



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT OF INTEREST CODES

AMENDMENT

MULTI-COUNTY: Marin/ Sonoma Mosquito and Vector Control District

A written comment period has been established commencing on **September 5, 2008**, and closing on **October 20, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention Sarah Olson, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **October 20, 2008**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT
OF INTEREST CODES

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

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3589, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Japanese Beetle Eradication Area as an emergency action that was effective on June 30, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than December 28, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before October 20, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth

the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3589, subsection (a), was amended and established Merced County as an eradication area for Japanese beetle, *Popillia japonica*. The effect of this action was to establish authority for the State to conduct eradication activities in Merced County. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3589 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3589 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

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

EFFECT ON BUSINESSES

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

COST IMPACT ON AFFECTED PRIVATE
PERSON OR BUSINESSES

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

ASSESSMENT

The Department has made an assessment that the proposed adoption and amendment to the regulations would not (1) create or eliminate jobs within California,

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3589, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend Section 3589, subsection (a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

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

INTERNET ACCESS

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3417, subsection (b), of the regulations in Title 3 of the California Code of Regulations pertaining to Mexican Fruit Fly Interior Quarantine as an emergency action that was effective on July 22, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 18, 2009.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 180 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before October 20, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of

California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

This proposed amendment of Section 3417(b) removed approximately 78 square miles surrounding the infestation in the Escondido area of San Diego County as the area under quarantine for Mexican fruit fly. The fly was eradicated from this area on July 15, 2008; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. The effect of this amendment is to remove the authority for the State to regulate the movement of hosts of Mexican fruit fly from, into, and within the area under quarantine because the fly has been eradicated from that area and the quarantine is no longer necessary for the protection of California's agricultural industry. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3417(b) does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3417. No reimbursement is required for Section 3417 under Section 17561 of the Government Code because this amendment removes a portion of San Diego County from the area under quarantine from the regulation; therefore, enforcement is no longer necessary. There are no mandated costs associated with the removal of this area (Escondido) from the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

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

EFFECT ON BUSINESSES

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

ASSESSMENT

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3417(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services,

1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 10. DEPARTMENT OF INSURANCE

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

**Proposed Amendments to Title 10,
California Code of
Regulations, Chapter 5, Subchapter 4.7,
Section 2632.5**

[Pay-Drive (Usage Based Auto Insurance)]

Publication: September 5, 2008 File No. REG-2008-00020

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

SUBJECT OF HEARING

Notice is hereby given that Insurance Commissioner Steve Poizner ("Commissioner") proposes to adopt

regulations amending California Code of Regulations (CCR), Title 10, Chapter 5, Subchapter 4.7, Article 3, Section 2632.5 (Section 2632.5) after considering comments from the public.

California Insurance Code (CIC) Section 1861.02(a), added by Proposition 103, provides that rates and premiums for an automobile insurance policy shall be determined by applying three mandatory auto rating factors and various optional auto rating factors. The number of miles the insured drives annually is the second mandatory rating factor. The auto rating factors are currently implemented by CCR Section 2632.5. The second mandatory rating factor is currently implemented by CCR Section 2632.5(c)(2). These regulations will amend the implementation of the auto rating factors by amending Section 2632.5 and will improve the correlation between automobile premiums and the actual number of miles an insured drives pursuant to the second mandatory rating factor.

Although the proposed regulation text is limited to verification of mileage pursuant to the second mandatory rating factor, the Commissioner may consider additional changes relating to auto rating factors in this rule-making. Potential changes to CCR section 2632.5 governing the other rating factors are expressly within the scope of this notice.

AUTHORITY AND REFERENCE

The Commissioner proposes to amend California Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, Article 3, Section 2632.5 under the express authority of CIC Section 1861.02(e). The proposed amendments implement, interpret, and make specific CIC Section 1861.02(a).

These regulations are also authorized by *CalFarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805 [258 Cal.Rptr. 161], *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.1.4th 216 [32 Cal.Rptr.2d 807], and *Spanish Speaking Citizens Foundation, Inc. v. Low* (2000) 85 Cal.App.4th 1179, 1214-17 [103 Cal.Rptr.2d 75].

PUBLIC HEARING

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

Date and time: October 20, 2008 — 10:00 a.m.

**Location: Department of Insurance Hearing
Room
45 Fremont Street, 22nd Floor
San Francisco, CA 94105**

The hearing will continue on the date noted above until all testimony has been submitted or 5:00 p.m., whichever is earlier.

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS

All persons are invited to submit oral and/or written comments at the scheduled hearing. Written comments can also be submitted before the hearing. Send written comments to the Department's contact person for this regulation listed below:

Daniel Goodell
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4191
PubComments.2008-020@insurance.ca.gov

You may address questions regarding the hearing, comments, or the substance of the proposed action to the above contact person. If the above contact person is unavailable, inquiries may be made to Sara Urakawa at (415) 538-4121.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Commissioner, c/o the contact person at the address listed above, by no later than **5:00 p.m. on October 20, 2008**. Any materials received after that time will not be considered.

COMMENTS TRANSMITTED BY ELECTRONIC COMMUNICATION

The Commissioner will accept written comments transmitted by e-mail to the following e-mail address: **PubComments.2008-020@insurance.ca.gov**. Email attachments in the following formats are acceptable: Adobe Acrobat (PDF), MS Word (DOC). Other formats may not be acceptable. As an alternative, the Commissioner will also accept written comments transmitted by facsimile if directed to the attention of Daniel Goodell at the following fax number: (415) 904-5490. **Do not send comments by both email and facsimile. Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

ACCESS TO HEARING ROOMS

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

ADVOCACY OR WITNESS FEES

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

California Department of Insurance
Office of the Public Advisor
45 Fremont St, 21st floor
San Francisco, CA 94105
415-538-4190

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

INFORMATIVE DIGEST

Summary of Existing Law

California Insurance Code Section 1861.02(a), added by Proposition 103, provides that rates and premiums for an automobile insurance policy shall be determined by applying three mandatory rating factors and various optional factors. The second mandatory factor is the number of miles driven annually.

CCR Section 2632.5(c)(2) provides that, pursuant to CIC section 1861.02(a)(2), the number of miles driven annually means "the estimated annual mileage for the insured vehicle during the 12 month period following inception of the policy."

CCR Section 2632.5(c)(2)(A) through (H) list the types of information an insurer can request or require from an insured for the purpose of determining estimated annual mileage, and set forth other rules regarding compliance with the second mandatory rating factor listed in CIC Section 1861.02(a).

CCR Section 2632.5(d) lists the optional auto rating factors that the Commissioner has approved for use pursuant to 1861.02(a)(4).

CCR Section 2632.5(e) specifies that the three mandatory auto rating factors may not be combined with any other factor except as provided in this subdivision.

Effect of Proposed Action

The proposed amendments to CCR Section 2632.5 will further the implementation of Proposition 103 and the auto rating factors. This will be accomplished primarily by expanding the use of actual number of miles an insured drives as opposed to estimated number of miles, and by improving the correlation between automobile premiums and the actual number of miles an insured drives.

Policy Objective

The Commissioner's objective in amending CCR Section 2632.5 is to more fully implement the secondary mandatory auto rating factor and make automobile premiums more closely reflect the actual number of miles an insured drives annually. The Commissioner's further policy objective is to make automobile premiums more accurately reflect the risk associated with providing insurance to a particular individual.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to Government Code Section 11346.45, and California Code of Regulations, title 10, section 2646.3, the California Department of Insurance held a publicly noticed workshop on the topic of this regulation on June 23, 2008. Insurers and other parties who would be subject to the proposed regulation were invited and many attended the workshop.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

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

COST OR SAVINGS TO ANY STATE AGENCY

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

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH OTHER STATES

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

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

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON JOBS IN CALIFORNIA

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

FINDING OF NECESSITY

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

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Commissioner invites the public to propose alternatives. No reasonable alternative to the proposed regulations is currently apparent.

IMPACT ON SMALL BUSINESS

These regulations may change the way some or all insurance companies determine the number of miles an insured drives annually. Insurance companies are by definition not small businesses, pursuant to Paragraph (b)(2) of Government Code section 11342.610. However, the Commissioner has determined that if insurance companies choose to use insurance agents to check odometers of insureds in response to this regulation then, to the extent insurance agents are small businesses, these regulations would have an impact on small business. Other than this potential impact on insurance agents, the Commissioner has determined that these regulations will not affect small business.

COMPARABLE FEDERAL LAW

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

TEXT OF REGULATIONS AND STATEMENT OF REASONS

The Commissioner has prepared an initial statement of reasons that sets forth the reasons for the proposed action. The Commissioner also has available all the information upon which this proposed action is based, and the express terms of the proposed action. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying after it has been prepared.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information contained in the rulemaking file, is available for inspection and copying

by prior appointment at 45 Fremont Street, 21st Floor, San Francisco, California, 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Written requests for the rulemaking file or questions regarding this proceeding should be directed to the contact person listed above.

FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. You can access the final statement of reasons on the Department's website by following the instructions under "WEBSITE POSTINGS" below. Alternatively, upon **written or e-mail** request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Commissioner's mailing list. Additionally, a copy of the proposed text of the regulations and a copy of the initial statement of reasons is available on the department's website as described in the next section.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. One way to access them is to enter the following address in a web browser:

<http://www.insurance.ca.gov/0250-insurers/0500-legal-info/0200-regulations/proposed-regulations.cfm>.

Then click on the link labeled "**Search for Proposed Regulations.**"

When the search field appears, enter "**REG-2008-00020**" (the Department's regulation file number for these regulations).

Alternatively, on the same page, instead of entering the file number, you can click on a link to browse through a list of proposed regulations. Click on the regulation labeled "**PAY-DRIVE (USAGE-BASED AUTO INSURANCE).**"

AVAILABILITY OF MODIFIED TEXT OF REGULATION

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

copy of these regulations prior to adoption from the contact person listed above.

TITLE 14. DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED ACTION

SIGNATURE DEFINITION AND ELECTRONIC 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 1, 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 1. DEFINITIONS

§ 2000. DEFINITIONS

New Subsection 2000(a) 45.5: This subsection has been added to the regulations to allow “signature” or “signed” to mean either an original handwritten signature or an electronic signature. An electronic signature is defined to include an electronic sound, symbol or process. An electronic signature shall consist of a unique username and password. An electronic signature is as binding as a handwritten signature for all purposes under the law.

SUBCHAPTER 2. GENERAL REQUIREMENTS

Article 4. General Accounting Requirements

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

Subsection 2090(a): This subsection has been amended to add that “applicable supporting data” along with any reports, notices and claims shall be prepared and submitted in the form designated by the Division. The statement that “all information shall be complete and accurate” has been added to this subsection.

Old Subsection 2090(b)(1) and (2): This subsection has been deleted because the language in this subsection is obsolete.

New Subsection 2090(b)(1) and (2): This subsection has been updated to reflect current technology in electronic reporting and the submission of documents to the Division electronically. This subsection states that any electronically filed report, notice, claim or other document shall be as valid as the original document. This subsection also requires all program participants to comply with the recordkeeping and record retention provisions required by these regulations.

Subsection 2090(c): This subsection has been amended to remove the phrase “Except as provided in subsection (b) above”. The new phrase “When using paper forms” has been added to replace the former text. This new phrase clarifies that paper forms, along with reports, notices, claims and all applicable supporting data shall be accurate, complete, and typed or legibly handwritten in English using permanent ink. The word “Department” has been deleted and replaced with “Division” to be consistent with the rest of the section.

SUBCHAPTER 6. RECYCLING CENTERS

Article 2. Handling Fees

§ 2516. ELIGIBILITY CRITERIA

Subsection 2516(e): The word “postmarked” has been deleted and “submitted” has been added to this section to allow for electronic reporting.

Article 3. Accounting and Reporting Requirements

§ 2530. REPORTING

Subsection 2530(h): The word “postmarked” has been deleted and “submitted” has been added in this section to allow for electronic reporting.

SUBCHAPTER 7. DROPOFF OR COLLECTION PROGRAMS

Article 3. Individual Commingled Rate

§ 2620. OBTAINING DIVISION APPROVAL

Subsection 2620(c)(8): The word “postmarked” has been deleted and “submitted” has been added in this section to allow for electronic reporting.

§ 2630. SURVEY APPLICATION PROCESSING TIME

Subsection 2630(a): The word “postmarked” has been deleted and “submitted” has been added in this section to allow for electronic reporting.

SUBCHAPTER 8. CURBSIDE PROGRAMS

Article 2. Individual Commingled Rate

§ 2660. OBTAINING DIVISION APPROVAL

Subsection 2660(c)(8): The word “postmarked” has been deleted and “submitted” has been added in this section to allow for electronic reporting.

§ 2670. SURVEY APPLICATION PROCESSING TIME

Subsection 2670(a): The word “postmarked” has been deleted and “submitted” has been added in this section to allow for electronic reporting.

SUBCHAPTER 9. COMMUNITY SERVICE PROGRAMS

Article 3. Individual Commingled Rates

§ 2720. OBTAINING DIVISION APPROVAL

Subsection 2720(c)(8): The word “postmarked” has been deleted and “submitted” has been added in this section to allow for electronic reporting.

§ 2730. SURVEY APPLICATION PROCESSING TIME

Subsection 2730(a): The word “postmarked” has been deleted and “submitted” has been added in this section to allow for electronic reporting.

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. 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 Cheryl Dubose, who may be contacted at (916) 323-0728. 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 of-

fer 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 October 20, 2008. 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, Signature Definition and Electronic 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, 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 improved 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 needs to amend the regulations to define "signature" as being an original handwritten signature or an electronic signature. The Division is also amending Section 2090 to update the language in the text for electronic submission of documents. The Division is updating several sections in the text to replace the term "postmarked" with "submitted" to allow for electronic submission of documents. The Division will continue to allow program participants to submit paper copies of all required documents indefinitely.

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, 14500, 14501(f), 14503, 14503.6, 14504, 14505, 14506.5, 14509.5(b), 14511.7, 14512, 14512.5, 14513, 14513.4, 14514.4.1, 14514.7, 14517, 14518, 14518.5, 14519.5, 14520, 14520.5, 14520.6, 14522.5, 14524, 14525.5.1, 14526, 14526.6, 14530, 14530.2, 14536(a), 14537, 14538, 14539, 14541, 14549.1, 14550, 14551, 14552, 14553, 14561, 14571.2, 14571.8(b), 14571.9, 14572, 14573, 14573.5, 14573.51, 14574, 14575(a) and (b), and 14585

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these pro-

posed regulations do not impose any new mandates on local agencies or local school districts.

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

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

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

Costs or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

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

Potential cost impact on private persons or directly affected businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These proposed regulations will serve to clarify and make specific existing statutory requirements.

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

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

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

Effects on small businesses: The Department has determined that the adoption of these proposed regulations may affect small businesses. The Department has determined that these regulations 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.

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.

TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Pharmacy at its office not later than 5:00 p.m. on October 20, 2008.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5 p.m. on October 6, 2008.

The Board of Pharmacy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who

submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 4005 of the Business and Professions, and to implement, interpret, or make specific sections 4300 of the Business and Professions Code, the Board of Pharmacy is considering changes to Division 17 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 4005 generally authorizes the board to amend rules and regulations pertaining to the practice of pharmacy.

Business and Professions Code section 4300 authorizes the board to discipline a licensee as well as refuse to issue a license to an applicant.

Amend Section 1773 to include completion of an ethics course that meets requirements specified in 16 CCR section 1773.5.

Adopt Section 1773.5 to define the ethic course required as a condition of probation as provided for in the "Disciplinary Guidelines."

Existing regulation 16 CCR 1760 specifies that the board, in reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.) the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (Rev. 1/2001), which are incorporated by reference in this section. These "Disciplinary Guidelines" provide for an ethics course, but does not address minimum requirements for the provider or course content.

The proposed regulation would specify all the criteria for an ethics course to include: duration; faculty; educational objective; method of instruction; content (background assessment, baseline assessment, participant's expectations, didactic presentation, experiential exercises, and a longitudinal follow-up); class size evaluation; records; program completion; and change in course content or instructor.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None.

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

Business Impact: The board determined that the proposed regulatory action would have no significant adverse impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. This proposal would apply to all pharmacies. Nonresident pharmacies providing compounded medications to California residents would also need to comply with this regulation, providing parity for business and consumer protection to Californians.

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

Cost Impact on Representative Private Person or Business: The 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. This regulation will not have a significant adverse economic impact on businesses since the regulation would only be applicable to pharmacists who are disciplined by the board, placed on probation, and ordered to take an ethics course as a condition of probation.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The board has determined that this proposed regulation would not affect small businesses because the regulation is applicable only to pharmacists who are disciplined by the board, placed on probation, and ordered to take an ethics course as a condition of probation.

CONSIDERATION OF ALTERNATIVES

The Board of Pharmacy must determine that no reasonable alternative which it considered either would be more effective than or as effective as and less burdensome on affected private persons than the proposal described.

Any interested person may present written statements relevant to the above determinations to the Board of Pharmacy at the above-mentioned address.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Pharmacy has prepared an initial statement of the reasons for the proposed action and has

available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and the initial statement of reasons may be obtained upon request from the Board of Pharmacy at 1625 N. Market Blvd. N219, Sacramento, California 95834, or from the Board of Pharmacy Web site (www.pharmacy.ca.gov).

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

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

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

CONTACT PERSON

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

Name: Karen Cates
 Address: 1625 N. Market Blvd. N219
 Sacramento, CA 95834
 Telephone No.: (916) 574-7914
 Fax No.: (916) 574-8618
 E-Mail Address: karen_cates@dca.ca.gov

The backup contact person is:

Name: Anne Sodergren
 Address: 1625 N. Market Blvd. N219
 Sacramento, CA 95834
 Telephone No.: (916) 574-7910
 Fax No.: (916) 574-8618
 E-Mail Address: anne_sodergren@dca.ca.gov

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

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
 Title 17, California Code of Regulations
 SUBJECT: Financial Surety, **DPH-06-018**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct a written public proceeding, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The proposed amendments to Title 17, California Code of Regulations, § 30195.1, update financial assurance requirements for certain radioactive material licensees to maintain adequate financial coverage for decommissioning. The regulations that implement, interpret and make specific the provisions of the Radiation Control Law are in Title 17, California Code of Regulations, §§30100 through 30395.

The Radiation Control Law (Health & Saf. Code, §§ 114960–115273), requires the California Department of Public Health (Department), the successor to the California Department of Health Services pursuant to the California Public Health Act (CPHA) of 2006 (Stats. 2006, c. 241 (Ortiz, SB 162)) as of July 1, 2007, to develop programs for licensing and regulating radioactive materials. (Health & Saf. Code, § 115000, subd. (b).) In 1962, the State of California ratified and approved the State entering into an agreement with the United States Atomic Energy Commission (AEC), the predecessor of the United States Nuclear Regulatory Commission (NRC), by which the federal agency discontinued its regulatory authority over certain radioactive materials. (Health & Saf. Code, § 115230.) By such action California became an "Agreement State."

A provision of the agreement between California and the NRC specifies that the State "will use its best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials." (Health & Saf. Code, § 115235, art. V.) NRC's stated policy is "to evaluate Agreement State programs established pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, to ensure they are adequate to protect public health and safety and compatible with NRC's regulatory program."¹ To determine a state's compatibility, the NRC uses Management Directive 5.9, *Adequacy and Compatibility of Agreement State*

*Programs, Handbook 5.9.*² This handbook describes the specific criteria and process that are used to clarify the NRC program elements that should be adopted and implemented by an Agreement State for purposes of compatibility, and those NRC program elements that have a particular health and safety significance. The NRC rates the elements on the degree of compatibility required. Thus, the NRC requires that some be adopted by the states in a form identical to the NRC's while adoption of others need not be identical but are required to meet the essential objective of the program element. (For NRC compatibility definitions, see Attachment 1.) The overall determination of adequacy and compatibility for an Agreement State is made pursuant to Management Directive 5.6, *The Integrated Materials Performance Evaluation Program (IMPEP)*.³ The NRC evaluates Agreement States every three to four years to determine if a state's radiation safety program meets the adequacy and compatibility criteria. If California fails to meet those criteria the NRC may revoke California's status as an Agreement State.

The NRC amends its regulations continuously, which affect the State's status as an Agreement State and the compatibility of State regulations with those of the NRC. To ensure compliance with the NRC agreement and compatibility of State regulations, this proposal addresses changes made to NRC's Financial Surety regulations found in title 10, Code of Federal Regulations, Parts 30 and 40 as specified in the following federal registers:

- 62 Fed.Reg. 23394 (Apr. 30, 1997)
- 63 Fed.Reg. 29535 (June 1, 1998)
- 67 Fed.Reg. 62403 (Oct. 7, 2002)
- 68 Fed.Reg. 57327 (Oct. 3, 2003)

On October 7, 2002, the NRC published proposed amendments to the requirements for financial assurance for certain radioactive materials licensees (67 Fed.Reg. 62403 (Oct. 7, 2002)). Revision to financial assurance requirements for some licensees is needed because there have been increases in decommissioning costs since the NRC established financial assurance requirements in 1988. (53 Fed.Reg. 24018 (June 27, 1988).) Decommission means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for un-

¹ "Adequacy and Compatibility of Agreement State Programs," Management Directive 5.9, page 1. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsrdo.ornl.gov/nrc/procfm.htm>. (Reference 1.)

² "Adequacy and Compatibility of Agreement State Programs," Management Directive 5.9, Handbook 5.9. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsrdo.ornl.gov/nrc/procfm.htm>. (Handbook 5.9 is included within Reference 1.)

³ "Integrated Materials Performance Evaluation Program (IMPEP)," Management Directive 5.6. The document is available at the Nuclear Regulatory Commission, Office of State Programs website: <http://www.hsrdo.ornl.gov/nrc/procfm.htm>. (Reference 2.)

restricted use and termination of the license. (Cal. Code Regs., tit. 17, § 30100(c).)

The financial assurance regulations are part of an overall NRC strategy to maintain safety and protection of the public and the environment during and after decommissioning and decontamination of licensed facilities. These regulations would also decrease the likelihood that State and local governments and/or the general public would have to bear the costs of decommissioning, should the licensee not be able to do so.

If a radioactive materials facility remains in a non-operational status without being decommissioned, public health and safety could be compromised by leakage, contamination, and/or loss of control of radioactive materials. Availability of adequate funding is necessary to assure that timely decommissioning of facilities takes place following cessation of licensed operations.

The NRC amended its regulations for financial assurance (68 Fed. Reg. 57327 (Oct. 3, 2003)) for certain materials licensees, including all waste processors and collectors, to bring the required financial assurance dollar amounts more in line with current decommissioning costs. The objective is to ensure that licensees maintain adequate financial assurance so that decommissioning can be carried out following shutdown of normal operations at a licensed facility.

This proposal readopts the NRC financial assurance regulations as amended by NRC.

The Department proposes to amend **Section 30195.1** for consistency with NRC's regulations in title 10, Code of Federal Regulations (10 CFR), section 30.35 and appendices A through E of 10 CFR 30 and 10 CFR 40.36 both published January 1, 2007, which are incorporated by reference, relating to financial surety.

AUTHORITY

Sections 115000, 115091 and 131200, Health and Safety Code.

REFERENCE

Sections 114965, 114970, 115060, 115091, 115092, 115235, 131050, 131051 and 131052, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on October 24, 2008, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

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

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-5747; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "DPH -06-018" in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Phillip L. Scott of the Radiologic Health Branch at (916) 440-7978, or to the designated backup contact person, Jennifer Granger at (916) 440-7443.

All other inquiries concerning the action described in this notice may be directed to Barbara Gallaway of the Office of Regulations and Hearings at (916) 440-7689, or to the designated backup contact person, Maureen Miyamura at (916) 440-7841.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-06-018.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of

public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation (at the bottom of the page); Regulations; Proposed and Emergency Regulations.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

FISCAL IMPACT ESTIMATE

- A. FISCAL IMPACT ON LOCAL GOVERNMENT: None
- B. FISCAL IMPACT ON STATE GOVERNMENT: None
- C. FISCAL IMPACTS ON FEDERAL FUNDING OF STATE PROGRAMS: None.
- D. FISCAL IMPACT ON PRIVATE PERSONS OR BUSINESSES DIRECTLY AFFECTED: Estimated impact on licensees is as follows:
 - \$75,000 surety level increases to \$113,000.
 - \$150,000 level increases to \$225,000.
 - \$750,000 level increases to \$1,125,000.
 - Funding plan required for licensees.

Costs to obtain surety instruments vary within the industry and cannot be accurately estimated.

- E. OTHER NON-DISCRETIONARY COST OR SAVINGS IMPOSED ON LOCAL AGENCIES: None.

DETERMINATIONS

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

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

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

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

The Department has determined that the proposed regulations will affect small business because they will be legally required to comply with the regulation and may incur a detriment from the enforcement of the regulation.

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

ADDITIONAL STATEMENTS AND COMMENTS

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

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an

alternate format, please call or write: Barbara Galloway, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, voice (916) 440-7689 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 17, California Code of Regulations

SUBJECT: Testing Standards for Laboratories Performing HIV Screening,
DPH-07-010

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health (Department) will conduct written public proceedings during which time any interested person or such person’s duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The intention of Health and Safety (H&S) Code Section 120885 (Chapter 23, Statutes of 1985) was to ensure that safe blood and blood components were available for transfusion, and that testing would be provided for the probable causative agent of acquired immune deficiency syndrome (AIDS) as a function separate from blood donation. The uncodified Section 5 of the statute stated that no laboratory should provide human immunodeficiency virus (HIV) antibody testing without approval by the Department, formerly the California Department of Health Services. Under authority of H&S Code Sections 1603.1(f) and 100275 and Business and Professions (B&P) Code Section 1224, the Department set standards for approval of laboratories testing for HIV antibodies. These standards continue to this day.

The current standards for HIV screening tests differ substantially from existing comparable federal regulations regarding proficiency testing. Federal regulations at 42 Code of Federal Regulations (CFR) 493.803 state that, “Each laboratory performing nonwaived testing

must successfully participate in a proficiency testing program approved by CMS.” There is no requirement in federal regulations that laboratories performing waived testing successfully participate in a proficiency testing program. Although implied in current regulations at Title 17 California Code of Regulations (CCR) Section 1230, amendments are proposed to clarify that waived HIV screening tests are not subject to proficiency testing requirements.

Because of changing technology and standards imposed since enactment of these regulations, the Department is proposing to repeal the existing Section 1230 and adopt a new Section 1230 which will include some of the requirements from the existing Section 1230.

Specifically, the changes to Section 1230 would:

1. Repeal the requirement that all laboratories, blood banks, public health laboratories, and serology laboratories be licensed or registered by the Department because this is redundant and unnecessary.
2. Repeal the requirement that all HIV screening facilities participate in proficiency testing as this is redundant and unnecessary.
3. Repeal the requirement that all laboratories be approved by the Department before testing for HIV antibodies.
4. Repeal the requirement for use of a federal Food and Drug Administration (FDA) approved HIV screening kit. A paragraph in the new Section 1230 is based on this requirement.
5. Repeal the requirement for confirmation of screened positive HIV results. A paragraph in the new Section 1230 is based on this requirement.
6. Repeal the requirement that all indeterminate HIV results be re-tested. A paragraph in the new Section 1230 is based on this requirement.
7. Repeal the requirement that all HIV-testing laboratories maintain confidential records as this is redundant and unnecessary.
8. Repeal the requirement that all laboratories performing HIV antibody screening submit monthly reports to the Department on number of tests performed and results.
9. Repeal the requirement that approval for laboratories performing HIV screening be denied or terminated for failure to comply with these standards to specify that sanctions shall be imposed for failure to comply. A subsection in the new Section 1230 is based on this requirement.
10. Adopt quality assurance procedures for laboratories performing waived HIV tests.

AUTHORITY

Sections 1603.1(f), 100275, 131050, and 131200 of the Health and Safety Code and Section 1224 of the Business and Professions Code.

All other inquiries concerning the action described in this notice may be directed to Maureen Miyamura of the Office of Regulations and Hearings at (916) 440-7841, or to the designated backup contact person, Barbara Gallaway, at (916) 440-7689.

REFERENCE

Sections 1220, and 1265, Business and Professions Code, and Sections 1603.1, 101160, 120895, 131050, 131051, 131052, Health and Safety Code.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-07-010.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on October 22, 2008, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-5747; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "DPH-07-010" in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Karen Nickel of Laboratory Field Services at (510) 620-3790.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at [Proposed Regulations](#) or www.cdph.ca.gov and clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation (bottom of page), Regulations, Proposed and Emergency Regulations.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None.
- B. Fiscal Effect on State Government: None.
- C. Fiscal Effect on Federal Funding of State Programs: None.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS

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

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

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

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

The Department has determined that the regulations would affect small business.

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

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is pro-

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

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

TITLE 22. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking Title 22, California Code of Regulations

SUBJECT: Scope of Practice in Licensed Health Facilities, **DPH-05-010**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct a public hearing commencing on October 23, 2008, at 10 a.m. in the Auditorium, 1500 Capitol Avenue, Sacramento, CA, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Health and Safety Code sections 1275 and 100275 grant the California Department of Health Services the general authority to adopt, amend, enforce, or repeal any reasonable rules and regulations as may be necessary to enable the Department to exercise the powers and perform the duties conferred upon it. In 2007, the Department of Health Services was legislatively reorganized (Ortiz, S.B. 162, Chapter 241, Statutes of 2006) into two separate departments, the new Department of Health Care Services and the new Department of Public Health. Health and Safety Code (HSC) section 131051 transferred the duties, powers, and responsibilities of the Licensing and Certification (L&C) Program to the Department of Public Health and HSC section 131200 vests rulemaking authority for L&C in the Department of Public Health (Department).

Standards with which healthcare facilities shall comply for licensure are found in Title 22 California Code of Regulations (CCR) Division 5. The California Department of Public Health (Department) is proposing amendments to Division 5 of the CCR to affirm the rights of a licensed health care practitioner who, acting within the scope of his or her professional licensure and

as a member of the medical staff, assumes overall responsibility for the care of a patient. The proposed amendments are necessary to bring the regulations into conformance with Health and Safety Code Sections 1315, 1316, and 1316.5. The proposed regulation amendments delete specific references to a physician in those instances when another category of licensed health care practitioner, as a member of the medical staff and within the scope of his or her professional licensure, is authorized by law to perform the function.

The statutory provisions being addressed by the proposed amendments are summarized as follows:

1. Health and Safety Code Section 1315 provides that dental services, as defined in the Dental Practice Act, may be provided patients in licensed health facilities. Such services shall be provided by persons licensed by the State of California pursuant to Section 1611 of the Business and Professions Code. However, this section shall not limit or restrict the right of a licensed physician and surgeon to perform any acts authorized under the Medical Practice Act.
2. Health and Safety Code Section 1316 provides that the rules of a health facility shall include provisions for the use of the facility by, and staff privileges for, duly licensed podiatrists within the scope of their respective licensure, subject to rules and regulations governing such use or privileges established by the health facility. Such rules and regulations shall not discriminate on the basis of whether the staff member holds a M.D., D.O., or D.P.M. degree, within the scope of their respective licensure. . . medical staff status shall include and provide for the right to pursue and practice full clinical and surgical privileges for holders of M.D., D.O., and D.P.M., degrees within the scope of their respective licensure. . . If a health service is offered, the facility shall not discriminate between persons holding M.D., D.O., or D.P.M. degrees who are authorized by law to perform such services.
3. Health and Safety Code Section 1316.5 provides that each health facility owned and operated by the state offering care or services within the scope of practice of a psychologist shall establish rules and medical staff by laws that included provisions for medical staff membership and clinical privileges for clinical psychologists within the scope of their licensure as psychologists. . .the rules and regulations shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology. . . .medical staff status shall include

and provide for the right to pursue and practice full clinical privileges for holders of a doctoral degree of psychology within the scope of their respective licensure.

4. For health facilities not owned or operated by the state, Health and Safety Code Section 1316.5 provides “If a health service is offered by a health facility with both licensed physicians and surgeons and clinical psychologists on the medical staff, which both licensed physicians and surgeons and clinical psychologists are authorized by law to perform, the service may be performed by either, without discrimination.”

Additionally, the Department made punctuation, capitalization and spelling changes, remedying word omissions and the updating of the authority and reference note as nonsubstantive amendments.

Specifically, the sections in 22CCR Division 5 proposed for amendment are as follows:

Chapter 1. General Acute Care Hospitals. Sections 70577, 70703, 70706, 70707, 70717, 70749, 70751 and 70753.

Chapter 2. Acute Psychiatric Hospital. Sections 71203, 71205, 71503, 71507, 71517, 71545, 71551 and 71553.

Chapter 3. Skilled Nursing Facilities. Sections 72091, 72109, 72303, 72311, 72315, 72319, 72337, 72413, 72423, 72433, 72453, 72461, 72471, 72515, 72523, 72525, 72528, 72543, and 72547.

Chapter 4. Intermediate Care Facilities. Sections 73077, 73089, 73303, 73311, 73313, 73315, 73329, 73399, 73409, 73449, 73469, 73479, 73489, 73517, 73519, 73523, 73524, 73543 and 73547.

Chapter 11. Chemical Dependency Recovery Hospital Licensing Regulations. Sections 79315, and 79351.

Chapter 12. Correctional Treatment Centers. Sections 79637 and 79689.

AUTHORITY

Sections 1267.10(a), 1275, 1275.2, 100275 and 131200, Health and Safety Code.

REFERENCE

Sections 1250(j), 1250.3, 1254, 1254.2, 1255, 1260.3, 1275, 1275.2, 1276, 1285, 1315, 1316, 1316.5, 1320, 1599, 1599.1, 1599.72, 131050, 131051 and 131052, Health and Safety Code; Section 5325, Welfare and Institutions Code; *Valdivia, et al. v. Coye*, US District Court for the Eastern District of California, Case No. CIV S-90-1226; *Cobbs v. Grant* (1972) 8 Cal. 3d 229.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on October 27, 2008, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-5747; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "DPH -05-010" in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Gina Henning, Chief Policy, Research and Enforcement Branch of Licensing and Certification, at (916) 440-7360.

All other inquiries concerning the action described in this notice may be directed to Barbara Gallaway of the Office of Regulations and Hearings at (916) 440-7689, or to the designated backup contact person, Maureen Miyamura, at (916) 440-7841.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-05-010.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None
- B. Fiscal Effect on State Government: None
- C. Fiscal Effect on Federal Funding of State Programs: None

- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

DETERMINATIONS

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

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

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

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

The Department has determined that the regulations would not affect small business because the proposed amendments implement the California statutory mandate that as members on a healthcare facility's organized medical staff, the rules shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M or doctoral degree in psychology and they may perform any health service they are authorized by law to perform without discrimination. The proposed amendments implement the mandates of state statute, specifically Health and Safety Code Sections 1315, 1316, and 1316.5.

The Department has made the initial determination that the adoption of these proposed regulations would not have a significant statewide effect on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

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

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

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Barbara Gallaway, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, voice (916) 440-7689 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

GENERAL PUBLIC INTEREST

TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

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

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

Bay Recycling
800 77th Avenue
Oakland, CA 94621

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

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

Fries Landscaping
25421 Clough
Escalon, CA 95320

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

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

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

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

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

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

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

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

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

LOCATION: Cappell Creek Bridge, Mawah Creek Bridge, Rube Ranch Creek Bridge, and Martins Ferry School Creek Bridge on State Route 169 at Post Mile 22.2/30.2, Humboldt County

NOTIFIER: California Department of Transportation (Caltrans)

BACKGROUND

The Four Bridge Replacement Project (the Project) is located on State Route (SR) 169 in Humboldt County. Project construction includes replacement of four deteriorating old bridges over separate creeks with new structures, namely Cappell Creek Bridge (post mile 22.4), Mawah Creek Bridge (post mile 25.0), Rube Ranch Creek Bridge (post mile 28.5), and Martins Ferry School Creek Bridge (post mile 30.0). All four streams flow directly into the Klamath River below the confluence with the Trinity River. The Project is slated to begin in 2009 and be completed by 2013.

At each site the Project involves staged bridge removal and replacement, leaving one lane available on each bridge to pass traffic during construction. Activities associated with the bridge replacements include geotechnical drilling, driving or drilling small piles outside the low-flow channel, placement of temporary center supports and foundation pads in the low-flow channel, placement of rock slope protection (RSP), diverting and dewatering of the streams, using upslope areas near Martins Ferry School Creek Bridge and Cappell Creek Bridge for staging and on-site concrete production, and removal of a concrete apron. Water for concrete production will come from either the Caltrans maintenance station in Orleans or other commercial sources. The Project also requires the removal of trees and other vegetation for equipment access, shifting road alignments at both ends of the bridges, and widening of roadways to accommodate smooth shoulder transitions to and from the bridge sites.

Of the four bridge sites, two contain habitat for anadromous fish species; the Cappell Creek and Mawah Creek sites contain habitat for steelhead (*Oncorhynchus mykiss*) of the Klamath Mountains Province Evolutionarily Significant Unit (ESU). Steelhead of this ESU are not currently listed pursuant to either the federal Endangered Species Act (ESA; 16 U.S.C. §1531 *et seq.*) or the California Endangered Species Act (CESA; Fish & Game Code, §2050 *et seq.*).

Of the four bridge replacement sites, the Cappell Creek site is the only one with a creek channel gradient low enough to be considered suitable for coho salmon (*Oncorhynchus kisutch*) of the Southern Oregon/Northern California Coast (SONCC) ESU. Coho salmon of

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
Tracking Number 2080-2008-019-01

PROJECT: Four Bridge Replacement Project on State Route 169

the SONCC ESU are listed as threatened species pursuant to both ESA and CESA. Spawning coho salmon have been observed below the bridge apron at Cappell Creek. A concrete apron downstream from the current Cappell Creek bridge structure crosses the stream channel and appears to represent a barrier to migration for coho salmon, especially during low flow conditions. Of the anadromous fish species, only steelhead have been observed upstream of the apron. Cool-water rearing habitat and possible spawning habitat, similar to that below the bridge site, is present above the apron. As part of the proposed Project, Caltrans proposes removing the concrete apron to restore access by SONCC coho to this potential habitat.

Project activities that may affect SONCC coho or its habitat include diversion, dewatering, and fish relocation necessary for bridge construction and removal of the concrete apron. In addition, placement of RSP, and other in- and near-channel activities may cause temporary increases of fine sediment.

Because the Project has the potential to take a salmonid species listed under ESA, and has a federal nexus through Federal Highway Administration (FHWA) funding, Caltrans consulted with the National Marine Fisheries Service (NMFS). On November 5, 2005, NMFS issued a no jeopardy Biological Opinion (Ref. No. 151422SWR2005AR00605) (BO) to FHWA which described the Project, including conservation measures developed to minimize impacts to SONCC coho. Subsequent to the issuance of the 2005 BO, Caltrans modified the Project description. NMFS reinitiated formal consultation and on July 7, 2008, issued an amended BO (Ref. No. 151422SWR2008AR00036) and incidental take statement (ITS) that set forth measures to avoid and mitigate Project impacts to SONCC coho salmon. On July 24, 2008, the Director of the California Department of Fish and Game (DFG) received correspondence from Kevin Church on behalf of Caltrans, requesting a determination pursuant to §2080.1 of the Fish and Game Code that the amended BO, including its ITS, is consistent with CESA.

DETERMINATION

DFG has determined that the BO as amended on July 7, 2008, is consistent with CESA because the mitigation measures therein meet the conditions set forth in Fish and Game Code §2081, subparagraphs (b) and (c), for authorizing the incidental take of CESA-listed species. Specifically, DFG finds that the take of SONCC coho salmon will be incidental to an otherwise lawful activity (i.e., replacement of the bridges); the mitigation measures identified in the BO and required by the ITS will

minimize and fully mitigate the impacts of the authorized take of SONCC coho salmon; and the Project will not jeopardize the continued existence of the species. The avoidance, minimization, and mitigation measures in the amended BO include, but are not limited to, the following:

Coho Avoidance:

- Dewatering of the stream channel shall be limited to the period of June 15th through October 15th annually.
- All bank protection construction and erosion control materials shall be kept onsite to facilitate quick response in emergency situations, and bank protection construction, and erosion control activities shall be completed by October 15th annually.
- Once construction is finished, all Project material (including but not limited to pipe, gravel, false work, filter fabric, demolition debris, and waste concrete) shall be removed and disposed of in an approved disposal site.

Coho Mortality Minimization:

- Caltrans shall retain a qualified biologist with expertise in the areas of anadromous salmonid biology, including salmonid/habitat relationships, their handling, collecting, and relocation activities and biological monitoring of salmonids. The biologist shall monitor the construction site during placement and removal of channel diversions and cofferdams to ensure that any adverse effects to SONCC coho are minimized. Caltrans shall implement capture and release procedures according to BO Terms and Conditions 1.B through 1.H. If any coho salmon are found dead or injured the biologist shall contact NMFS immediately.
- FHWA shall ensure that adult and juvenile salmon passage through the Project site will be unimpeded during the spawning season.
- Erosion control and sediment detention devices shall be incorporated into the Project and function to minimize fine sediment and sediment/water slurry input into flowing water. The qualified biologist shall monitor all sediment control devices to ensure that they are functioning properly. Upon notification from the biologist, FHWA and their contractors shall halt work to investigate any devices that are not functioning properly. Measures to correct the problem shall be agreed upon by NMFS, the contracted biologist, and FHWA. Caltrans shall implement sediment removal according to BO Terms and Conditions 2.E.

- Construction equipment shall be checked daily prior to work within the creek channel and, if necessary, action shall be taken to prevent fluid leaks.

Notification and Reporting:

- Caltrans shall notify the NMFS Arcata Area Office and NMFS biologist by letter at least 14 days prior to implementation.
- FHWA shall provide a written report to NMFS by January 15th of the year following completion of construction. The report shall include: beginning and end dates of construction with before–during–after photographs from the same reference points; Best Management Practices used to minimize effects to coho salmon; the number of coho or other species killed or injured during Project implementation including possible causes of mortalities or injuries and any unforeseen effects; a description and photographs of locations where fish were removed from and relocated to, including date and time of relocation and the number of fish relocated by species; a description of the extent of adult upstream passage under the new bridge, and observations by the qualified biologist regarding whether passage has been restored; and a description accompanied by before–after photographs of revegetation locations with success criteria and assessment.

Coho Take Mitigation:

- DFG has determined that removal of the concrete apron barrier to coho salmon will serve to fully mitigate for take of approximately 16 coho juveniles and other associated impacts to the species estimated by NMFS. The additional cool–water refugia, rearing habitat, and potential spawning habitat made available by barrier removal can be expected to play a role in improving survivorship and recruitment success of coho. This increase in survivorship and recruitment provides additional compensation for coho mortality and disturbance attributed to this Project.
- The channel section previously occupied by the concrete apron shall be made morphologically stable and represent a smooth transition in channel slope between the areas directly upstream and downstream. If the FHWA determines that a weir or other bioengineered structure is needed to ensure the structural integrity of the stream section, FHWA shall present its plans to NMFS for comment and approval prior to installation of the structure.

Ensured Funding:

- Prior to any Project activities that could incidentally take SONCC coho, Caltrans shall provide DFG with written documentation that Caltrans has allocated sufficient funds, acceptable to and approved by DFG, in the Expenditure Authorization for the Project to ensure implementation of all measures to minimize and fully mitigate the incidental take of SONCC coho resulting from construction of the Project. This documentation should identify specific project minimization and mitigation components, including the concrete apron removal, and the costs associated with those components.

Based on this consistency determination, Caltrans does not need to obtain authorization from DFG under CESA for take of SONCC coho salmon that occurs in carrying out the Project, provided Caltrans implements the Project as described in the BO as amended (including the Conservation Measures), and complies with the mitigation measures and other conditions described in the BO and ITS, including the amendment. However, if the Project as described in the BO as amended, including the mitigation measures therein, changes, or if NMFS amends or replaces the BO, Caltrans will need to obtain from DFG a new consistency determination (in accordance with Fish and Game Code §2080.1) or an incidental take permit (in accordance with Fish and Game Code §2081).

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication September 5, 2008
CESA CONSISTENCY DETERMINATION FOR
West Ridge Road–to–Trail Project
Humboldt County
2080–2008–022–01

The Department of Fish and Game (Department) received notice on August 25, 2008, that the California Department of Parks and Recreation (CDPR) proposes to rely on consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The project consists of the rehabilitation of an existing 0.43 mile section of road/trail that extends north of West Ridge Trail in Prairie Creek Redwoods State Park in Humboldt County (Project).

Prairie Creek Redwoods State Park is located 50 miles north of Eureka and 25 miles south of Crescent City on Newton B. Drury Scenic Parkway, and is cooperatively managed with the National Park Service (NPS) as part of Redwood National and State Parks.

The Project will excavate and convert a trail section, currently occupying a road alignment, to a new trail with new trail structures — such as turnpikes, drain lenses, drain drips, retaining walls, bridges, and punch-ons — to control erosion and create a low maintenance trailhead. The Project also includes a culvert road crossing removal at Prairie Creek. Project activities may result in impacts to Southern Oregon/ Northern California Coast (SONCC) coho salmon (*Oncorhynchus kisutch*).

The National Marine Fisheries Service (NMFS) issued a “no jeopardy” federal biological opinion (2006/07504)(BO) and incidental take statement (ITS) to the NPS on September 17, 2007, which considered the effects of the project on the Federally and State threatened SONCC coho salmon. Pursuant to California Fish and Game Code Section 2080.1, CDPH is requesting a determination that the BO and ITS are consistent with the requirements of CESA. If the Department determines that the BO and ITS are consistent with CESA for the proposed project, CDPH will not be required to obtain a separate permit under Fish and Game Code Section 2081 for the proposed project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication September 5, 2008

**CESA CONSISTENCY DETERMINATION
REQUEST FOR**

St. Helena Comprehensive Flood Protection Project
Napa County
2080–2008–023–03

The Department of Fish and Game (Department) received a notice on August 26, 2008 that the City of St. Helena (City) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of a series of measures designed to provide flood control for a reach of the Napa River by reducing water surface elevation and increasing the water conveyance activity along the Napa River, between the Pope Street Bridge and a point approximately 3,000 feet upstream, within the City of St. Helena in Napa County, California (Project).

The Project includes creating a floodplain terrace connected to the Napa River, creating a shoreline bench along the Napa River’s southern bank, and managing vegetation along a section of the Napa River’s northern bank. The Project also includes the dewatering of a por-

tion of the Napa River and the relocation of shrimp. Project activities will result in temporary and permanent adverse impacts to habitat suitable for the California freshwater shrimp (*Syncaris pacifica*).

The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal biological opinion (1–1–06–F–0852)(BO) and incidental take statement (ITS) to the Army Corps of Engineers (Corps) on April 20, 2007, which considered the effects of the project on the Federally and State endangered California freshwater shrimp. On October 1, 2007, the Service issued an amendment (1–1–07–F–0298) to the original BO. Pursuant to California Fish and Game Code Section 2080.1, the City is requesting a determination that the BO and ITS, as amended, are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, the City will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication September 5, 2008

**PROPOSED RECOVERY ACTION FOR FULLY
PROTECTED SPECIES**

Habitat Enhancement for the San Francisco Garter
Snake

(*Thamnophis tetrataenia sirtalis*) in San Mateo
County, California

The Department of Fish and Game (“Department”) received a proposal from Mr. Tom Seibel of Woodside, California, and the U.S. Fish and Wildlife Service (“Service”) in Sacramento, California, requesting to conduct several activities to enhance habitat for the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), a State and Federally-listed Endangered species, and a State Fully Protected reptile, consistent with the protection and recovery of the species. It is anticipated that the proposed activity will commence during late summer and early fall, 2008.

The applicants have applied for the required Scientific Collecting Permit (SCP) to take protected species of wildlife. Permit conditions require that the holder of an SCP obtain special authorization from the Department for research, including recovery efforts, on Fully Protected Species. The proposed recovery activities for the San Francisco garter snake and the federally threatened California red-legged frog (*Rana aurora draytonii*) will be implemented on nine acres at 3000 Portola Road in the Town of Woodside, San Mateo County, Califor-

nia. The only known extant population of the endangered reptile inhabiting a sag pond is found at this location. These two endangered species will be permanently conserved by creating optimum habitat for both through the restoration and enhancement of the on-site sag pond and associated upland habitats. Sediment and vegetation removal at the sag pond, and planting of native vegetation could result in adverse effects to a limited number of individuals of the San Francisco garter snake and the California red-legged frog. However, these adverse effects will be short term and temporary in nature, while the suitability of the sag pond and associated habitats will be significantly enhanced over the long term for the two listed species. The Department intends to issue, under specific conditions, a Memorandum of Understanding (MOU) that would authorize the applicants to carry out the proposed recovery activities.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected reptiles after 30 days notice has been provided to the affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected reptiles, it would issue the authorization on or after September 26, 2008, for a term of three years. Contact: Wildlife Programs Branch, 1812 Ninth Street, Sacramento, California 95811, Attn: Dale Steele.

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH CARE SERVICES WILL IMPLEMENT A PAYMENT REDUCTION FOR MEDI-CAL FEE-FOR-SERVICE INPATIENT HOSPITAL SERVICES PROVIDED BY NON-CONTRACT HOSPITALS

This notice is to provide information of public interest with respect to proposed changes in payments for some hospitals that provide inpatient services to Medi-Cal beneficiaries. Subject to the passage of pending legislation which will amend section 14166.245 of the Welfare and Institutions Code (W&I Code), the payment limits outlined below will be imposed.

Beginning on October 1, 2008, for hospitals that receive Medi-Cal reimbursement from the Department of Health Care Services (Department), and are not under contract with the Department pursuant to Article 2.6 (commencing with section 14081) of Chapter 7 of Part 3 of Division 9 of the W&I Code, the amounts paid as

interim payments for hospital inpatient services rendered on or after October 1, 2008, must not exceed the lesser of the following:

- The amounts that would have been paid as interim payments for hospital inpatient services if section 14166.245 of the W&I Code were not in effect, reduced by 10 percent.
- For tertiary hospitals, the applicable regional average per diem contract rates established by the California Medical Assistance Commission (CMAC) for tertiary hospitals, reduced by five percent, and for non-tertiary hospitals, the applicable regional average per diem CMAC contract rates for non-tertiary hospitals, reduced by five percent.

The average regional per diem contract rates will be derived from the unweighted average contract per diem rates that are publicly available on June 1 of each year, trended forward based on the trends in the CMAC Annual Report to the Legislature. For tertiary hospitals and non-tertiary hospitals, the regional average per diem contract rates will be based on the geographic regions in the CMAC Annual Report to the Legislature. The applicable regional average per diem contract rates for tertiary hospitals and for non-tertiary hospitals will be published by the Department on or before October 1, 2008, and the rates will be updated annually for each state fiscal year and will become effective each July 1, thereafter.

For purposes of calculating the average regional per diem contract rates, both the federal and non-federal share of the cost-based rates for designated public hospitals will be included in the determination of the average contract rates by multiplying the hospital's interim rate, established pursuant to Section 14166.4 of the W&I Code and that is in effect on June 1 of each year, by two.

When calculating a hospital's cost report settlement for that portion of a hospital's fiscal period that includes dates of service on and after October 1, 2008, for those dates of service on and after October 1, 2008, payments to the hospital will be limited to the lesser of ninety percent of the hospital's audited allowable cost per day, or the applicable regional average per diem CMAC contract rate, reduced by five percent, multiplied by the number of Medi-Cal covered inpatient days in the hospital's fiscal year, or portion thereof.

A tertiary hospital is a children's hospital as specified in section 10727 of the W&I Code, or a hospital that has been designated a Level I or Level II trauma center by the Emergency Medical Services Authority established pursuant to section 1797.1 of the Health and Safety Code (H&SC).

These changes will not apply to small and rural hospitals as specified in section 124840 of the H&SC. These changes will also not apply to hospitals in open health facility planning areas (HFPA) on October 1, 2008, unless the open HFPA at any time on or after July 1, 2005, was a closed HFPA as determined by CMAC, or unless the open HFPA has three or more hospitals with licensed general acute care beds.

Except as otherwise provided in Section 14091.3 of the W&I Code (relating to payments to hospitals by managed care plans), hospitals that participate in the Selective Provider Contracting Program pursuant to Article 2.6 (commencing with section 14081 of the W&I Code) and designated public hospitals under section 14166.1 of the W&I Code, except Los Angeles County Martin Luther King/Charles R. Drew Medical Center and Tuolumne General Hospital, will be exempt from these changes.

The terms "open HFPA" and "closed HFPA" will have the same meaning and be applied in the same manner as used by CMAC in the implementation of the hospital contracting program authorized in Article 2.6 (commencing with section 14081 of the W&I Code).

The reimbursement for inpatient services includes the amounts paid for all categories of inpatient services allowable by Medi-Cal, and includes the amounts paid for routine services, together with all related ancillary services.

PUBLIC REVIEW AND COMMENTS

The changes described above are available for public review at local county welfare offices throughout the State. A detailed description of the proposed California legislation that will amend Welfare and Institutions Code section 14166.245 to make the changes described in this notice may also be requested, in writing, from Mr. Terry Childress, Department of Health Care Services, Safety Net Financing Division, MS 4504; P.O. Box 997436; Sacramento, CA 95899-7436.

Written comments concerning the proposed changes may be mailed to Mr. Childress at the above address, within ten calendar days from the publication date of this notice.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE TO INTERESTED PARTIES

September 5, 2008

Availability of Hazard Identification Materials for Hexavalent Chromium and Chlorpyrifos and Announcement of the Submission of Relevant Studies for Particulate Matter and Total Trihalomethanes and the November 20, 2008 Developmental and Reproductive Toxicant Identification Committee Meeting

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986¹ (Proposition 65). The Developmental and Reproductive Toxicant Identification Committee (DARTIC) of OEHHA's Science Advisory Board advises and assists OEHHA in compiling the list of chemicals known to the State to cause reproductive toxicity as required by Health and Safety Code Section 25249.8. The Committee serves as the State's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity.

¹ Health and Safety Code section 25249.5 et seq.

The next meeting of the DARTIC to consider the potential listing of two chemicals is scheduled for **Thursday, November 20, 2008**. The meeting will be held at the California Environmental Protection Agency Headquarters Building, Sierra Hearing Room, 1001 I Street, Sacramento, California. The meeting will begin at 10:00 a.m. and will last until all business is conducted or until 5:00 p.m. The agenda for the meeting will be provided in a future public notice published in advance of the meeting.

On January 18, 2008, OEHHA requested information relevant to the assessment of the evidence of developmental and reproductive toxicity for hexavalent chromium and chlorpyrifos. The 60-day data call-in period ended on March 18, 2008. No information or data were received on hexavalent chromium. However, a significant volume of information was received on chlorpyrifos, which was evaluated by OEHHA staff. OEHHA has completed the hazard identification materials for hexavalent chromium and chlorpyrifos and announces the availability of the documents entitled: "Evidence on the Developmental and Reproductive Toxicity of Hexavalent Chromium," and "Evidence on the Developmental and Reproductive Toxicity of Chlorpyrifos." The DARTIC will use these documents at its November 20 meeting to consider whether hexavalent chromium and chlorpyrifos should be added to the Proposition 65 list as known to cause reproductive toxicity.

In addition, at the December 2007 meeting of the DARTIC, the Committee requested that OEHHA prepare a compilation of relevant studies for Particulate Matter (as an air pollutant) and Total Trihalomethanes, the same as had been prepared in 2007 for sulfur dioxide and bromodichloromethane. OEHHA is releasing the data compilations for public comment. The comment period will close on **Tuesday, November 4, 2008**. The DARTIC will provide advice to OEHHA concerning whether to proceed to develop hazard identification materials for consideration of these chemicals for presentation at a future meeting. No listing decisions concerning particulate matter or trihalomethanes will be made at the November 20 meeting.

Copies of the documents are available from the Proposition 65 Implementation Office and may be requested by calling (916) 445-6900, or through the Internet at the following address: <http://www.oehha.ca.gov/>. This notice marks the beginning of a 60-day public comment period. **It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to coshita@oehha.ca.gov.** Comments may also be delivered in triplicate in person or by courier to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
Or via FAX (916) 323-8803

In order to be considered by the Committee, comments must be received at OEHHA by 5:00 p.m. on Tuesday, November 4, 2008. OEHHA will organize and index the comments received and forward the information to the DARTIC members prior to the November 20 meeting.

**OAL REGULATORY
DETERMINATIONS**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS
(Summary Disposition)**

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

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

Date: August 19, 2008
To: Rataja Pinola
From: Chapter Two Compliance Unit
Subject: **2008 OAL DETERMINATION NO. 20(S)
(CTU2008-0710-01)**
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Operational Procedure #806 issued by California State Prison at Corcoran.

On July 10, 2008, you submitted a petition to the Office of Administrative Law (OAL) asking for a deter-

mination as to whether Operational Procedure (OP) #806 issued by California State Prison at Corcoran (CSP–Corcoran) in March 2007 which restricts eyeglasses from being sent into the prison constitutes an underground regulation.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600¹, which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA)². Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058(c) establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter–institutional correspondence policy applies solely to correspondence entering

or leaving Donovan. It applies to Donovan inmates in all instances.

. . . .

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, OP #806 at issue here applies solely to the inmates at CSP–Corcoran. As stated in your petition, “this is a prison rule and not statewide.” Inmates housed at other institutions are controlled by those other institutions’ procedures and policies for eyeglasses. Therefore, OP #806 is a “local rule” and is exempt from compliance with the APA.³

For the reasons discussed above, we find that the rule challenged by your petition is not an underground regulation.

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/
SUSAN LAPSLEY
Director

Copy: Matthew Cate
Tim Lockwood

**STATE WATER RESOURCES
CONTROL BOARD**

Date: August 21, 2008
To: Brian T. Kelleher
From: Chapter Two Compliance Unit
Subject: **2008 OAL DETERMINATION NO. 21(S)**
(CTU2008–0707–01)
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

¹ “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

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

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides in relevant part:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

. . . .
(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

Petition challenging as an underground regulation the rule articulated by the State Water Resources Control Board in Order WQ-2004-0015-UST, In the Matter of the Petition of Murray Kelsoe

On July 7, 2008, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether the Order WQ-2004-0015-UST, *In the Matter of the Petition of Murray Kelsoe*, (Kelsoe Decision), issued by the State Water Resources Control Board (Board) is an underground regulation.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the APA.² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule that meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the procedural requirements of the APA. Government Code section 11425.60 states:

(a) A decision may not be expressly relied on as precedent unless it is designated as a precedent decision by the agency.

(b) An agency may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. Designation of a decision or part of a decision as a precedent decision is not rulemaking and need not be done under Chapter 3.5 (commencing with Section 11340). An agency’s designation of a decision or part of a decision, or failure to designate a decision or part of a decision,

¹ “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

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

as a precedent decision is not subject to judicial review.

. . . .³

The Kelsoe Decision was issued by the Board on October 21, 2004, and dealt with the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 which authorized the Board to administer a program to reimburse underground storage tank (UST) owners and operators for eligible costs incurred as a result of contamination from leaking petroleum USTs. The holding in the Kelsoe Decision turned on the meaning of the phrase “has complied” in Health and Safety Code section 25299.57.⁴ The Petitioner states that although the Kelsoe Decision has been superseded by legislation in 2007⁵, the Board continues to apply it to UST cases arising before the change in the statute and that the application of the Kelsoe Decision to these cases constitutes an underground regulation.

Pursuant to Government Code section 11425.60, the State Board, in State Board Order WR 961 (Lagunitas Creek) issued in 1996, designated “. . . all decisions and orders it adopts at public meetings to be precedent decisions, except to the extent that a decision or order indicates otherwise, or is superseded by later enacted statutes, judicial opinions, or actions of the State Board.”⁶ The Kelsoe Decision, therefore, is a precedent decision that is exempt from the rulemaking requirements of the APA.

³ We note that Government Code section 11425.60 imposes additional requirements on an agency designating a decision as a precedent decision:

(c) An agency shall maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated not less frequently than annually, unless no precedent decision has been designated since the last preceding update. The index shall be made available to the public by subscription, and its availability shall be publicized annually in the California Regulatory Notice Register.

Compliance with these requirements is independent of the designation of the decision as precedent.

⁴ Health and Safety Code section 25299.57 permits the Board to pay for the costs of a corrective action that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, if it makes a determination that, among other things, the claimant *has complied* with permit requirements. (Health and Safety Code section 25299.57(d)(3). The petitioner in the Kelsoe Decision argued that “has complied” means only that the petitioner must comply with current permit requirements. The Kelsoe Decision disagreed and found that the term “has complied” means that the petitioner must show he or she applied for or obtained a permit on or before January 1, 1990.

⁵ AB 1437, Chapter 282, Statutes of 2007. This legislation made various amendments which would apply to requests for funding from the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 which were submitted after January 1, 2008, the effective date of the legislation.

⁶ State Board Order WR 96-1 (Lagunitas Creek), footnote 11 states:

(Footnote 6 continued on next page)

For the reasons discussed above, we find that the Kelsoe Decision is not an underground regulation.⁷

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

Date: August 21, 2008

/s/
Susan Lapsley
Director

/s/
Kathleen Eddy
Senior Staff Council

DISAPPROVAL DECISION

DEPARTMENT OF WATER RESOURCES

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

AGENCY: DEPARTMENT OF WATER RESOURCES

Title 23, California Code of Regulations

Adopt sections: 570, 571, 572, 573, 574, 575, 576, 577, 578

DECISION OF DISAPPROVAL OF EMERGENCY REGULATORY ACTION

(Gov. Code, section 11349.6)

OAL File No. 08-0731-02 E

DECISION SUMMARY

On July 31, 2008, the Department of Water Resources (“Department”) submitted to the Office of Administrative Law (“OAL”) a proposed emergency action to adopt Chapter 3.5 of Division 2 of Title 23 (commencing with section 570) regarding Financial Assistance for Flood Management Projects and Small Flood Management Projects.

On August 11, 2008, OAL notified the Department that OAL disapproved this emergency regulatory action for failure to comply with specified standards and procedures of the California Administrative Procedure Act (“APA”). The reasons for the disapproval are summarized below:

- A. the proposed regulations fail to comply with the *emergency standard* of Government Code section 11346.1¹;
- B. the proposed regulations fail to comply with the *clarity* standard of section 11349.1; and,
- C. the proposed regulations fail to comply with the *consistency* standard of section 11349.1.

Date: August 18, 2008

/s/
Elizabeth Heidig
Staff Counsel

for: **SUSAN LAPSLEY**
Director

(Footnote 6 continued)

Recent legislation provides for the designation of precedent decisions, so that persons participating in adjudicatory proceedings before an agency have access to decisions which may be relied on as precedent. (See Cal. Gov. § 11425.60. added by Stats. 1995, Ch. 938, § 21 p. 5538, eff. July 1, 1997.) It has been the SWRCB’s practice to treat its decisions and orders as precedent. Of course, a prior decision or order may be distinguished or overturned by a later decision or order. Nevertheless, the treatment of SWRCB decisions and orders as precedent helps provide greater consistency and predictability in agency decision making. Recent decisions and orders are readily accessible, including availability on the SWRCB Internet site (<http://www.swrcb.ca.gov>) and the Lexis and Westlaw databases. Accordingly, the SWRCB designates all decisions or orders adopted by the SWRCB at a public meeting to be precedent decisions, except to the extent that a decision or order indicates otherwise, or is superseded by later enacted statutes, judicial opinions, or actions of the SWRCB.

⁷ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

- (f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.
- (2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:
 - (A) The challenged rule has been superseded.
 - (B) The challenged rule is contained in a California statute.
 - (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
 - (D) The challenged rule has expired by its own terms.
 - (E) **An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

¹ Unless stated otherwise, all California Code references are to the Government Code.

Original: Lester Snow
 Cc: Karin Shine
 Michele Ng

File# 2008-0710-04
 CALIFORNIA HORSE RACING BOARD
 Claiming Option Entry

<p>SUMMARY OF REGULATORY ACTIONS</p>
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The California Horse Racing Board (Board) makes changes to Title 4 of the California Code of Regulations by amending section 1420 to provide an ineligibility option for claiming races and adopting section 1634 to add the conditions under which a horse may be entered into a claiming race but declared as ineligible for claiming.

**REGULATIONS FILED WITH
 SECRETARY OF STATE**

Title 4
 California Code of Regulations
 ADOPT: 1634 AMEND: 1420
 Filed 08/21/2008
 Effective 09/20/2008
 Agency Contact: Harold Coburn (916) 263-6397

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

File# 2008-0815-02
 CALIFORNIA POLLUTION CONTROL
 FINANCING AUTHORITY
 CALReUse Program

This proposed emergency readoption concerns regulations that modify the existing CALReUSE Site Assessment Program and create the CALReUSE Remediation Program. (The assessment program funds inspection of contaminated sites and the remediation program funds remediation of brownfields to be used for particular housing development.)

File# 2008-0724-04
 ACUPUNCTURE BOARD
 Continuing Education

This action makes extensive revisions to continuing education ("CE") requirements for acupuncturists. This action is the resubmittal filing of previously disapproved OAL file number 2008-2004-04S.

Title 4
 California Code of Regulations
 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15
 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101
 Filed 08/25/2008
 Effective 08/27/2008
 Agency Contact: Deana Carrillo (916) 657-5051

Title 16
 California Code of Regulations
 AMEND: 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, 1399.489.1
 Filed 08/25/2008
 Effective 09/24/2008
 Agency Contact: Janelle Wedge (916) 445-3021

File# 2008-0815-04
 DEPARTMENT OF FISH AND GAME
 Rec. Fishery Closure Fed. Groundfish & Assoc. Species N. of Pt. Arena

This emergency rulemaking closes the recreational groundfish fishery at all depths on September 2, 2008 north of Point Arena so as not to exceed 2008 federal harvest guidelines. The rulemaking adopts a new regulation for fishing in the area south of Point Arena and for the Farallon Islands and Cordell Bank.

File# 2008-0716-01
 BOARD OF GUIDE DOGS FOR THE BLIND
 Address Change; Health Certificate; Physical Defects

This regulatory action provides the new address for the Board and repeals two sections related to disabilities and health requirements.

Title 16
 California Code of Regulations
 AMEND: 2250 REPEAL: 2274, 2277
 Filed 08/27/2008
 Effective 09/26/2008
 Agency Contact: Antonette Sorrick (916) 574-7825

Title 14
 California Code of Regulations
 ADOPT: 27.32 AMEND: 27.20(f), 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58

Filed 08/25/2008
Effective 09/02/2008
Agency Contact: Joseph Milton (916) 654-5336

File# 2008-0822-02
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This proposed emergency amendment will expand the regulated area in the Sonoma and Napa counties by approximately nineteen square miles with respect to the light brown apple moth (LBAM; *Epiphyas postvittana*) pursuant to the finding of new pests and the established protocol.

On July 23, 2008 (PDR #1484357) an adult male LBAM was found in Napa (confirmed 8/12/2008). On August 8, 2008, an adult male LBAM was found in Sonoma (confirmed 8/13/2008). In that these two adult males were trapped within three miles of each other and within one life cycle, the protocol for establishing an expanding quarantine area was satisfied.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 08/26/2008
Effective 08/26/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0822-01
DEPARTMENT OF FOOD AND AGRICULTURE
Oriental Fruit Fly Interior Quarantine

This emergency regulatory action establishes an area of approximately 74 square miles in the Lakewood area of Los Angeles County as an area under quarantine for the Oriental fruit fly "*Bactrocera dorsalis*."

Title 3
California Code of Regulations
AMEND: 3423(b)
Filed 08/25/2008
Effective 08/25/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0725-01
DIVISION OF WORKERS COMPENSATION
Ethical Rules for Workers' Compensation Judges

This regulatory action revises the ethical standards for Workers' Compensation Administrative Law Judges.

Title 8
California Code of Regulations
ADOPT: 9721.11, 9721.12, 9721.13, 9721.14, 9721.21, 9721.33 AMEND: 9720.1, 9720.2, 9721.1,

9721.2, 9721.31, 9721.32, 9722, 9722.1, 9722.2, 9723

Filed 08/25/2008
Effective 09/24/2008
Agency Contact:
Richard Starkeson (650) 737-2022

File# 2008-0820-03
FISH AND GAME COMMISSION
Upland Game Bird Hunting

This regulatory action revises the existing upland game bird hunting regulations to allow fall turkey hunting in San Diego County, expand falconry season to open at the same time as archery season, and remove any bag limit from Eurasian collared-doves, spotted doves, and ringed turtle doves.

Title 14
California Code of Regulations
AMEND: 300
Filed 08/27/2008
Effective 09/01/2008
Agency Contact: Jon Snellstrom (916) 653-4899

File# 2008-0718-03
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Static Electricity

This proposed regulatory action by the Standards Board is in response to a OSHAB Decision After Reconsideration (DAR) regarding the death of an employee who was cleaning flammable sludge from the interior of a tanker truck with a high pressure sprayer using water and a squeegee. The interior of the truck exploded and he was killed. It was determined that the squeegee and the power spray nozzle were potential sources of the ignition. These regulatory changes are proposed to amend the regulations to provide that the use of high pressure systems containing "water" need to be "grounded and bonded." The amendments further expand and clarify that all high pressure systems, whether they are gas, steam, water, air or grit cleaning systems, must be grounded and precautions must be used to prevent ignition. They also provide for an exception concerning tanks or vessels 100 cubic meters or less in size when all conductive components are grounded.

Title 8
California Code of Regulations
AMEND: 5168, 6775
Filed 08/26/2008
Effective 09/25/2008
Agency Contact: Marley Hart (916) 274-5721

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN MARCH 26, 2008 TO
AUGUST 27, 2008**

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

Title 1

04/24/08 AMEND: Appendix A

Title 2

08/14/08 AMEND: 1859.2, 1859.121, 1859.122, 1859.127, 1859.129
 08/08/08 ADOPT: 21905.5 AMEND: 21903, 21905
 07/16/08 ADOPT: 18946.6
 07/10/08 AMEND: 1859.76, 1859.83, 1859.104.3
 07/10/08 AMEND: 1859.71
 07/08/08 AMEND: 2271
 06/26/08 AMEND: 554.2, 554.3
 06/17/08 ADOPT: div. 8, ch. 112, sec. 59570
 06/11/08 AMEND: 18360, 18361
 06/11/08 ADOPT: 18421.7 AMEND: 18401
 06/11/08 ADOPT: 18944.2 REPEAL: 18944.2
 05/21/08 ADOPT: 59580
 05/14/08 ADOPT: 18413
 05/13/08 ADOPT: 59620
 05/06/08 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009
 04/30/08 AMEND: 1859.2, 1859.61, 1859.81, 1859.82, 1859.83, 1859.202, 1866, Form SAB 50-04 (Rev. 01/08)
 04/29/08 ADOPT: 1859.190, 1859.191, 1859.192, 1859.193, 1859.193.1, 1859.194, 1859.195, 1859.196, 1859.197, 1859.198, 1859.199 AMEND: 1859.2, 1859.51, 1859.81, Form SAB 50-04 (Revised 01/08), Form SAB 50-05 (Revised 01/08), Form SAB 50-10 (Revised 01/08)
 04/24/08 ADOPT: 1183.081, 1183.131, 1183.30, 1183.31, 1183.32 AMEND: 1181.1, 1181.2, 1181.3, 1183, 1183.01, 1183.04, 1183.08, 1183.11, 1183.13, 1183.14, 1183.3, 1188.3
 04/10/08 AMEND: 1866, 1866.4.3, 1866.13, Form SAB 40-22 (Rev. 10/07)

04/09/08 AMEND: 18997
 03/28/08 ADOPT: 59630

Title 3

08/26/08 AMEND: 3434(b)
 08/25/08 AMEND: 3423(b)
 08/18/08 AMEND: 6738, 6739
 08/18/08 AMEND: 3434(b)
 08/13/08 AMEND: 3434(b)
 08/12/08 AMEND: 3406(b)
 08/11/08 AMEND: 3406(b)
 08/01/08 AMEND: 3589(a)
 08/01/08 ADOPT: 3591.22
 07/28/08 AMEND: 3434(b)
 07/25/08 AMEND: 902.9
 07/24/08 ADOPT: 3591.21
 07/22/08 AMEND: 3417(b)
 07/16/08 AMEND: 3700
 07/16/08 AMEND: 3406
 07/14/08 AMEND: 3963
 07/11/08 AMEND: 3434(b)
 07/09/08 AMEND: 3434(b)
 06/30/08 AMEND: 3589(a)
 06/24/08 AMEND: 3963
 06/24/08 AMEND: 3060.3
 06/23/08 AMEND: 3591.5(a)
 06/17/08 AMEND: 2751
 06/16/08 AMEND: 3434(b)
 06/11/08 AMEND: 3434(b)
 06/09/08 AMEND: 3700
 06/04/08 AMEND: 3434(b)
 05/23/08 AMEND: 3434(b)
 05/23/08 AMEND: 1438.7, 1438.17
 05/07/08 AMEND: 3434(b)
 05/05/08 AMEND: 3406(b)
 05/02/08 AMEND: 3417(b)
 05/02/08 AMEND: 3434
 04/30/08 AMEND: 3591.20
 04/23/08 AMEND: 6550
 04/21/08 AMEND: 3700
 04/18/08 AMEND: 3434(b)
 04/16/08 AMEND: 3434(b) & (c)
 04/15/08 AMEND: 3433(b)
 04/08/08 AMEND: 3434(b)
 04/02/08 AMEND: 3433(b)
 04/02/08 AMEND: 3433(b)
 04/01/08 ADOPT: 821, 821.1, 821.2, 821.3, 821.4, 821.5 REPEAL: 784, 784.1, 784.2, 800, 800.1, 801, 802
 03/26/08 AMEND: 3434(b)

Title 4

08/25/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND:

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	8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101	05/28/08	ADOPT: 18085.5, 18086.1 AMEND: 18086, 18087, 18088, 18091, 18101, 18102, 18104
08/21/08	ADOPT: 1634 AMEND: 1420		
08/12/08	ADOPT: 4180, 4181	05/21/08	ADOPT: 6105 AMEND: 6100, 6104
08/08/08	AMEND: 12002, 12100, 12101, 12120, 12122, 12128, 12130, 12140, 12200, 12200.3, 12200.7, 12200.9, 12200.10A, 12200.10B, 12200.10C, 12200.11, 12200.13, 12200.14, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12201, 12202, 12203, 12203A, 12203.1, 12203.2, 12203.3, 12203.5, 12204, 12205, 12205.1, 12218, 12218.1, 12218.5, 12218.7, 12218.11, 12220, 12220.3, 12220.13, 12220.14, 12220.16, 12220.18, 12220.20, 12220.20A, 12220.21, 12220.23, 12221, 12222, 12223, 12224, 12225, 12225.1, 12233, 12234, 12235, 12236, 12300, 12301, 12301.1, 12302, 12303, 12304, 12305, 12306, 12308, 12309, 12310, 12335, 12341, 12342, 12343, 12344, 12345, 12347, 12358, 12359, 12360, 12370, 12400, 12401, 12402, 12403, 12404, 12405, 12460, 12463, 12464, 12466, 12550, 12552, 12554, 12556, 12558, 12560, 12562, 12564, 12566, 12568, 12590	05/13/08	AMEND: 15440, 15441, 15442, 15443, 15444, 15445, 15446, 15447, 15448, 15449, 15450, 15451, 15452, 15453, 15454, 15455, 15456, 15457, 15458, 15459, 15460, 15461, 15462, 15463, 15464, 15467, 15468, 15469, 15471, 15471.1, 15471.2, 15472, 15473, 15474, 15475, 15476, 15477, 15478, 15479, 15479.5, 15480, 15481, 15483, 15484, 15485, 15486, 15487, 15488, 15489, 15490, 15493
08/04/08	AMEND: 1843.2	05/05/08	ADOPT: 11315.5 and 11315.6 AMEND: 11315
07/14/08	AMEND: 8070, 8072, 8073	05/01/08	AMEND: 80440, 80443
07/10/08	AMEND: 1481, 1783, 1784	04/21/08	ADOPT: 18134
06/24/08	ADOPT: 12335, 12340, 12357 AMEND: 12342, 12343, 12344, 12345, 12358, 12359	04/21/08	ADOPT: 18134
05/23/08	ADOPT: 1843.3 AMEND: 1843.2	Title 7	
05/01/08	AMEND: 1844	06/10/08	ADOPT: 236.1
04/08/08	AMEND: 1467	Title 8	
Title 5		08/26/08	AMEND: 5168, 6775
08/11/08	AMEND: 41000	08/25/08	ADOPT: 9721.11, 9721.12, 9721.13, 9721.14, 9721.21, 9721.33 AMEND: 9720.1, 9720.2, 9721.1, 9721.2, 9721.31, 9721.32, 9722, 9722.1, 9722.2, 9723
08/04/08	ADOPT: 15575, 15576, 15577, 15578	08/08/08	AMEND: 1532.1
07/16/08	AMEND: 18272	08/04/08	AMEND: 3649
06/24/08	AMEND: 80021	08/04/08	AMEND: Appendix C following section 560, Appendices A, B, and C following section 1938, and section 5001
06/19/08	AMEND: 4600(l)	07/30/08	AMEND: 1524
06/13/08	ADOPT: 55185, 57017 AMEND: 55180, 57001.7, 58003.4, 58770, 58771, 58774	07/18/08	AMEND: 290.0, 290.1, 291.0, 291.1, 291.2, 291.5, 292.0, 294.0, 295.0, 296.0, 296.1, 296.2, 296.3, 296.4
06/10/08	AMEND: 30910, 30911, 30912, 30913, 30914, 30916	07/18/08	AMEND: 2500.7
06/10/08	AMEND: 30920, 30921, 30922, 30923, 30924, 30925, 30927	07/17/08	AMEND: 4885, 4924, 5004
06/09/08	ADOPT: 19828.3, 19837.2 AMEND: 19816, 19816.1, 19828.2, 19837.1, 19846	07/17/08	AMEND: 1604.24, 1604.26
		07/14/08	AMEND: Appendix B following 1541.1
		06/30/08	ADOPT: 4300.1 AMEND: 4297, 4300
		06/06/08	AMEND: 1710(k)(2)
		05/19/08	AMEND: 1529, 5208, 8358
		05/19/08	AMEND: 1710
		05/19/08	AMEND: 797, 1604.10, 1601.21, 1662
		05/05/08	ADOPT: 2340.2, 2340.5, 2340.8, 2340.10, 2340.12, 2340.14; Article 6, Sections 2360.1 through 2360.5; Sections 2375.7, 2375.25, 2380.1, 2390.10, 2390.20, Article 12, Sections 2400.1, 2400.2; Sections 2418.2, 2418.3, 2418.4,

<p>2418.5, 2418.6, 2420.4, 2420.5, 2420.6, 2420.7, 2473.1, 2473.2, 2480.5, 2480.9, 2484.5, 2484.6; Article 48.1, Sections 2485.1, 2485.2; Sections 2505.2, 2510.8, 2522.20, 2530.120, 2530.121; Article 58.1, Section 2535.1; Sections 2540.11, 2540.11 Figure S-1, 2560.3; Article 74.1, Sections 2562.1 through 2562.7; Article 77.1, Sections 2566.1 through 2566.3; Article 77.2, Sections 2567.1 through 2567.3; Sections 2569.5, 2571.9, 2571.30; Article 83, Sections 2583.1 through 2583.8; Article 84, Sections 2584.1 through 2584.8; Article 85, Sections 2585.1 through 2585.3; Article 86, Sections 2586.1 through 2586.4; Article 87, Sections 2587.1 through 2587.5; Article 88, Sections 2588.1 through 2588.3; Article 89, Sections 2589.1 and 2589.2. AMEND: 2300, 2305.2, 2305.4, 2340.9, 2340.11, 2340.13, 2340.16, Table 2340.16, 2340.17, 2340.18, 2340.21, 2340.22; Article 5, Section 2350.2; Sections 2375.1, 2375.18, Table 2375.18, Sections 2375.19, 2390.1, 2390.24, 2390.41, 2390.81, 2395.3, 2395.5, 2395.6, 2395.23, 2395.25, 2395.32, 2395.42, 2395.44, 2395.45, 2395.57, 2395.58, 2405.1, 2405.2; Article 16, Sections 2420.3; Article 45; Sections 2480.6, 2480.7, 2484.24, 2500.7, 2500.8, 2500.9, 2500.10, 2500.11, 2500.23, 2505.10, 2505.11, 2510.4, 2510.5, 2510.6, 2510.7, 2510.56, 2510.58, 2522.2, 2530.4, 2530.102, 2530.103, 2530.104, 2530.107, 2530.112, 2533.1, 2534.6, 2534.8, 2540.1, 2540.2, 2540.3, 2540.4, 2560.2, 2561.1, 2561.3, 2561.31, 2561.32, 2563.23, 2563.33; Article 77, Section 2565.3; Sections 2568.8, 2568.15, 2569.1, 2569.6, 2569.7, 2569.20, 2569.51; Article 80, Sections 2571.1 and 2571.16. REPEAL: 2340.23, 2350.11, 2390.83, 2395.7, 2395.33, 2395.43, 2395.50, 2480.8, 2522.8 and 2561.50.</p>	<p>3143, 3144, 3145, 3146 AMEND: 3000, 3001, 3009, 3094.2, 3120.6, 3137</p> <p>Title 9</p> <p>07/11/08 ADOPT: 1810.207.5, 1810.220.5 AMEND: 1830.220</p> <p>07/02/08 AMEND: 9515(d), 10522(b)</p> <p>Title 10</p> <p>08/15/08 ADOPT: 2844 AMEND: 2840, 2842</p> <p>08/14/08 AMEND: 2699.100, 2699.201, 2699.205, 2699.207, 2699.209, 2699.400</p> <p>08/04/08 AMEND: 5000, 5110, 5111, 5112, 5113, 5114, 5116, 5117 REPEAL: 5119</p> <p>07/30/08 AMEND: 2498.6</p> <p>07/24/08 AMEND: 2498.4.9</p> <p>07/23/08 AMEND: 2498.4.9</p> <p>07/23/08 AMEND: 2498.4.9</p> <p>07/21/08 ADOPT: 2330.1, 2330.3, 2330.4, 2330.5</p> <p>07/17/08 AMEND: 2498.6</p> <p>07/10/08 REPEAL: 2191</p> <p>07/10/08 AMEND: 2699.6611</p> <p>07/07/08 ADOPT: 2699.6602, 2699.6604 AMEND: 2699.6603, 2699.6605, 2699.6607, 2699.6608, 2699.6611, 2699.6625</p> <p>06/24/08 ADOPT: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5 AMEND: 2536.2</p> <p>06/16/08 AMEND: 2318.6, 2353.1</p> <p>06/02/08 ADOPT: 10.190202</p> <p>05/27/08 AMEND: 2249.2-2249.9, 2249.12, 2249.15</p> <p>05/16/08 ADOPT: 2642.8, 2644.28 AMEND: 2642.6, 2642.7, 2644.2, 2644.3, 2644.6, 2644.7, 2644.8, 2644.12, 2644.16, 2644.17, 2644.19, 2644.20, 2644.21, 2644.23, 2644.25, 2644.27</p> <p>04/30/08 AMEND: 2697.6, 2697.61</p> <p>04/29/08 ADOPT: 10.19900, 10.19901</p> <p>04/28/08 AMEND: 310.111</p> <p>03/27/08 AMEND: 2699.6500, 2699.6805, 2699.6803</p> <p>Title 11</p> <p>07/08/08 ADOPT: 30.14</p> <p>06/17/08 AMEND: 1005, 1007, 1008, 1080</p> <p>05/28/08 AMEND: 2000, 2001, 2010, 2020, 2030, 2037, 2038, 2050, 2051, 2052, 2053, 2060, 2070, 2071, 2072, 2140</p> <p>04/14/08 AMEND: 1081</p> <p>Title 13</p> <p>08/13/08 ADOPT: 619.2 AMEND: 615, 615.1, 616, 617, 618, 619, 619.1</p> <p>07/15/08 AMEND: 440.04</p> <p>06/16/08 ADOPT: 156.01</p> <p>06/16/08 AMEND: 1961, 1965</p>
<p>04/11/08 AMEND: 7016(c)</p> <p>04/07/08 AMEND: 10116, 10116.1, 10117.1, 10118.1, 10119, 10120, 10121, 10136, 10137, 10225, 10225.1, 10225.2</p> <p>04/01/08 ADOPT: 3140, 3141, 3141.1, 3141.2, 3141.3, 3141.4, 3141.5, 3141.6, 3141.7, 3141.8, 3141.9, 3141.10, 3141.11, 3141.12, 3141.13, 3142, 3142.1, 3142.2,</p>	

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06/10/08 AMEND: 2222
 06/02/08 AMEND: 1141
 05/16/08 ADOPT: 2449, 2449.1, 2449.2, 2449.3
 05/01/08 AMEND: 1
 04/28/08 AMEND: 120.00, 120.01, 120.02,
 124.93, 124.95 REPEAL: 120.04
 04/10/08 AMEND: 1202.1, 1202.2, 1232
 04/07/08 AMEND: 2451, 2452, 2453, 2458, 2461

Title 13, 17

07/02/08 AMEND: 2299.1, 93118

Title 14

08/27/08 AMEND: 300
 08/25/08 ADOPT: 27.32 AMEND: 27.20(f),
 27.25, 27.30, 28.26, 28.27, 28.28, 28.29,
 28.48, 28.49, 28.51, 28.52, 28.53, 28.54,
 28.55, 28.56, 28.57, 28.58
 08/18/08 AMEND: 749.3
 08/14/08 ADOPT: 3950, 3951, 3952, 3953, 3954,
 3955, 3956, 3957, 3958, 3959, 3960,
 3961, 3962, 3963, 3964, 3965
 08/12/08 ADOPT: 124
 08/11/08 AMEND: 503
 08/06/08 AMEND: 815.05, 818.02, 825.05,
 827.02
 07/28/08 AMEND: 702
 07/23/08 AMEND: 7.50
 07/15/08 ADOPT: 4860
 07/08/08 ADOPT: 124.1 AMEND: 122, 125,
 149.1, 150, 150.02, 150.03, 150.05, 163,
 163.5, 164, 174, 180.3
 07/02/08 AMEND: 7.50
 07/01/08 AMEND: 27.80
 06/30/08 AMEND: 120.7
 06/23/08 AMEND: 18660.23, 18660.24,
 18660.25, 18660.33, 18660.34
 06/20/08 AMEND: 360, 361, 362, 363, 364, 551,
 708, 712
 06/18/08 ADOPT: 355
 06/16/08 AMEND: 10602, 10800
 05/15/08 AMEND: 353, 475
 05/09/08 AMEND: 27.20, 27.25, 27.30, 28.26,
 28.27, 28.28, 28.29, 28.48, 28.49, 28.51,
 28.52, 28.53, 28.54, 28.55, 28.56, 28.57,
 28.58
 05/02/08 AMEND: 825.05
 04/28/08 ADOPT: 17987, 17987.1, 17987.2,
 17987.3, 17987.4, 17987.5
 04/28/08 AMEND: 815.05
 04/25/08 AMEND: 17210.2, 17210.4, 17855.2,
 17862, 17867
 04/07/08 AMEND: 228(b)(1)
 04/04/08 AMEND: 27.80
 03/26/08 AMEND: 630

Title 15

08/04/08 AMEND: 2041
 08/04/08 AMEND: 3000, 3005, 3006, 3008, 3009,
 3011, 3012, 3013, 3015, 3016, 3290,
 3310, 3313, 3314, 3315, 3317, 3318,
 3320, 3323, 3327, 3328
 07/30/08 ADOPT: 3503, 3505, 3506, 3507, 3508,
 3509, 3510, 3511, new Article 2 and title,
 3520, 3521, 3521.1, 3521.2, 3521.3,
 3521.4, 3521.5, 3521.6, 3522, 3523,
 3524, 3525, 3526, 3527, new Article 3
 and title, 3540, 3541, 3542, 3543, 3544,
 3545, 3546, 3547, 3548, 3549, new
 Article 4 and title, 3560, 3561, 3562,
 3563, 3564, new Article 5 and title, 3570,
 3571, new Article 6 and title, 3580,
 3581, 3582, new Article 7 and title, new
 Article 8 and title, new Article 9 and title,
 new Article 10 and title, new Article 12
 and title, 3640, new Article 13 and title,
 3650, 3651, 3652, 3652.1, 3653, 3654,
 new Article 14 and title, 3700, 3701,
 3702, 3703, 3704, 3705, 3706, 3707, new
 Article 15 and title, 3720, 3721, 3721.1,
 3722, 3723, new Article 16 untitled,
 3730, new Article 17 and title, new
 Article 18 and title, 3750, 3751, 3752,
 3753, 3754, 3755, 3756, new Article 19
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- 04/15/08 ADOPT: 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, Appendix A
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- 05/06/08 ADOPT: 72038, 72077.1, 72329.1 AMEND: 72077, 72329
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- 07/09/08 ADOPT: 88054, 89318 AMEND: 80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2, 86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405
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- 07/01/08 AMEND: 3935
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