



California Regulatory Notice Register

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SEPTEMBER 13, 2002

PROPOSED ACTION ON REGULATIONS

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

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**PROPOSED ACTION ON
REGULATIONS**

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

**TITLE 2. STATE
LANDS COMMISSION**

**CORRECTED NOTICE TO Z02-0814-01
PUBLISHED 8-30-2002**

NOTICE OF PROPOSED RULEMAKING

**PROPOSED REGULATIONS GOVERNING
MARINE OIL TERMINALS**

**TITLE 2. ADMINISTRATION
DIVISION 3. STATE
PROPERTY OPERATIONS
CHAPTER 1. STATE LANDS COMMISSION
ARTICLE 5.1. MARINE TERMINAL
PHYSICAL SECURITY**

The California State Lands Commission (“the Commission”) proposes to adopt the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commission proposes to adopt new regulations under Article 5.1, comprised of Sections 2430 through 2445, to Title 2, Division 3, Chapter 1 of the California Code of Regulations (CCR). These sections pertain to marine terminals, defined in Public Resources Code (P.R.C.) Section 8750, as facilities used for transferring oil and liquid petroleum products to and from tank vessels and barges. The proposed regulations would specify Commission requirements for a physical security program which will ensure the best achievable protection of public health and safety and of the environment.

PUBLIC HEARING

The Commission Staff will hold a public hearing at 10.00 AM on October 22, 2002 at the Commissioner’s Board Room, Port of Long Beach, 925 Harbor Plaza, Long Beach, California 90801. This location is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing, relevant to the proposed regulatory action described in the Informative Digest. It is requested, but not

required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing they attend.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at 5.00 PM on October 18, 2002. All written comments must be received at the Commission by that time. Written comments should be submitted to:

California State Lands Commission
Marine Facilities Division
200 Oceangate, Suite 900
Long Beach, CA 90802-4335
Attention: Livin Prabhu

Written comments may also be submitted by facsimile to (562) 499-6317, attention Livin Prabhu or by e-mail to “prabhul@slc.ca.gov”

AUTHORITY AND REFERENCE

P.R.C. Section 8756 directs the Commission to periodically review and accordingly modify its rules, regulations, guidelines and commission leasing policies to ensure that all operators of marine terminals within the state and marine facilities under the Commission’s jurisdiction always provide the best achievable protection of the public health and safety and the environment. Accordingly, the proposed regulations would clarify regulations that were implemented pursuant to P.R.C. Sections 8750 through 8760, relating to oil spill prevention at marine terminals and the best achievable protection of public health and safety and the environment.

INFORMATIVE DIGEST

P.R.C. Section 8755 requires the Commission to adopt rules, regulations and guidelines, and leasing policies for reviewing the location, type, character, performance standards, size and operation of all existing and proposed marine terminals within the state, whether or not on lands leased from the Commission. P.R.C. Section 8751 makes it clear that these regulations apply to all terminals within the state, not merely those on lands under lease from the Commission. P.R.C. Section 8756 requires that the regulations be periodically reviewed and accordingly modified to ensure that all terminal operators provide the best achievable protection of the public health and safety, and the environment. P.R.C. Section 8757 directs the Commission to inspect or cause to be inspected, on a regular basis, all marine terminals, along with associated equipment, and to monitor their operations and effects on public health, safety, and the environment. Other statutory provisions governing contingency planning and other safety measures for

terminals are found in other parts of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990, under Chapter 7.4 of Title 2, Division 1 of the Government Code (Gov. C.).

As an initial measure, to ensure that all marine terminals were in a state of organized readiness to prevent and deter terrorist activity after the tragic events of September 11, 2001, the Commission adopted interim emergency regulations. These regulations required terminal operators to modify and update their safety standards and requirements by conducting a comprehensive physical security survey, preparing a terminal specific security plan, and designating a Marine Oil Terminal Security Officer. These regulations, the first of their kind in California, became effective May 7, 2001.

The Commission is now proposing a new Article 5.1, "Marine Terminal Physical Security", under Title 2, Division 3, Chapter 1, Article 5 of the CCR, consisting of Sections 2430 through 2445. The intent of Article 5.1 is to establish and ensure that a more comprehensive physical security program is implemented and maintained to prevent or deter acts of terrorism against the terminals and to protect the public health and safety and the environment. As a permanent measure, these regulations would supercede previous emergency regulations under Title 2, Division 3, Chapter 1, Article 5 Section 2351 that initially became effective on May 7, 2002 for a period of 120 days, and were readopted to extend their validity till October 26, 2002.

1. § 2430 specifies that the California State Lands Commission has the primary responsibility for carrying out the provisions of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 within the Commission's jurisdiction.
2. § 2431 would establish the purpose of these regulations. It would also specifies the section of industry to which they apply.
3. § 2432 would provide definitions and acronyms applicable to certain terms used in the regulations.
4. § 2433 would establish the minimum requirements for a marine terminal security program.
5. § 2434 would require designation of a marine terminal security officer (MTSO) and alternates.
6. § 2435 would establish the responsibilities of the marine terminal security officer (MTSO).
7. § 2436 would establish the requirements for a marine terminal physical security plan by specifying the minimum contents of that plan.
8. § 2437 would establish identification requirements for terminal employees, contractors and visitors to the terminal.
9. § 2438 would establish access control requirements for terminals.
10. § 2439 would establish requirements for key control systems and locking devices.
11. § 2440 would establish requirements for perimeter fencing or barriers.
12. § 2441 would establish requirements for minimum lighting at terminals.
13. § 2442 would establish requirements for warning systems, signals and communications.
14. § 2443 would provide for the use of video and electronic surveillance systems or devices to augment or replace manual security systems.
15. § 2444 would establish requirements for terminal security training for all terminal employees and security awareness training for all terminal employees, contractors and visitors.
16. § 2445 would specify the procedure for approval of the marine terminal physical security plan.

**SPECIFIC AGENCY STATUTORY
REQUIREMENTS: REVIEW
SUBCOMMITTEE ACTION**

Government Code § 8574.10, subsection (b) requires that all regulations adopted pursuant to Chapter 7.4 (commencing with Section 8670.1) and Division 7.8 (commencing with Section 8750) of the Public Resources Code shall, prior to adoption, be submitted for review to the Review Subcommittee of the State Interagency Oil Spill Committee. The review subcommittee comprises the Director of Fish and Game, the Executive Officer of the State Lands Commission, the Executive Director of the California Coastal Commission, the State Fire Marshal, the State Oil and Gas Supervisor, the Executive Director of the State Water Resources Control Board and the Executive Director of the San Francisco Bay Conservation and Development Commission or their designees. The text of the proposed regulations has been mailed to those persons for their review and comment. If requested, a formal meeting of the Review Subcommittee will be scheduled.

DIFFERENCES FROM FEDERAL REGULATIONS

The Commission has determined that the proposed regulations do not duplicate or conflict with Federal regulations. There are no current Federal regulations addressing security at marine oil terminals.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Commission has made the following determinations:

The Commission has determined that proposed regulations that are the subject of these findings do not impose any mandates on local agencies or school districts.

The Commission has also determined that the proposed regulations do not impose any mandate requiring state reimbursement to any local agency or school district, pursuant to Government Code Sections 17500 *et seq.* No other non-discretionary cost or savings imposed on local agencies is anticipated.

The Commission has determined that no other costs or savings to any other state agencies are anticipated.

The Commission has determined that the proposed regulations will have no significant statewide adverse economic impact on business, including the ability of California businesses to compete with businesses in other states.

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

The Commission has determined that the proposed regulations will have no significant impact upon any of the following:

- (1) Creation or elimination of jobs within the State of California;
- (2) Creation of new business or the elimination of existing businesses within the State of California; and
- (3) Expansion of businesses currently doing business within the State of California.

The Commission has determined that adoption of these regulations will not affect small businesses. None of the business that will be governed by these proposed regulations can be considered to be a 'small business' as defined in Gov. Code § 11342.610

The Commission has determined that the proposed regulations will have no significant effects on housing costs.

The Commission has determined that the proposed regulations will have no impact on costs or savings in Federal funding to the State.

FISCAL IMPACT STATEMENT/FORM 399

The proposed regulations prescribe new requirements for the items listed below. The commission has determined:

1. Conducting a comprehensive physical security survey

Most terminals in California have completed this task in satisfying the requirements of the emer-

gency security regulations 2 CCR § 2351. Immediately following the events of September 11, 2001, Division staff and the United States Coast Guard, together with terminal, conducted spot surveys of all marine oil terminals in California to assess their risk and the current security arrangements at marine terminals. These surveys take approximately one man-day for a small terminal, two man-days for a medium sized terminal and three man-days for a large terminal. Costs involved approximated \$50 per hour. As this work has already been completed, little or no additional costs are likely to be incurred by terminal operators.

2. Preparing a terminal specific security plan

As a result of the surveys conducted in item 1. above, all the necessary information for preparing a security plan should be available at each terminal. The costs for the preparation of the plan in-house are estimated to be about \$1,000. In the case of a large terminal, if professional consultants were employed, the costs may reach \$80,000. However, it is highly unlikely that professional consultants will be contracted. The larger terminals already have security personnel on staff that have or are capable of preparing security plans. Also, many terminal operators are represented by the Western States Petroleum Association, a professional organization with a technical committee that advises members on the best methods of achieving compliance. Most of these terminals have security arrangements that already meet the requirements of the proposed regulations.

3. Designating a Marine Oil Terminal Security Officer

It is expected that the job of Terminal Security Officer would be assigned to a person who is very familiar with the layout and operation of the terminal and is a current employee there. It is likely that such employee will receive an increase in salary for performing the extra duties. Several larger terminals, which are part of an oil refinery, already have an existing security force with a designated person in charge of security (see item 2. above)

4. Providing normal and additional security personnel

The cost of security guards is approximately \$35,000 per year.

5. Communications system for security

The cost of hand held radios is between \$50 to \$1000 depending on the sophistication of the system. Alternately, mobile cellular telephones may be used. These range from about \$45 to \$120 per telephone. All terminals are required to have means of communications for their operations. Existing

means of communications may be extended to cover security arrangements without any additional cost.

6. Protective lighting of access points to the terminal
Most terminals have adequate lighting that satisfies the requirement. There may be a few terminals that would have to provide extra lighting at entry points to the terminal.

7. Fencing, gates or barriers including barbed wire tops

Most terminals have fencing, gates and barriers that meet with these requirements. A few terminals may have to add the barbed or razor wire topping. The cost of fencing is between \$9 and \$14 per linear foot. The cost of gates can range from \$4000 to \$6000 dollars depending on the size of the gate and whether the gates are automated or manually operated.

8. Fixed and mobile security posts

Most terminals have entry control with a security guard post and gate shack. A small number of terminals (4 or 5) do not have this facility. They are located within a port where the port provides entry control. These terminals may be exempted from this requirement if they can demonstrate operational measures that would reduce their risk from terrorist activity.

9. Personnel and vehicle control (passes/badges/photo ID/escort etc.

All large and medium sized terminals have an entry control system. A few small terminals have a small number of permanent employees (less than 15 persons) and do not have identification badges or passes. A computerized digital photo entry control system is available for less than \$4,000. There are other systems available for screening employees, and the price varies with the degree of sophistication of the system. Visitors to a marine terminal without formal procedures in place may be controlled by screening their driver's licenses.

10. Initial and ongoing training

It is estimated that initial training in security awareness for employees would involve approximately 4 hours. This would include a walk around the terminal to familiarize personnel with security arrangements. Ongoing training of 30 minutes duration during mandatory safety meetings would ensure a high standard of security awareness among terminal personnel.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subsection (a)(13), the Commission has determined that there are no reasonable alternatives to the proposed regulations that have otherwise been

identified and brought to the attention of the Commission that would be more effective in carrying out the security measures or would be as effective and less burdensome to affected private persons than the proposed regulations.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearings or during the written comment period.

CONTACT PERSONS

Please direct all questions regarding substance of proposed regulations to:

Livin D. Prabhu
Marine Safety Specialist II
Planning Branch
California State Lands Commission
Marine Facilities Division
200 Oceangate Suite 900
Long Beach, CA 90802-4335
Telephone: (562) 499-6312
Facsimile: (562) 499-6317

Alternate Contact:

Mark A. Meier
Senior Staff Counsel
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202
Telephone: (916) 574-1853
Facsimile: (916) 481-1855

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its Long Beach office. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Livin Prabhu at the address or telephone number listed above or by e-mail to "prabhul@slc.ca.gov"

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the hearing and considering all timely and relevant comments, the Commission 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 modified text, with changes clearly indicated, shall be made available to the public for at least fifteen days prior to the date on which the Commission adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Livin D.

Prabhu at the address indicated above. The Commission will accept written comments on the modified regulations for fifteen days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting Livin D. Prabhu at the above mentioned address.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of regulations can be accessed through our website at http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home.htm

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

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 1380.19 (l) and 1428.17 pertaining to cherries, and Section 1436.37 pertaining to table grapes.

Notice is also given of a written public comment period. Any interested person may present statements or arguments in writing relevant to the proposed regulation until 5:00 p.m. on October 30, 2002. Please refer to the contact section of this notice for the contact persons and address information when submitting comments.

A public hearing is not scheduled but will be if any interested person, or his or her duly authorized representative, submits a written request for 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 above without further notice.

**INFORMATIVE DIGEST/PLAIN
ENGLISH OVERVIEW**

Section 1380.19, subsection (l) describes five existing standard containers for cherries. Section 1428.17 requires cherries to be placed in one of such standard containers.

This proposal would amend the above sections by adopting new standard container 12E having dimensions in depth, width, and length as specified.

Section 1436.37 requires table grapes to be in closed containers before transportation. "Closed" is defined as 40 percent or more of the opening of the container being covered.

This proposal would amend the above section by defining "closed" to mean that 40 percent or more of the opening is covered with a material that is part of the construction or is attached to the container opening. An alternative definition of "closed" is proposed for container 38M to mean that 90 percent or more of the opening is covered with a specified material held in place by the weight of the grapes. The container would also be considered closed when the grapes are placed in a closed liner in the container. A provision is proposed to permit openings in the closing material that facilitate cooling or that are necessary for attachment to the container. Nonsubstantive amendments would also be made for clarity.

FISCAL IMPACT STATEMENTS

The Department has initially determined that these proposed regulations would have no effect on savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department determined that these proposed regulations do not impose a mandate on local agencies or school districts.

EFFECT ON SMALL BUSINESS

The Department has initially determined that these proposed changes in the regulations would result in no added costs to small businesses affected by these proposed changes and would have a positive effect on such businesses. This is based on the fact that the proposal offers a new standard container for cherries, clarifies the definition of "closed" for closing standard table grape containers, and adds an alternative definition of "closed" for container 38M. The proposed amendments meet the needs of the affected commodity groups without requiring change on the part of industry.

EFFECT ON HOUSING COSTS

The Department has initially determined that the amendments of the proposed regulation would have no effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS**

The Department has initially determined that these proposed changes would have no statewide adverse

economic impact directly on businesses, including the ability for California businesses to compete with businesses in other states.

ASSESSMENT STATEMENT

The Department has initially determined that the proposed changes in the regulations would not affect the creation or elimination of jobs in California and would neither create nor eliminate or expand existing businesses in California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESS

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

ALTERNATIVES

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 these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407 and 42682 of the Food and Agricultural Code, and to implement, interpret, and make specific Section 42941 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

CONTACT

Inquiries concerning the proposed administrative action may be directed to Sonja Dame or Robert A. Cummings. Inquiries pertaining to the substance of the proposed regulation may be directed to Robert A. Cummings. The contact persons may be reached at the Department of Food and Agriculture, Fruit, Vegetable, and Egg Quality Control Branch, 1220 N Street, Room A-447, Sacramento, CA 95814, (916) 654-0919, fax (916) 654-0666. Written comments may also be submitted via e-mail to sdame@cdfa.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

A complete copy of existing regulations, the proposed changes, and the Initial Statement of Reasons may be obtained on request from the Department of Food and Agriculture. These documents are available on our website at www.cdfa.ca.gov/cdfa/regs.

In addition, all information, including reports, documentation, and other materials (rulemaking file) related to the proposed action is available upon request from the agency contact persons named in the notice. The Final Statement of Reasons, when available, may also be obtained from the agency contact persons named in the notice. The text of the proposed regulations with any sufficiently related changes clearly indicated will be made available for 15 days prior to adoption.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3700, subsection (b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oak Mortality Disease Control as an emergency action. The Department proposes to continue the regulation as amended.

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 11346.1 of the Government Code within 120 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 28, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations, as he deems necessary, to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code Section 5322).

Amendment of Section 3700, Oak Mortality Disease Control, subsection (b) established as the regulated area for the pest the entire counties of Contra Costa and Humboldt. The effect of the amendment is to provide authority for the State to regulate movement of hosts or potential carriers of the disease within and from the regulated area to prevent artificial spread of

the pest to non-infested areas to protect 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 3700 does impose a mandate on local agencies, but not on school districts. Reimbursement will be made for costs resulting from this mandate from the \$388,000 budgeted for this purpose.

The Department has also determined that the amended regulation will involve no additional costs or savings to any state agency because funds for state costs are already appropriated, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable savings to local agencies or costs or savings to school districts under Section 17561 of the Government Code, funds for reimbursement for costs to local agencies have already been appropriated, 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 California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. A representative person or business could incur costs of approximately \$176 per year in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments 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 action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department amended Section 3700, subsection (b) pursuant to the authority vested by Sections 407, 5321 and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3700, subsection (b) to implement, interpret and make specific Sections 24.5, 5321 and 5322 of the Food and Agricultural Code; Sections 11425.50 and 11440.10, Government Code; Section 1084 et seq., Code of Civil Procedure.

EFFECT ON SMALL BUSINESS

The adoption 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 Kris Peebles at (916) 654-1017. Questions regarding the substance of the proposed regulations 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 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, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

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

**TITLE 8. CALIFORNIA
APPRENTICESHIP COUNCIL**

(DEPARTMENT OF INDUSTRIAL RELATIONS)

NOTICE OF PROPOSED ACTION TO REPEAL
EXISTING CALIFORNIA CODE OF
REGULATIONS, TITLE 8, SECTION 232
AND TO ADOPT TITLE 8,
SECTIONS 232.01–232.70

NOTICE OF PROPOSED RULEMAKING

The California Apprenticeship Council (“Council”) proposes to repeal existing California Code of Regulations, title 8, section 232 and to adopt regulations setting forth the procedures for the review of determinations of civil penalty or debarment under Labor Code section 1777.7 for violations of Labor Code Section 1777.5’s requirements for the employment of apprentices on public works. The Council proposes to adopt these regulations as section 232.01–232.70 of Title 8 of the California Code of Regulations. The Council proposes to take this action after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARINGS, WRITTEN COMMENT
PERIOD, AGENCY CONTACTS**

Public Hearings:

Public Hearings will be held on the proposed regulations as follows:

October 29, 2002 from 10:00 a.m. to 12:00 noon
Hiram Johnson State Building,

Basement Auditorium
455 Golden Gate Avenue
San Francisco, California

October 31, 2002 from 10:30 a.m. to 12:30 p.m.
CIC Room, First Floor

Associated General Contractors of America
6212 Ferris Square
San Diego, CA

At the hearings, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Council requests, but does not require, persons who make oral comments also to submit a written copy of their testimony.

Written Comment Period:

Any person or authorized representative may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written

comment period closes on October 31, 2002, at 5:00 p.m., and the Council will only consider comments received by that deadline. Written comments may be submitted in person at one of the hearings or by letter, facsimile or e-mail as follows:

Diane Ravnik
California Apprenticeship Council
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Facsimile: (415) 703-5447
E-mail: dravnik@hq.dir.ca.gov

Agency Contacts:

Inquiries concerning the proposed regulations may be directed to:

Diane Ravnik
California Apprenticeship Council
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102

For substance inquiries contact Fred Lonsdale, Office of the Director, Legal Office, Department of Industrial Relations, 9th Floor, 455 Golden Gate Avenue, San Francisco, CA 94102.

AUTHORITY AND REFERENCE

Labor Code section 3071 authorizes the Council to adopt regulations which establish standards for minimum wages, maximum hours and working conditions for apprentice agreements. Labor Code section 1777.7(f) requires the Council to adopt regulations implementing Labor Code sections 1777.5 and 1777.7.

**INFORMATIVE DIGEST / POLICY
STATEMENT OVERVIEW**

Overview:

Section 1777.5 requires that apprentices employed on public works shall be paid the prevailing rate of per diem wages for apprentices and shall only be employed in the trade for which the apprentice is registered. Among other things, Section 1777.5 also requires contractors on public works to employ apprentices at a specified ratio (unless the contractor qualifies for an exemption to the ratio), to provide specified information to applicable apprenticeship programs that can supply apprentices, and to make contributions to the Council in the same amount that the Director of Industrial Relations (“Director”) has determined is the prevailing amount of apprenticeship training contributions in the area of the public works site.

Section 1777.7 imposes on a contractor who knowingly violates Section 1777.5 a civil penalty of no more than \$100 for each day of noncompliance. A second or subsequent violation of Section 1777.5 within a three year period is subject to a penalty of no more than \$300 for each day of noncompliance.

Section 1777.7 also provides that, if it is determined that a contractor has knowingly violated section 1777.5, the contractor may be denied the right to bid on a public works contract for a period of up to one year for a first violation and for a period of up to three years for a second or subsequent violation.

Section 1777.7 also provides that within specified time limits an affected contractor may request a hearing to review of a penalty or debarment. The hearing shall be heard by a person designated by the Administrator possessing the qualifications of an administrative law judge pursuant to Government Code section 11502. A contractor seeking review of a decision by the Administrator following a hearing may do so by a petition for writ of mandate pursuant to Code of Civil Procedure section 1094.5.

Section 1777.7 (g) provides that the interpretation and enforcement of Section 1777.5 and Section 1777.7 shall be in accordance with regulations promulgated by the Council. The purpose of this rulemaking is to carry out that mandate and set forth appropriate procedures that give effect to specific statutory requirements and afford due process to the parties involved in these proceedings.

By these proposed regulations, the Council intends to provide a complete set of rules governing public works determinations from issuance of the determination through the preparation of a record following the decision of the Administrator. Some repetition of statutory language was necessary to make these rules the most coherent and accessible guide for parties who become involved in these cases. The Council anticipates that some participants in these cases will be non-lawyers who will find it easier to follow regulations that set out the procedures completely rather than having to go back and forth between the statute and rules.

Consideration was given to the alternatives of either incorporating these hearings into one of the Council's preexisting administrative hearing systems or just adopting the hearing rules of the Administrative Procedure Act (found at Government Code section 11500 and following) for these proceedings. However, in light of the peculiar requirements of Section 1777.5 and section 1777.7, particularly the short time limits for commencing the hearing (90 days after receipt of a request for review) and making a decision (45 days after the hearing), neither alternative seemed feasible.

These regulations are modeled on regulations recently promulgated by the Department of Industrial Relations relating to prevailing wage determinations (CCR, title 8, subchapter 4, sections 187.01–187.70). For convenience, the Council's regulations have the same numbering as the Department's regulations.

There are no comparable federal regulations or statutes.

Proposed Regulations:

The Council proposes to repeal California Code of Regulations Chapter 8, section 232 and to adopt California Code of Regulations, Chapter 8, sections 232.01–232.70. Through these proposals, the Council intends to provide a complete set of rules governing hearings on determinations of violations of Section 1777.5, prevailing wage appeals, from issuance of the Assessment or Notice of Withholding through the preparation of a record following the Final Decision of the Administrator of Apprenticeship. Some repetition of statutory language was necessary to make these rules the most coherent and accessible guide for parties who become involved in these cases. The Council anticipates that some participants in these cases will be non-lawyers who will find it easier to follow regulations that set out the procedures completely rather than having to go back and forth between the statute and rules.

Consideration was given to the alternatives of either incorporating these hearings into one of the Council's preexisting administrative hearing systems or just adopting the hearing rules of the Administrative Procedure Act (found at Government Code section 11500 and following) for these proceedings. However, because of the peculiar requirements of Sections 1777.5 and 1777.7, including the short time frames for hearings and decisions with the due process requirements attendant to substantial evidence review, neither approach seemed feasible.

The primary source of the language used in these regulations is regulations recently promulgated by the Department of Industrial Relations relating to prevailing wage determinations (CCR, title 8, subchapter 4, sections 187.01–187.70). Other sources include Sections 1777.5 and 1777.7, the Administration Adjudication Bill of Rights (Government Code sections 11425.10 and following) and other parts of the Administrative Procedure Act, relevant cited provisions of the Code of Civil Procedure and the Evidence Code, and the rules governing hearings and appeals before the Occupational Health & Safety Appeals Board (8 Cal. Code Regs. sections 345 and following) and the California Unemployment Insurance Appeals Board (22 Cal. Code Regs. sections 5000 and following).

A. General

Sections 232.01–232.12 set forth rules of general application throughout the proceedings.

Section 232.01 is an introductory provision setting forth the scope and application of the rules.

Section 232.02 sets forth definitions of terms used throughout the rules. Definitions were provided and in some cases terminology created to address two particular concerns: (1) providing shorthand terms such as "Determination" in order to avoid repeating

cumbersome statutory language throughout the rules; and (2) providing “term of art” meanings to avoid definitional disputes based on other statutory or common usage meanings.

Section 232.03 sets forth rules for the computation of time, including extensions of time to respond or act when documents are served by mail. This is not a rule on proper methods of service, which is set forth later in Section 232.10.

Section 232.04 sets forth the standards governing the appointment of an impartial Hearing Officer in a given case. Subpart (b) specifies that Hearing Officers will be appointed from among the Director of Industrial Relations’ own legal staff as has been customary in other cases in which the Director has the responsibility to conduct an administrative hearing. However, if no one is available from the Director’s legal staff, the rule (and statute) provide that the Director may appoint a lawyer or administrative law judge from another one of the Department’s divisions, other than the Division Apprenticeship Standards, which will usually be one of the parties. Subpart (c) incorporates the Government Code sections which set forth the minimum qualifications for serving as an administrative law judge (expressly required by Labor Code section 1742(b)) and the standards that would preclude an individual from hearing a particular matter (implied from the statutory requirement that the hearing officer be “impartial”). Through subpart (d) the Council intends to delegate the authority to appoint hearing officers in all cases to the Chief Counsel of the Office of the Director.

Section 232.05 sets forth the authority of hearing officers, which includes all adjudicative authority normally possessed by administrative law judges except that the hearing officer can prepare only a recommended decision, with final decision-making authority reserved to the Director (as provided in the statute). Subpart (b) is intended to clarify that the Director has no review or supervisory authority over the actions of the appointed Hearing Officer other than through the issuance or reconsideration of a final decision.

Section 232.06 specifies that hearing case records are available to the public as public records.

Section 232.07 sets forth the rules governing ex parte communications with the Hearing Officer or the Administrator. The Administrative Adjudication Bill of Rights (Government Code sections 11425.10 and following) requires certain standards, and this proposal incorporates those standards by reference. Subpart (g) addresses a particular concern regarding ex parte communications with the Administrator. The Administrator inevitably will hear about and discuss major labor and employment law issues with the public and with other parties who may participate in or

be affected by these cases. Subpart (g) is designed to protect the integrity of the Administrator’s role as decision-maker.

Section 232.08 specifies how non-parties may intervene or participate in a proceeding. Bonding companies and sureties may intervene as a matter of right if they do so promptly. Two options are proposed for intervention by another person. The employee(s), labor union or joint management committee or apprenticeship program who filed the complaint that led to the determination may intervene provided that they do so promptly and there is no good cause to deny their intervention. Other interested parties may intervene upon a showing of good cause. It should be noted that Government Code section 11440.50 suggests but does not require an agency to adopt a rule for permissive intervention.

Section 232.09 permits a party to be represented by a non-lawyer, consistent with the norm for administrative hearings. It also provides that when there is an authorized representative, service on that representative will control the running of deadlines, whether or not copies are also sent to the party. Subpart (d) requires parties and representatives to keep the hearing officer and other parties informed of their current address and telephone number.

Section 232.110 sets forth the rules for serving documents and providing a Proof of Service. Subpart (e) provides that the Hearing Officer will maintain an official address record of parties and participants.

Section 232.11 permits fax and e-mail service and filing as allowed by statute and authorized by the hearing officer on a case by case basis. The intent is to encourage the use of such technologies provided they are not used in an abusive fashion or as a club against parties with limited resources.

Section 232.12 clarifies that Article 6 of the Administrative Adjudication Bill of Rights applies to these proceedings (as required by Government Code section 11425.10(b)). It specifies that ex parte communications between the Hearing Officer and the Director are permitted under Government Code section 11430.80(b). It also specifies that the formal hearing procedures of the Administrative Procedure Act (Government Code sections 11500 and following) will *not* apply to these proceedings except insofar as specific parts of those procedures have been incorporated into a given rule.

B. Determinations and Requests For Review

Sections 232.20–232.28 govern the issuance of the Determination and the filing of the Request for Review.

Section 232.20 reiterates the requirements for serving the Determination and clarifies what information must be included in the Determination.

Section 232.21 sets forth the opportunity to have an early settlement meeting with the Chief, DAS. Subpart (c) clarifies that the parties are not precluded from having later settlement discussions. Subpart (d) specifies that the early settlement procedures, whether observed or not observed, do not extend the time for filing a Request for Review.

Section 232.22 sets forth the time limits and requirements for filing of Request for Review, which is the appeal document in these proceedings. In accordance with the statute, the Request for Review must be served on the Administrator, but the rule encourages sending a courtesy copy to the Director's Legal Unit in order to facilitate prompt scheduling of the hearing. Subpart (e) requires the Request for Review to include a statement of the basis for the Request, and it permits the Hearing Officer to require a further specification of the basis for seeking review. The intent of this subpart is also to facilitate prompt scheduling by giving the Hearing Officer an early understanding of the potential issues.

Section 232.23 specifies where the Chief, DAS must transmit the Request for Review and other specified documents to commence the review proceeding.

Section 232.24 sets forth and explains the Chief, DAS's statutory duty to disclose the evidence it intends to use at the hearing. Subpart (d) precludes the Chief DAS from using evidence not disclosed within the statutory deadline, but also permits an affected contractor or subcontractor to extend the deadline. Subpart (e) excepts from this preclusion rule any after-acquired evidence that is promptly disclosed as well as evidence used solely to rebut new or collateral claims raised by another party.

Section 232.25 permits an affected contractor or subcontractor to withdraw a Request for Review, and it also sets forth procedures and time limits for seeking to reinstate a withdrawn Request.

Section 232.26 governs the authority of the Chief, DAS to dismiss or amend a Determination. Upon notice, which is intended to allow for objections and provide a cooling off period, the Chief, DAS will essentially have a near-automatic right to dismiss or to amend the Determination downward. A motion to amend a Determination upward will require a showing of good cause based upon new information.

Section 232.27 will permit cases to be disposed of early without the need for a hearing on the merits where it appears that either the Determination were not served or filed within the statutory time limits. The Hearing Officer will have discretion to decide whether or not to use this procedure as well as discretion not to recommend an early disposition when the evidence is uncertain. If the evidence shows that the Determination or Request was untimely, the Hearing Officer will

recommend that the Administrator issue a final decision dismissing the Determination or Request. That decision will then be subject to reconsideration or judicial review in the same manner as any other final decision by the Administrator.

Section 232.28 specifies that a Determination that has not been appealed through the filing of a timely Request for Review is a "final order" within the meaning of the statute. Subpart (b) clarifies the duty of awarding bodies to retain and not disburse withheld amounts when an appeal remains pending as to at least one affected contractor or subcontractor.

Section 232.29 is left blank intentionally so that these regulations will have the same numbering as the Department of Industrial Relations' prevailing wage determinations under Labor Code section 1720 (CCR, title 8, subchapter 4, sections 187.01–187.70).

C. Prehearing Procedures

Sections 232.30–232.37 set forth prehearing procedures.

Section 232.30 sets forth the procedure for the scheduling of hearings and for continuances. Section 232.30 also provides that the time limits for hearings and seeking review are tolled under certain specified circumstances, including court orders and events beyond the Administrator's control.

Section 232.31 permits the Hearing Officer to hold a prehearing conference to facilitate preparation of the case for hearing.

Section 323.32 permits multiple cases to be consolidated for hearing and decision when appropriate, and it also authorizes consolidated matters to be severed.

Section 232.33 sets forth standards for prehearing motions, including required information and cut-off dates for motions that must be resolved in advance of the hearing. The intent is that such motions would be disposed of on paper without oral hearings, unless an oral hearing is requested and the matter involves a fundamental right, such as a compelled waiver of a privilege. Because of the short deadline for starting a hearing on the merits, the procedure is not intended for use for dispositive (*e.g.* summary adjudication) motions other than a timeliness challenge handled under Section 232.27 above.

Section 232.34 provides for the introduction of testimony by affidavit or declaration and for the treatment of that testimony as direct evidence (*i.e.* not hearsay) unless a party has requested an opportunity to cross-examine the witness. This procedure is authorized by the Administrative Procedure Act (Government Code section 11514) and is also a feature of judicial arbitration (California Rule of Court 1613) and economic litigation for limited civil cases (Code of Civil Procedure section 98). If another party requests the opportunity to cross-examine, this pro-

positional places the burden of producing the witness on the party who offered the written testimony, which is the approach followed in Rule of Court 1613. If the witness cannot be produced for cross-examination, the written testimony will still be admissible but will be treated as hearsay evidence.

Section 232.35 provides that subpoenas and subpoenas duces tecum may be issued by a Hearing Officer or by an attorney for a party (consistent with an attorney's authority in civil cases and in adjudications under the Administrative Procedure Act). A subpoena duces tecum may require documents to be produced in advance of the hearing.

Section 232.36 sets forth a separate rule for compelling another party to attend and testify by issuing a Notice to Appear to that party's attorney in lieu of a subpoena.

Section 232.37 precludes depositions in most cases except when needed to obtain testimony from a party who cannot appear at the hearing. The statute contemplates that the Chief, DAS will have done a full investigation prior to issuing a Determination and that it will turn over its evidence to the party who files a Request for Review, similar to what occurs in criminal cases. This appears to be the only discovery contemplated by the statute, and a rule that would permit other investigative discovery appears to be incompatible with the statutory 90 day deadline for starting the hearing.

D. Rules Governing The Hearing

Section 232.40 provides for giving notice of the person appointed to serve as Hearing Officer as well as procedures and a time limit for objecting to that person's appointment.

Section 232.41 reiterates the 90 day deadline for commencing the hearing, and sets the county where the Hearing Officer is employed (San Francisco, Sacramento, or Los Angeles) as the default venue for the hearing. The parties may have the venue changed to another location that is more convenient to them but will have the burden to arrange for the availability of a suitable hearing site in that venue.

Section 232.42 sets forth customary standards for conducting hearings that are open to the public while giving the Hearing Officer the authority to protect information that is properly deemed confidential and to exclude witnesses prior to their testimony.

Section 232.43 sets forth customary standards for the conduct of hearings by a presiding officer in an administrative case.

Section 232.44 states the customary rule that administrative hearings are not bound by formal rules of evidence and that generally all relevant evidence is admissible unless subject to exclusion by reason of privilege or because unduly cumulative. Subpart (d)

sets forth the customary standard governing the admissibility and weight accorded hearsay evidence in administrative cases.

Section 232.45 sets forth the authority of the Hearing Officer to take official notice (similar to judicial notice) of certain facts and information, including technical facts within the special expertise of the Department of Industrial Relations.

Section 232.46 sets forth the Hearing Officer's authority to act when a party fails to appear. Subpart (b) provides a procedure and deadline for a party to seek relief from the consequences of its failure to appear.

Section 232.47 sets forth the authority and procedure through which the Hearing Officer may certify a person for being in contempt or sanction a party for bad faith or frivolous tactics. This proposal follows the standards for administrative hearings found in the Administrative Procedure Act (Government Code sections 11455.10–11455.30).

Section 232.48 sets forth standards and procedures for obtaining the services of an interpreter, consistent with the requirements of the Administrative Procedure Act.

Section 232.49 provides that the Hearing Officer and Director will maintain and control the official Hearing Record and that the proceedings generally will be recorded by audiotape unless the Hearing Officer agrees to a different method. A parties may request a court reporter or other means for recording testimony but will then have the burden of procuring and paying for the reporter or other means.

Section 232.50 sets forth the respective burdens of the parties to come forward with evidence and then to persuade the decision-maker. The Director notes that the statute imposes differing burdens for certain findings and determinations.

Section 232.51 is left blank intentionally so that these regulations will have the same numbering as the Department of Industrial Relations' prevailing wage determinations under Labor Code section 1720 (CCR, title 8, subchapter 4, sections 187.01–187.70).

Section 232.52 gives parties the right to file briefs prior to the hearing and to make a closing argument at the conclusion of the hearing. Subparts (b) and (c) give the Hearing Officer discretion to determine what post-hearing submissions will be permitted and include the option of drafting proposed findings.

Section 232.53 specifies the time when the hearing is deemed concluded for purposes of the 45 day deadline for the Administrator to issue a decision.

E. Rules Governing the Decision of the Administrator

Section 232.60 sets forth the statutory requirements for the contents and service of the Decision, including

the statute's requirement that the Decision be served by first class mail pursuant to Code of Civil Procedure section 1013.

Section 232.61 sets forth the very limited time frame allowed by statute for the Administrator to reconsider a Decision. Subpart (d) notes that a Request for Reconsideration is neither a prerequisite for nor does it extend the time limits for seeking court review.

Section 232.62 specifies that the Decision issued under Rule 60 is a final decision for purposes of seeking court review unless the Administrator has issued a modified decision within the 15 days allowed under Rule 61. Subpart (c) provides that the deadline for seeking court review is determined from the date of service of the Decision and *includes* any extension of time (for service by mail) provided under Code of Civil Procedure section 1013.

Section 232.63 sets forth the obligation of a party seeking court review to designate and pay for preparation of the hearing record. There is an exception for parties granted in forma pauperis status, consistent with the requirements of the Code of Civil Procedure section 1094.5(a).

F. Statute of Limitations

Section 232.70 provides that a determination shall be issued and served within three years after the date of accrual.

Comparable Statutes and Regulations:

These proposals have been drafted to follow the requirements of Labor Code sections 1777.5 and 1777.7 1742 as well as provisions of California's Administrative Procedure Act that govern administrative adjudications before state agencies. These regulations are modeled on regulations recently promulgated by the Department of Industrial Relations relating to prevailing wage determinations (CCR, title 8, subchapter 4, sections 187.01-187.70). For convenience, the Council's regulations have the same numbering as the Department's regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Council has made the following initial determinations with respect to these proposals. The Council notes that these proposals implement Labor Code section 1777.7(f)'s mandate to adopt regulations setting forth hearing procedures concerning determinations of violations of Labor Code Section 1777.5, and these proposals impose no significant mandates, costs, or savings that are different or distinct from what the Legislature has required by statute. The Council invites further comment on these specific impacts.

Mandates on Local Agencies or School Districts:

The proposals do not impose mandates on local agencies or school districts.

Costs or Savings to State Agencies; Reimbursable Costs Imposed on Local Agencies or School Districts; other nondiscretionary costs or savings imposed on local agencies; and costs or savings in federal funding to the state:

"The statute imposes increased costs on the Office of the Director of the Department of Industrial Relations, and these proposals specifically impose those costs on the Director's Legal Unit which will supply hearing officers and administer the hearing procedures.

"The proposed regulations do not impose reimbursable costs on local agencies or school districts, do not impose other nondiscretionary costs or savings on local agencies, and do not involve costs or savings in federal funding to the state."

Initial Determination of Economic Impact on Business:

The Council has made an initial determination that these proposals will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The statute itself impacts only businesses that choose to enter into public works contracts, and it is neutral in its treatment of California businesses as compared to businesses from other states. The change from a system of court review to an administrative hearing procedure may result in some savings for businesses who appeal determinations, simply because administrative hearings are often cheaper than court litigation.

Known Cost Impacts on Representative Private Person or Business:

The Council is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with these proposals.

Creation, Elimination, or Expansion of Jobs or Businesses (Results of Assessment under Government Code section 11346.3(b)):

The Council has made initial determinations that (1) these proposals will not affect the creation or elimination of jobs within the State of California; (2) these proposals will not affect the creation of new businesses or the elimination of existing businesses within the State of California; and (3) these proposals will not affect the expansion of businesses currently doing business within the State of California.

Reporting Requirements (Finding under Government Code section 11346.3(c)):

These proposals impose no reporting requirements on businesses.

Effect on Housing Costs:

These proposals have no effect on housing costs.

Effect on Small Business:

Small businesses that participate in public works projects may be affected by these proposals. These proposals implement statutory changes that are designed to streamline the process for appealing determinations of violations of Labor Code section 1777.5 by requiring administrative hearings rather than court litigation. Since administrative hearings are often more cost efficient for participants than court litigation, these changes may reduce costs for small businesses that appeal such determinations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Council must determine that no reasonable alternative considered by the Council or that otherwise has been identified and brought to the Council's attention would either be more effective in carrying out the purpose for which the action is proposed or be as effective as the proposed action and less burdensome to affected private persons. Labor Code section 1777.7(f) requires the Council to adopt hearing procedures, and as noted in Informative Digest above, the adoption of a new set of hearing regulations appears to be a more feasible approach for the particular requirements of this statute than attempting to incorporate preexisting schemes. The Council invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

**AVAILABILITY OF INFORMATION
PERTAINING TO THE PROPOSED ACTION**

The Council will have the rulemaking file available for inspection and copying throughout the rulemaking process. Initially the file will consist of this notice, the initial statement of reasons, and the text of the proposed regulations. The text of the file will be available at:

Diane Ravnik, DAS
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102

Website:

Rulemaking records, including the text of the proposed regulations may be accessed through the Department's Internet website at www.dir.ca.gov.

Availability of Changed or Modified Text:

After holding the hearings and considering all timely and relevant comments received, the Council may adopt the proposed regulations substantially as described in this notice. If the Council makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be made available to the public for at least 15 days before the Council adopts the regulations as revised. Any such modifications will also be posted on the website. Please send requests for copies of any modified regulations to the attention of the contact persons listed above. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available.

Availability of the Final Statement of Reasons and the Rulemaking File:

Upon completion, the Final Statement of Reasons will be available and the entire rulemaking file may be obtained from contact persons named in this notice.

AUTHORITY AND REFERENCE

The Director's authority to adopt these regulations is found in Labor Code sections 3071 (general authority to regulate apprenticeship) and 1777.7(f) (mandate to adopt regulations implementing Labor Code section 1777.5).

These proposals implement, interpret, and make specific the statutory requirements relating to the review of determinations of violations of Labor Code section 1777.5.

AUTHORITY: Labor Code sections 3071 and 1777.7.

REFERENCE: Labor Code sections 1777.5 and 1777.7.

**TITLE 10. DEPARTMENT OF
REAL ESTATE**

**NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE
REAL ESTATE COMMISSIONER**

Paula Reddish Zinnemann, Real Estate Commissioner, proposes to adopt, amend and/or repeal the proposed regulations described below in Title 10, California Code of Regulations, after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commissioner proposes to adopt, amend and/or repeal sections 2731, 2790.5, 2791.3, 2791.8, 2792.26, 2792.33, 2810.3, 2836, 2848, 2853, 2860, 2910, 2911, 2912, 2930, 2950, 3000, and 3006 in Title 10 of the California Code of Regulations (CCR).

PUBLIC HEARING

The Commissioner or her representative will hold a public hearing starting at 10:00 AM, on November 7, 2002, at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

This hearing will be a hearing under Sections 10226 and 11011 of the Business and Professions Code to determine whether license and subdivision fees lower than the statutory maximum should be prescribed.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commissioner. The written comment period closes on November 7, 2002. All written comments must be received by 5:00 PM on that date at the Department's Sacramento Office as follows:

David B. Seals, Real Estate Counsel
 Department of Real Estate
 2201 Broadway
 Sacramento, CA 95818
 Telephone: (916) 227-0789

Comments may be sent via electronic mail to david_seals@dre.ca.gov or via fax to David B. Seals at (916) 227-9458.

AUTHORITY AND REFERENCE

The changes to the regulations are authorized by Business and Professions Code sections 482, 10080, 10170.4, 10232.1 and 11001 to implement, interpret or make specific Business and Professions Code sections 480, 481, 482, 490, 10131.6, 10145, 10148, 10153.5, 10159.5, 10167.9, 10167.10, 10170.4, 10170.5, 10177, 10232.1, 10235, 10522.5, 11010.05(c), 11013.2, 11013.4 and 11018.5, Financial Code section 17006 (a)(4), Government Code section 11425.50, Health and Safety Code sections 1775 and 18100.5, *In re Gossage*, 23 Cal 4th 1080 and *Griffiths v. Medical Board*, 96 Cal App 4th 757, 770.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AMENDMENT OF SECTION 2731

The current regulation prohibits the use of a fictitious name in the conduct of activities requiring a real estate license. Questions have been raised whether

the use of a nickname violates the current regulation. This proposed change would specify the conditions under which a nickname could be used.

AMENDMENT OF SECTION 2790.5

The current regulation refers to a previous Section of the Civil Code that was subsequently renumbered. This proposed change would correct that reference.

ADOPTION OF SECTION 2791.3

The current regulations do not set an amount for bonds to secure construction of improvements in a subdivision. This proposed change would establish the bond amount at 120 percent of the estimated cost of construction.

AMENDMENT OF SECTION 2791.8

The current regulation specifies requirements, to insure fairness, to be followed by subdividers and homeowners in resolving disputes when using alternative dispute resolution (ADR) procedures. The proposed change would assure that these same principles be applied to all forms of dispute resolution.

AMENDMENT OF SECTION 2792.26

The current regulation specifies rights and responsibilities of homeowners in subdivisions and homeowner associations when imposing discipline on members of the homeowners association. The proposed change would change an incorrect reference in the regulation.

ADOPTION OF SECTION 2792.33

The current regulations do not address continuing care subdivisions where residents are provided assisted living care in addition to owning a residential unit. This proposed change would establish reasonable arrangements for those subdivisions.

ADOPTION OF SECTION 2810.3

The current regulations do not address time-share projects using point systems for establishing occupancy rights. This proposed change would require a point system time-share operator to provide information on the rules, limitations and operation of the point system.

ADOPTION OF SECTION 2836

The current regulations do not address the need to make subdivider and brokerage records available for inspection by the Department. This proposed change would require that such records be maintained and be made available for inspection in California.

AMENDMENT OF SECTION 2848

The current regulation contains references to repealed statutes. This proposed change would delete those references.

AMENDMENT OF SECTION 2853

The current regulation refers to a penalty amount set by statute. The statute was amended to increase that amount. This proposed change would revise the amount in accordance with the statutory change.

ADOPTION OF SECTION 2860

Section 10131.6 of the Business and Professions Code requires the Commissioner to prescribe regulations to assure that mobilehome sales negotiated by real estate brokers are in compliance with laws governing the sale of those mobilehomes. This proposed change would provide that regulation.

AMENDMENT OF SECTION 2910

The current regulation sets forth criteria for use in determining whether or not a criminal conviction is substantially related to the qualifications, functions or duties of a real estate licensee. This proposed change would add to the list of substantially related convictions two or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs.

AMENDMENT OF SECTION 2911

The current regulation lists criteria for use in determining whether or not a license applicant with a criminal conviction is sufficiently rehabilitated to warrant the issuance of a real estate license. This proposed change would add to the list the absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

AMENDMENT OF SECTION 2912

The current regulation lists criteria for use in determining whether or not a licensee with a criminal conviction is sufficiently rehabilitated to warrant the retention of a real estate license. This proposed change would add to the list the absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.

AMENDMENT OF SECTION 2930

The current regulation sets forth standard language for use in Proposed Decisions in license disciplinary cases. This proposed change would (1) under certain circumstances, condition the issuance of a restricted real estate license on having taken and successfully completed a specified continuing education course on trust fund accounting and handling and (2) require a licensee who was compensated for acts performed while the license was expired to "disgorge" the compensation to a maximum of \$10,000.

AMENDMENT OF SECTION 2950

The current regulation contains references to statutory provisions that were subsequently amended. This proposed change would correct those references to the statute.

AMENDMENT OF SECTION 3000

The current regulation does not provide detailed qualifications for instructors of approved courses necessary to qualify for a real estate license. This proposed change would establish instructor qualifications. The proposed change would also require notification to the students of the availability of an instructor and course evaluation form.

AMENDMENT OF SECTION 3006

The current regulation does not provide detailed qualifications for instructors of approved continuing education courses. The current regulation also does not require a course sponsor to supply written materials to students. This proposed change would establish instructor qualifications and require the giving of written materials to students. The proposed change would also require notification to the students of the availability of an instructor and course evaluation form.

EFFECT ON SMALL BUSINESS

All of the proposed regulatory changes may affect small business.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Plain English drafting: The Commissioner has confirmed that these regulations have been drafted in plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).
2. Mandate on local agencies and school districts: None.
3. Cost or savings to any state agency: None.
4. Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.
5. Other non-discretionary cost or savings imposed upon local agencies: None.
6. Cost or savings in federal funding to the state: None.
7. 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.
8. The Commissioner has made an initial determination that the adoption, amendment or repeal of these regulations will 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.

9. Impact on jobs and business expansion, elimination or creation: The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs within the State of California nor will it significantly affect the creation of new businesses, the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.
10. Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

The backup contact person is:

Larry A. Alamao, Assistant Chief Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

The name of the person who can respond to questions concerning the substance of the proposed regulations is:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INTERNET SITE

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. The final statement of reasons once it is prepared pursuant to Section 11346.9 of the Government Code will also be a part of the rulemaking file and available for inspection and copying as indicated above. Portions of the rulemaking file and information regarding the Department is available through our website (www.dre.ca.gov). The express terms of the proposed action written in plain English are available from the agency contact person named in this notice. Copies may be obtained by contacting David B. Seals at the address and phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Real Estate Commissioner may, on her own motion or at the recommendation of any interested person made by written or oral comment, modify the Proposed Regulations and adopt the Regulation Changes as modified if the modification is determined to be one that the public could have reasonably anticipated from this Notice, the Informative Digest, and the Initial Statement of Reasons.

If the Commissioner decides to modify a Proposed Regulation, the Department will make copies of the full text of the regulations, as originally proposed with the proposed modifications clearly indicated, available for not less than 15 days prior to adopting the modified regulation. Copies of the modified regulations will be mailed to all persons who have made written or oral comments concerning the Proposed Regulations and all persons who have requested notification of availability of the modifications.

Requests for modified regulations or other communications concerning the Proposed Regulations should be addressed to the Department's contact person, David B. Seals, at the address and/or telephone number above.

**COMPLIANCE WITH GOVERNMENT CODE
§ 11346.4(A)(1) THROUGH (4)**

The Department of Real Estate (the Department) has complied with Government Code § 11346.4(a)(1) through (4) and Section 86, Title 10 of the California Code of Regulations, by mailing or delivering a copy of this Notice of Proposed Changes in the Regulations of the Real Estate Commissioner and of the Proposed Regulations with changes indicated in ~~strikeout~~ and underline to the Department's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with the Department.
2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency).
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be, or have been in the past, affected by our Proposed Regulations. The Department has no way of knowing which are small businesses.
4. The California Association of Realtors, a real estate licensee trade organization and the California Building Industry Association, a home builders trade organization.
5. A substantial number of land developers. Not small businesses by definition, but some of which may be, or have been in the past, affected by our Proposed Regulations.
6. The members of the Real Estate Advisory Commission as required by the Business and Professions Code Section 10080.

**TITLE 16. BUREAU OF
AUTOMOTIVE REPAIR**

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/Bureau of Automotive Repair (hereinafter "Bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at the following locations on the following dates:

October 30, 2002—10:00 a.m.
Department of Consumer Affairs
Bureau of Automotive Repair
10240 Systems Parkway
Executive Conference Room
Sacramento, CA 95827

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 Bureau at its office not later than 5:00 p.m. on November 1, 2002, or must be received by the Bureau at the above referenced hearings. The Bureau, upon its own motion or at the instance of any interested party, may thereafter formally 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 oral or written 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 9882 and 9884.19, Business and Professions Code; and to implement, interpret or make specific Sections 9880.1, 9882, 9884.7, 9884.8, 9884.9, 9884.17 and 9884.19, and Sections 12000 and 12001 of the Vehicle Code; the Bureau is proposing to adopt the following changes to Articles 6 and 8 of Division 33 of Title 16 of the California Code of Regulations:

**INFORMATIVE DIGEST/ POLICY
STATEMENT OVERVIEW**

The Bureau of Automotive Repair (Bureau) was established within the California Department of Consumer Affairs in 1972. The Bureau was created by Chapter 1578, Statutes 1971 (Senate Bill 51, Beilenson), which mandated a statewide consumer protection program for automotive repair.

Through its statewide offices, the Bureau conducts consumer protection services related to automotive repair. Bureau representatives register and regulate automotive repair dealers, accept and mediate auto repair complaints from the public, investigate violations of the Automotive Repair Act, and when appropriate, refer cases to law enforcement authorities. The Bureau also administers statewide licensing programs of repair facilities and service technicians in smog, lamp and brake inspection and repair.

Pursuant to the 1990 federal Clean Air Act Amendments (CAAA) and an international agreement (Montreal Protocol) signed by this nation in the late

1980s, due to concerns about global warming and erosion of the earth's ozone layer, the United States Environmental Protection Agency (USEPA) banned the production and importation of ozone-depleting chlorofluorocarbons (CFCs) and halons after 1995. One such affected substance, CFC-12—better known by its brand name, Freon—is a common refrigerant used in automotive air conditioning systems. However, the use of CFC-12, including recycling of the refrigerant, is permitted as long as supplies are available. CFC-12 was used as the primary refrigerant in air conditioning systems for vehicles built before 1994.

In addition, the CAAA require the USEPA to review and approve all chemicals and technologies to be used as substitutes for the banned substances. Several refrigerants have been submitted to USEPA for review to replace CFC-12 in auto air conditioning systems. Currently, among the alternatives listed as acceptable subject to use conditions, R-134a is the only one that has been fully tested and specified by automakers in their guidelines.

In the process of investigating and mediating consumer complaints, Bureau staff have found that the CAAA have resulted in confusion and have given rise to various acts of fraud that are best addressed within the jurisdiction of the Bureau's Automotive Repair Act. For example, repair facilities may fail to identify the refrigerant in use; they may inappropriately mix refrigerants, or in extreme cases, may jeopardize safety by substituting flammable chemicals such as propane. In many cases, the vehicle owner may be unaware of these shoddy, fraudulent or dangerous repair methods.

Regulations were adopted in January 2001 that provide guidelines on specific equipment requirements and establishes industry standards for shops engaged in automotive air conditioning repairs. Air conditioning service and repair has been one of the areas needing immediate attention and one which continues to build on California's role as a consumer protection leader in the automotive service and repair market. Since implementation of the automotive air conditioning regulations, however, the Bureau has identified the need for some minor corrections.

Summary of Existing Laws and regulations:

Section 9882 of the Business and Professions Code provides that the Director of the Department of Consumer Affairs may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of the Automotive Repair Act and declaring the policy of the Bureau.

Section 3351.6 of Title 16 of the California Code of Regulations prescribes the equipment requirements for Automotive Repair Dealers that perform automobile

air conditioning service and incorporates by reference the various standards adopted and published by the Society of Automotive Engineers (S.A.E.) that are applicable to such equipment.

Section 3351.6 of Title 16 of the California Code of Regulations prescribes the trade standards applicable to automotive air conditioning service and repair.

Effect of Regulatory Action:

1. Amend Section 3351.6.

S.A.E standard J2210 (Rev. Feb. 1999) is added to the standards incorporated by reference in subsection (c), which lists the standards that must be met by refrigerant recovery equipment used by Automotive Repair Dealers to perform automotive air conditioning services. This action corrects an inadvertent oversight in omitting this standard (J2210 (Rev. Feb. 1999)) in the adoption of Section 3351.6.

The reference to an air conditioning system vacuum pump in subsection (e) is simplified to require a functioning vacuum pump that is designed for the evacuation of mobile air conditioning systems. The performance requirement for the vacuum pump has been deleted. This change corrects an erroneous performance requirement established in the adoption of this section.

2. Amend Section 3366.

The provisions of Section 3366 are modified so that individual unit repairs can be made without performing all of the tests and procedures enumerated in this section, provided that the repair does not result in a breach of the sealed portions of the air conditioning system.

Existing subsections (a)–(p) are also renumbered as paragraphs (1)–(16) to conform to the above modifications.

FISCAL IMPACT STATEMENTS

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.

Costs to Any Local Agency or School district for Which Government code Section 17561 Requires Reimbursement: None.

Businesses Impact:

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

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses:

The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, 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 Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

Effect on Small Business:

The Bureau has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

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

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau at 10240 Systems Parkway, Sacramento, California 95827.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the Bureau of Automotive Repair at the address mentioned above.

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

CONTACT PERSON

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

James Allen, Regulations Analyst
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-4300
Fax No.: (916) 255-1369
E-mail: jim_allen@dca.ca.gov

The backup contact person is:

Debbie Romani, Staff Services Manager
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-4300
Fax No.: (916) 255-1369
E-mail: debbie_romani@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Ken Wardlow, who may be contacted at (760) 439-5808.

WEBSITE ACCESS

Materials regarding this proposal can also be found on the Bureau's website at www.autorepair.ca.gov.

**TITLE 16. BUREAU OF
AUTOMOTIVE REPAIR**

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/Bureau of Automotive Repair (hereinafter "Bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at the following locations and on the following date:

October 30, 2002—10:00 a.m.
Department of Consumer Affairs
10240 Systems Parkway
Executive Conference Room
Sacramento, CA 95827

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 Bureau at its office not later than 5:00 p.m. on November 1, 2002, or must be received by the Bureau at the above referenced hearings. The Bureau, upon its own motion or at the instance of any interested party, may thereafter formally 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 oral or written 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 44001.5, 44002, 44072.10, 44091 and 44095, Health and Safety Code and Section 9882, Business and Professions Code; and to implement, interpret or make specific Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44014.5, 44017, 44017.1, 44030, 44036, 44037.1, 44056, 44062.1, 44070, 44072.10, 44092, 44093, 44094 and 44103, Health and Safety Code; Sections 220 and 11500, Vehicle Code; and Section 11505, Government Code; the Bureau is proposing to adopt the following changes to Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations:

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The Bureau of Automotive Repair (Bureau), within the Department of Consumer Affairs, is the state agency charged with the administration and implementation of the Smog Check Program (Program). The Program is designed to reduce emissions from mobile sources, such as passenger vehicles and trucks, by requiring that these vehicles meet specific in-use emissions standards as verified by periodic inspections. To ensure uniform and consistent vehicle testing, the Bureau licenses smog check stations and technicians and certifies inspection equipment.

The proposed regulatory action would add a specific definition for “clean piping” to Section 3340.1, as contemplated in Health and Safety Code section 44072.10(d)(1). This statutory provision (§ 44072.10(d)(1)) appears to suggest that the Bureau is directed to define the term “clean piping.” Therefore, the Bureau proposes to define the subject term in order to clarify its meaning, standardize its usage and comply with the provisions of Health and Safety Code section 44072.10(d)(1).

Summary of Existing Laws and regulations:

Section 9882 of the Business and Professions Code provides that the Director of the Department of Consumer Affairs may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of the Automotive Repair Act and declaring the policy of the Bureau. Section 44002 of the Health and Safety Code

designates the department as having the sole and exclusive authority for developing and implementing the motor vehicle inspection program known as the Smog Check Program. Section 44072.10 of that Code provides, in pertinent part, that the department shall revoke the license of any smog check station licensee or smog check technician who fraudulently certifies or participates in the fraudulent certification of vehicles. Section 44072.10 also specifies that fraudulent certification includes “clean piping, as defined by the department.” There is no formal definition of the term “clean piping” in statute or regulation.

Effect of Regulatory Action:

1. Amend and Renumber Section 3340.1(t)–(bb).

Subsection (t) is amended with a definition of the term “clean piping.” The term is defined as the use of an exhaust emissions sample from one vehicle to cause a certificate of compliance to be issued to another vehicle that may not be in compliance or is not tested or is not present when the certificate is issued. The current subsection (t) is then renumbered as subsection (u) and all subsequent subsections ((u)–(bb)) are renumbered accordingly.

2. Amend Section 3340.1(g).

Editorial and grammatical changes are made in this subsection for clarification purposes only. These changes have no regulatory effect.

FISCAL IMPACT STATEMENTS

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.

Costs to Any Local Agency or School district for Which Government code Section 17561 Requires Reimbursement: None.

Businesses Impact:

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

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses:

The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, 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 Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

Effect on Small Business:

The Bureau has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau at 10240 Systems Parkway, Sacramento, California 95827.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the Bureau of Automotive Repair at the address mentioned above.

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

CONTACT PERSON

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

James Allen, Regulations Analyst
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-4300
Fax No.: (916) 255-1369
E-mail: jim_allen@dca.ca.gov

The backup contact person is:

Debbie Romani, Staff Services Manager
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-4300
Fax No.: (916) 255-1369
E-mail: debbie_romani@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to James Allen, who may be contacted at (916) 255-4300.

WEBSITE ACCESS

Materials regarding this proposal can also be found on the Bureau's website at www.smogcheck.ca.gov.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code and section 32451 of the Revenue and Taxation Code, proposes to adopt Regulation 2570 and amend Regulations 2500, 2538, and 2552 in Title 18, Division 2, Chapter 6 of the California Code of Regulations, relating to the Alcoholic Beverage Tax Law. A public hearing on the proposed regulation and amendments will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter can be heard, on November 13, 2002. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by November 13, 2002.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board proposes to adopt and amend the Alcoholic Beverage Tax Regulations as follows:

Proposed Regulation 2570 describes the conditions that must be met in order for a person to be relieved of liability for the payment of alcoholic beverage taxes, including penalties and interest added to those taxes. This proposed regulation is consistent with Sales and Use Tax Regulation 1705.

Regulation 2500 specifies the records to be kept by alcoholic beverage taxpayers. The proposed amendments delete the current language and proposes adding requirements consistent with Sales and Use Tax Regulation 1698. The proposed amendment also correctly updates the title of the regulation from "General" to "Records."

Regulation 2538 specifies return reporting requirements when taxpayers have two types of licenses. The proposed language is to clarify which return is required to be filed and to correct gender specific language.

Regulation 2552 describes exemptions allowable for spoiled beer and wine. The proposed changes clarify that an exemption is allowable only for tax-paid beer or wine and to create consistency with section 32176 of the Alcoholic Beverage Tax Law.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

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

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the proposed action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed action will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed action will not be detrimental to California businesses in competing with businesses in other states.

The proposed action may affect small business.

COST IMPACT ON 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.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

There are no comparable federal regulations.

AUTHORITY

Section 32451, Revenue and Taxation Code

REFERENCE

Sections 32151, 32171, 32173, 32174, 32175, 32176, 32251.5, 32257, 32452, 32453, of the Revenue and Taxation Code

CONTACT

Questions regarding the substance of the proposed regulation and amendments should be directed to Monica Gonzalez Brisbane, at P.O. Box 942879, 450 N Street, MIC: 82, Sacramento, CA 94279-0082.

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

ALTERNATIVES CONSIDERED

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

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

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

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

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

ADDITIONAL COMMENTS

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

TITLE 18. FRANCHISE TAX BOARD

As required by Government Code section 11346.4, this is notice that a public hearing has been scheduled at 10:00 a.m., October 29, 2002, at the State Board of Equalization hearing room, 5901 Green Valley Circle, second floor, Culver City, California, to consider the adoption of California Code of Regulations, title 18, proposed sections 17053.36-0 through 17053.36-9 and 23636-0 through 23646-9 (Joint Strike Fighter Wage Credit), and proposed sections 17053.37-0 through 17053.37-11 and 23637-0 through 23637-11 (Joint Strike Fighter Property Credit). Although the proposed regulations concern separate tax credits (a wage credit and a property credit), these proposed regulations are being noticed together under this notice because they both were enacted as part of the same legislative scheme and both concern the same activities surrounding the construction of the Joint Strike Fighter aircraft.

Proposed California Code of Regulations, title 18, sections 17053.36-0 through 17053.36-9, and 23636-0 through 23646-9, clarify and interpret numerous provisions of the Joint Strike Fighter Wage Credit statutes, Revenue and Taxation Code sections 17053.36 and 23636, by providing definitions of statutory words and phrases and by providing numerous hypothetical examples designed to illustrate the statutory and regulatory rules. Proposed California Code of Regulations, title 18, sections 17053.37-0

through 17053.37-11, and 23637-0 through 23637-11, clarify and interpret numerous provisions of the Joint Strike Fighter Property Credit statutes, Revenue and Taxation Code sections 17053.37 and 23637, by providing definitions of statutory words and phrases and by providing numerous hypothetical examples designed to illustrate the statutory and regulatory rules.

An employee of the Franchise Tax Board will conduct the hearing, and a report will be submitted to the three-member Franchise Tax Board for its consideration, along with a recommendation as to whether the three-member Board should hold a hearing on the proposed regulatory action. Government Code section 15702, subdivision (b), provides for consideration by the three-member Franchise Tax Board of any proposed regulatory action, if any person makes such a request in writing. If a written request is received, the three-member Franchise Tax Board will consider the proposed regulatory action prior to adoption.

Interested persons are invited to present comments, written or oral, concerning the proposed regulatory action. It is requested, but not required, that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., October 29, 2002. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer named below.

AUTHORITY AND REFERENCE

Revenue and Taxation Code section 19503 authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with section 17001), Part 10.2 (commencing with section 18401), Part 10.7 (commencing with section 21001) and Part 11 (commencing with section 23001). Moreover, Revenue and Taxation Code sections 17053.37, subdivision (c)(3), and 23637, subdivision (c)(3), specifically authorize the Franchise Tax Board to prescribe any regulations necessary to carry out the purposes of the Joint Strike Fighter Property Credit contained in those sections. The proposed regulatory action provides guidance, gives illustrative examples, interprets, implements, and makes specific Revenue and Taxation Code sections 17053.36, 17053.37, 23636, and 23637.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

AB 2797 (Stats. 1998, Ch. 322) added entirely new sections to both the Personal Income Tax Law, Revenue and Taxation Code sections 17053.36 and 17053.37, and the Corporation Tax Law, Revenue and Taxation Code sections 23636 and 23637.

Revenue and Taxation Code sections 17053.36 and 23636 (Joint Strike Fighter Wage Credit) generally provide a credit equal to specified percentages of qualified wages, beginning with 50% of qualified wages in the 2001 taxable year and decreasing each subsequent year to 10% of qualified wages in the 2005 taxable year. Qualified wages must be paid to a qualified employee whose services are performed in California and are at least 90% directly related to the contract or subcontract to manufacture a product for ultimate use in a Joint Strike Fighter aircraft.

Revenue and Taxation Code sections 17053.37 and 23637 (Joint Strike Fighter Property Credit) generally provide a ten percent (10%) income or franchise tax credit to qualified taxpayers for the construction, reconstruction or acquisition of qualified property that is placed in service in California. Qualified property must be placed in service in California and used primarily to produce a product for ultimate use in a Joint Strike Fighter aircraft.

Revenue and Taxation sections 17053.36, 17053.37, 23636 and 23637 are new California tax incentive provisions designed to encourage the creation of manufacturing jobs in California in connection with the development of the Joint Strike Fighter aircraft. The Joint Strike Fighter Wage Credit and Joint Strike Fighter Property Credit are available to taxpayers under an initial contract or subcontract to manufacture a product designed for ultimate use in a Joint Strike Fighter aircraft. There is no federal law directly comparable to the Joint Strike Fighter Wage and Property credits. These credits are companion credits and where similar, the same words and phrases have been incorporated into both regulations. In addition, the Joint Strike Fighter Property Credit is substantially similar to the California Manufacturers' Investment Credit, Revenue and Taxation Code sections 17053.49 and 23649, and the regulations thereunder. The comparable concepts and relevant definitions contained in the Joint Strike Fighter Property Credit regulation are the same as those contained in the Manufacturers' Investment Credit regulations.

Proposed California Code of Regulations, title 18, sections 17053.36-0 through 17053.36-9, 23636-0 through 23636-9, 17053.37-0 through 17053.37-11, and 23637-0 through 23637-11, are needed because of the relative complexity of Revenue and Taxation Code sections 17053.36, 23636, 17053.37 and 23637, and the use of terms of art, many of which are not defined in the statutes. Moreover, in order to claim the credit, taxpayers must reduce the amount of any bid to construct all or a portion of the Joint Strike Fighter by the amount of the Joint Strike Fighter Wage Credit and Joint Strike Fighter Property Credit allowable. By defining and explaining these terms of art, and providing examples to illustrate these definitions and

explanations, these regulations provide interpretations to assist taxpayers in determining eligibility for the Joint Strike Fighter Wage Credit and Joint Strike Fighter Property Credit and the proper amount of any reduction to be applied to a Joint Strike Fighter bid. In drafting these regulations, the Franchise Tax Board looked to Revenue and Taxation Code sections 17053.36, 23636, 17053.37 and 23637, the legislative history, the Manufacturers' Investment Tax Credit statutes and regulations, and existing federal and state tax provisions.

In addition, on May 14, 2001, the Franchise Tax Board posted to its website a copy of an informal discussion draft of proposed California Code of Regulations, title 18, sections 17053.36-0 through 17053.36-9, 23636-0 through 23636-9, 17053.37-0 through 17053.37-11, and 23637-0 through 23637-11, and issued FTB Notice 2001-4, directing the public to the website and inviting comments on the draft proposed regulations. Pursuant to that notice, a symposium was held on July 13, 2001, where interested parties discussed the informal proposed draft language with Franchise Tax Board staff. Based on these comments, Franchise Tax Board staff revised the proposed regulations to address concerns raised by the public.

1. Joint Strike Fighter Wage Credit

Proposed California Code of Regulations, title 18, sections 17053.36-0 through 17053.36-9

These proposed regulations are organized as a series of related regulations that are separated by subject matter area. Where appropriate or required, specific cross-reference information has been provided in the text of the applicable regulations. Moreover, due to the complexity and length of both the statute and these regulations, Proposed California Code of Regulations, title 18, section 17053.36-0, contains a non-substantive, non-binding table of contents designed to assist readers in locating specific subject matter areas in proposed California Code of Regulations, title 18, sections 17053.36-1 through 17053.36-9.

Proposed California Code of Regulations, title 18, section 17053.36-1, provides rules regarding the amount of the Joint Strike Fighter Wage Credit, the years in which the Joint Strike Fighter Wage Credit may be claimed, cross-reference information and general reference information regarding proposed California Code of Regulations, title 18, sections 17053.36-1 through 17053.36-9. In addition, this proposed regulation provides a summary of the distinction between the Joint Strike Fighter Wage Credit and the Joint Strike Fighter Property Credit contained in Revenue and Taxation Code sections 17053.37 and 23637.

Proposed California Code of Regulations, title 18, section 17053.36-2, provides general definitions for certain words and phrases used in Revenue and Taxation Code section 17053.36 and proposed California Code of Regulations, title 18, sections 17053.36-1 through 17053.36-9. Specifically, definitions of “Joint Strike Fighter,” “initial contract or subcontract,” “Joint Strike Fighter Program,” “manufactured,” and “product for ultimate use in a Joint Strike Fighter” are provided. Where appropriate or specifically required by the statutory language of Revenue and Taxation Code section 17053.36, some of these definitions are further clarified by reference to existing California or federal law.

Proposed California Code of Regulations, title 18, section 17053.36-3, provides rules and examples for determining who is a qualified taxpayer for purposes of the Joint Strike Fighter Wage Credit. Since the definition of a qualified taxpayer for the Joint Strike Fighter Wage Credit in Revenue and Taxation Code section 17053.36 is identical with the definition of a qualified taxpayer for the Joint Strike Fighter Property Credit in Revenue and Taxation Code section 17053.37, this proposed regulation applies and incorporates by reference proposed California Code of Regulations, title 18, section 17053.37-3, and the term “qualified taxpayer” in that proposed regulation shall have the same effect in this proposed regulation.

Proposed California Code of Regulations, title 18, section 17053.36-4, provides rules and examples for determining qualified wages for purposes of the Joint Strike Fighter Wage Credit. Specifically provided are rules regarding the requirement that qualified wages are limited to that portion of wages that constitute direct labor costs as that term is used in Internal Revenue Code section 263A. Also included are rules regarding the term employee and the fact that wages for engineering, design and testing activities specifically qualify for the Joint Strike Fighter Wage Credit. Finally, the amount of qualified wages is provided in this proposed regulation.

Proposed California Code of Regulations, title 18, section 17053.36-5, provides rules and examples for determining who is a qualified employee for purposes of the Joint Strike Fighter Wage Credit. Specifically, this proposed regulation defines the term “employee” as an employee described in Unemployment Insurance Code sections 13004, 13004.1 and 13004.5. This proposed regulation also explains that a qualified employee must perform services in this state and those services must be at least 90% directly related to the qualified taxpayer’s contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter. This proposed regulation provides guidance on computing the \$10,000 per employee wage limitation. Finally, this proposed regulation defines the

term “directly related” for determining whether an employee’s services qualify for the Joint Strike Fighter Wage Credit.

Proposed California Code of Regulations, title 18, section 17053.36-6, provides rules applicable to Joint Strike Fighter contract bidding. This proposed regulation provides that no Joint Strike Fighter Wage Credit shall be allowed unless the credit is reflected within the bid that forms the basis for the taxpayer’s contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter. Specifically, this proposed regulation defines the term “bid,” “reflected within the bid,” and “credit allowable.” This proposed regulation also contains examples of bids within which the credit is reflected. Finally, this proposed regulation provides that in the case of a pass-through entity, the amount of the credit reflected on the bid is the amount of the credit that the entity expects to pass-through to the partners or shareholders.

Proposed California Code of Regulations, title 18, section 17053.36-7, provides rules for determining the length of the carryforward period for the Joint Strike Fighter Wage Credit. In addition, this proposed regulation provides rules for carryforwards for pass-through entities and carryforwards permitted after the sunset date of Revenue and Taxation Code section 17053.36.

Proposed California Code of Regulations, title 18, section 17053.36-8, provides rules illustrating which books and records should be maintained to substantiate any Joint Strike Fighter Wage Credit claimed. Specifically, this proposed regulation discusses the general burden of proof and identifies the books and records that should be maintained.

Proposed California Code of Regulations, title 18, section 17053.36-9, provides miscellaneous rules applicable to the Joint Strike Fighter Wage Credit. Specifically provided are the effective dates of the Joint Strike Fighter Wage Credit, and the interaction of the Joint Strike Fighter Wage Credit with the Enterprise Zone Hiring Credit. The rules and cross-references in this proposed regulation have been drawn from other places in the Revenue and Taxation Code that may not otherwise be readily apparent to taxpayers who wish to claim the Joint Strike Fighter Wage Credit.

Proposed California Code of Regulations, title 18, sections 23636-0 through 23636-9

These proposed regulations are organized as a series of related regulations that are separated by subject matter area. Where appropriate or required, specific cross-reference information has been provided in the text of the applicable proposed regulations. Moreover, due to the complexity and length of both the statute and these proposed regulations, proposed California

Code of Regulations, title 18, section 23636-0, contains a non-substantive, non-binding table of contents designed to assist readers in locating specific subject matter areas in proposed California Code of Regulations, title 18, sections 23636-1 through 23636-9.

Proposed California Code of Regulations, title 18, section 23636-1, provides rules regarding the amount of the Joint Strike Fighter Wage Credit, the years in which the Joint Strike Fighter Wage Credit may be claimed, cross-reference information and general reference information regarding proposed California Code of Regulations, title 18, sections 23636-1 through 23636-9. In addition, this proposed regulation provides a summary of the distinction between the Joint Strike Fighter Wage Credit and the Joint Strike Fighter Property Credit contained in Revenue and Taxation Code sections 17053.37 and 23637.

Proposed California Code of Regulations, title 18, section 23636-2, provides general definitions for certain words and phrases used in Revenue and Taxation Code section 23636 and proposed California Code of Regulations, title 18, sections 23636-1 through 23636-9. Specifically, definitions of “Joint Strike Fighter,” “initial contract or subcontract,” “Joint Strike Fighter Program,” “manufactured,” and “product for ultimate use in a Joint Strike Fighter” are provided. Where appropriate or specifically required by the statutory language of Revenue and Taxation Code section 23636, some of these definitions are further clarified by reference to existing California or federal law.

Proposed California Code of Regulations, title 18, section 23636-3, provides rules and examples for determining who is a qualified taxpayer for purposes of the Joint Strike Fighter Wage Credit. Since the definition of a qualified taxpayer for the Joint Strike Fighter Wage Credit in Revenue and Taxation Code section 23636 is identical with the definition of a qualified taxpayer for the Joint Strike Fighter Property Credit in Revenue and Taxation Code section 23637, this proposed regulation applies and incorporates by reference proposed California Code of Regulations, title 18, section 23637-3, and the term “qualified taxpayer” in that proposed regulation shall have the same effect in this proposed regulation.

Proposed California Code of Regulations, title 18, section 23636-4, provides rules and examples for determining qualified wages for purposes of the Joint Strike Fighter Wage Credit. Specifically provided are rules regarding the requirement that qualified wages are limited to that portion of wages that constitute direct labor costs as that term is used in the Internal Revenue Code section 263A. Also included are rules regarding the term employee and the fact that wages for engineering, design and testing activities specifi-

cally qualify for the Joint Strike Fighter Wage Credit. Finally, the amount of qualified wages is provided in this proposed regulation.

Proposed California Code of Regulations, title 18, section 23636-5, provides rules and examples for determining who is a qualified employee for purposes of the Joint Strike Fighter Wage Credit. Specifically, this proposed regulation defines the term “employee” as an employee described in Unemployment Insurance Code sections 13004, 13004.1 and 13004.5. This proposed regulation also explains that a qualified employee must perform services in this state and those services must be at least 90% directly related to the qualified taxpayer’s contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter. This proposed regulation provides guidance on computing the \$10,000 per employee wage limitation. Finally, this proposed regulation defines the term “directly related” for determining whether an employee’s services qualify for the Joint Strike Fighter Wage Credit.

Proposed California Code of Regulations, title 18, section 23636-6, provides rules applicable to Joint Strike Fighter contract bidding. This proposed regulation provides that no Joint Strike Fighter Wage Credit shall be allowed unless the credit is reflected within the bid that forms the basis for the taxpayer’s contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter. Specifically, this proposed regulation defines the term “bid,” “reflected within the bid,” and “credit allowable.” This proposed regulation also contains examples of bids within which the credit is reflected. Finally, this proposed regulation provides that in the case of a pass-through entity, the amount of the credit reflected on the bid is the amount of the credit that the entity expects to pass-through to the partners or shareholders.

Proposed California Code of Regulations, title 18, section 23636-7, provides rules for determining the length of the carryforward period for the Joint Strike Fighter Wage Credit. In addition, this proposed regulation provides rules for carryforwards for pass-through entities and carryforwards permitted after the sunset date of Revenue and Taxation Code section 23636.

Proposed California Code of Regulations, title 18, section 23636-8, provides rules illustrating which books and records should be maintained to substantiate any Joint Strike Fighter Wage Credit claimed. Specifically, this proposed regulation discusses the general burden of proof and identifies the books and records that should be maintained.

Proposed California Code of Regulations, title 18, section 23636-9, provides miscellaneous rules applicable to the Joint Strike Fighter Wage Credit. Specifically provided are the effective dates of the

Joint Strike Fighter Wage Credit, and the interaction of the Joint Strike Fighter Wage Credit with the Enterprise Zone Hiring Credit. The rules and cross-references in this proposed regulation have been drawn from other places in the Revenue and Taxation Code that may not otherwise be readily apparent to taxpayers who wish to claim the Joint Strike Fighter Wage Credit.

2. Joint Strike Fighter Property Credit

Proposed California Code of Regulations, title 18, sections 17053.37-0 through 17053.37-11

These proposed regulations are organized as a series of related regulations that are separated by subject matter area. Where appropriate or required, specific cross-reference information has been provided in the text of the applicable proposed regulations. Moreover, due to the complexity and length of both the statute and these proposed regulations, proposed California Code of Regulations, title 18, section 17053.37-0, contains a non-substantive, non-binding table of contents designed to assist readers in locating specific subject matter areas in proposed California Code of Regulations, title 18, sections 17053.37-1 through 17053.37-11.

Proposed California Code of Regulations, title 18, section 17053.37-1, provides rules regarding the amount of the Joint Strike Fighter Property Credit, the years in which the Joint Strike Fighter Property Credit may be claimed, cross-reference information and general reference information regarding proposed California Code of Regulations, title 18, sections 17053.37-1 through 17053.37-11.

Proposed California Code of Regulations, title 18, section 17053.37-2, provides general definitions for certain words and phrases used in Revenue and Taxation Code section 17053.37 and proposed California Code of Regulations, title 18, sections 17053.37-1 through 17053.37-11. Specifically, definitions of “capitalized labor,” “fabricating,” “Joint Strike Fighter,” “initial contract or subcontract,” “Joint Strike Fighter Program,” “manufacturing,” “packaging,” “placed in service,” “product for ultimate use in a Joint Strike Fighter,” “primarily,” “process,” “processing,” and “qualified activities” are provided. Where appropriate or specifically required by the statutory language of Revenue and Taxation Code section 17053.37, some of these definitions are further clarified by reference to existing California or federal law. For example, Revenue and Taxation Code section 17053.37 requires that in order for capitalized labor costs to be treated as qualified costs, they must be “. . . direct costs as defined in Internal Revenue Code section 263A allocable to the construction or modification . . .” of qualified property. Thus, this proposed regulation incorporates

the uniform capitalization rules set forth in Internal Revenue Code section 263A and Treasury Regulation section 1.263A-1.

Proposed California Code of Regulations, title 18, section 17053.37-3, provides rules and examples for determining who is a qualified taxpayer for purposes of the Joint Strike Fighter Property Credit. Revenue and Taxation Code section 17053.37 requires that a qualified taxpayer be “under an initial contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter.” This proposed regulation defines the terms “initial contract” and “initial subcontract” and provides examples to illustrate the application of these definitions to contractual relationships. This proposed regulation also provides that for pass-through entities, the determination of whether a taxpayer is a qualified taxpayer shall be made at the entity level. This proposed regulation applies well-established California income tax principles to clarify that the qualified taxpayer determination is to be made at the pass-through entity level (whether a partnership or S corporation), thereby allowing the Joint Strike Fighter Property Credit to be passed through to the partners or shareholders who might not directly satisfy the “qualified taxpayer” requirement. Finally, this proposed regulation illustrates the current California law whereby an S corporation may claim one-third of the Joint Strike Fighter Property Credit for purposes of the entity-level tax imposed on S corporations by Chapter 4.5 of Part 11 of the Revenue and Taxation Code and pass-through 100% of the Joint Strike Fighter Property Credit, with reduction for any amount utilized at the entity-level, to its shareholders.

Proposed California Code of Regulations, title 18, section 17053.37-4, provides rules and examples for determining what costs may be considered qualified costs for purposes of the Joint Strike Fighter Property Credit. Specifically provided are rules regarding the requirements that California sales or use tax be paid and that costs be properly chargeable to the taxpayer’s capital account. Also included are rules regarding which capitalized labor costs are treated as direct costs and are thus eligible for the Joint Strike Fighter Property Credit (including labor costs under third-party contracts), and binding contract rules (including successor or replacement contracts, option contracts and conditional contracts) specifying how costs actually paid prior to January 1, 2001, are treated. Moreover, since qualified costs include only costs paid or incurred for qualified property on or after January 1, 2001, the proposed regulation provides guidance for how costs actually paid before and after January 1, 2001, pursuant to a binding contract, successor or replacement contract, option contract and conditional contract, should be allocated for purposes of the Joint Strike Fighter Property Credit.

Proposed California Code of Regulations, title 18, section 17053.37-5, provides rules and examples for determining what types of property may be treated as qualified property for purposes of the Joint Strike Fighter Property Credit. Specifically, this proposed regulation describes and illustrates the general requirement that qualified property be tangible personal property defined in Internal Revenue Code section 1245(a)(3)(A). This proposed regulation also explains that qualified property must be used in qualified activities to manufacture a product for ultimate use in a Joint Strike Fighter. The proposed regulation provides that this requirement will be satisfied if the qualified property is primarily used to manufacture a product that is properly treated as inventory of the taxpayer and is designed to be physically installed in or attached to a Joint Strike Fighter. Also included are rules regarding the types of property that are specifically excluded from being qualified property and the movement of used property from another state or country into California.

Proposed California Code of Regulations, title 18, section 17053.37-6, provides rules applicable to leases of qualified property. Specifically, this proposed regulation describes and illustrates the statutory rules for distinguishing operating leases (leases not treated as sales for California sales and use tax purposes) from finance leases (leases treated as sales for California sales and use tax purposes), as well as the statutory requirements applicable to each type of lease. This proposed regulation also contains rules regarding the amount of Joint Strike Fighter Property Credit a lessee may claim and certain lessor reporting requirements applicable to operating leases. Finally, this proposed regulation clarifies who must pay the California sales or use tax in order for the lessee in a leasing transaction to claim the Joint Strike Fighter Property Credit.

Proposed California Code of Regulations, title 18, section 17053.37-7, provides rules applicable to Joint Strike Fighter contract bidding. This proposed regulation provides that no Joint Strike Fighter Property Credit shall be allowed unless the credit is reflected within the bid that forms the basis for the taxpayer's contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter. Specifically, this proposed regulation defines the term "bid," "reflected within the bid," and "credit allowable." This proposed regulation also contains examples of bids within which the credit is reflected. Finally, this proposed regulation provides that in the case of a pass-through entity, the amount of the credit reflected on the bid is the amount of the credit that the entity expects to pass-through to the partners or shareholders.

Proposed California Code of Regulations, title 18, section 17053.37-8, provides rules for recapturing a previously allowed Joint Strike Fighter Property Credit where a disposition has occurred within one year of the placed in service date. This proposed regulation defines a disposition to include any removal of property from California, a sale or other disposition to an unrelated party (as defined in Internal Revenue Code sections 267, 318, or 707), a conversion to a primarily non-qualified use, or an acquisition by a lessee of qualified property that is being leased by such lessee. This proposed regulation also provides rules regarding the applicable recapture periods, rules regarding the adjustment of carryforwards when a disposition occurs, and special recapture rules applicable to partners or shareholders of pass-through entities who were allowed the Joint Strike Fighter Property Credit.

Proposed California Code of Regulations, title 18, section 17053.37-9, provides rules for determining the length of the carryforward period for the Joint Strike Fighter Property Credit. In addition, this proposed regulation provides rules for carryforwards for pass-through entities and carryforwards permitted after the sunset date of Revenue and Taxation Code Section 17053.37.

Proposed California Code of Regulations, title 18, section 17053.37-10, provides rules illustrating which books and records should be maintained to substantiate any Joint Strike Fighter Property Credit claimed. Specifically, this proposed regulation discusses the general burden of proof, identifies the books and records that should be maintained, and specifies the lessor's reporting requirement in an operating lease transaction. This proposed regulation also contains rules regarding when the taxpayer's substantiation requirement will be deemed satisfied with respect to the amount upon which California sales or use tax has been paid pursuant to "time and materials," "lump-sum," or "turnkey" contracts.

Proposed California Code of Regulations, title 18, section 17053.37-11, provides miscellaneous rules applicable to the Joint Strike Fighter Property Credit. Specifically provided are the effective dates of the Joint Strike Fighter Property Credit, and the interaction of the Joint Strike Fighter Property Credit with the Manufacturers' Investment Credit and the Enterprise Zone Sales or Use Tax Credit. The rules and cross-references in this proposed regulation have been drawn from other places in the Revenue and Taxation Code that may not otherwise be readily apparent to taxpayers who wish to claim the Joint Strike Fighter Property Credit.

Proposed California Code of Regulations, title 18, sections 23637-0 through 23637-11

These proposed regulations are organized as a series of related regulations that are separated by subject matter area. Where appropriate or required, specific cross-reference information has been provided in the text of the applicable proposed regulations. Moreover, due to the complexity and length of both the statute and these proposed regulations, proposed California Code of Regulations, title 18, section 23637-0, contains a non-substantive, non-binding table of contents designed to assist readers in locating specific subject matter areas in proposed California Code of Regulations, title 18, sections 23637-1 through 23637-11.

Proposed California Code of Regulations, title 18, section 23637-1, provides rules regarding the amount of the Joint Strike Fighter Property Credit, the years in which the Joint Strike Fighter Property Credit may be claimed, cross-reference information and general reference information regarding proposed California Code of Regulations, title 18, sections 23637-1 through 23637-11.

Proposed California Code of Regulations, title 18, section 23637-2, provides general definitions for certain words and phrases used in Revenue and Taxation Code section 23637 and proposed California Code of Regulations, title 18, sections 23637-1 through 23637-11. Specifically, definitions of “capitalized labor,” “fabricating,” “Joint Strike Fighter,” “initial contract or subcontract,” “Joint Strike Fighter Program,” “manufacturing,” “packaging,” “placed in service,” “product for ultimate use in a Joint Strike Fighter,” “primarily,” “process,” “processing,” and “qualified activities” are provided. Where appropriate or specifically required by the statutory language of Revenue and Taxation Code section 23637, some of these definitions are further clarified by reference to existing California or federal law. For example, Revenue and Taxation Code section 23637 requires that in order for capitalized labor costs to be treated as qualified costs, they must be “. . . direct costs as defined in Internal Revenue Code section 263A allocable to the construction or modification . . .” of qualified property. Thus, this proposed regulation incorporates the uniform capitalization rules set forth in Internal Revenue Code section 263A and Treasury Regulation section 1.263A-1.

Proposed California Code of Regulations, title 18, section 23637-3, provides rules and examples for determining who is a qualified taxpayer for purposes of the Joint Strike Fighter Property Credit. Revenue and Taxation Code section 23637 requires that a qualified taxpayer be “under an initial contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter.” This proposed regulation

defines the terms “initial contract” and “initial subcontract” and provides examples to illustrate the application of these definitions to contractual relationships. This proposed regulation also provides that for pass-through entities, the determination of whether a taxpayer is a qualified taxpayer shall be made at the entity level. This proposed regulation applies well-established California franchise tax principles to clarify that the qualified taxpayer determination is to be made at the pass-through entity level (whether a partnership or S corporation), thereby allowing the Joint Strike Fighter Property Credit to be passed through to the partners or shareholders who might not directly satisfy the “qualified taxpayer” requirement. Finally, this regulation illustrates the current California law whereby an S corporation may claim one-third of the Joint Strike Fighter Property Credit for purposes of the entity-level tax imposed on S corporations by Chapter 4.5 of Part 11 of the Revenue and Taxation Code and pass-through 100% of the Joint Strike Fighter Property Credit, with reduction for any amount utilized at the entity-level, to its shareholders.

Proposed California Code of Regulations, title 18, section 23637-4, provides rules and examples for determining what costs may be considered qualified costs for purposes of the Joint Strike Fighter Property Credit. Specifically provided are rules regarding the requirements that California sales or use tax be paid and that costs be properly chargeable to the taxpayer’s capital account. Also included are rules regarding which capitalized labor costs are treated as direct costs and are thus eligible for the Joint Strike Fighter Property Credit (including labor costs under third-party contracts), and binding contract rules (including successor or replacement contracts, option contracts and conditional contracts) specifying how costs actually paid prior to January 1, 2001, are treated. Moreover, since qualified costs include only costs paid or incurred for qualified property on or after January 1, 2001, the proposed regulation provides guidance for how costs actually paid before and after January 1, 2001, pursuant to a binding contract, successor or replacement contract, option contract and conditional contract, should be allocated for purposes of the Joint Strike Fighter Property Credit.

Proposed California Code of Regulations, title 18, section 23637-5, provides rules and examples for determining what types of property may be treated as qualified property for purposes of the Joint Strike Fighter Property Credit. Specifically, this proposed regulation describes and illustrates the general requirement that qualified property be tangible personal property defined in Internal Revenue Code section 1245(a)(3)(A). This proposed regulation also explains that qualified property must be used in qualified activities to manufacture a product for ultimate use in

a Joint Strike Fighter. The proposed regulation provides that this requirement will be satisfied if the qualified property is primarily used to manufacture a product that is properly treated as inventory of the taxpayer and is designed to be physically installed in or attached to a Joint Strike Fighter. Also included are rules regarding the types of property that are specifically excluded from being qualified property and the movement of used property from another state or country into California.

Proposed California Code of Regulations, title 18, section 23637-6, provides rules applicable to leases of qualified property. Specifically, this proposed regulation describes and illustrates the statutory rules for distinguishing operating leases (leases not treated as sales for California sales and use tax purposes) from finance leases (leases treated as sales for California sales and use tax purposes), as well as the statutory requirements applicable to each type of lease. This proposed regulation also contains rules regarding the amount of Joint Strike Fighter Property Credit a lessee may claim and certain lessor reporting requirements applicable to operating leases. Finally, this proposed regulation clarifies who must pay the California sales or use tax in order for the lessee in a leasing transaction to claim the Joint Strike Fighter Property Credit.

Proposed California Code of Regulations, title 18, section 23637-7, provides rules applicable to Joint Strike Fighter contract bidding. This proposed regulation provides that no Joint Strike Fighter Property Credit shall be allowed unless the credit is reflected within the bid that forms the basis for the taxpayer's contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter. Specifically, this proposed regulation defines the term "bid," "reflected within the bid," and "credit allowable." This proposed regulation also contains examples of bids within which the credit is reflected. Finally, this proposed regulation provides that in the case of a pass-through entity, the amount of the credit reflected on the bid is the amount of the credit that the entity expects to pass-through to the partners or shareholders.

Proposed California Code of Regulations, title 18, section 23637-8, provides rules for recapturing a previously allowed Joint Strike Fighter Property Credit where a disposition has occurred within one year of the placed in service date. This proposed regulation defines a disposition to include any removal of property from California, a sale or other disposition to an unrelated party (as defined in Internal Revenue Code sections 267, 318, or 707), a conversion to a primarily non-qualified use, or an acquisition by a lessee of qualified property that is being leased by such lessee. This proposed regulation also provides rules regarding the applicable recapture periods, rules

regarding the adjustment of carryforwards when a disposition occurs, and special recapture rules applicable to partners or shareholders of pass-through entities who were allowed the Joint Strike Fighter Property Credit.

Proposed California Code of Regulations, title 18, section 23637-9, provides rules for determining the length of the carryforward period for the Joint Strike Fighter Property Credit. In addition, this proposed regulation provides rules for carryforwards for pass-through entities and carryforwards permitted after the sunset date of Revenue and Taxation Code section 23637.

Proposed California Code of Regulations, title 18, section 23637-10, provides rules illustrating which books and records should be maintained to substantiate any Joint Strike Fighter Property Credit claimed. Specifically, this proposed regulation discusses the general burden of proof, identifies the books and records that should be maintained, and specifies the lessor's reporting requirement in an operating lease transaction. This proposed regulation also contains rules regarding when the taxpayer's substantiation requirement will be deemed satisfied with respect to the amount upon which California sales or use tax has been paid pursuant to "time and materials," "lump-sum," or "turnkey" contracts.

Proposed California Code of Regulations, title 18, section 23637-11, provides miscellaneous rules applicable to the Joint Strike Fighter Property Credit. Specifically provided are the effective dates of the Joint Strike Fighter Property Credit, and the interaction of the Joint Strike Fighter Property Credit with the Manufacturers' Investment Credit and the Enterprise Zone Sales or Use Tax Credit. The rules and cross-references in this proposed regulation have been drawn from other places in the Revenue and Taxation Code that may not otherwise be readily apparent to taxpayers who wish to claim the Joint Strike Fighter Property Credit.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

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

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in

other states: Impacts in this area, if any, are the result of the statute and not the regulations per se. In making this determination, Franchise Tax Board staff has performed an analysis to comply with Government Code sections 11346.3, subdivisions (a) & (b).

Cost to directly affected private persons/businesses potential: Impacts in this area, if any, are the result of the statute and not the regulations per se.

Significant effect on the creation or elimination of jobs in the state: Impacts in this area, if any, are the result of the statute and not the regulations per se.

Significant effect on the creation of new businesses or elimination of existing businesses within the state: Impacts in this area, if any, are the result of the statute and not the regulations per se.

Significant effect on the expansion of businesses currently doing business within the state: Impacts in this area, if any, are the result of the statute and not the regulations per se.

Effect on small business: The proposed regulations help small business to understand the Joint Strike Fighter Wage Credit and the Joint Strike Fighter Property Credit and how they might benefit from those credits by interpreting and explaining the various provisions of the credits.

Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention it 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 regulatory action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Franchise Tax Board has prepared an initial statement of the reasons for the proposed regulatory action. The express terms of the proposed regulatory action, the initial statement of the reasons for the regulatory action, and all the information upon which the proposed regulatory action is based are available upon request from the agency officer named below. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board's website at <http://www.ftb.ca.gov>.

CHANGE OR MODIFICATION OF ACTIONS

The three-member Franchise Tax Board may adopt the proposed regulatory action after consideration of any comments received during the comment period. Government Code section 15702, subdivision (b), provides for consideration by the three-member Board

of any proposed regulatory action, if any person makes such a request. If a request is received, the three-member Board will consider the proposed regulatory action prior to adoption.

The regulations and amendments may also be adopted with modifications if the changes are nonsubstantive or the resulting regulations are sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulations as modified could result from that originally proposed. The text of the regulations as modified will be made available to the public at least 15 days prior to the date on which the regulations are adopted. Requests for copies of any modified regulations should be sent to the attention of the agency officer named below.

ADDITIONAL COMMENTS

If you plan on attending or making an oral presentation at the regulation hearing, please contact the agency officer named below.

The hearing room is accessible to persons with physical disabilities. Any person planning to attend the hearing, who is in need of a language interpreter, including sign language should contact the officer named below at least two weeks prior to the hearing so that the services of an interpreter may be arranged.

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at Franchise Tax Board, Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741-1720; telephone (916) 845-3306; Fax (916) 845-3648; E-Mail: colleen.berwick@ftb.ca.gov, or the designated backup, Doug Powers; Tel.: (916) 845-4962; Fax: (916) 845-3648; E-Mail: doug.powers@ftb.ca.gov. In addition, all questions on the substance of the proposed regulation can be directed to Geoff Way: Tel. (916) 845-6351. This notice, the initial statement of reasons and express terms of the proposed regulations are also available at the Franchise Tax Board's website at www.ftb.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) proposes to grant an extension of up to seven months to the following company's hazardous waste environmental technology certification:

puraDYN Filter Technologies, Inc.
3020 High Ridge Road, Suite 100
Boynton Beach, FL 33426

DTSC proposes the extension to allow time to review the technology for recertification. The puraDYN Filter Technologies, Inc. By-pass Oil Filtration System was originally certified as the TF Purifier Electric Mobile Oil Refiner in July 1994 (No. 94-01-001, published in the California Regulatory Notice Register, Register 94, no. 25-Z, pages 1009-1013). The puraDYN technology was subsequently recertified as the puraDYN Onboard Oil Management System in May 1998 (No. 98-01-027, published in the California Regulatory Notice Register, Register 98, no. 24-Z, pages 1120-1122). Recertification of puraDYN Onboard Oil Management System was previously extended for one year in June 2001 (as published in the California Regulatory Notice Register, Register 2001, no. 26-Z, pages 1010-1011).

The proposed extension will last for a maximum of seven months, or until a recertification decision is made. The proposed extension is subject to public comment period of 30 days from the publication date. DTSC shall review any comments received and make a final decision regarding the proposed extension. The final decision to extend the certification shall be published in the California Regulatory Notice Register and shall become effective not sooner than 30 days thereafter. During the periods in which the DTSC publishes proposed and final decisions to a hazardous waste environmental technology certification, the existing certification shall remain valid, as specified in Title 22 California Code of Regulations, Chapter 46, Section 68100(b).

The puraDYN By-pass Oil Filtration System is an oil purification system that extends oil drain intervals by removing impurities from engines using filtration and evaporation. The system contains a canister which houses a disposable cotton filter element and an evaporation chamber with a heating element. Engine oil enters the canister via a metering jet that regulates the flow. The oil passes through the filter element where particulate matter is removed. The oil is then heated in the evaporation chamber which removes fuel, water, and coolant. The filtered oil then returns to the engine crankcase by gravity flow.

Chapter 412, Statutes of 1993, Section 25200.1.5, Health and Safety Code, enacted by Assembly Bill 2060 (AB 2060 by Assemblyman Ted Weggeland) authorizes DTSC to certify the performance of hazardous waste environmental technologies. The original certification and subsequent recertification of the puraDYN technology were based on DTSC

evaluations which included oil sample collection and testing, a review of customer-supplied data, and consultations with oil manufacturers. The purpose of the certification program is to provide an in-depth, independent review of technologies at the manufacturers' level to facilitate regulatory and end-user acceptance and to promote and foster growth of California's environmental technology industry. DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to require additional measures for protection of public health and the environment.

Public comment can be provided to, or additional information regarding DTSC's proposed certification extension can be obtained at:

California Environmental Protection Agency
Department of Toxic Substances Control
Office of Pollution Prevention and
Technology Development
P.O. Box 806
1001 I Street, 12th Floor
Sacramento, California 95812-0806
Attention: Mr. Dick Jones (916) 322-3292

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

**HOUSEHOLD HAZARDOUS WASTE UNIT
STATE REGULATORY PROGRAMS DIVISION
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On August 21, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a three-year variance renewal to the City of Compton. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued to conduct residential household waste collections. This variance authorizes the City of Compton through their contractor to collect household hazardous wastes (HHW) from the elderly, handicapped residents, and others unable to participate in the regular HHW collection program. Wastes are delivered to an authorized HHW collection facility authorized under permit-by-rule (PBR). No business or agricultural wastes are collected under this variance. Specific standards exempted are contained in the Health and Safety Code, section 25201 and California Code of Regulations, title 22, division 4.5, chapter 20. The collections are subject to strict operating standards

specified in the variance. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

**HOUSEHOLD HAZARDOUS WASTE UNIT
STATE REGULATORY PROGRAMS DIVISION
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On August 14, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a revised variance to the City of Folsom. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued to conduct door-to-door household waste collections of household hazardous wastes within the City of Folsom. This variance authorizes the City of Folsom to collect household hazardous waste from the elderly, handicapped residents, and others unable to participate in the regular program. Additionally, the City of Folsom is authorized to manage abandoned/emergency response waste using a bill of lading and registered transporter. No other business wastes or agricultural chemical wastes are to be collected. Specific standards exempted are contained in the Health and Safety Code, sections 25160, 25163, and 25201, and the California Code of Regulations, title 22, division 4.5, chapter 20. The collections are subject to strict operating standards specified in the variance. For additional information contact Lee Halverson of at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

**HOUSEHOLD HAZARDOUS WASTE UNIT
STATE REGULATORY PROGRAMS DIVISION
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On August 21, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a three-year variance to the City of Monrovia. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued to conduct residential household waste collections. This variance authorizes City of Monrovia, through their contractor, to collect household hazardous wastes (HHW) from the elderly, handicapped, and others unable to participate in the regular HHW collection program. Wastes are delivered to an authorized HHW collection facility authorized under permit-by-rule (PBR). No business or agricultural wastes are to be collected under this variance. Specific standards exempted are contained in the Health and Safety Code, section 25201 and California Code of Regulations, title 22, division 4.5, chapter 20. The collections are subject to strict

operating standards specified in the variance. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

**HOUSEHOLD HAZARDOUS WASTE UNIT
STATE REGULATORY PROGRAMS DIVISION
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On August 21, 2002, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a variance to Riverside County, Department of Environmental Health. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued for the operation of three-day mobile household waste collections to be conducted at:

City of Moreno Valley Maint. Yard
15670 Perris Boulevard
Moreno Valley, California 92553
October 17–19, 2002
January 20–22, 2003
June 19–21, 2003

Riverside County Transportation Yard
6851 Van Buren Avenue
Riverside, California 92509
September 5–7, 2002

Corona Fire Training Center
730 Corporate Yard Way
Corona, California 91720
September 12–14, 2002
January 23–25, 2003
May 1–3, 2003

Riverside County Transportation Dept.
Maintenance Yard
595 North Juanita Avenue
Hemet, California 92343
June 5–7, 2003

Riverside County Transportation Dept.
25-315 Jefferson
Murrieta, California 92362
September 19–21, 2002
January 9–11, 2003
May 8–10, 2003

This variance authorizes Riverside County and their contractor to set up mobile three-day collection events at the listed locations for the specific dates and collect household hazardous wastes. No business or agricultural wastes are to be collected. Specific standards exempted are contained in the Health and Safety Code, section 25201 and California Code of Regulations, title 22, division 4.5, chapter 20. The collections are subject to strict operating standards specified in the

variance. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

DECISION NOT TO PROCEED

DEPARTMENT OF SOCIAL SERVICES

DECISION NOT TO PROCEED

Pursuant to Government Code Section 11347, the California Department of Social Services decided not to proceed with the adoption of Section 102416.1 and the amendment of Sections 80001, 80019, 80019.1, 80066, 87001, 87019, 87019.1, 87101, 87219, 87219.1, 87566, 87801, 87819, 87819.1, 87866, 101152, 101170, 101170.1, 101217, 102352, 102370, and 102370.1 of Title 22, California Code of Regulations (Notice File No. Z-01-0821-02), published in the California Regulatory Notice Register 2001, No. 35-Z, pages 1463-1465.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

AGRICULTURAL LABOR RELATIONS BOARD
Agricultural Employee Relief Fund

This regulatory filing implements Senate Bill 1198 which took effect January 1, 2002. This legislation establishes the Agricultural Employees Relief Fund (Fund) and provides that where the Agricultural Labor Relations Board (Board) orders monetary relief and, despite diligent efforts, employees to whom the monies are owed cannot be located within two years after collection of the monies on their behalf, such monies will be deposited in the Fund. The Fund will then be used to pay employees the unpaid balance of monetary relief ordered by the Board in cases where the Board determines that collection of the full amount owed by the employer is not possible.

Title 8
California Code of Regulations
ADOPT : 20299
Filed 09/03/02
Effective 10/03/02
Agency Contact:
Joseph A. Wender, Jr. (916) 653-4054

AIR RESOURCES BOARD
Distributed Generation Certification Program

This action adopts a regulatory certification program, including emissions standards, for distributed electricity generation by units that emit air contaminants and are not covered by a district permit or portable equipment registration.

Title 17
California Code of Regulations
ADOPT : 94200, 94201, 94202, 94203, 94204, 94205, 94206, 94207, 94208, 94209, 94210, 94211, 94212, 94213, 94214
Filed 09/04/02
Effective 10/04/02
Agency Contact: George Poppic (916) 322-3940

BOARD OF EQUALIZATION
Timber Harvesting Equipment and Machinery

In this rulemaking, the State Board of Equalization implements Revenue and Taxation Code section 6356.6 which provides for a partial sales and use tax exemption for timber harvesting equipment and machinery. The exemption generally applies to gross receipts from the sale, storage, use or other consumption in this state of equipment and machinery designed primarily for off-road use in commercial timber harvesting operations, and the parts thereof, which is purchased for use by a qualified person to be used primarily in harvesting timber. Among other provisions, the regulations provide for partial exemption certificates used to claim the exemption.

Title 18
California Code of Regulations
ADOPT : 1534
Filed 09/03/02
Effective 10/03/02
Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF EQUALIZATION
Advertising Agencies, Commercial Artists and Designers

This action would amend the rule which explains the application of sales and use tax to transfers of tangible personal property by advertising agencies and commercial artists.

Title 18
California Code of Regulations
AMEND : 1540

Filed 09/03/02
Effective 10/03/02
Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF EQUALIZATION
Printing and Related Arts

The regulatory action deals with the application of sales and use tax to transfers of tangible personal property by printers and persons who perform similar functions.

Title 18
California Code of Regulations
AMEND : 1541
Filed 09/03/02
Effective 10/03/02
Agency Contact: Diane G. Olson (916) 322-9569

BUREAU OF HOME FURNISHINGS AND THERMAL INSULATION
License Fee Increase

The regulatory action increases the fee for issuance and biennial renewal of an importer's license and a furniture and bedding manufacturer's license to \$650.

Title 4
California Code of Regulations
AMEND : 1107
Filed 09/03/02
Effective 09/03/02
Agency Contact: Susan Lancara (916) 574-0282

DEPARTMENT OF DEVELOPMENTAL SERVICES
Respite Rate Increase Based on Minimum Wage

This emergency action would increase (from \$8.57 to \$8.98 per hour) the rates paid to specified respite care providers reflecting the recent minimum wage increase to maintain the \$.81 cent differential above minimum wage and help retain qualified respite care workers.

Title 17
California Code of Regulations
AMEND : 57332
Filed 08/29/02
Effective 08/29/02
Agency Contact: Glenda Davis (916) 654-2201

DEPARTMENT OF FISH AND GAME
CESA—Incidental to Routine and Ongoing Agricultural Activities

This rulemaking revises the provisions for establishing locally designed, voluntary programs for routine and ongoing agricultural activities on farms or ranches which encourage habitat for candidate, threatened, and endangered species, and wildlife generally pursuant to Fish and Game Code Section 2086.

Title 14
California Code of Regulations
ADOPT : 786.7, 786.8 AMEND : 786.0, 786.1, 786.2, 786.3, 786.4, 786.5, 786.6

Filed 08/28/02
Effective 09/27/02
Agency Contact:
Michael R. Valentine (916) 654-3821

DEPARTMENT OF FISH AND GAME
Central California Gill Net Fishery Closure

This Certificate of Compliance closes the area from Point Reyes in Marin County to Point Arguello in Santa Barbara County to the use of gill and trammel nets in ocean waters 60 fathoms or less.

Title 14
California Code of Regulations
ADOPT : 104.1
Filed 09/04/02
Effective 09/04/02
Agency Contact: Joseph Milton (916) 654-5336

DEPARTMENT OF FOOD AND AGRICULTURE
Oriental Fruit Fly Interior Quarantine

This emergency rulemaking establishes a quarantine for Oriental fruit fly in the Rancho Cucamonga area of San Bernardino County.

Title 3
California Code of Regulations
AMEND : 3423(b)
Filed 08/30/02
Effective 08/30/02
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE
Avocado Dry Matter Testing Procedures

This regulatory action changes the procedure for determining dry matter of avocados.

Title 3
California Code of Regulations
AMEND : 1408.3
Filed 08/29/02
Effective 09/28/02
Agency Contact: Sonja A. Dame (916) 654-0919

DEPARTMENT OF HEALTH SERVICES
WIC Vendor Sanctions

This rulemaking updates the state's WIC vendor sanction provisions to conform with recent changes to the federal WIC (Special Supplemental Food Program for Women, Infants, and Children) regulations.

Title 22
California Code of Regulations
AMEND : 40633
Filed 09/03/02
Effective 10/03/02
Agency Contact:
Barbara S. Galloway (916) 657-3197

DEPARTMENT OF INSURANCE

Organized Automobile Insurance fraud Interdiction

This Certificate of Compliance amends existing provisions for the assessment and distribution of funds to California district attorneys for the purpose of prosecuting organized automobile fraud cases.

Title 10
 California Code of Regulations
 AMEND : 2698.73
 Filed 08/28/02
 Effective 08/28/02
 Agency Contact:
 Wesley E. Kennedy (916) 854-5766

DEPARTMENT OF INSURANCE

**Holocaust Victim Insurance Relief Act of 1999-
 Holocaust Ins. Registry**

This readopted emergency rulemaking adopts procedures for insurance companies doing business in California to comply with the reporting requirements of the Holocaust Victim Insurance Relief Act of 1999.

Title 10
 California Code of Regulations
 ADOPT : 2278, 2278.1, 2278.2, 2278.3,
 2278.4, 2278.5
 Filed 08/28/02
 Effective 08/28/02
 Agency Contact: Leslie Tick (415) 538-4190

DEPARTMENT OF JUSTICE

Proposition 65 Private Enforcement

This emergency readoption provides that a notice of motion (and supporting materials) by a private enforcer for judicial approval of a settlement of a Proposition 65 lawsuit must be served on the Attorney General no later than 45 days prior to the date of the hearing of the motion, or for the maximum time permitted by the court if court rules or other applicable orders do not permit a forty-five day period. The action repeals an existing provision which allowed the Attorney General thirty days after actual receipt to review a settlement. The action also conforms existing regulations to changes made by chapter 678, statutes of 2001.

Title 11
 California Code of Regulations
 AMEND : 3000, 3001, 3003 , 3007 , 3008
 Filed 08/29/02
 Effective 08/29/02
 Agency Contact: Edward G. Weil (510) 622-2149

DEPARTMENT OF SOCIAL SERVICES

Electronic Benefit Transfer Regulations

This is the first emergency readoption concerning Electronic Benefit Transfer System regulations. The initial emergency and the first readoption are exempt

from OAL review pursuant to Welfare and Institutions Code section 10077. The regulations are submitted for filing with the Secretary of State and printing only.

Title MPP
 California Code of Regulations
 ADOPT : 16-001, 16-003, 16-005, 16-010, 16-015,
 16-105, 16-120, 16-130, 16-201, 16-215, 16-301,
 16-310, 16-315, 16-320, 16-325, 16-401, 16-410,
 16-501, 16-505, 16-510, 16-515, 16-517, 16-520,
 16-601, 16-610, 16-701, 16-750, 16-801 AMEND :
 20-300, 44-302,
 Filed 08/30/02
 Effective 08/30/02
 Agency Contact:
 Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF TOXIC SUBSTANCES
 CONTROL**

Phase I Environmental Site Assessment (Schools)

In this emergency rulemaking, the Department of Toxic Substances Control implements Education Code sections 17210(g) and 17213.1 relating to Phase I Environmental Assessments of school sites, which assessments are made to determine whether there has been or may have been a release of hazardous material, or whether a naturally occurring hazardous material is present, on a proposed school site. As a condition of receiving state funding, the governing board of a school district must generally provide for a Phase I Environmental Assessment of a proposed school site prior to the acquisition of the school site, or if the school district owns or leases a school site, prior to the construction of the project. The regulations sets forth specific requirements for the preparation of Phase I Environmental Assessments, including allowing for sampling for lead in soil from lead-based paint and sampling for PCBs in soil from electrical transformers as part of the Phase I process or in a Phase I Addendum.

Title 22
 California Code of Regulations
 ADOPT : 69100, 69101, 69102, 69103, 69104,
 69105, 69106, 69107
 Filed 09/03/02
 Effective 09/03/02
 Agency Contact: Joan Ferber (916) 322-6409

**MANAGED RISK MEDICAL INSURANCE
 BOARD**

Major Risk Program Benefit Compliance

Insurance Code section 12700 et seq. established the Major Risk Medical Insurance Program in 1991. This program provides access to health insurance for individuals who are denied coverage, or offered excessive premiums, due to pre-existing medical conditions. This filing is a certificate of compliance for emergency regulatory action which revised the scope

of coverage provided so that subscribers will receive the same care and benefits required to be provided by health care plans pursuant to the Health and Safety Code and implementing regulations. The emergency regulatory action also deleted eligibility in this program based upon denial of group coverage since the Health and Safety Code and Insurance Code now provide small group access protections.

Title 10

California Code of Regulations

AMEND : 2698.200, 2698.201, 2698.301, 2698.302

Filed 08/29/02

Effective 08/29/02

Agency Contact:

Donald G. Minnich (916) 327-7978

TECHNOLOGY, TRADE AND COMMERCE AGENCY

This is a Conflict of Interest Code filing which has been approved by the Fair Political Practices Commission and is submitted for filing with the Secretary of State and printing only.

Title 10

California Code of Regulations

AMEND : 5101

Filed 08/30/02

Effective 09/29/02

Agency Contact: Terri Toohey (916) 324-3787

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN MAY 01, 2002 TO SEPTEMBER 04, 2002

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

Title 2

08/19/02 ADOPT: 18535

08/14/02 ADOPT: 56, 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8

08/12/02 ADOPT: 57.1, 57.2, 57.3, 57.4

08/12/02 ADOPT: 1859.71.2, 1859.78.4, 1859.108
 REPEAL: 1859.50, 1859.70, 1859.72, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.100, 1859.101, 1859.102, 1859.107

08/07/02 ADOPT: 59000

07/31/02 ADOPT: 18450.1

07/25/02 REPEAL: 2970

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

07/11/02 REPEAL: 18707.4

07/11/02 REPEAL: 554.6

06/27/02 ADOPT: 2351

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

06/25/02 REPEAL: 1189.10

06/20/02 REPEAL: 548.96

06/20/02 REPEAL: 561.2, 561.3

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

06/06/02 ADOPT: 18572

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

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

05/13/02 REPEAL: 18428

05/10/02 REPEAL: 18351

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

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

Title 3

08/30/02 REPEAL: 3423(b)

08/29/02 REPEAL: 1408.3

08/19/02 ADOPT: 3664, 3665, 3666, 3667, 3668, 3669

08/14/02 REPEAL: 6172, 6192, 6200, 6252

08/13/02 REPEAL: 3423(b)

07/25/02 REPEAL: 3423(b)

07/23/02 ADOPT: 7015

07/18/02 REPEAL: 6000, 6710

07/11/02 REPEAL: 3700(b)

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

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

06/20/02 REPEAL: 3431, 3591.17

06/13/02 REPEAL: 2303(t)

06/13/02 ADOPT: 1366

06/11/02 REPEAL: 3425(b)

06/10/02 REPEAL: 3406(b)

06/10/02 REPEAL: 6391, 6393, 6394, 6395
 06/04/02 REPEAL: 3591.16(a)
 05/29/02 REPEAL: 1380.19, 1436.38, 1446.7,
 1454.14, 1462.15
 05/16/02 REPEAL: 1428.12, 1428.16
 05/02/02 REPEAL: 3700(a), (b), & (c)

Title 4

09/03/02 REPEAL: 1107
 08/15/02 ADOPT: 4144
 08/13/02 REPEAL: 7000, 7001, 7002, 7003,
 7003.5, 7004, 7005, 7006, 7007, 7008,
 7009, 7010, 7011, 7012, 7013, 7013.1,
 7013.5, 7014, 7015, 7016, 7017
 08/08/02 REPEAL: 8072, 8074
 07/30/02 REPEAL: 2050
 07/08/02 REPEAL: 2049
 07/01/02 ADOPT: 12100, 12102, 12104, 12106,
 12108, 12110, 12120, 12130
 05/13/02 ADOPT: 8110, 8111, 8112, 8113, 8114,
 8115, 8116, 8117, 8118, 8119, 8120,
 8121, 8122, 8123, 8124, 8125
 05/07/02 ADOPT: 3005, 3006, 3007, 3008, 3009,
 3010 REPEAL: 1928

Title 5

08/15/02 ADOPT: 11980, 11981, 11982, 11983,
 11984, 11985,
 08/13/02 ADOPT: 11969.10 REPEAL: 11969.9
 07/31/02 REPEAL: 30950, 30951.1, 30952, 30953,
 30954, 30955, 30956, 30957, 30958,
 30959
 07/30/02 ADOPT: 11969.1, 11969.2, 11969.3,
 11969.4, 11969.5, 11969.6, 11969.7,
 11969.8, 11969.9
 07/29/02 REPEAL: 3051.16, 3065
 07/15/02 REPEAL: 80105, 80109, 80110, 80111,
 80112, 80113, 80114, and 80115
 07/12/02 REPEAL: 51010, 53000, 53001, 53002,
 53003, 53004, 53005, 53006, 53020,
 53021, 53022, 53023, 53024, 53025,
 53026, 53027, 53030, 53033, 53034
 06/28/02 ADOPT: 11983.5
 06/11/02 REPEAL: 11530, 11531
 06/05/02 REPEAL: 59311, 59328, 59342
 05/21/02 REPEAL: 80026.4, 80026.6, 80122
 05/20/02 ADOPT: 55205, 55207, 55209, 55211,
 55213, 55215, 55217, 55219 REPEAL:
 55316.5, 58003.1, 58003.3, 58007,
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