006.1  
07/24/09 AMEND: 3466  
07/23/09 AMEND: 1598, 1599  
07/06/09 ADOPT: 5199  
07/06/09 ADOPT: 5199.1  
06/22/09 AMEND: 230.1  
06/18/09 ADOPT: 9792.23.1, 9792.23.2,  
9792.23.3, 9792.23.4, 9792.23.5,  
9792.23.6, 9792.23.7, 9792.23.8,  
9792.23.9, 9792.24, 9792.24.1,  
9792.24.2, 9792.24.3, 9792.25, 9792.26  
AMEND: 9792.20, 9792.21, 9792.22,  
9792.23  
05/01/09 AMEND: 3030, 3037, 3089, 3097, 3098,  
3101, 3107  
05/01/09 AMEND: 4530  
04/20/09 AMEND: 10100.2, 10101.1, 10103.2,  
10104, 10105, 10106.1, 10106.5,  
10107.1, 10108, 10109, 10111.1,  
10111.2, 10112, 10113.4, 10113.5,  
10114.2, 10115, 10115.1, 10115.2  
04/06/09 ADOPT: 227, 314, 389 AMEND: 281,  
303, 323, 368, 523  
04/01/09 ADOPT: 2710.1, 2716.1, 2718, 2718.1,  
2738, 2739.0, 2739.4, 2742.0, 2742.1,  
2742.2, 2742.3, 2745.0, 2745.1, 2749.2,  
2754.1, 2754.2, 2796, 2799.1, 2799.2,  
2799.3, 2799.4, 2799.5, 2799.6, 2812.2,  
2812.3, 2832, 2833.1, 2833.2, 2882.2,  
2985.0, 2985.1, 2985.2, 2987.0, 2987.1,  
2989.0, 2989.1 AMEND: 2700, 2706,  
2707, 2710, 2712, 2714, 2715, 2725,  
2735, 2739.1, 2743, 2745.2, 2749.1,  
2753, 2790, 2791, 2792, 2795, 2797,  
2799.0, 2805, 2810, 2812.1, 2816, 2819,  
2820, 2833, 2845, 2847, 2863, 2873,  
2874, 2875, 2880, 2882.1, 2890, 2893,  
2908, 2910, 2931, 2932, 2933, 2934,  
2935, 2946, 2974 REPEAL: 2742  
03/04/09 AMEND: 3248

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08/04/09 AMEND: 7331  
06/29/09 ADOPT: 10700, 10701 AMEND: 10518,  
10529 REPEAL: 10532, 10533  
06/26/09 ADOPT: 7212.1, 7212.2, 7212.3, 7212.4  
AMEND: 7210, 7211, 7212

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08/04/09 ADOPT: 2355.1, 2355.2 AMEND:  
2359.4 amended and renumbered to  
2355.3, 2359.7 renumbered to 2355.4,  
2359.8 renumbered to 2355.5 REPEAL:  
2355.1, 2355.2, 2355.3, 2355.4, 2355.5,  
2355.6, 2355.7, 2355.8, 2356.1, 2356.2,  
2356.3, 2356.4, 2356.5, 2356.6, 2356.7,

|          |  |                     |  |
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|          | 2356.8, 2356.9, 2357.1, 2357.2, 2357.3, 2357.4, 2357.5, 2357.6, 2357.7, 2357.8, 2357.9, 2357.10, 2357.11, 2357.12, 2357.13, 2357.14, 2357.15, 2357.16, 2357.17, 2357.18, 2357.19, 2358.1, 2358.2, 2358.3, 2358.4, 2358.5, 2358.6, 2358.7, 2358.8, 2358.9, 2359.1, 2359.2, 2359.3, 2359.5, 2359.6 | 05/22/09            | ADOPT: 225.38 AMEND: 225.00, 225.03, 225.06, 225.09, 225.21, 225.35, 225.45, 225.48, 225.54, 225.72  |
|          |  | 03/18/09            | ADOPT: 1962.1 AMEND: 1900, 1962, 1962.1 renumber as 1962.2   |
|          |  | 03/10/09            | ADOPT: 1160.6 AMEND: 1160.3, 1160.4  |
|          |  | <b>Title 13, 17</b> |  |
| 07/29/09 | ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55  | 05/29/09            | ADOPT: Title 13: 2299.2, Title 17: 93118.2 AMEND: Title 13: 2299.1, Title 17: 93118  |
| 07/14/09 | ADOPT: 2359.8  |                     |  |
| 07/09/09 | AMEND: 2797  |                     |  |
| 07/06/09 | AMEND: 250.30  |                     |  |
| 06/24/09 | AMEND: 2498.4.9  |                     |  |
| 06/01/09 | ADOPT: Article 1, 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, Article 2, 2031.7, 2031.8, Article 3, 2031.9, Article 4, 2031.10   |                     |  |
| 06/01/09 | ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10   |                     |  |
| 06/01/09 | ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, 2850.10   |                     |  |
| 05/29/09 | ADOPT: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507  |                     |  |
| 05/12/09 | AMEND: 2716.1, 2790.1.5, 2810.5  |                     |  |
| 05/01/09 | AMEND: 2699.6603   |                     |  |
| 03/27/09 | AMEND: 2498.6 (Exhibit C)  |                     |  |
| 03/25/09 | AMEND: 2661.3, 2661.4, 2662.1  |                     |  |
| 03/23/09 | AMEND: 2498.6  |                     |  |
|          | <b>Title 11</b>  |                     |  |
| 05/21/09 | AMEND: 1005, 1007, 1008  |                     |  |
| 04/17/09 | AMEND: 30.1  |                     |  |
| 04/01/09 | ADOPT: 9056, 9057, 9058, 9059, 9060 AMEND: 1018  |                     |  |
| 04/01/09 | ADOPT: 9050, 9051, 9052, 9053, 9054, 9055 REPEAL: 1002   |                     |  |
| 03/30/09 | ADOPT: 30.15   |                     |  |
|          | <b>Title 13</b>  |                     |  |
| 07/29/09 | AMEND: 599   |                     |  |
| 07/17/09 | AMEND: 2111, 2112, Appendix A, 2139, 2147, 2440, 2441, 2442, 2443.1, 2443.2, 2443.3, 2444.1, 2444.2, 2445.1, 2445.2, 2446, 2447, 2474, Documents Incorporated by Reference REPEAL: 2448  |                     |  |
| 06/29/09 | AMEND: 2702, 2704  |                     |  |
| 06/16/09 | AMEND: 1239  |                     |  |
| 06/04/09 | ADOPT: 2340, 2341, 2342, 2343, 2344, 2345  |                     |  |
|          |  | <b>Title 14</b>     |  |
|          |  | 07/14/09            | AMEND: 124   |
|          |  | 07/13/09            | AMEND: 163   |
|          |  | 06/23/09            | AMEND: 3959(b)(4)  |
|          |  | 06/23/09            | ADOPT: 4351.1 AMEND: 4351  |
|          |  | 06/16/09            | AMEND: 753.5   |
|          |  | 06/15/09            | AMEND: 27.80   |
|          |  | 06/12/09            | AMEND: 265, 353, 360, 361, 362, 363, 364, 555, 708   |
|          |  | 06/02/09            | AMEND: 7.50(b)(91.1)   |
|          |  | 05/26/09            | AMEND: 7.00, 7.50  |
|          |  | 05/21/09            | AMEND: 7.50(b)(178)  |
|          |  | 05/15/09            | AMEND: 790, 818.02, 827.02   |
|          |  | 05/14/09            | ADOPT: 874.2.5 AMEND: 790, 873.1, 873.2, 873.4, 873.5, 873.7, 874.2, 877.2, 877.3 REPEAL: 873.3  |
|          |  | 05/13/09            | AMEND: 25201   |
|          |  | 05/07/09            | AMEND: 25201   |
|          |  | 05/04/09            | AMEND: 670.5   |
|          |  | 04/27/09            | ADOPT: 749.5   |
|          |  | 04/08/09            | AMEND: 2245, 2320  |
|          |  | 03/18/09            | AMEND: 632   |
|          |  | 03/16/09            | ADOPT: 20004.1, 20009.1, 20009.2 AMEND: 20000, 20001, 20002, 20003, 20004, 20005, 20008, 20009   |
|          |  | 03/04/09            | AMEND: 2000, 2090, 2516, 2530, 2620, 2630, 2660, 2670, 2720, 2730  |
|          |  | <b>Title 15</b>     |  |
|          |  | 07/28/09            | ADOPT: 3077, 3077.1, 3077.2, 3077.3, 3077.4 AMEND: 3000, 3043.6, 3375  |
|          |  | 06/17/09            | ADOPT: 3640, 3730 AMEND: 3500, 3501, 3502, 3600, 3610, 3620, 3625, 3630, 3740  |
|          |  | 06/17/09            | ADOPT: 3099  |
|          |  | 05/12/09            | AMEND: 3000, 3190, 3375, 3376.1, 3379  |
|          |  | 05/04/09            | AMEND: 3335(d)(3)  |
|          |  | 04/20/09            | AMEND: 1004, 1006, 1007, 1008, 1012, 1013, 1018, 1027, 1028, 1029, 1032, 1040, 1044, 1045, 1046, 1055, 1056, 1059, 1063, 1066, 1082, 1101, 1105, |

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|                 | 1144, 1151, 1161, 1209, 1217, 1230,<br>1241, 1243, 1245, 1247, 1262, 1272            | 07/10/09         | AMEND: 1601, 1602, 1604, 1605.3,<br>1606   |
| 04/02/09        | ADOPT: 3334 AMEND: 3000  | 07/10/09         | AMEND: 1601, 1602, 1603, 1604,<br>1605.1, 1605.2, 1605.3, 1606, 1607,<br>1608  |
| <b>Title 16</b> |  |                  |  |
| 08/05/09        | AMEND: 995   | 06/23/09         | AMEND: 3.1, 3.2, 4.3, 8.6, 10.3, 11.3,<br>13.2   |
| 08/05/09        | AMEND: 1399.15   | 06/04/09         | AMEND: 1.4, 1.6, 1.7, 1.8, 1.9, 1.10,<br>1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 2.3, 2.6,<br>3.2, 3.6, 8.1, 8.2, 8.3, 11.6, 13.9, 14.2,<br>14.3, 14.6, 15.2, 17.3, 17.4, 18.1 |
| 08/04/09        | ADOPT: 1773.5 AMEND: 1773  | 04/22/09         | ADOPT: 3100, 3101, 3101.5, 3102,<br>3103, 3104, 3105, 3106, 3107, 3108   |
| 07/28/09        | AMEND: 4110  | <b>Title 21</b>  |  |
| 07/27/09        | AMEND: 4130  | 06/22/09         | ADOPT: 7700, 7701, 7702, 7703, 7704,<br>7705, 7706, 7707, 7708, 7709, 7710,<br>7711  |
| 07/24/09        | AMEND: 1391.10, 1391.12  | 05/14/09         | AMEND: 1554, 1556  |
| 07/24/09        | AMEND: 1387, 1387.6  | <b>Title 22</b>  |  |
| 07/17/09        | AMEND: 1999.5  | 07/31/09         | AMEND: 80001, 85002 and 85068.4  |
| 06/26/09        | ADOPT: 2611 AMEND: 2606, 2614,<br>2615, 2616, 2621, 2649 REPEAL: 2612,<br>2613, 2623 | 07/23/09         | AMEND: 120201  |
| 06/26/09        | AMEND: 426.51  | 07/22/09         | AMEND: 51529   |
| 06/16/09        | AMEND: 1524  | 07/20/09         | AMEND: 68201, 68202, 68205, 68206,<br>68207, 68208, 68209, 68210, 68211, and<br>Appendix 1 to Article 1 of Chapter 47  |
| 06/12/09        | AMEND: 2021, 2068.5, 2068.6<br>REPEAL: 2067, 2068                                    | 07/13/09         | AMEND: 66273.3, 66273.39   |
| 06/03/09        | AMEND: 1888  | 06/17/09         | AMEND: 926-3, 926-4, 926-5   |
| 06/02/09        | AMEND: 1419, 1419.1, 1419.3  | 05/21/09         | AMEND: 2601-1  |
| 05/20/09        | ADOPT: 1815 AMEND: 1886.40   | 04/21/09         | AMEND: 51543   |
| 04/28/09        | AMEND: 1524  | 03/12/09         | AMEND: 51517   |
| 04/27/09        | AMEND: 1760  | <b>Title 23</b>  |  |
| 04/03/09        | AMEND: 3830  | 08/05/09         | ADOPT: 3959.2  |
| 03/24/09        | ADOPT: 1398.12   | 07/09/09         | ADOPT: 3959.3  |
| 03/20/09        | AMEND: 1937, 1950, 1950.5, 1953  | 06/25/09         | ADOPT: 3989.8  |
| 03/11/09        | AMEND: 1715, 1784, Form 17M-13,<br>Form 17M-14, Form 17M-26                          | 06/16/09         | ADOPT: 3939.36   |
| 03/04/09        | AMEND: 4181  | 06/01/09         | ADOPT: 2631.2  |
| 03/04/09        | AMEND: 1351.5, 1352  | 05/14/09         | ADOPT: 2920  |
| 03/04/09        | ADOPT: 389   | <b>Title 25</b>  |  |
| 03/04/09        | AMEND: 998   | 05/22/09         | ADOPT: 4200, 4202, 4204, 4206, 4208,<br>4210, 4212, 4214, 4216   |
| 03/04/09        | AMEND: 950.2   | 05/20/09         | AMEND: 8217  |
| <b>Title 17</b> |  |                  |  |
| 06/18/09        | AMEND: 94508, 94509, 94510, 94512,<br>94513, 94515                                   | 05/13/09         | ADOPT: 6932 REPEAL: 6932   |
| 04/24/09        | AMEND: 30100, 30346.1, 30373   | 05/07/09         | ADOPT: 6932 REPEAL: 6932   |
| 03/11/09        | AMEND: 93119   | <b>Title 27</b>  |  |
| <b>Title 18</b> |  |                  |  |
| 07/30/09        | AMEND: 1668  | 07/23/09         | AMEND: 25204   |
| 06/04/09        | AMEND: 1532, 1533.1, 1533.2, 1534,<br>1535   | 04/07/09         | AMEND: 25705(b)  |
| 05/21/09        | AMEND: 25114   | <b>Title MPP</b> |  |
| 05/12/09        | AMEND: 1502  | 07/06/09         | ADOPT: 31-003, 31-502 AMEND:<br>31-002   |
| 04/29/09        | AMEND: 1591  | 06/29/09         | AMEND: 11-425, 22-001, 22-003,<br>22-009, 45-302, 45-303, 45-304,<br>45-305, 45-306  |
| 04/06/09        | ADOPT: 25113 AMEND: 25111  |                  |  |
| 03/19/09        | AMEND: 23701, 23772  |                  |  |
| 03/11/09        | AMEND: 1506, 1524  |                  |  |
| 03/11/09        | AMEND: 1705  |                  |  |
| <b>Title 20</b> |  |                  |  |
| 08/03/09        | AMEND: 1670, 1671, 1672, 1673, 1674,<br>1675   |                  |  |