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

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PROPOSED ACTION ON REGULATIONS

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TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on July 16, 2010. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than November 30, 2010.

This notice is being provided to be in compliance with Government Code Section 11346.4. A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before November 1, 2010.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction

and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

This amendment expanded a portion of the existing contiguous quarantine area in the counties of Alameda, Contra Costa, Monterey, Santa Clara, Solano and Sonoma counties by approximately 229 square miles and designated the entire contiguous area as a regulated area. The effect of this proposed change was to remove restrictions on the movement of articles and commodities covered within this area. A new quarantine area was established in the Ryer Island area of Solano and Sacramento counties of approximately 25 square miles. The Long Beach area of Los Angeles County was expanded by approximately 10 square miles. The Manteca area of San Joaquin County was expanded by approximately 13 square miles. The effect of these changes to the regulation was to establish authority for the State to perform quarantine activities against LBAM (*Epiphyas postvittana*) in these additional quarantine areas. This change resulted in a total of approximately 5,020 square miles being under regulation within the State.

There is no existing, comparable federal regulation or statute regulating the intrastate movement.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3434 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3434. No reimbursement is required for Section 3434 under Section 17561 of the Government Code because all of the affected county agricultural commissioners requested the change in the regulation.

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

EFFECT ON HOUSING COSTS

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

EFFECT ON BUSINESSES

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

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to \$0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current requirements of Section 3060.2, Standards of Cleanliness, California Code of Regulations (CCR), and cannot be sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

ASSESSMENT

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3434 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

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

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

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

INTERNET ACCESS

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

If the regulations 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 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3423(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Interior Quarantine as an emergency action that was effective June 30, 2010. The Department proposes to continue the regulation as amended and submit a Certificate of Compliance for this action no later than December 27, 2010.

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

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before November 1, 2010.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

The amendment of Section 3423(b) established a quarantine area of approximately 79 square miles surrounding the North Highlands area of Sacramento County. The effect of the change is to provide authority for the State to regulate movement of hosts of Oriental fruit fly from, into, and within that area under quarantine to prevent artificial spread of the fly to noninfested areas to protect California's agricultural industry. The proposed action does not differ from any existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that an agricul-

tural commissioner of a county under quarantine has a duty to enforce Section 3423. No reimbursement is required for Section 3423 under Section 17561 of the Government Code because the Sacramento County Agricultural Commissioner requested the change in the regulation.

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

EFFECT ON HOUSING COSTS

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

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting 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 \$78 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 proposes to amend Section 3423(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

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

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 664-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Susan McCarthy 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 loca-

tion of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION

Amend and Update the Commission Regulations 1001, 1004, 1005, 1006, 1008, 1009, 1052, 1053, 1055, 1056, 1071, 1080, 1081, 1083, and Commission Procedure D-12

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by November 1, 2010, at 5:00 p.m.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to the:

Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503(e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

At its June 24, 2010 meeting, the Commission approved proposed amendments to the Commission Regulations. The proposed changes included:

- Update Training Regulations as part of an ongoing review.

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the training regulations which include definitions, minimum training standards, and waiver of training for reserve officers.

All changes to Regulations begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. The completed work of all committees is presented to the POST Commission at large for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to implement these regulations. The proposed effective date is January 1, 2011.

Document Incorporated by Reference

The document, *Training and Testing Specifications for Peace Officer Basic Courses*, adopted effective January 1, 2001, and amended effective October 1, 2001, January 1, 2002, July 1, 2002, January 1, 2003, January 1, 2004, August 15, 2004, September 15, 2004, July 1, 2005, January 1, 2006, January 19, 2007, July 1, 2007, August 8, 2007, January 1, 2008, July 1, 2008, January 1, 2009, July 1, 2009, January 1, 2010, and July 1, 2010 is herein incorporated by reference.

Local Mandate

This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with

§ 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies

POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code § 11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in the State of California.

Cost Impact on Representative Private Persons or Businesses

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.

Effect on Housing Costs

None.

Alternatives

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

Contact Person

Please direct inquiries or written comments about the proposed regulatory action to the following:

Cheryl Smith
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-0544 or cheryl.smith@post.ca.gov
FAX (916) 227-6932

or

Kelli Dugranrut
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083
(916) 227-4854 or kelli.dugranrut@post.ca.gov
FAX (916) 227-5271

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at: 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person named above.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code; and to implement, interpret or make specific sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code, proposes to amend Section 632, Title 14, California Code of Regulations, relating to marine protected areas.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Marine Life Management Act (MLMA, Stats. 1998, ch. 1052) created a broad programmatic framework for managing fisheries through a variety of conservation measures, including Marine Protected Areas (MPAs). The Marine Life Protection Act (MLPA, Stats. 1999, ch. 1015) established a programmatic framework

for designating such MPAs in the form of a statewide network. AB 2800 (Stats. 2000, ch. 385) enacted the Marine Managed Areas Improvement Act (MMAIA), among other things, to standardize the designation of Marine Managed Areas (MMAs), which include MPAs. The overriding goal of these acts is to ensure the conservation, sustainable use, and restoration of California's marine resources. Unlike previous laws, which focused on individual species, the acts focus on maintaining the health of marine ecosystems and biodiversity in order to sustain resources.

Existing regulations (the no-project alternative) provide for 42 MPAs covering an area of 181.5 square miles, representing 7.7 percent of the state waters within the south coast region. Of this, 89 percent of the area protected is within no-take state marine reserves covering 161 square miles or 6.9 percent of the state waters within the south coast study region.

The proposed regulation change is intended to meet the goals described in the Marine Life Protection Act (MLPA, Stats. 1999, Ch. 1015) within a portion of California State Waters. The area covered in this proposal is the south coast region, defined as State waters from Point Conception in Santa Barbara County to the California-Mexico border. The MLPA goals address an overall concept of ecosystem-based management and the intent to improve upon California's existing array of marine protected areas (MPAs). The MLPA specifically requires that the Department of Fish and Game (Department) prepare a master plan and that the Fish and Game Commission (Commission) adopt regulations based on the plan to achieve the MLPA goals.

The MLPA requires that the Commission adopt a Marine Life Protection Program that, in part, contains an improved marine reserve (now state marine reserve) component [Fish and Game Code subsection 2853(c)(1)] and protects the natural diversity of marine life and the structure, function, and integrity of marine ecosystems [Fish and Game Code subsection 2853(b)(1)]. This protection may help provide sustainable resources as well as enhance functioning ecosystems that provide benefits to both consumptive and non-consumptive user groups. The program may include areas with various levels of protection (LOP), through marine protected areas (MPAs) that allow for specified commercial and recreational activities. These activities include but are not limited to fishing for certain species but not others, fishing with certain practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of the MLPA.

Regional implementation of the Marine Life Protection Act:

Important in developing the proposed regulation was the consideration for the south coast MPAs to form a

component of a statewide biological network. The concept of designing a statewide network is outlined in the Commission's draft master plan for Marine Protected Areas (draft master plan), consistent with the guidance provided in the MLPA [Fish and Game Code subsection 2853(b)(6)]. Rather than attempting to design a single network for the entire state at one time, the draft master plan envisions the assembly of a statewide network from a series of regional processes across four coastal study regions and the San Francisco Bay region. The central and north central coast regional regulations were adopted in April 2007 and August 2009, respectively. Further background on the concept of regional networks, biological connectivity, ecosystem protection, MPA classifications, as well as the legislative history and context, are included in the rulemaking files for the central coast (OAL File ID # 07-0711-01S) and north central coast (OAL File ID #2010-0413-02SR). The south coast is the third of five study regions to be implemented through the MLPA.

The proposed regulation establishes a network component of MPAs for the south coast designed to include all representative south coast habitats and major oceanic conditions. Unique and critical habitats were considered separately to guarantee both representation and protection. From an ecological perspective, the proposed regulation creates a network component of MPAs in the south coast consistent with the goals of the MLPA. From an economic and social perspective, the proposed regulation attempts to minimize potential negative socio-economic impacts and optimize potential positive socio-economic impacts for all users, to the extent possible.

PROPOSED REGULATION

The proposed regulation, also known as the Commission's Integrated Preferred Alternative (IPA), includes a total of 35 MPAs for the south coast region (Figure 1, Table 1). Sub-options have been included in the proposed regulation that may increase the number of MPAs up to a total of 39. It should be noted that MPAs in the northern Channel Islands and Santa Barbara Island were designed and adopted prior to the implementation of the south regional MLPA planning process. These 13 MPAs and two special closures, adopted in 2004, were re-evaluated at the onset of the south coast regional planning process relative to the goals of the MLPA by applying the SAT guidelines. These MPAs were found to meet the goals of the MLPA, and were incorporated into the south coast regional proposals without modification, at the direction of the Commission. They are reflected in Figure 1, but are not included in Table 1.

Additionally, two federal Safety Zones (military closures enacted by the United States Coast Guard and managed by the United States Navy) off of San Clemente Island were recognized in the MPA proposals as contributing to the ecological goals of the south coast MPA network. These federal Safety Zones were designated in federal regulations concurrent with the south coast MPA planning process. Although these areas are not proposed for formal designation as MPAs, they prohibit public access and act as no-fishing zones. These zones cover approximately 37 square miles and were identified by the MLPA Science Advisory Team to encompass several unique and rare marine life habitats. Due to the significant biological value of these non-fishing areas, the BRTF made a motion to include federal Safety Zones in MPA proposals and to consider their contributions to the ecological goals of the MPA network in the south coast study region without a formal MPA designation. Thus, while the federal Safety Zones, as well as the northern Channel Islands MPAs, are part of the overall design of the MPA network, they are not under consideration for regulatory action. The Department will develop monitoring and management agreements with the Department of Defense pursuant to an MOU subsequent to this rulemaking and will be addressed formally in an update to the draft master plan.

Although changes to the northern Channel Islands MPAs are not under consideration, an error was identified in the existing regulations for the San Miguel Island Special Closure. A typographical error in the original rulemaking resulted in an incorrect longitudinal coordinate for Judith Rock, which is the eastern boundary of the San Miguel Island Special Closure. Thus, in subsection 632(b)(80), Title 14, California Code of Regulations (CCR) of the proposed regulation, 120° 23.30' W. longitude is corrected to 120° 25.30' W. longitude as intended in the original rulemaking.

The three classifications of MPAs used in California to reflect differing allowed uses are: state marine reserve (SMR), state marine conservation area (SMCA), and state marine park (SMP). Public Resources Code Section 36710 lists the restrictions applied in these classifications. The Commission has the statutory authority to designate SMRs and SMCAs; however the third MPA classification, SMP, may only be created, modified, or deleted under the authority of the State Park and Recreation Commission [Public Resources Code 36725(b)].

One MPA (Kashtayit) was recommended for designation as an SMP by stakeholders and the BRTF, with restrictions consistent with this designation. Pursuant to Commission authority [Public Resources Code 36725(a)], it would be adopted as an SMCA, although it could subsequently be designated as an SMP at the discretion of the State Park and Recreation Commis-

sion. If adopted, the draft master plan will be amended to reflect that it is intended to be a park, but will require action by the State Park and Recreation Commission.

Pre-existing activities and artificial structures including but not limited to wastewater outfalls, piers and jetties, maintenance dredging, and beach nourishment occur throughout the heavily urbanized south coast study region. These are activities that may result in incidental take. However, these activities are regulated by other federal, state, and local agencies, whose jurisdiction cannot be pre-empted through designation of MPAs under MLPA. Out of the 35 MPAs in the proposed regulation, 23 have been identified as having various existing activities regulated by other agencies (refer to Table 1). These activities are specified within the proposed MPA regulations to make explicit that these regulated activities are allowed to continue under current permits.

The Commission has previously incorporated descriptions of permitted activities into regulations for specific MPAs. There are examples of how ongoing activities are authorized within existing Title 14, CCR. Most recently, in 2008 the Commission adopted language for the Morro Bay State Marine Recreational Management Area that specifies activities permitted by other entities [subsections 632(b)(69)(C)(4) and 632(b)(69)(C)(5), Title 14, CCR]. In addition, permitted activities are also authorized in Ecological Reserves (Section 630, Title 14, CCR, and repeated for MPAs inside the Ecological Reserves in Section 632, Title 14, CCR). In line with this precedence, the proposed regulation incorporates allowances for specific ongoing activities in 23 MPAs (see Table 1). It should be noted, however, that in cases where a State Marine Reserve (SMR) is proposed over the area of activity, designation as a State Marine Conservation Area (SMCA) is more appropriate than an SMR due to the incidental take associated with those activities, which conflicts with an SMR designation. Ten of the 23 MPAs with identified activities were proposed as SMRs by stakeholders. Therefore, the designation is changed from SMR to SMCA that only allows take associated with those activities identified. For purposes of this discussion, these are referred to as “no-take SMCAs” and reflected as a different color shown in Figure 1.

The proposed regulation for MPAs within Ecological Reserves adds a reference to activities authorized pursuant to Section 630. Therefore, text that duplicates text in Section 630, Title 14, CCR, is deleted and a cross reference to Section 630 is provided.

Mandated water quality monitoring activities required under the federal Clean Water Act and California Water Code have been identified as occurring throughout the southern California region, and include monitoring stations within the majority of MPAs proposed in

this regulation. Monitoring includes sampling of water, sediments, and marine organisms using a variety of methods. The MLPA specifically states that monitoring and research are permissible in all MPA designations. Therefore, under existing regulations, water quality monitoring may be authorized in any MPA pursuant to a scientific collecting permit issued by the Department, and therefore an allowance does not need to be specified within individual MPA regulations. However, to make explicit that the provision for monitoring in MPAs applies to water quality monitoring, the proposed regulation adds a general provision to Section 632(a), Title 14, CCR, to clarify that this activity is authorized in all MPAs pursuant to a scientific collecting permit.

For purposes of the MLPA, wastewater discharge permitted by the state water quality control board is not considered to involve “take” within MPAs. A clarification will be added to the draft master plan that, for purposes of MPA management, the relation of wastewater discharge to allowable take is at the discretion and jurisdiction of the state and regional water quality control boards.

Military activities have been identified in three of the proposed MPAs, at Point Conception SMR, Begg Rock SMR, and South La Jolla SMCA. Existing regulations in the preamble to Section 632, Title 14, CCR, state that “Nothing in this section expressly or implicitly precludes, restricts or requires modification of current or future uses of the waters identified as marine protected areas, special closures, or the lands or waters adjacent to these designated areas by the Department of Defense, its allies or agents.” Therefore, military operations are already exempt within all MPAs under existing law.

The proposed regulation retains the existing San Diego-Scripps Coastal SMCA. This MPA provides for the specified scientific institution to manage and conduct research, education, and scientific collecting activities for its faculty, students, and affiliates without a scientific collecting permit. The proposed regulation adds a requirement that scientific research may only be conducted pursuant to a scientific collecting permit issued by the Department, which is consistent with regulatory requirements at the existing Dana Point SMR and Catalina Island Marine Institute SMR (renamed Blue Caverns SMCA in the proposed regulation).

The IPA forwarded to the Commission by the BRTF includes Bolsa Chica SMCA and Bolsa Chica SMR. Due to ongoing activities that are incompatible with an SMR designation, Bolsa Chica SMR must be re-designated as an SMCA. Because this change results in two proposed MPAs with the same name, in order to avoid confusion, the proposed regulation includes modified names for each MPA, based on the geographic reference for each portion of the bay. Therefore, Bolsa Chica SMCA and Balsa Chica SMR are re-named as “Bolsa

Bay SMCA” and “Bolsa Chica Basin SMCA” respectively, to avoid confusion.

Regulatory sub-options

At the Commission’s March 4, 2010 meeting, the Commission directed the Department to develop regulatory sub-options for eleven of the proposed MPAs within the Commission’s preferred alternative, to provide alternatives to either boundaries or take regulations in the IPA that address Department feasibility concerns, or requested by the California Department of Parks and Recreation (State Parks). The Commission also added sub-options for two existing MPAs not included in the IPA at the request of State Parks, for a total of thirteen MPAs with sub-options. These sub-options included the following choices:

Arrow Point to Lion Head Point (Catalina Island) SMCA boundaries—

The proposed MPA utilizes the seaward boundary of a long-standing special closure, which is represented by an undulating line based on a specific distance from the coastline. Note that existing coordinates are updated in the proposed regulation to reflect more precise GIS coordinates using modern technology. However, the seaward boundary does not meet Department feasibility guidelines.

Option 1: Retain coordinates as proposed.

Option 2: Use straight lines between coordinates to approximate the distance offshore.

Straight-line coordinates are recommended to facilitate enforcement and public understanding. The proposed straight lines intentionally avoid inclusion of Eagle Reef, a popular destination for recreational lobster diving.

Casino Point and Lover’s Cove SMCAs proposed permitted activities—

Feeding of fish in the area offshore from the City of Avalon is a long-standing practice associated with local tourism, where fish are provided food in order to attract the local species to enhance marine life viewing. In the general rules and provisions governing MPAs in subsection 632(a), Title 14, CCR, feeding of fish is prohibited except in relation to fishing allowances within SMCA and state marine recreational management areas. As such, designation of an MPA at Casino Point and Lover’s Cove would prevent the practice from continuing. This was not considered during the SCRSG planning process, so the proposed regulation provides an option to allow or disallow this practice to continue within specific MPAs as follows:

Option 1: Do not allow the feeding of fish.

Option 2: Allow for the feeding of fish for the purpose of marine life viewing.

Proposed option 2 requires an addition to the regulations in the general rules and provisions (subsection

632(a), Title 14, CCR) that allows for feeding of fish for marine life viewing purposes to be specified within regulations for individual MPAs.

Laguna Beach SMR boundaries and designation—

A wastewater outfall pipe crosses the southern boundary of the proposed SMR. Although the discharge end of the outfall pipe falls outside the boundaries of the proposed MPA, operation and maintenance activities associated with the portion of the outfall pipe that is within the proposed MPA are incompatible with the SMR designation. However, the only area within the proposed Laguna Beach SMR that would be affected by these operations lies within the southernmost 1.25 miles of coastline. Therefore, options are provided to allow for the continued operation of the outfall pipe by either a) revising the entire designation to an SMCA (option 1), b) dividing the geography into two no-fishing MPAs with an SMR designation along the majority of the area, with an SMCA designated along the southernmost 1.25 miles of the area which would increase the number of MPAs by one (option 2), or c) modifying the south-eastern boundary of the SMR to exclude the pipeline area (option 3). In addition, options are incorporated to address feasibility concerns raised in public comment and by Department enforcement and local enforcement partners. The proposed SMR boundaries adhere to Department feasibility guidelines; however, feedback received from the public and local MPA management partners indicates that the angle of the coastline in this geography does not work well with strict north/south – east/west boundaries. This is particularly true for user groups accessing the area from shore, who generally fish without the aid of Global Positioning System units to identify coordinate-based boundaries. Therefore, options are provided to address feasibility of boundaries by modifying the northern and southern boundaries to be oriented perpendicular to the shore, in two different configurations (Options 4 and 5). A summary of Options 1–5 is provided below:

Option 1: Retain coordinates as proposed and change designation to a non-fishing SMCA that allows for wastewater outfall operation and maintenance.

Option 2: Divide Option 1 geography into two MPAs, with an SMR north of the wastewater outfall pipe and create a non-fishing SMCA band at the southern portion of the proposal boundary, including the wastewater outfall pipe, which allows for operation and maintenance of the outfall. This option would increase the number of MPAs by one.

Option 3: Modify the southern boundary to exclude the pipe, by moving the southeast corner of the SMR northward to the nearest prominent rocks, which results in a nearshore line perpendicular to shore.

Option 4: Use the southern boundary in Option 3, and also modify the northern boundary in the nearshore area to be perpendicular to shore. Seaward, the boundaries adhere largely to the size and shape of the IPA (Option 1). This shape excludes the wastewater outfall pipe.

Option 5: This is a variation of option 4 in which the northern and southern boundaries extend perpendicular from shore out to the state waters boundary.

Robert E. Badham SMCA name option—

This existing MPA is subsumed into Crystal Cove SMCA in the IPA. However, the history of the naming of this existing MPA is relevant for consideration of whether to retain the historic name or not.

This MPA, originally designated as the Newport Beach Marine Life Refuge, was renamed as Robert E. Badham Marine Life Refuge (reclassified as an SMCA per the MLPA) in response to Senate Resolution No. 17, adopted by the California Senate in 1999. In light of this history, two options are provided:

Option 1: As proposed in the IPA, removes existing MPA name and subsumes area into Crystal Cove SMCA (Links to Crystal Cove Boundary Options 1 and 2).

Option 2: Retains existing MPA name. Divides the proposed Crystal Cove SMCA area into two MPAs to retain the historic name Robert E. Badham for the area north of the Crystal Cove State Park land boundary (Links to Crystal Cove Boundary Options 3 and 4).

Crystal Cove SMCA boundaries and name options—

Since this MPA shares a boundary with the Laguna Beach SMR, some of the Laguna options will result in a change to the southern boundary of this MPA (Boundary Options 1 and 2 below). Options for Robert E. Badham will also affect the northern boundary of this MPA (in Boundary Options 3 and 4 below).

Boundary Option 1: Retains coordinates as proposed in the IPA (Links to Laguna Options 1, 2, and 3, and Robert E. Badham Option 1).

Boundary Option 2: Modifies the southern boundary (Links to Laguna Options 4 and 5, and Robert E. Badham Option 1).

Boundary Option 3: Divides the Option 1 geography into two MPAs, with the northern boundary of Crystal Cove SMCA terminating at the State Park boundary, and the remaining area within the geography north of the boundary would retain the original name of Robert E. Badham SMCA (Links to Laguna Options 1, 2, and 3, and Robert E. Badham Option 2). This option would increase the number of MPAs by one.

Boundary Option 4: Divides the Option 2 geography into two MPAs, with the northern boundary of Crystal Cove SMCA terminating at the State Park boundary, and the remaining area within the geography

north of the boundary would retain the original name of Robert E. Badham SMCA (Links to Laguna Options 4 and 5, and Robert E. Badham Option 2). This option would increase the number of MPAs by one.

Crystal Cove SMCA take regulations—

Crystal Cove SMCA as proposed in the IPA prohibits fishing except for recreational take of finfish by hook and line or by spearfishing, lobster, and sea urchin; and commercial take of coastal pelagic species by round haul net, spiny lobster by trap, and sea urchin. However, State Parks has requested that the Commission consider prohibiting all commercial fishing based on the rationale that commercial take conflicts with the adjacent Crystal Cove State Park General Plan for enhancing recreational activities and potential future designation as a State Marine Park. Therefore, take options are provided for Crystal Cove as follows:

Take Option A: Allows commercial and recreational take as proposed in the IPA.

Take Option B: Prohibits commercial take.

Dana Point SMCA boundaries—

Since this MPA shares a boundary with the Laguna Beach SMR, some of the Laguna options will result in a change to the northern boundary of this MPA (Boundary Options 1 and 2).

Boundary Option 1: Retain coordinates as proposed (Links to Laguna Options 1 and 2).

Boundary Option 2: Modifies the northern boundary (Links to Laguna Options 3, 4 and 5).

Dana Point SMCA other access and collecting restrictions—

The existing Dana Point SMCA contains language derived from legislation passed in 1993 to increase protection in the originally-established Dana Point Marine Life Refuge (reclassified as an SMCA per the MLPA). The legislation prohibited entry into the intertidal zone for purposes of taking or possessing any species of fish, plant, or invertebrate, except under a scientific collecting permit issued by the Department, and an additional approval obtained from the director of the Dana Point SMCA to collect within the SMCA. The existing SMCA covers the geographic area around the Dana Point Headlands. However, the proposed regulation expands the coastal coverage of the Dana Point SMCA northward by over three linear miles, and adds an allowance for recreational take from the shore. This proposed allowance would be in conflict with the existing restrictions on entering the intertidal area to fish. Therefore, the proposed regulation includes two options.

Access Option A: Remove existing restrictions to entry into the intertidal zone, and scientific collecting oversight by the director of the Dana Point SMCA.

Access Option B: Retain existing restrictions to entry into the intertidal zone and scientific collecting oversight by the director of the Dana Point SMCA. This restriction would be limited to a defined area that corresponds to the area around the Dana Point Headlands which is southward of a line at latitude 33° 27.74' N.

Swami's SMCA boundaries—

The proposed northern and southern boundaries for this MPA fall in the middle of beaches without visible and permanent landmarks. Because these beaches have very high visitation rates of more than three million people annually, many of whom fish from the beach, Department enforcement have raised concerns that the public may find it difficult to locate the boundaries unless aligned with landmarks. To facilitate public understanding, the Department recommended moving the northern boundary northward to align with Cottonwood Creek (Option 2), and State Parks recommended moving the southern boundary southward to the edge of State Parks land (end of state beach) (Options 3 and 4). It should be noted that a movement of the southern boundary in Options 3 and 4 would encompass the discharge end of the San Elijo wastewater discharge pipe.

Boundary Option 1: Retain coordinates as proposed in IPA.

Boundary Option 2: Move northern boundary northward to Cottonwood Creek.

Boundary Option 3: Move southern boundary south to align with State Parks Beach boundary.

Boundary Option 4: Move northern boundary per Option 2 and southern boundary per Option 3.

Swami's SMCA take regulations—

Additionally, State Parks has requested the consideration of sub-options for this proposed MPA due to conflicts with current Parks unit management. State Parks states that the proposed modification of the existing MPA conflicts with State Beach classification and general plans. The proposed MPA will affect both Cardiff and San Elijo State Beaches. More than three million people visit these beaches annually. San Elijo State Beach provides 172 campsites. The classification of a State Park System unit forms the foundation on which all management and development policies are based. State Beaches are a class of State Recreational Areas, which are operated to provide outdoor recreation opportunities. State Beaches provide swimming, boating, fishing, and other beach-oriented recreational activities. An SMCA that prohibits shore fishing would conflict with one of the primary purposes of these park units. Therefore, State Parks recommends allowing shore-based fishing. The proposed regulation provides sub-options that add shore-based fishing with hook and line gear as an allowed recreational take method in the SMCA (see sub-options for allowed take in Options

3 and 4). These options meet Department feasibility guidelines but reduce the SAT LOP from high to moderate-low.

Take Option A: Recreational fishing regulations as proposed in IPA.

Take Option B: Adds shore-base fishing with hook and line gear as an allowed recreational take method in the SMCA.

San Diego Scripps Coastal and Matlahuayl SMCA boundaries—

In the IPA proposal, the Scripps Pier cuts diagonally across the boundary between these two proposed MPAs. Although the pier is not a fishing pier, it is common for recreational anglers fishing from boats to target fish for bait underneath the pier structure, presenting difficulties for enforcement and public understanding. The boundary as proposed will require re-designation of Matlahuayl from an SMR to an SMCA to allow for operation and maintenance of the pier structure. Therefore, the proposed regulation adds an option to move the shared boundary between the two MPAs southward to below the pier, as follows:

San Diego-Scripps Coastal SMCA Option 1: Retain coordinates as proposed in the IPA (Linked to Matlahuayl Option 1).

San Diego-Scripps Coastal SMCA Option 2: Move the southern boundary south to below the base of Scripps Pier (Linked to Matlahuayl Option 2).

Matlahuayl SMCA Option 1: Change designation to SMCA; retain coordinates as proposed in IPA (Linked to San Diego-Scripps Coastal SMCA Option 2).

Matlahuayl SMR Option 2: Retain SMR designation, move northern boundary south below base of pier (Linked to San Diego-Scripps Coastal SMCA Option 2).

South La Jolla SMR/SMCA—

This inshore/offshore MPA complex has a shared northern and southern boundary. As proposed in the IPA, the northern boundary bisects an intertidal reef that is popular for recreational harvest of invertebrates at low tide. Additionally, the southern boundary falls in the middle of a public beach without a permanent and visible landmark. Both of these boundaries may lead to enforcement and public understanding challenges. Therefore, boundary options are provided to address feasibility concerns for the northern and southern boundaries:

Option 1: Retain coordinates as proposed in IPA.

Option 2: Move northern boundary to north of the intertidal reef to align with Palomar Avenue.

Option 3: Move southern boundary one block south to align with Missouri Street.

Option 4: Move both northern and southern boundaries per Options 2 and 3.

State Parks request to retain two existing MPAs

Two existing MPAs (Refugio SMCA and Doheny Beach SMCA) are not retained in the original IPA of 35 MPAs submitted by the BRTF to the Commission for the proposed regulation. However, State Parks requests that these MPAs be retained, and has provided the following rationale:

Refugio SMCA—

Proposed removal of this existing MPA would decrease protection and open up the area to potential increased commercial extraction. The area includes significant natural values as well as sensitive archeological sites. The shallow relief reefs and interspersed sand substrate environments of this site contribute to high biological diversity. Culturally diverse as well, the area was once a popular trading ship anchorage, and prehistoric Chumash stone bowls have been found within this site. Refugio State Beach receives over 100,000 visitors each year and is popular for SCUBA diving, swimming, recreational fishing and sea kayaking. Existing interpretive programs include kayak and tidepool tours. The existing Refugio State Beach is impacted by commercial lobster trapping. Parks staff must regularly remove

lobster traps that drift too close inshore and abandoned traps that lay within the park lease. Therefore, the following options are included in the proposed regulation:

Option 1: Remove the existing Refugio SMCA from the proposed regulation, as per the IPA.

Option 2: Retain the existing regulations for Refugia SMCA within the proposed regulation. This option would increase the number of MPAs by one.

Doheny Beach SMCA—

Proposed removal of this existing MPA would decrease existing protection and decrease educational opportunity. Doheny State Beach includes an existing underwater recreation area and the Doheny Beach Marine Life Refuge, which was designated in 1969 by the Legislature specifically to protect tidepool invertebrates. The existing protections are moderate and do not affect commercial activities. Although relatively small, over 1.6 million people visited Doheny State Beach in 2008. Therefore, the following options are included in the proposed regulation:

Option 1: Remove the existing Doheny Beach SMCA from the proposed regulation, as per the IPA.

Option 2: Retain the existing regulations for Doheny Beach SMCA within the proposed regulation. This option would increase the number of MPAs by one.

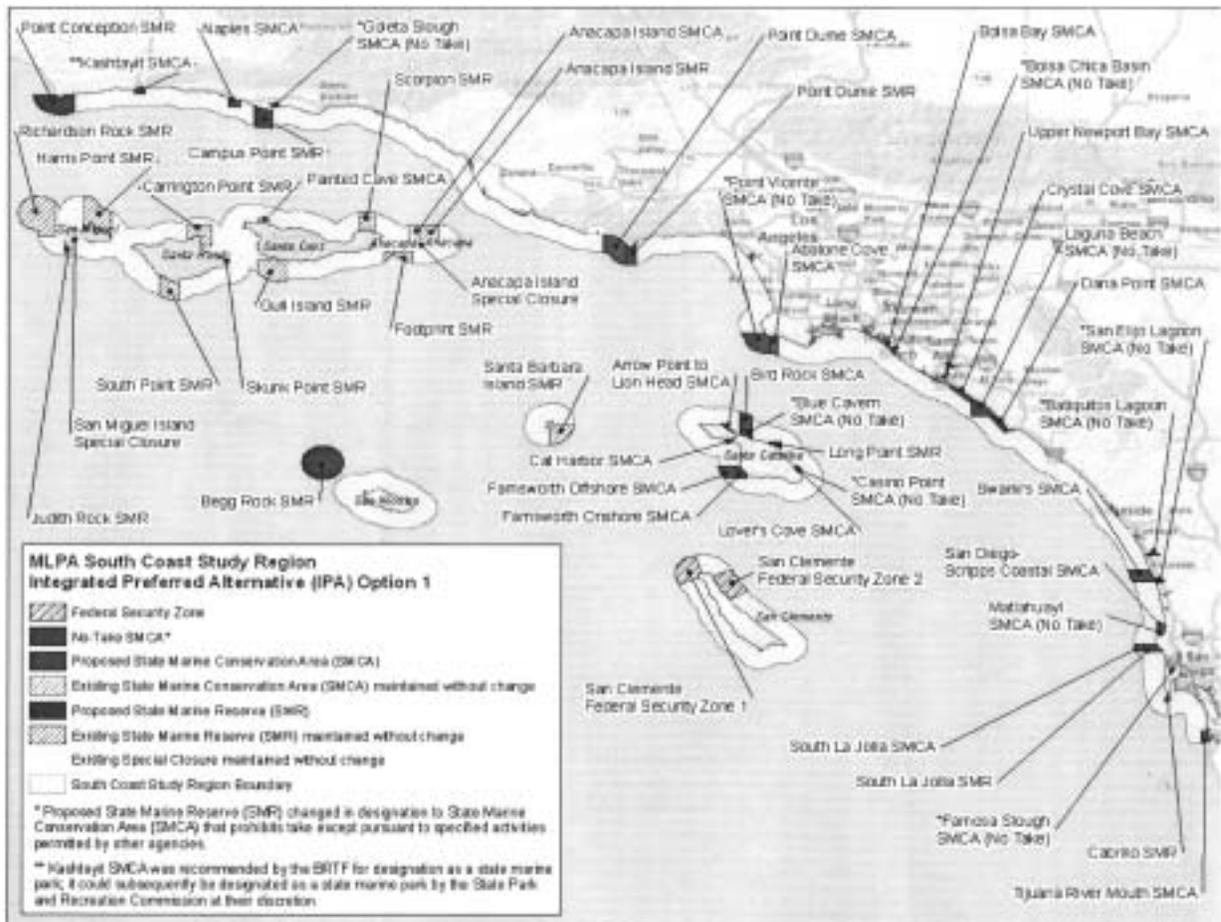


Figure 1. Marine protected areas in proposed regulation known as IPA. The IPA as displayed includes 35 proposed new MPAs (alternatives within the proposed regulation provide options to add three MPAs not displayed here, and boundary options for 9 MPAs in 5 geographies); the figure also shows 2 existing special closures and 13 existing MPAs in the northern Channel Islands and Santa Barbara Island, which are not under re-consideration in this proposal, and two federal Safety Zones at San Clemente Island that are considered to contribute to the network but do not have an MPA designation.

Proposed Regulation Details

Table 1 presents proposed MPAs in the IPA including the MPA designation, options for specific MPAs, proposed allowed take, other proposed regulated activities, and MLPA SAT assigned level of protection.

Other terms used in Table 1 include “pelagic finfish,” “finfish,” and “coastal pelagic species” with the following definitions:

- Pelagic finfish are defined in subsection 632(a)(3) as: northern anchovy (*Engraulis mordax*), barracudas (*Sphyraena spp.*), billfishes* (family Istiophoridae) (except that marlin is not allowed for commercial take), dolphinfish/dorado (*Coryphaena hippurus*), Pacific herring (*Clupea pallasii*), jack mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber japonicus*), salmon (*Oncorhynchus spp.*), Pacific sardine (*Sardinops*

sagax), blue shark (*Prionace glauca*), salmon shark (*Lamna ditropis*), shortfin mako shark (*Isurus oxyrinchus*), thresher sharks (*Alopias spp.*), swordfish (*Xiphias gladius*), tunas (family Scombridae), and yellowtail (*Seriola lalandi*).

- Finfish are defined in subsection 632(a)(2) as any species of bony fish or cartilaginous fish (sharks, skates and rays). Finfish do not include amphibians, invertebrates, plants or algae. The definition of finfish provided in Section 159 does not apply to this Section.
- Coastal pelagic species are defined in Section 1.39 as: northern anchovy (*Engraulis mordax*), Pacific sardine (*Sardinops sagax*), Pacific mackerel (*Scomber japonicus*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opalescens*).

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Table 1. Proposed regulation¹ (Integrated Preferred Alternative) for marine protected areas (MPAs) in the south coast region (excluding the northern Channel Islands), including description of options, proposed allowed take, other proposed regulated activities, and SAT–assigned LOP. Marine protected areas are arranged geographically from north to south, including Catalina Island.

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
Point Conception State Marine Reserve	IPA	Take of all living marine resources is prohibited	—	Very High
OPTIONS EXIST (1–2) TO EXCLUDE OR INCLUDE REFUGIO				
Option 1: Exclude Refugio State Marine Conservation Area	1: IPA: Removes existing SMCA as reflected in IPA	N/A	N/A	N/A
Option 2: Refugio State Marine Conservation Area	2: Retains existing SMCA and adds to IPA (State Parks option)	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ Only the following species may be taken recreationally: finfish, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels. ▪ Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached. 	—	Low
Kashtayit State Marine Conservation Area ³	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish and invertebrates, except rock scallops and mussels, The recreational take of giant kelp by hand harvest	Allows maintenance of artificial structures and operation and maintenance of existing facilities pursuant to any required permits, or as otherwise authorized by the Department ²	Low
Naples State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish (including Pacific bonito) and white seabass by spearfishing The commercial take of giant kelp by hand harvest, or by mechanical harvest	Allows operation and maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department ²	Low
Campus Point State Marine Reserve ⁵	IPA	Take of all living marine resources is prohibited	— ⁵	Very High
Goleta Slough State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows maintenance dredging, habitat restoration, research and education, maintenance of artificial structures, and operation and maintenance of existing facilities pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as otherwise authorized by the Department ² Boating, swimming, wading, and diving are prohibited in waters below the mean high tide line in the Goleta Slough Ecological Reserve as defined within Section 630, Title 14, CCR	Very High

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Begg Rock (San Nicholas Island Quad) State Marine Reserve	IPA	Take of all living marine resources is prohibited	—	Very High
Point Dume State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing ▪ The commercial take of coastal pelagic species by round haul net and swordfish by harpoon 	—	High
Point Dume State Marine Reserve	IPA	Take of all living marine resources is prohibited	—	Very High
Point Vicente State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows remediation activities associated with the Palos Verdes Shelf Operable Unit of the Montrose Chemical Superfund Site within the conservation area pursuant to the Interim Record of Decision issued by the United States Environmental Protection Agency and any subsequent Records of Decision ²	Very High
Abalone Cove State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing only, and market squid by hand-held dip net ▪ The commercial take of coastal pelagic species and Pacific bonito by round haul net, and swordfish by harpoon 	Allows remediation activities associated with the Palos Verdes Shelf Operable Unit of the Montrose Chemical Superfund Site within the conservation area pursuant to the Interim Record of Decision issued by the United States Environmental Protection Agency and any subsequent Records of Decision ²	High
Bolsa Bay State Marine Conservation Area ⁶	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line from shore in designated areas only 	Allows routine operation and maintenance, habitat restoration, maintenance dredging, research and education, and maintenance of artificial structures pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as otherwise authorized by the Department ² Boating, swimming, wading, and diving are prohibited; access restricted between 8:00 p.m. and 6:00 a.m.	Moderate Low
Bolsa Chica Basin State Marine Conservation Area ^{4, 6}	IPA ⁴	Take of all living marine resources is prohibited	Allows routine operation and maintenance, habitat restoration, maintenance dredging, research and education, and maintenance of artificial structures pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as otherwise authorized by the Department ² Boating, swimming, wading, and diving prohibited; access restricted between 8:00 p.m. and 6:00 a.m.	Very High

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
BOUNDARY OPTIONS (1-2) EXIST FOR ARROW POINT TO LION HEAD POINT (CATALINA ISLAND)				
Option 1: Arrow Point to Lion Head Point (Catalina Island) State Marine Conservation Area	1: Seaward boundary defined by distance from shore as described in IPA	Recreational take of marine invertebrates is prohibited; take of all other species is allowed	—	Low
Option 2: Arrow Point to Lion Head Point (Catalina Island) State Marine Conservation Area	2: Uses straight line boundaries to improve feasibility	Recreational take of marine invertebrates is prohibited; take of all other species is allowed	—	Low
Blue Cavern (Catalina Island) State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department ²	Very High
Bird Rock (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish including Pacific bonito by hook and line or by spearfishing, white seabass by spearfishing and market squid by hand-held dip net ▪ The commercial take of pelagic finfish by hook and line only and swordfish by harpoon 	—	High
Long Point (Catalina Island) State Marine Reserve	IPA	Take of all living marine resources is prohibited	—	Very High
TAKE OPTIONS (1-2) EXIST FOR CASINO POINT (CATALINA ISLAND)				
Option 1: Casino Point (Catalina Island) State Marine Conservation Area ⁴	1: IPA ⁴ ; No allowance for feeding as described in IPA	Take of all living marine resources is prohibited	Allows maintenance of artificial structures pursuant to any required permits or as otherwise authorized by the Department ²	Very High
Option 2: Casino Point (Catalina Island) State Marine Conservation Area ⁴	2: Adds allowance for feeding of fish to IPA ⁴	Take of all living marine resources is prohibited EXCEPT: feeding of fish for marine life viewing is allowed	Same as Option 1	Very High
TAKE OPTIONS (1-2) EXIST FOR LOVER'S COVE (CATALINA ISLAND)				
Option 1: Lover's Cove (Catalina Island) State Marine Conservation Area	1: IPA: No allowance for feeding as described in IPA	Take of all living marine resources is prohibited EXCEPT: recreational fishing from public pier by hook and line	Allows maintenance of artificial structures pursuant to any required permits or as otherwise authorized by the Department ²	Moderate High
Option 2: Lover's Cove (Catalina Island) State Marine Conservation Area	2: Adds allowance for feeding of fish to IPA	Take of all living marine resources is prohibited EXCEPT: recreational fishing from public pier by hook and line, and feeding of fish for marine life viewing is allowed	Same as Option 1	Moderate High

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Farnsworth Onshore (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing only, market squid by hand-held dip net, and marlin, tunas and dorado by trolling ▪ The commercial take of coastal pelagic species by round haul net and swordfish by harpoon 	—	High
Farnsworth Offshore (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, by hook and line or spearfishing, white seabass by spearfishing only, market squid by hand-held dip net, and marlin, tunas and dorado by trolling ▪ The commercial take of coastal pelagic species by round haul net and swordfish by harpoon 	— ⁷	High
Cat Harbor (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line or by spearfishing, squid by hook and line, and lobster and sea urchin ▪ The commercial take of sea cucumbers by diving, and spiny lobster and sea urchin ▪ Aquaculture of finfish is allowed pursuant to a valid State water bottom lease and valid permits 	Allows maintenance of artificial structures pursuant to any required permits or as otherwise authorized by the Department ²	Moderate Low
Upper Newport Bay State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: the recreational take of finfish by hook and line from shore only	Allows maintenance dredging, habitat restoration, research and education programs, maintenance of artificial structures, and operation and maintenance of existing facilities pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as authorized by the Department ²	Moderate Low
			Swimming is allowed only in the area between North Star Beach and mid-channel; boating speed limit of 5 mph; shoreline access is limited; use fees apply	

OPTIONS (1-2) EXIST FOR ROBERT E. BADHAM. THESE ARE LINKED TO BOUNDARY OPTIONS AT CRYSTAL COVE.

Option 1: Do not include Robert E. Badham State Marine Conservation Area	1: As reflected in the IPA, does not retain existing MPA name and subsumes area into Crystal Cove SMCA (linked to Crystal Cove Boundary Options 1 & 2)	N/A	N/A	N/A
Option 2: Include Robert E. Badham State Marine Conservation Area	2: Retains existing MPA name by dividing area of proposed Crystal Cove SMCA Boundary Option 1 (from IPA), in area north of State Parks land boundary	Same as Crystal Cove Take Option A	Same as Crystal Cove Take Option A	Moderate Low

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
BOUNDARY OPTIONS (1–4) EXIST FOR CRYSTAL COVE; THESE ARE LINKED TO BOUNDARY OPTIONS AT AND ROBERT E. BADHAM AND LAGUNA. DECISION ON LAGUNA BOUNDARY OPTION DETERMINES BOUNDARY OPTION FOR CRYSTAL COVE.				
Boundary Option 1: Crystal Cove State Marine Conservation Area	1: IPA boundaries (linked to Laguna Options 1, 2 & 3 and Robert E. Badham Option 1)	See Take Options A and B	See Take Options A and B	Moderate Low
Boundary Option 2: Crystal Cove State Marine Conservation Area	2: Southern boundary modified for feasibility (linked to Laguna Options 4 & 5 and Robert E. Badham Option 1)	See Take Options A and B	See Take Options A and B	Moderate Low
Boundary Option 3: Crystal Cove State Marine Conservation Area	3: Divides the Boundary Option 1 geography into two MPAs at northern end of State Park land and applies historic name for Robert E. Badham in northern section. Increases number of MPAs by 1 (linked to Laguna Options 1, 2 & 3 and Robert E. Badham Option 2)	See Take Options A and B	See Take Options A and B	Moderate Low
Boundary Option 4: Crystal Cove State Marine Conservation Area	4: Divides the Boundary Option 2 geography into two MPAs to retain historic name for Robert E. Badham SMCA. Increases number of MPAs by 1 (linked to Laguna Options 4 & 5 and Robert E. Badham Option 2)	See Take Options A and B	See Take Options A and B	Moderate Low
TAKE OPTIONS (A & B) EXIST FOR CRYSTAL COVE.				
Take Option A: Crystal Cove State Marine Conservation Area	A: Take as proposed in the IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line or by spearfishing and lobster and sea urchin is allowed ▪ The commercial take of coastal pelagic species by round haul net, spiny lobster by trap, and sea urchin 	Allows beach nourishment or other sediment management activities and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Moderate Low
Take Option B: Crystal Cove State Marine Conservation Area	B: Removes all commercial take allowances from the IPA (State Parks option)	Take of all living marine resources is prohibited EXCEPT: The recreational take of finfish by hook and line or by spearfishing, and lobster and sea urchin is allowed	Same as Take Option A	Moderate Low
BOUNDARY OPTIONS (1–5) EXIST FOR LAGUNA; THESE ARE LINKED TO BOUNDARY OPTIONS FOR CRYSTAL COVE AND DANA POINT. DECISION ON LAGUNA BOUNDARY DETERMINES BOUNDARY OPTION FOR CRYSTAL COVE AND DANA POINT.				
Option 1: Laguna Beach State Marine Conservation Area ⁴	1: IPA ⁴ with designation as SMCA due to other regulated activities (outfall pipe)	Take of all living marine resources is prohibited	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Option 2: Laguna Beach State Marine Reserve <i>and</i> Laguna Beach State Marine Conservation Area ⁴	2: Divides the Option 1 geography into two MPAs (SMR/SMCA) with SMCA ⁴ across southern 1.5 miles due to other regulated activities (outfall pipe). Increases number of MPAs by 1	Take of all living marine resources is prohibited	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High
Option 3: Laguna Beach State Marine Reserve	3: Modifies southern boundary from Option 1 to exclude outfall pipe, with SMR designation (linked with Dana Point Option 2)	Same as Option 1	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours	Very High
Option 4: Laguna Beach State Marine Reserve	4: Modified southern AND northern boundaries from Option 1 with SMR designation to exclude pipe and improve feasibility (linked with Crystal Cove Option 2 & Dana Point Option 2)	Same as Option 1	Same as Option 3	Very High
Option 5: Laguna Beach State Marine Reserve	4: Modified southern AND northern boundaries to extend Option 4 nearshore boundaries to the state waters seaward boundary to improve feasibility (linked with Crystal Cove Option 2 & Dana Point Option 2)	Same as Option 1	Same as Option 3	Very High
BOUNDARY OPTIONS (1-2) EXIST FOR DANA POINT; THESE ARE LINKED TO BOUNDARY OPTIONS AT LAGUNA. DECISION ON BOUNDARY OPTION AT LAGUNA DETERMINES BOUNDARY OPTION FOR DANA POINT.				
Boundary Option 1: Dana Point State Marine Conservation Area	1: IPA boundaries (linked to Laguna Options 1 & 2)	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line or by spearfishing, and lobster and sea urchin is allowed below the mean lower low-tide line only ▪ The commercial take of coastal pelagic species by round haul net, and spiny lobster and sea urchin 	Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ² <i>and</i> See Access Options A and B	Moderate Low
Boundary Option 2: Dana Point State Marine Conservation Area	2: Modified northern boundary for feasibility (linked to Laguna Options 3, 4 & 5)	Same as Option 1	Same as Option 1; <i>and</i> See Access Options A and B	Moderate Low
ACCESS OPTIONS (A & B) EXIST FOR DANA POINT.				
Access Option A: Dana Point State Marine Conservation Area	A: Remove existing restrictions on access for purposes of take, and scientific collecting oversight by the director of the SMCA	Same as Option 1	Same as Boundary Option 1.	

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
Access Option B: Dana Point State Marine Conservation Area	B: Retain existing restrictions on access for purposes of take, and scientific collecting oversight, only in the area of the Dana Point Headlands, southward of a line at latitude 33° 27.74' N.	Same as Option 1	Same as Boundary Option 1; <i>and</i> Southward of a line at latitude 33° 27.74' N., access to take or possess any fish, plant, or invertebrate is prohibited, except under a scientific collecting permit from the Department and additional special collecting permit from the director of the SMCA.	

OPTIONS (1-2) EXIST TO EXCLUDE OR INCLUDE DOHENY BEACH.

Option 1: Exclude Doheny Beach State Marine Conservation Area	1: IPA: Removes existing SMCA as reflected in IPA	N/A	N/A	N/A
Option 2: Doheny Beach State Marine Conservation Area	2: Adds existing SMCA to IPA (per State Parks request)	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear. ▪ Only spiny lobster may be taken commercially. 	—	Low
Batiquitos Lagoon State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows operation and maintenance, habitat restoration, research and education, maintenance dredging and maintenance of artificial structures pursuant to any required permits, or pursuant to Section 630, Title 14, CCR, or as authorized by the Department ² Boating, swimming, wading, and diving are prohibited	Very High

BOUNDARY OPTIONS (1-4) EXIST FOR SWAMI'S.

Boundary Option 1: Swami's State Marine Conservation Area	1: IPA boundaries	See Take Options A and B	See Take Options A and B	High
Boundary Option 2: Swami's State Marine Conservation Area	2: Moves northern boundary of Option 1 north to Cottonwood Creek to improve feasibility	See Take Options A and B	See Take Options A and B	High
Boundary Option 3: Swami's State Marine Conservation Area	3: Moves southern boundary of Option 1 south to edge of State Parks land (State Parks request) to improve feasibility	See Take Options A and B	See Take Options A and B	High

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Boundary Option 4: Swami's State Marine Conservation Area	3: Moves northern boundary of Option 1 north to Cottonwood Creek; AND moves southern boundary south to edge of State Parks land (State Parks request) to improve feasibility	See Take Options A and B	See Take Options A and B	High
TAKE OPTIONS (A & B) EXIST FOR SWAMI'S.				
Take Option A: Swami's State Marine Conservation Area	A: IPA take regulations	Take of all living marine resources is prohibited EXCEPT: The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing	Allows beach nourishment or other sediment management activities and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	High
Take Option B: Swami's State Marine Conservation Area	B: Adds shorefishing to allowed take (State Parks request) — reduces LOP	Same as Take Option A, EXCEPT: ALSO allows recreational take by hook and line from shore only.	Same as Take Option A	Moderate Low
San Elijo Lagoon State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows operations and maintenance, maintenance dredging, habitat restoration including sediment deposition, research and education, and maintenance of artificial structures pursuant to any required permits, or as authorized under Section 630, Title 14, CCR, or as authorized by the Department ² Boating, swimming, wading and diving are prohibited	Very High
BOUNDARY OPTIONS (1-2) EXIST FOR SAN DIEGO-SCRIPPS COASTAL; THESE ARE LINKED TO BOUNDARY OPTIONS AT MATLAHUAYL. DECISION ON SAN DIEGO-SCRIPPS COASTAL BOUNDARY OPTION DETERMINES BOUNDARY OPTION AND MPA DESIGNATION FOR MATLAHUAYL				
Option 1: San Diego-Scripps Coastal State Marine Conservation Area	1: IPA boundaries (Linked to Matlahuayl Option 1)	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of coastal pelagic species, except market squid, by hook and line 	Allows scientific collecting under scientific collection permit issued by the Department. Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Moderate Low
Option 2: San Diego-Scripps Coastal State Marine Conservation Area	2: Moves southern boundary from Option 1 below pier to improve feasibility (Linked to Matlahuayl Option 2)	Same as Option 1	Same as Option 1	Moderate Low
BOUNDARY OPTIONS (1-2) EXIST FOR MATLAHUAYL; THESE ARE LINKED TO BOUNDARY OPTIONS AT SAN DIEGO-SCRIPPS COASTAL. DECISION ON SAN DIEGO-SCRIPPS COASTAL BOUNDARY OPTION DETERMINES BOUNDARY OPTION AND MPA DESIGNATION FOR MATLAHUAYL				
Option 1: Matlahuayl State Marine Conservation Area ⁴	1: IPA Boundary, designated as SMCA ⁴ (Linked to San Diego-Scripps Coastal Option 1)	Take of all living marine resources is prohibited	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High

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MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
Option 2: Matlahuayl State Marine Reserve	2: Moves northern boundary from Option 1 below pier to improve feasibility and retain SMR designation (Linked to San Diego–Scripps Coastal Option 2)	Same as Option 1	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours	Very High

BOUNDARY OPTIONS (1–4) EXIST FOR SOUTH LA JOLLA SMR; THESE ARE LINKED TO SOUTH LA JOLLA SMCA BOUNDARY OPTIONS. DECISION ON SOUTH LA JOLLA SMR BOUNDARY OPTION DETERMINES BOUNDARY OPTION FOR SOUTH LA JOLLA SMCA

Option 1: South La Jolla State Marine Reserve	1: IPA boundaries	Take of all living marine resources is prohibited	—	Very High
Option 2: South La Jolla State Marine Reserve	2: Moves northern boundary from Option 1 north above intertidal reef to improve feasibility	Same as Option 1	—	Very High
Option 3: South La Jolla State Marine Reserve	3: Moves southern boundary from Option 1 south to major street to improve feasibility	Same as Option 1	—	Very High
Option 4: South La Jolla State Marine Reserve	4: Moves Option 1 northern boundary north above intertidal reef; AND Moves southern boundary south to major street to improve feasibility	Same as Option 1	—	Very High

BOUNDARY OPTIONS (1–4) EXIST FOR SOUTH LA JOLLA SMCA; THESE ARE LINKED TO SOUTH LA JOLLA SMR BOUNDARY OPTIONS. DECISION ON SOUTH LA JOLLA SMR BOUNDARY OPTION DETERMINES BOUNDARY OPTION FOR SOUTH LA JOLLA SMCA

Option 1: South La Jolla State Marine Conservation Area	1: IPA boundaries	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish including Pacific bonito by hook and line 	—	High
Option 2: South La Jolla State Marine Conservation Area	2: Same northern boundary change as South La Jolla SMR Option 2	Same as Option 1	—	High
Option 3: South La Jolla State Marine Conservation Area	3: Moves southern boundary from Option 1 south to major street to improve feasibility	Same as Option 1	—	High
Option 4: South La Jolla State Marine Conservation Area	4: Moves Option 1 northern boundary north above intertidal reef; AND Moves southern boundary south to major street to improve feasibility	Same as Option 1	—	High
Famosa Slough State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows habitat restoration, maintenance dredging, and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
Cabrillo State Marine Reserve	IPA	Take of all living marine resources is prohibited	—	Very High
Tijuana River Mouth State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of coastal pelagic species, except market squid, by hand-held dip net ▪ The commercial take of coastal pelagic species, except market squid, by round haul net 	Allows beach nourishment or other sediment management activities and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	High

¹ This table does not include the 13 existing MPAs within the northern Channel Islands. The northern Channel Islands MPAs were retained without modification, at the direction of the Commission, and are not part of this rulemaking. However, they are displayed in the maps and summaries.

² Existing activities and operations permitted by other federal, state, or local entities, such as dredging, wastewater outfall operations, maintenance of artificial structures and sand replenishment and other sediment management activities have been identified as occurring within this proposed MPA, which may result in take of marine resources incidental to the activity. Operations or activities identified at the time of designation are included within the proposed regulation to make explicit that MPA designation is not intended to interfere with these permitted activities.

³ This area, recommended by stakeholders as an SMP, will be designated as SMCA, and could subsequently be designated a state marine park at the discretion of the State Park and Recreation Commission.

⁴ These MPAs, recommended by stakeholders as an SMR, will be designated as SMCAs that allow no take, except as associated with activities regulated by other agencies, pursuant to any valid permits.

⁵ Activities related to an existing artificial structure were previously identified as occurring within Campus Point SMR, with a recommendation to change the designation to an SMCA and specify that the permitted activities could continue. Subsequent information indicates that the artificial structure is outside the boundaries of the proposed SMR. Therefore, the regulation retains the SMR designation as proposed.

⁶ The names originally proposed (Bolsa Chica SMCA/SMCA) are identical. To avoid confusion, the names have been modified to reflect commonly used terms for each of the respective areas: Bolsa Bay SMCA and Bolsa Chica Basin SMCA.

⁷ A preliminary wave energy permit has been granted by the Federal Energy Regulatory Commission (FERC) at Catalina, that includes part of the proposed expansion of Farnsworth (Catalina) Offshore SMCA, which may need to be included in future regulations for this MPA.

The 35 MPAs in the proposed regulation, in combination with the existing Northern Channel Islands MPAs and federal Safety Zones, cover an area of 387.3 square miles, representing 16.5 percent of state waters within the south coast region. Of this, more than 70 percent of the area is within SMRs or “very high LOP” SMCA that do not allow fishing, but allow for existing regulated activities to occur. These non-fishing MPAs cover 274.1 square miles or 11.7 percent of state waters within the south coast region. The remaining areas are primarily SMCAs that allow some fishing activity, covering an area of 76.6 square miles, and federal Safety Zones consisting of 36.7 square miles. It should be noted that sub-options exist within the proposed regulation that could increase the number of MPAs in the regulation. Selecting the addition of Refugio SMCA (Option 2) and Doheny SMCA (Option 2) would add an additional 1.03 square miles and 0.14 square miles, respectively, to the total area covered by the proposed regulation, for a total of 388.5 square miles. A selection of Options 3 or 4 for Crystal Cove SMCA (that divides the proposed Crystal Cove MPA into Crystal Cove SMCA and Robert E. Badham SMCA) would add an additional MPA with no change to the size, and Option 2 for Laguna Beach SMR/SMCA would divide the proposed Laguna Beach MPA into two MPAs, with no change to the size.

The 35 new MPAs included in this proposed regulation (with sub-options that could lead to up to 39 MPAs)

make up roughly 47 percent of the total area protected within the IPA, with the existing Channel Islands MPAs contributing approximately 43 percent of protected area, and the federal Safety Zone areas covering approximately 10 percent of the protected area encompassed in the IPA.

Many of the SMCAs allow the take of pelagic finfish (defined above), recreational take of white seabass by spearfishing, and commercial take of coastal pelagic species by round haul gear, which were considered by the SAT to offer high ecosystem protection. In some SMCAs, take of other species such as spiny lobster, sea urchin, finfish, and kelp is allowed. With some exceptions, the SMCAs protect benthic fishes and invertebrates most likely to benefit from area protection.

Many of the MPA proposals were advanced with recommendations from the stakeholders and BRTF to develop MOU agreements between the Department and government entities, research institutions, or tribal governments and organizations. These MOU agreements are outside of this rulemaking process, although they may be considered and pursued under the guidance of the draft master plan.

Alternatives to Regulation Change:

A range of alternatives to the proposed regulation was provided by the SCRSG and BRTF to meet the purposes of the proposed regulation but were not selected

as the preferred alternative. Each alternative, with the exception of the no-change alternative, meets the goals and guidelines of the MLPA to varying degrees, and attempts to adhere to the SAT guidelines in the draft master plan to the extent possible. Each alternative is summarized below for informational purposes.

Alternative 1 — This is the “SCRSO Proposal 1R”, developed within SCRSO workgroups by constituents representing a variety of consumptive, non-consumptive, and environmental interests. It consists of 37 proposed MPAs, 13 existing MPAs and two special closures at the Channel Islands, and two federal Safety Zones, covering an area of 397.5 square miles, representing 16.9 percent of state waters within the south coast region. Of this, 77.5 percent of the area is within no-take state marine reserves or “very high protection” SMCAs that do not allow fishing, covering 307.8 square miles or 13.1 percent of state waters within the south coast region.

Alternative 2 — This is the “SCRSO Proposal 2R”, developed within SCRSO workgroups by constituents representing primarily commercial and recreational fishing interests along the south coast. It consists of 24 proposed MPAs, 13 existing MPAs and two special closures at the Channel Islands, and two federal Safety Zones covering an area of 378.3 square miles, representing 16.1 percent of state waters within the south coast region. Of this, 74.8 percent of the area is within no-take state marine reserves or “very high protection” SMCAs that do not allow fishing, covering 282.8 square miles or 12 percent of state waters within the south coast region.

Alternative 3 — This is the “SCRSO Proposal 3R”, developed within SCRSO workgroups by constituents primarily representing non-consumptive and environmental interests along the south coast. It consists of 27 proposed MPAs, 13 existing MPAs and two special closures at the Channel Islands, and three federal Safety Zones covering an area of 412.7 square miles, representing 17.6 percent of state waters within the south coast region. Of this, 71 percent of the area is within no-take state marine reserves or “very high protection” SMCAs and a SMRMA that do not allow fishing, covering 293 square miles or 12.4 percent of state waters within the south coast region.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Four Points by Sheaton, 8110 Aero Drive, San Diego, California, on Wednesday, October 20, 2010 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hotel Mar

Monte, 1111 E. Cabrillo Blvd., Santa Barbara, California, on Wednesday, December 15, 2010 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before December 9, 2010 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 13, 2010.** All comments must be received no later than December 15, 2010 at the hearing in Santa Barbara, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Jon K. Fischer, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Jon K. Fischer, or Sherrie Fonbuena at the preceding address or phone number. **Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and Game, phone (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

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

Impact of Regulatory Action

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

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Proposed Regulation will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states. The Proposed Regulation may have negative impacts on commercial and recreational fishing operations and businesses.

The impacts presented here do not represent a complete socioeconomic impact analysis, but rather what is generally referred to as a first order impact analysis, meaning that it only assesses potential impacts up to the dock (i.e., for commercial, commercial passenger fishing vessel and recreational fisheries). Furthermore, a key assumption of this analysis is that estimates represent maximum potential impacts. An assumption made in the analysis is that the Proposed Regulation completely eliminates fishing opportunities in areas closed to specific fisheries and that fishermen are unable to adjust or mitigate in any way. In other words, that all fishing in an area affected by a marine protected area (MPA) is lost completely, when in reality it is more likely that fishermen will shift their efforts to areas outside the MPA. The effect of such an assumption is most likely an overestimation of the impact, or a “worst case scenario.”

The estimates of maximum potential impacts shown here rely on the survey work and subsequent geographic information system (GIS) data analysis conducted by Ecotrust and reported in various documents to the SAT, RSG, and BRTF. Ecotrust interviewed fishermen to determine both locations of fishing activities and the relative importance of each location. Ecotrust’s importance indices were combined with cost share information (gathered during the interviews) to measure the maximum potential impacts of prospective closures on stated and economic values for key commercial, commercial passenger fishing vessel and recreational fisheries. The methodology used to determine maximum potential impacts for the Proposed Regulation (IPA) is described in the Initial Statement of Reason’s Attachment 14.

The maximum potential impact (in real 2007 dollars) to commercial fisheries under the Proposed Regulation (see Table 3) excluding the impact of the Channel Islands MPAs is estimated to be \$1,566,767 per year. In comparison, the

estimated average annual baseline gross revenues for the study region from 2000–07 were estimated to be \$48,001,110 and the estimated corresponding net economic revenue was \$22,648,455. Using these values, the estimated maximum potential percentage reduction per year under the Proposed Regulation excluding the impact of the Channel Islands MPAs is estimated to be 6.9 percent.

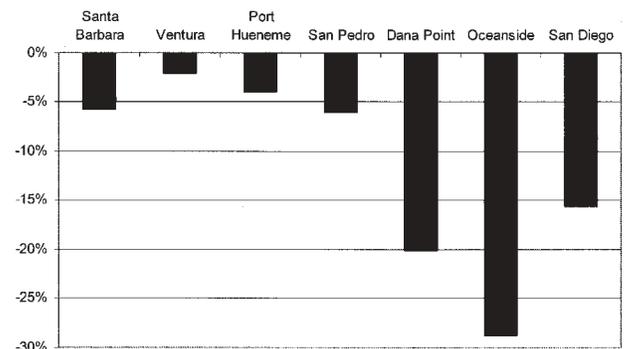
Table 3. Estimated annual maximum potential net economic impacts to commercial fisheries relative to the base scenario excluding the impact of the Channel Islands MPAs. The SCRSG proposal name is reflected in parentheses.

Fishery	Baseline GGR	Baseline NER (Profit)	Proposed Regulation (PA)	
			Estimated Profit Loss (\$)	Estimated Profit Loss (%)
Ca. Halibut (Hook & Line)	\$108,209	\$51,908	\$5,748	11.2%
Ca. Halibut (Trawl)	—	—	—	—
Coastal Pelagics	\$3,880,798	\$2,813,331	\$128,290	4.5%
Ca. Spiny Lobster	\$3,360,858	\$3,439,117	\$399,073	11.0%
N. Fishery (Hook & Line)	\$217,200	\$105,125	\$12,890	12.3%
N. Fishery (Trawl)	\$372,719	\$182,413	\$22,900	12.0%
Rock Crabs	\$1,480,282	\$780,474	\$80,484	6.5%
Sablefish (Blackcod) ^a	\$285,809	\$125,479	\$65,101	51.9%
Sea Cucumber (Dive)	\$500,290	\$252,149	\$22,441	8.9%
Sea Cucumber (Trawl)	—	—	—	—
Spot Prawns	\$1,741,435	\$892,881	\$71,973	8.1%
Market Squid	\$22,459,304	\$2,089,146	\$299,103	3.1%
Swordfish	\$386,725	\$123,770	\$10,588	8.6%
Thornyhead ^b	\$848,920	\$213,645	\$221,136	70.0%
Red Sea Urchin	\$7,580,148	\$4,179,418	\$258,058	6.1%
All Fisheries^c	\$48,001,110	\$22,648,455	\$1,566,767	6.9%

^a The sablefish and thornyhead trap fisheries data collected in this study indicated where those fisheries occur only inside state waters. These fisheries actually occur primarily outside of state waters and, because of this, the stated potential impacts may be overestimated throughout the study region.
^b Santa Barbara California halibut trawl and sea cucumber trawl are not shown in this total due to lack of data for all ports.

The estimated maximum potential impact to commercial fisheries under the Proposed Regulation excluding the impact of the Channel Islands MPAs is also calculated by port, as seen in Figure 2. In addition, it should be noted that the potential impacts to specific fisheries also vary by port as well.

Figure 2. Estimated annual maximum potential net economic impacts in commercial fisheries of the Proposed Regulation relative to the base scenario by port excluding the impact of the Channel Islands MPAs.



Due to the aggregation of data necessary to maintain the confidentiality of individual

fishermen’s financial data, the average impacts across fisheries may not be representative of the true maximum potential impact to an individual fisherman and may actually underestimate the maximum potential impact to specific individuals. That said, Ecotrust, as part of their assessment, was asked to provide summary information on any disproportionate impacts on individual fishermen and/or particular fisheries. This was based on lessons learned in the Central Coast study region, where significant disproportionate impacts were only discovered in the implementation phase, leaving limited options to lessen these impacts.

Ecotrust evaluated whether there were individual fishermen interviewed who may be disproportionately affected by the Proposed Regulation. To assess these impacts, Ecotrust overlaid each fisherman’s fishing grounds weighted by ex–vessel revenue (for each fishery in which the individual participates) with those areas being considered for closure under the Proposed Regulation and then summarized the potential impact on each fisherman’s ex–vessel revenue across all fisheries in which the individual participates. It should be noted that the “worst case scenario” still applies in that individual fishermen are assumed not to adjust to different fishing grounds and the estimates presented here do not include impacts from Channel Island MPAs.

Ecotrust then used a box plot analysis to identify individual outliers. In a box plot analysis, outliers are defined as extreme values that deviate significantly from the rest of the sample. Results of this analysis show that the Proposed Regulation creates potentially disproportionate impacts to fishing areas for at least 10 fishermen. The maximum potential impacts to these individuals’ annual ex–vessel revenues range from 32.2–57.2 percent and the corresponding dollar values range from \$2,460–\$123,204. The median maximum potential impact is \$21,381.

Ecotrust also analyzed the maximum potential impacts to commercial passenger fishing vessel (CPFV) operators and recreational fishermen (i.e., dive, kayak and private vessel) in terms of percentage of the fishing grounds within the study region and percentage of stated importance values of fishing grounds within the study region. Estimated impacts represent impacts to areas of stated importance and not impacts on level of effort. Similar to the commercial estimates of maximum potential impact, these estimates assume all fishing activity that previously occurred in a closed area is “lost” and not replaced by movement to another location.

Ecotrust calculated the maximum potential net economic impact for the CPFV fisheries as the average percentage reduction in net economic revenue (i.e., profit) for all ten species considered (Table 4).

Table 4. Estimated annual maximum potential net economic impacts to CPFV fisheries relative to the base scenario excluding the impact of the Channel Islands MPAs.

Port	Proposed Regulation (IPA) Estimated Profit Loss (%)
Santa Barbara	7.4%
Port Hueneme / Channel Islands Harbor	12.3%
Santa Monica	4.4%
San Pedro / Long Beach	6.1%
Newport Beach	11.3%
Dana Point	18.8%
Oceanside	12.0%
San Diego	25.2%
Study Region	11.2%

Recreational fisheries were broken out by county and by user group (i.e., dive, kayak and private vessel). Please see Table 5 for additional details.

While not economic losses, if realized, a loss in recreational fishing areas could lead to decreases

in revenues to recreational fishing dependent businesses.

In the long term, the potential negative impacts may be balanced by potential positive impacts of sustainable fisheries, non-consumptive benefits, and ecosystem function in the reserve areas. In addition, potential benefits may be realized through adult fish spillover to areas adjacent to marine reserves and state marine conservation areas which prohibit bottom fishing for finfish, as well as through transport to distant sites.

Table 5. Estimated percentage of stated value of total recreational fishing grounds affected by county for the Proposed Regulation excluding the impact of the Channel Islands MPAs.

County	User group	Pacific Barracuda	Pacific Bonito	Ca. Halibut	Kelp Bass (calico bass)	White Croaker	Ca. Spiny Lobster	Jack Mackerel	Rockfish	Rock Crab
Santa Barbara	Dive			7.3%	11.8%	12.1%	9.0%		5.3%	
	Kayak			11.5%	12.0%		0.0%			
	Private Vessel	0.4%		13.8%	11.6%		0.0%		2.1%	
Ventura	Dive	1.8%		19.9%	15.1%		15.4%		10.8%	
	Kayak	3.5%		15.9%	17.8%		13.6%	4.3%	15.6%	0.0%
	Private Vessel	0.5%	0.0%	3.0%	2.8%	0.0%	12.1%	0.0%	1.3%	
Los Angeles	Dive	13.3%	45.5%	12.1%	13.0%	33.4%	9.7%		20.7%	
	Kayak	2.5%	3.6%	3.9%	9.2%		8.0%	4.8%	12.1%	0.0%
	Private Vessel	3.3%	5.8%	1.8%	4.8%	0.0%	6.2%	0.8%	7.8%	
Orange	Dive		13.4%	14.6%	30.8%	25.4%	17.0%		8.2%	
	Kayak		0.8%	13.2%	4.5%	6.9%		30.7%	0.0%	11.0%
	Private Vessel		3.6%	2.8%	2.3%	6.2%	11.0%	15.0%	3.1%	8.9%
San Diego	Dive	16.1%	28.1%	25.6%	26.9%	41.3%	19.7%		15.1%	
	Kayak	23.4%	22.4%	21.4%	25.6%		13.6%	21.8%	25.0%	14.8%
	Private Vessel	4.2%	2.9%	7.0%	13.0%	5.2%	9.6%	10.7%	7.3%	

Table 5 (continued)

County	User group	Scallops	Ca. Sheephead	Sand Bass	Market Squid	Surfperch	Thresher Shark	White Seabass	Ca. Yellowtail
Santa Barbara	Dive	4.7%						3.8%	0.0%
	Kayak			21.6%				1.7%	
	Private Vessel			0.0%				0.2%	5.5%
Ventura	Dive	10.0%	0.0%	11.8%				2.1%	0.6%
	Kayak		25.0%	21.8%	11.2%		2.2%	13.8%	12.2%
	Private Vessel						8.1%	2.5%	1.8%
Los Angeles	Dive	21.0%	27.5%	10.5%				5.8%	10.4%
	Kayak	5.5%	2.2%	2.2%	4.9%		2.9%	9.5%	12.4%
	Private Vessel		8.4%	0.4%		2.0%	6.1%	9.6%	4.7%
Orange	Dive	12.0%	59.8%	32.7%				11.4%	10.0%
	Kayak		37.1%	6.6%	13.7%		9.1%	7.7%	17.7%
	Private Vessel		25.0%	2.0%		0.0%	4.2%	11.1%	2.4%
San Diego	Dive	21.9%	29.8%	18.4%				20.6%	12.1%
	Kayak		20.3%	18.9%	26.5%		23.7%	21.9%	21.7%
	Private Vessel		9.1%	6.1%		9.2%	1.3%	11.6%	2.6%

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California.

Each alternative has potential impacts on the creation and elimination of jobs related to commercial, CPFV and recreational fishing and non-consumptive activities. An estimate of the number of jobs eliminated as a direct result of the

proposed action is difficult to determine. Commercial fishing operations are generally small businesses employing few individuals and, like all small businesses are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable stocks and subsequently the long-term viability of these same small businesses. Jobs related to the non-consumptive tourism and recreational industries would be expected to increase over time by some unknown factor based on expected improvements in site quality and increased visitation to certain locations.

- (c) Cost Impacts on a Representative Private Person or Business:

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.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and are dependent on not only the impacts of the proposed regulation, but also other regulations and processes. Costs associated with printing and installing new regulatory signage, and developing and printing public outreach materials will be incurred by the Department's Marine Region and South Coast Region. However, partnerships with state and federal agencies, academic institutions and non-profit organizations are likely to continue to play an important role in assisting with MLPA implementation in coming years.

Current cooperative efforts with the Channel Islands National Marine Sanctuary, Monterey Bay National Marine Sanctuary, and Gulf of the Farallones National Marine Sanctuary have provided funding for some existing State costs, and contributions are expected to increase with the adoption of this regulation. In addition to agency partnerships, during planning and implementation of the first and second MLPA study regions (i.e., central coast and north central coast study regions), substantial funding (in the millions) was contributed by private fund sources including MLPA Initiative partners, and through bond money distributed through the Ocean Protection Council (OPC). These contributions supported costs for baseline science and socioeconomic data collection, signage, and outreach and education, among other things, and allowed for a greater

outcome than may have been possible with Department funding alone. While it is difficult to quantify the level of support that will be provided by partnerships in future years, the Department will continue to actively pursue and maximize such assistance.

While the actual costs to the Department to implement the proposed regulations in the south coast are unknown, experience in implementing MPAs in the northern Channel Islands and the MLPA central coast and north central coast can inform prospective near-term expenditures using existing Department funds, and contributions from partners:

- For the Northern Channel Islands, which was the first portion of the MLPA South Coast Study Region to adopt MPAs, the Department spent approximately \$3.6 million on post-design one-time costs, and an additional \$0.9 million per year since 2004 for implementation, management, and enforcement of the Northern Channel Islands MPAs. Partners contributed approximately \$2.2 million in onetime costs, and \$2.7 annually since the design phase was completed.
- In the MLPA central coast study region, the Department spent approximately \$4.5 million on post-design one-time costs, and an additional \$0.4 million per year since 2007 for implementation, management, and enforcement of the central coast MPAs. Partners have contributed approximately \$2.4 million since the design phase was completed.
- The MLPA north central coast study region regulations are due to become effective in May 2010 and funds have not yet been expended on implementation at the time of the writing of the Initial Statement of Reasons with the exception of \$4 million provided by the OPC for a baseline data collection project and development of a monitoring plan.

The Department costs referenced above utilized available funds to the Department at that time. Certainly, changes requiring additional

enforcement, monitoring or management will increase the recurring costs to the Department as compared to the current efforts, and total state costs would increase as new study regions are designated and become operational. For the south coast, the near-term cost to implement the proposed MPAs will include both one-time startup and baseline data collection costs, and recurring annual costs. A baseline data collection program methodology is currently being developed through the MPA Monitoring Enterprise and being implemented in the north central coast. The costs associated with baseline data collection and future monitoring to apply in the south coast will be determined through a similar process and therefore cannot be estimated at this time. In light of uncertainty regarding the cost for monitoring, funding due to the State's current fiscal crisis, and the level of future funding from external partners, the estimated new funding requirements by the state for MLPA in the south coast are unknown at this time.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

**TITLE 15. DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

AUTHORITY

DIVISION OF JUVENILE JUSTICE
Title 15, California Code of Regulations
Sections 4845, 4846, 4847, 4848, 4848.5, 4849,
4850, 4851, 4852, 4853, 4900, 4926, 4927, 4929,
4935, 4936, 4937.5, 4938, 4938.5, 4939.5, 4940,
4961.1, 4977, 4977.5, 4977.6, 4977.7, 4978, 4979,
4980, 4980.5, 4981, 4982, 4983, 4983.5

Parole Violation, Detention and Revocation;
General Provisions; Rules of Construction &
Definitions; General Rules on Hearings; Appeals;
Special Hearings & Actions in Institutions;
and Parole Violation

Welfare and Institutions (W&I) Code Sections 1001, 1004 and 1712 assign responsibility to the CDCR, DJJ to make and enforce all rules appropriate to the proper accomplishment of the functions of the DJJ for care, supervision, education, training, employment, discipline and government. Section 1719 of the W&I Code assigns responsibility of discharges of commitment, orders of parole and conditions thereof, revocation or suspension of parole and disciplinary appeals to the Board of Parole Hearings (BPH). Section 1766 of the W&I Code establishes the powers of review and appeal procedures for the BPH. Section 1725 of the W&I abolishes the Youthful Offender Parole Board (YOPB) and transfers the commissioners handling juvenile parole matters, and transfers their duties, to the Chief Deputy Secretary of DJJ.

NOTICE OF PROPOSED RULEMAKING

REFERENCE

NOTICE IS HEREBY GIVEN that the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) proposes to amend Sections 4845, 4846, 4847, 4848, 4849, 4850, 4851, 4900, 4926, 4927, 4929, 4935, 4936, 4940, 4977, 4978, 4979, 4980, 4981, 4982, 4983, and adopt Sections 4848.5, 4852, 4853, 4935.5, 4937.5, 4938.5, 4961.1, 4977.5, 4977.6, 4977.7, 4980.5, and 4983.5 of the California Code of Regulations (CCR), Title 15, Division 4 & 4.5 respectively, in accordance with the L.H. Stipulated Order for Permanent Injunctive Relief.

This action is proposed to implement, interpret, and/or make specific Sections 224.70(e), 1000, 1703(c), 1703(d), 1711, 1712, 1714, 1716, 1719, 1720, 1723, 1725, 1752, 1766, 1767.2, 1767.3, and 1911 of the Welfare and Institutions Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

PUBLIC HEARING

The DJJ has not scheduled a public hearing on this proposed action. However, the DJJ will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

The California Department of Corrections and Rehabilitation (CDCR) Division of Juvenile Justice (DJJ) proposes to amend Sections 4845, 4846, 4847, 4848, 4849, and 4851, and to adopt Sections 4848.5, 4852, and 4853 of the California Code of Regulations (CCR), Title 15, Division 4, pertaining to Parole Violation, Detention, and Revocation. In addition, DJJ proposes to adopt Sections 4939.5, 4961.1, 4977.5, 4977.6, 4977.7, 4980.5, and 4983.5, and to amend Sections 4900, 4926, 4927, 4929, 4935, 4936, 4937.5, 4938, 4938.5, 4940, 4977, 4978, 4979, 4980, 4981, 4982, and 4983 of the California Code of Regulations (CCR), Title 15, Division 4.5, in accordance with the L.H. Stipulated Order for Permanent Injunctive Relief.

WRITTEN COMMENT PERIOD

The public comment period will close, November 1, 2010. Any interested person may submit public comments in writing (by mail, by fax, or by e-mail) relevant to this proposed regulatory action. To be considered by the DJJ, written comments must be submitted to the DJJ, Policy, Procedures, Programs, and Regulation (PPP&R) Unit, 4241 Williamsborough Drive, Suite 117, Sacramento, CA 95823; by fax at (916) 262-2608; or by e-mail at DJJ-PPP&RUnit@cdcr.ca.gov before the close of the comment period.

In October 2008, the United States District Court for the Eastern District of California in *L.H. vs. Schwarzenegger*, Case No. 2:06-CV-02042-LKK-GGH, issued a stipulated order of permanent injunctive relief. To comply with the order, DJJ is revising the process for juvenile parole violation, detention, and revocation; addressing the timelines of hearings and other due process proceedings in regard to parole revocation; clarifying the youth appeals process; adding and revising definitions relating to the parole revocation process; and establishing a process for parole violations.

According to W&I Code Section 1767.3(a), the Juvenile Parole Board may suspend, cancel, or revoke any parole and may order returned to custody, as specified in Section 1767.35, any person under the jurisdiction of the Division of Juvenile Parole Operations.

The L.H. lawsuit challenges violations of juvenile parolees' rights under the Due Process Clause of the Fourteenth Amendment of the United States Constitution, the Rehabilitation Act, and the Americans with Disabilities Act (ADA). The lawsuit asked the federal court to order the CDCR, DJJ, Board of Parole Hearings (BPH), and Juvenile Parole Board (JPB) to change juvenile parole revocation procedures to comply with the Constitution and the ADA.

Forms Incorporated by Reference:

- Notice of Conditions of Parole — DJJ 3.207 (Rev. 04/10)
- Request for Accommodation and Assistance — DJJ 3.260 (New 01/09)
- Violation Report — Charge Section — DJJ 3.264A (Rev. 09/09)
- Violation Report — Detention Section — DJJ 3.264B (Rev. 09/09)
- Violation Report — Disposition Section — DJJ 3.264C (Rev. 09/09)
- Notice of Parole Revocation Rights and Acknowledgement — DJJ 3.270 (REV 08/10)
- Notice of Charges — DJJ 3.274 (REV 04/09)

CONTACT PERSONS

Please direct any inquiries regarding this action to:

Phyllis Green
Policy, Procedures, Programs, and Regulations
Unit
Division of Juvenile Justice
(916) 262-3178

Questions regarding the substance of the proposed regulations should be directed to:

Cynthia Chen
Office of Legal Affairs
California Dept. of Corrections & Rehabilitation
(916) 262-1426

In the event the contact persons are not available, inquiries may be directed to the following back-up contact:

Policy, Procedures, Programs, and Regulations
Unit
Division of Juvenile Justice
(916) 262-1431

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None
- Cost or savings to any state agency: None
- Other non-discretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None

EFFECT ON HOUSING COSTS

The DJJ has made an initial determination that the proposed regulations will not have a significant effect on housing costs.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

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

EFFECT ON SMALL BUSINESS

The DJJ has determined that the proposed regulations will not affect small business due to the fact the rules apply only to DJJ staff (e.g., Division of Juvenile Parole Operations, Juvenile Parole Board, Division of Juvenile Facilities) and youth in the custody of DJJ.

ASSESSMENT

The DJJ has determined that the proposed regulations will have no effect on the creation of new jobs or businesses within California or the elimination of existing jobs or businesses, nor would the regulations affect the expansion of businesses currently operating within California.

ALTERNATIVES CONSIDERED

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

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND PROPOSED TEXT

The DJJ has prepared the initial statement of reasons and the proposed text of the regulations. All documents pertaining to this regulatory action, including the express terms of this proposed action and all information on which the proposal is based, are available to the public upon request from the agency contact person indicated within this notice.

INTERNET ACCESS

Materials regarding this proposed regulatory action can be accessed from the CDCR's website at <http://www.cdcr.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Once completed, the final statement of reasons will be available upon request from the agency contact person indicated within this notice and posted at the above CDCR website.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the DJJ, upon its own motion, may adopt the proposal substantially as set forth above without further notice.

If the regulation text is modified by the DJJ and the changes are sufficiently related to the originally proposed action, the DJJ will make the modified text available (with the changes clearly indicated) to the public for at least 15 days prior to adopting the amended regulations. The DJJ will accept written comments pertaining to only the modified text during the 15-day period prior to adoption of the revised text. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California 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 Long Beach Memorial Hospital Miller Children's Hospital, 2801 Atlantic Avenue, Long Beach, California 90806, at 9:10 a.m., November 5, 2010. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. **on Monday November 1, 2010** or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2018 and 2220 of the Business and Professions Code, and to implement, interpret or make specific Sections 2228, 2229 and 2234 of said Code, as well as Sections 11400.20, 11400.21 and 11425.50(e) of the Government Code, the Medical Board of California is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1361 in Article 4 of Chapter 2, Division 13, relating to the *Manual of Disciplinary Guidelines and Model Disciplinary Orders* to reflect current law and make technical changes.

Current law authorizes the Medical Board of California to investigate complaints filed against physicians and surgeons and take disciplinary action against the license should a violation of law be proven. Section 2227 of the Business and Professions Code (Code) authorizes the Board to place licensees on probation following an evidentiary hearing, a default decision or the execution of a stipulated settlement. Section 2228 of the Code specifies the terms and conditions that may be included in the term of a licensee's probation, including but not limited to additional training, restrictions on practice, and successful completion of diagnostic examinations.

Business and Professions Code Section 2229 also requires that, wherever possible, the Board should take action that is calculated to aid in the rehabilitation of the licensee and order actions to include further education, restrictions from practice, or other means, that will remove the identified deficiencies. The *Manual of Model Disciplinary Orders and Disciplinary Guidelines* referenced in the current regulation (10th Edition/2008) contains the approved terms and conditions that can be ordered to rehabilitate physicians as part of a probationary order while allowing the Board to honor its primary obligation of public protection.

The proposed amendment to existing regulation will incorporate by reference the 11th Edition/2010 of the *Manual of Model Disciplinary Orders and Disciplinary Guidelines*, reflecting changes in law, as well as making technical changes to address unnecessary and duplicative elements, and to more accurately reflect the current probationary environment.

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

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

There are no costs associated with the proposed regulatory action. This rulemaking only relates to physicians disciplined by the Medical Board of California.

Impact on Jobs/New Businesses:

The Medical Board of California has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

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

This proposed regulation only reflects the current law, and will only have an impact on physicians disciplined by the Medical Board of California.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Medical Board of California has determined that the proposed regulations would not affect small businesses. This proposed regulation only will have an impact on physicians disciplined by the Medical Board of California.

The new edition of the *Manual of Disciplinary Guidelines and Model Disciplinary Orders*, incorporated by reference, makes no changes that would result in an increase of costs to licensees or small businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice. Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Medical Board of California at 2005 Evergreen Street, Suite 1200, Sacramento, California 95815.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the person named below.

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

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Susan Cady, Enforcement
 Manager
 Medical Board of California
 Address: 2005 Evergreen Street, Suite
 1200
 Sacramento, CA 95815
 Telephone No.: (916) 263-2389
 Fax No.: (916) 263-2387
 E-Mail Address: regulations@mbc.ca.gov

The backup contact person is:

Name: Kevin A. Schunke
 Medical Board of California
 Address: 2005 Evergreen Street, Suite
 1200
 Sacramento, CA 95815
 Telephone No.: (916) 263-2389
 Fax No.: (916) 263-2387
 E-Mail Address: regulations@mbc.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.medbd.ca.gov/laws/regulations_proposed.html.

**TITLE 16. PHYSICAL THERAPY
 BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California 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 the hearing to be held at the Department of Consumer Affairs, Hearing Room # S-102, 1625 North Market Boulevard, Sacramento, California, 95834, at 9:00 a.m., on November 3, 2010. 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 Physical Therapy Board of California at its office not later than 5:00 p.m. on November 1, 2010 or must be received by the Physical Therapy Board of California at the hearing. The Physical Therapy Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially

as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2615 of the Business and Professions Code, and to implement, interpret or make specific Sections 2650 and 2653 of said Code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT
 OVERVIEW**

1) Amend Section 1398.26.1

This rulemaking action clarifies and makes specific the tool that approved evaluation services shall use to evaluate the education of foreign educated physical therapists.

Business and Professions Code 2653 requires an applicant who graduated from a non-accredited physical therapy education program to furnish documentary evidence to the Board that he/she has completed the professional degree equivalent to one issued to a graduate of a US accredited physical therapy educational program. The existing regulation requires that the evaluation services utilize the PTBC's Entry Level Education Equivalency Review (ELEER) to evaluate the education of all foreign educated physical therapists to determine substantial equivalency.

The proposed amendment would direct the approved credentialing evaluation agencies to use the appropriate Course Work Tool (CWT) adopted by the Federation of State Boards of Physical Therapy (FSBPT).

FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting

business, including the ability of California businesses to compete with businesses in other states.

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

Impact on Jobs/New Businesses:

The Physical Therapy Board of California has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Physical Therapy Board of California 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 Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses since the responsibility of compliance is placed with the individual licensee.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California

at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815.

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

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

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

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Ilda Romo
Address: 2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Telephone No.: (916) 561-8274
Fax No.: (916) 263-2560
E-Mail Address: Ilda.Romo@dca.ca.gov

The backup contact person is:

Name: Rebecca Marco
Address: 2005 Evergreen St., Suite 1350
Sacramento, CA 95815
Telephone No.: (916) 561-8260
Fax No.: (916) 263-2560
E-Mail Address: Rebecca.Marco@dca.ca.gov

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

Documents Incorporated By Reference:

1. FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated before 1978 (CWT 1) (Copyright 2004 FSBPT)
2. FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1978 to 1991 (CWT 2) (Copyright 2004 FSBPT)
3. FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1992 to 1997 (CWT 3) (Copyright 2004 FSBPT)
4. FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1998 to June 30, 2009 (CWT 4) (Copyright 2004 FSBPT)
5. FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated after June 30, 2009 (CWT 5) (Copyright 2004 FSBPT)

6. Coursework Tool For Foreign Educated Physical Therapist Assistants (PTA Tool 2007) (Copyright 2004 FSBPT)

TITLE 21. DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

TO ALL INTERESTED PERSONS

The California Department of Transportation (Department) proposes to amend the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, no later than 15 days before the close of the written comment period. If you request a hard copy of this notice and the text of the proposed regulation, they will be mailed to you.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5 p.m. on November 1, 2010. The Department will consider only comments received at the Department by that time. Please submit comments to:

Gordon Arruda
California Department of Transportation
Division of Mass Transportation — MS 39
P.O. Box 942874
Sacramento, CA 94274-0001

AUTHORITY AND REFERENCE

Public Utilities Code section 99241 authorizes the Department to adopt proposed regulations with the advice and consent of the California Transportation Commission (CTC), which would amend and correct (CCR) section 6680. Reference citations are: Sections 99203, 99204.5, 99233.7, 99241, 99242 and 99275-99278, 130050.1, Public Utilities Code; and Sections 15975 and 15978, Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department proposes to amend section 6680 in Title 21 of the CCR.

Public Utilities Code section 99241 authorizes and requires the Department to promulgate regulations to enforce the Transportation Development Act (Public Utilities Code section 99200 et seq.). The existing regulations were enacted in 1979 and have been amended several times to implement State and Federal statutory and regulatory authority.

This proposed regulatory action will amend two places in Section 6680. Section 6680 states that transportation planning agencies (TPA) are authorized to designate Consolidated Transportation Service Agencies within their jurisdiction. The first amendment deletes the reference “San Diego Metropolitan Transit Development Board” (SDMTDB) because SDMTDB is no longer the TPA for San Diego. The second amendment occurs in subsection (d) correcting a reference to the California Corporations Code, deleting the referenced section “9000” and replacing it with the correct referenced section “5000”.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Costs or savings to any state agency: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630, inclusive: None.
- Other nondiscriminatory costs or savings imposed on local agencies: None.
- Costs or savings in federal funding to the State: None.
- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: 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.
- Adoption of these regulations will not:
 - (1) Create or eliminate jobs within the State of California.
 - (2) Create new businesses or eliminate existing businesses within the State of California.
 - (3) Affect the expansion of businesses currently doing business within the State of California.
- Significant effect of housing costs: None.

Small Business Determination

The Department has determined that the proposed regulatory action will not affect small businesses. These actions only affect transportation planning agencies, public transportation operators, and transit service providers.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed regulatory action may be directed to:

Gordon Arruda
California Department of Transportation
Division of Mass Transportation — MS 39
P.O. Box 942874
Sacramento, CA 94274-0001
Telephone: (916) 654-9396

The backup contact person for these inquiries is:

Brian Travis
California Department of Transportation
Division of Mass Transportation — MS 39
P.O. Box 942874
Sacramento, CA 94274-0001
Telephone: (916) 654-9842

Questions on the substance of the regulatory action may be directed to Gordon Arruda or Brian Travis.

Please direct requests for copies of the proposed text (the “express terms”) of the regulatory action, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which this rule-making is based to Gordon Arruda at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the following address during regular business hours:

California Department of Transportation
Division of Mass Transportation
1120 N Street
Room 3300
Sacramento, CA 95814
Telephone: (916) 654-9396

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 Gordon Arruda at the above address and telephone number.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any requested public hearings and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to Gordon Arruda at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Gordon Arruda at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Department’s Web site at www.dot.ca.gov/hq/MassTrans/State-TDA.html.

**TITLE 22. DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

**45-DAY PUBLIC NOTICE AND COMMENT
PERIOD
For Proposed Rulemaking**

**SAFER CONSUMER PRODUCT
ALTERNATIVES**

Department Reference Number: R-2010-05

**Office of Administrative Law Notice File Number:
Z-2010-0908-01**

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to add chapter 53 to division 4.5 of Title 22, California Code of Regulations, and to amend the Table of Contents. These proposed additions pertain to identification and prioritization of chemicals of concern in consumer products, evaluation of their alternatives, and regulatory responses for selected alternatives.

**PUBLIC HEARING AND WRITTEN
COMMENT PERIOD**

A written comment period has been established commencing on September 17, 2010, and closing on November 1, 2010. DTSC will hold a public hearing on the proposed regulations at 1:00 p.m. on November 1, 2010 in the Byron Sher Auditorium, 2nd Floor, 1001 "I" Street, Sacramento, at which time any person may present statements or arguments orally or in writing, relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on November 1, 2010 will be considered.

Representatives of DTSC will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the location of the hearing from 10:00 a.m. to 1:00 p.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

Due to enhanced security precautions at the Cal/EPA Headquarters Building located at 1001 "I" Street, Sacramento, all visitors are required to sign in prior to attending any meeting. Sign-in and badge issuance occur in the Visitor and Environmental Services Center. This Center is located just inside and to the left of the building's public entrance. Depending on their destination

and the building security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification cards. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

If you have special accommodation or language needs, please contact Jeff Woled, Regulations Coordinator, Regulations Section, at (916) 322-5225 or by e-mail at gcregs@dtsc.ca.gov by October 18, 2010. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

In accordance with the California Government Code and Americans with Disabilities Act requirements, this publication can be made available in Braille, large print, computer disk, or tape cassette, etc. as a disability-related reasonable accommodation for an individual with a disability. To discuss how to receive a copy of this publication in an alternative format, please contact Adrian Recio at (916) 324-3095 or by e-mail at arecio@dtsc.ca.gov.

AUTHORITY AND REFERENCE

Authority: These regulations are being adopted under the following authorities:

Health and Safety Code section 25252: This section authorizes and requires DTSC to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered as being a chemical of concern. This section directs DTSC, in adopting these regulations, to develop criteria by which chemicals and their alternatives may be evaluated. This section also directs DTSC to reference and use available information from various sources, but does not limit DTSC to referencing and using only this information.

Health and Safety Code section 25253: This section authorizes and requires DTSC to adopt regulations that establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern. This section requires that these regulations establish a

process that includes: (i) an evaluation of the availability of potential alternatives and potential hazards posed by those alternatives; (ii) an evaluation of critical exposure pathways; and (iii) life cycle assessment tools that take into consideration, at a minimum, thirteen (13) specified factors. This section also requires that the regulations specify the range of regulatory responses that DTSC may take following the completion of an alternatives analysis, including, but not limited to, nine (9) specified responses.

Health and Safety Code section 58012 (added by Gov. Reorg. Plan No. 1, §146, eff. July 17, 1991.) This section grants DTSC authority to adopt regulations to execute its duties.

Reference: These regulations implement, interpret, or make specific the following statutes:

Health and Safety Code sections 25251, 25252, 25253, 25257, and 25257.1, and article 8 of chapter 6.5 of division 20.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Law

State Law

Existing law establishes the Department of Toxic Substances Control, in the California Environmental Protection Agency, with powers and duties regarding, among other things, hazardous waste disposal, underground storage of hazardous substances and waste, and the handling and release of hazardous materials.

Health and Safety Code section 25252 requires DTSC, by January 1, 2011, to adopt regulations to establish a process by which chemicals or chemical ingredients in consumer products may be identified and prioritized for consideration as being chemicals of concern. This process is required to include, at a minimum, consideration of: (i) the volume of a chemical in commerce in California, (ii) the potential for exposure to a chemical in a consumer product, and (iii) potential effects on sensitive subpopulations, including infants and children.

Health and Safety Code section 25252 directs DTSC, in adopting these regulations, to develop criteria by which chemicals and their alternatives may be evaluated. These criteria must include, at a minimum, the hazard traits and environmental and toxicological end-

points that the Office of Environmental Health Hazard Assessment (OEHHA) is required to specify by January 1, 2011, pursuant to Health and Safety Code section 25256.1, for purposes of the Toxic Information Clearinghouse that DTSC is required to establish pursuant to Health and Safety Code section 25256.

Health and Safety Code section 25252 also directs DTSC, in adopting these regulations, to reference and use, to the maximum extent feasible, available information from other nations, governments, and authoritative bodies. However, the statute provides that DTSC is not limited to referencing and using only this information.

Health and Safety Code section 25253 requires DTSC to adopt regulations, by January 1, 2011, that establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern. This section requires that these regulations establish a process that includes: (i) an evaluation of the availability of potential alternatives and potential hazards posed by those alternatives; (ii) an evaluation of critical exposure pathways; and (iii) life cycle assessment tools that, at a minimum, take into consideration: product function or performance; useful life; materials and resource consumption; water conservation; water quality impacts; air emissions; production, in-use, and transportation energy inputs; energy efficiency; greenhouse gas emissions; waste and end-of-life disposal; public health impacts, including potential impacts to sensitive subpopulations, including infants and children; environmental impacts; and economic impacts.

Health and Safety Code section 25253 also requires that the regulations specify the range of regulatory responses that DTSC may take following the completion of an alternatives analysis, including, but not limited to, requiring: no regulatory response; additional information to be provided to DTSC; labeling or other types of product information; a restriction on, or prohibition of, the use of a chemical of concern in a consumer product; controlling access to or limiting exposure to the chemical of concern in a consumer product; managing the product at the end of its useful life; funding green chemistry challenge grants; and any other outcome DTSC determines accomplishes the requirements of this statute.

Health and Safety Code section 25251 defines “consumer product,” for purposes of the regulations required by Health and Safety Code sections 25252 and 25253, to mean a product or part of a product that is used, bought, or leased for used by a person for any purpose. However, “consumer product” does not include: dangerous prescription drugs and devices; dental restorative materials; medical devices; packaging associated with dangerous prescription drugs and de-

vices, dental restorative materials and medical devices; food; pesticides; and mercury-containing lights. (Mercury-containing lights are exempted only through December 31, 2011.)

Health and Safety Code section 25257 establishes a procedure for the protection of information submitted to DTSC, for purposes of Health and Safety Code sections 25252 and 25253, that is claimed to be a trade secret.

Health and Safety Code section 25257.1 states that DTSC is not authorized to supersede the regulatory authority of any other department or agency, and that DTSC shall not adopt duplicative or conflicting regulations for product categories already regulated, or subject to pending regulation, consistent with the purposes of Health and Safety Code sections 25252 and 25253.

Article 8 of chapter 6.5 of division 20 of the Health and Safety Code sets forth DTSC's authority and mechanisms for enforcing the provisions of chapter 6.5 (which includes the above listed statutes) and the regulations adopted pursuant thereto.

Health and Safety Code section 58012 (added by Gov. Reorg. Plan No. 1, § 146, eff. July 17, 1991) grants DTSC authority to adopt and enforce regulations for execution of its duties.

Federal Law

The federal Toxic Substances Control Act of 1976 (TSCA) authorizes the United States Environmental Protection Agency (USEPA) to require reporting, record-keeping and testing requirements, and to set restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics and pesticides. TSCA addresses the production, importation, use, and disposal of specific chemicals. Among its provisions, TSCA requires USEPA to maintain the TSCA inventory which currently contains more than 83,000 chemicals. As new chemicals are commercially manufactured or imported, they are placed on the list.

TSCA requires the submission of health and safety studies which are known or available to those who manufacture, process, or distribute in commerce specified chemicals; and allows USEPA to gather information from manufacturers and processors about production/import volumes, chemical uses and methods of disposal, and the extent to which people and the environment are exposed. However, there were 62,000 chemicals in use in 1976 when TSCA was adopted into federal law. TSCA provides for a grandfather clause for those 62,000 chemicals.

TSCA places the responsibility for conducting health and environmental impact testing on USEPA, not the producer of the chemical substance or mixture. To date,

USEPA has conducted testing and published data on only 200 chemicals in the inventory of 83,000 chemicals.

In 2009 the Government Accountability Office found USEPA's implementation of TSCA to be "high-risk" because "EPA has failed to develop sufficient chemical assessment information on the toxicity of many chemicals that may be found in the environment as well as tens of thousands of chemicals used commercially in the United States."

Policy Statement Overview

Background

There are currently more than 80,000 chemicals approved under federal law for use in the United States (U.S.). Each day, a total of 42 billion pounds of chemical substances are produced or imported in the U.S. for commercial and industrial uses. An additional 1,000 new chemicals are introduced into commerce each year. Approximately one new chemical comes to market every 2.6 seconds, and global chemical production is projected to double every 25 years. The average U.S. consumer today comes into contact with 100 chemicals per day. In 2009, the U.S. Centers for Disease Control and Prevention conducted the Fourth National Report on Human Exposure to Environmental Chemicals, which measured 212 chemicals in the blood and urine of a representative population of California. California consumers and businesses are becoming increasingly aware and concerned about the abundance of chemicals that they are exposed to in the products that they use on a day-to-day basis in their homes and in the workplace.

For more than a decade, the California Legislature has considered nearly a hundred bills proposing chemical bans and broader chemical policies for California, heard testimony from "battling scientists" and was interested in developing a broader, more comprehensive approach to chemicals policy.

In 2003, the Senate Environmental Quality Committee and the Assembly Committee on Environmental Safety and Toxic Materials commissioned a report from the University of California (U.C.) to investigate the current legal and regulatory structure for chemical substances and to report on how a California chemicals policy could address environmental and health concerns about chemical toxicity, build a long-term capacity to improve the design and use of chemicals, and understand the implications of European policy on the California chemical market.

In 2006, the U.C. Berkeley authors presented the commissioned report, *Green Chemistry in California: A Framework for Leadership in Chemicals Policy and Innovation* and made a connection between weaknesses in federal policy, namely TSCA, and the health and environmental damage happening in California. The re-

port broadly summarized their findings into what they called the “three gaps”:

- *Data Gap*: There is a lack of information on which chemicals are safe and which are toxic, and what chemicals are in products. The lack of access to chemical data creates an unequal marketplace. California businesses cannot choose and make safer products and respond to consumer demand without ingredient disclosure and safety testing.
- *Safety Gap*: Government agencies do not have the legal tools or information to prioritize chemical hazards. Under TSCA only 5 chemicals out of 83,000 have been banned since 1976. The California Legislature has frequently addressed this problem by approving individual chemical bans. Chemical bans come before the Legislature because there are very few other mechanisms in place at the federal or State level that can remove harmful chemicals from the marketplace.
- *Technology Gap*: There is an absence of regulatory incentives, market motivation which stems from the data gap, and educational emphasis on green chemistry methodologies and technologies. In order to build a substantial green chemistry infrastructure, a coincident investment and commitment must be made to strengthen industrial and academic research and development.

In 2007, the California Environmental Protection Agency launched California’s Green Chemistry Initiative within the Department of Toxic Substances Control (DTSC). The *California Green Chemistry Initiative Final Report* released in December 2008 included the following six policy recommendations for implementing this comprehensive program in order to foster a new era in the design of a new consumer products economy, which includes inventing, manufacturing and using toxic-free, sustainable products.

1. Expand Pollution Prevention and product stewardship programs to more business sectors to focus on prevention rather than simple source reduction or waste controls.
2. Develop Green Chemistry Workforce Education and Training, Research and Development and Technology Transfer through new and existing educational program and public/private partnerships.
3. Create an Online Product Ingredient Network to disclose chemical ingredients for products sold in California, while protecting trade secrets.
4. Create an Online Toxics Clearinghouse, an online database providing data on chemical, toxicity and hazard traits to the market place and public.

5. Accelerate the Quest for Safer Products, creating a systematic, science-based process to evaluate chemicals of concern and identify safer alternatives to ensure product safety.
6. Move Toward a Cradle-to-Cradle Economy to leverage market forces to produce products that are “benign-by-design” in part by establishing a California Green Products Registry to develop green metrics and tools for a range of consumer products and encourage their use by businesses.

In 2008, Assembly Bill 1879 (Chapter 559, Feuer) and Senate Bill 509 (Chapter 560, Simitian), were signed into law by Governor Schwarzenegger to implement two key recommendations of the California Green Chemistry Initiative Final Report: acceleration of the quest for safer products, and creation of an online toxics clearinghouse.

Broad Objectives

The proposed regulations that are the subject of this notice, and the authorizing statutes (Health and Safety Code sections 25252 and 25253), are intended to implement recommendation #5 of the California Green Chemistry Initiative Final Report — Accelerate the Quest for Safer Products, and, thus, create a systematic, science-based process to evaluate chemicals of concern, and identify safer alternatives to ensure product safety.

Specific Objectives

- Establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered as being a chemical of concern.
- Establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by priority chemicals.
- Specify the range of regulatory responses that DTSC may take following the completion of the alternatives analysis.

Proposed Regulations

The proposed regulation would add a new chapter 53, Safer Consumer Products Alternatives, to division 4.5 of Title 22, California Code of Regulations. These regulations are necessary to fulfill the requirements of Health and Safety Code sections 25252 and 25253, which require DTSC to adopt regulations to establish a process to identify and evaluate chemicals of concern in consumer products and identify safer alternatives, and to specify regulatory responses that may be imposed upon completion of the alternatives analysis process.

Summary of Regulations**A. Applicability**

The regulations apply to all consumer products placed into the stream of commerce in California, and all chemicals that exhibit a hazard trait and are reasonably expected to be contained in these consumer products; EXCEPT for those products exempted by the statute: dangerous prescription drugs and devices; dental restorative materials; medical devices; packaging associated with dangerous prescription drugs and devices, dental restorative materials and medical devices; food; pesticides; and mercury-containing lights. (Mercury-containing lights are exempted only through December 31, 2011.) The regulations do not apply to products used solely to manufacture a product exempted by the statute, or to products manufactured, stored or transported through California solely for use out-of-state. The regulations also do not apply to unintentionally-added chemicals that the producer does not know to be present in a product after exercising due diligence.

If a responsible entity or manufacturer notifies DTSC that: (i) a Chemical under Consideration or a Priority Chemical has been (or will be) removed from a product, or (ii) a product is no longer (or will no longer be) placed into commerce in California, the product that is the subject of the notice will no longer being subject to the regulations.

B. Guiding Principles

The regulations provide guiding principles for DTSC, manufacturers, and responsible entities in implementing their respective responsibilities under the regulations:

- Green chemistry principles and life cycle thinking should be considered throughout implementation of the regulations.
- Adverse public health and environmental impacts that may result from the production, use or end-of-life management of consumer products and their ingredients should be significantly reduced or eliminated.
- Adverse public health and environmental impacts of chemicals used in commerce should be significantly reduced by encouraging redesign of consumer products and manufacturing processes.
- Chemical and product prioritization processes should seek to give priority to chemicals and consumer products that pose the greatest public health and environmental threats, are most prevalently used by consumers, and pose the greatest potential for harmful public health or environmental exposures.

C. Three-Step Process

The regulations provide for a three-step continuous, science-based, iterative process to identify safer consumer product alternatives:

- DTSC — Evaluation and prioritization of chemicals and consumer products to develop a list of “Priority Products” that contain “Priority Chemicals.”
- Consumer Product Responsible Entities & Manufacturers — Assessment of alternatives, which must be performed for the Priority Chemical used in each product that is a listed Priority Product, with the objective of identifying and selecting a viable safer alternative (if one exists). Responsible entities must notify DTSC when their product is listed as a Priority Product, and DTSC posts this information on its website.
- DTSC — Identification and imposition of regulatory responses to effectively limit the public health and/or environmental threats, if any, posed by the consumer product (due to the Priority Chemical) or the threats posed by the alternative chemical/product selected to replace the Priority Product.

D. Responsibility for Compliance

- The responsible entity for a consumer product has primary responsibility for ensuring compliance with the requirements pertaining to: (i) providing chemical and product information to DTSC needed for the prioritization process, (ii) notifying DTSC that their product is a Priority Product, (iii) performing an alternatives assessment (AA) and submitting an AA Work Plan and AA Report to DTSC for their Priority Product, and (iv) complying with regulatory responses applicable to their product.
- The regulations define “responsible entity” to include: (i) the owner of the product brand name or trademark, (ii) California importers of the product, (iii) California distributors of the product, (iv) retailers who sell the product in California, and (v) any other person who has a contractual agreement with one of these entities concerning the product.
- There will be multiple responsible entities for each consumer product. The requirements will be deemed to be satisfied as long as at least one responsible entity, or another person, fulfills the requirement for the product. It is anticipated that in many cases the requirements will be fulfilled on behalf of the responsible entity(ies) by the product manufacturer, a trade association or consortium, or a public-private partnership.

- If a regulatory requirement has not been fulfilled, a responsible entity is given the option to fulfill the requirement or cease placing the product into the stream of commerce in California.

E. Consequences of Non-Compliance

- When DTSC determines a requirement has not been fulfilled for a product, DTSC will issue a notice of non-compliance to known responsible entities and others in the supply chain.
- If the non-compliance is not remedied, the product and information concerning the product and its supply chain will be placed on a Failure to Comply List maintained on DTSC’s website.
- DTSC may conduct audits to determine compliance with the requirements of the regulations pertaining to alternatives assessments and regulatory responses.
- DTSC may also initiate enforcement actions, including imposition of fines and penalties, against responsible entities for failure to comply with the regulations.

F. Information on DTSC’s Website

The regulations require DTSC to post on its website a comprehensive list of documents and information pertaining to implementation of the regulations. In some cases, a notice of the availability of the information will be provided in the California Regulatory Notice Register (CRNR) and to persons on DTSC’s listserv for these regulations. These will be DTSC’s main avenue of communication with responsible entities, others in the supply chain, and the public.

G. Disputes

The regulations provide a process for a responsible entity or manufacturer to dispute an action taken by DTSC that applies to the responsible entity’s or manufacturer’s chemical or product. Any requirement imposed by DTSC under the regulations, and posting of information in the Failure to Comply list concerning that requirement, will be stayed while a dispute is pending.

H. Confidentiality of Information

The regulations set out provisions for the treatment of information submitted under the regulations and claimed to be confidential by the submitter. The regulations also specify procedures for DTSC to follow in handling trade secrets. These provisions address the statutory and regulatory authorities that apply to a claim of confidentiality, the procedural requirements for making a claim, and how DTSC may review such a claim.

The regulations are based on the authorities for handling confidential information found in Health and Safety Code section 25257 and the California Public Records Act (PRA). The regulations include provisions

that promote faster and more efficient disclosure of information, such as the marking and indexing of all confidential claims and up-front substantiation of trade secret claims. DTSC intends to rely on the PRA statute and substantive criteria already established in case law for determining trade secret justification, including that set forth in Government Code 6255.

I. Small Businesses

The regulations establish special provisions for small businesses that are independently owned and operated and have twenty-five (25) or fewer employees and average annual gross receipts of no more than one million dollars (\$1,000,000). A manufacturer that qualifies as a small business may request, and DTSC shall provide, consultative services to assist the manufacturer in complying with requirements pertaining to alternatives assessments. In addition, for any of the time frames specified in the regulations, or that DTSC specifies pursuant to the regulations, DTSC may, at its discretion, allow a business that qualifies as a small business a longer period of time to comply.

Chemical and Product Prioritization

A. Chemical and Product Information

The prioritization process will be informed by a wealth of information that DTSC will obtain from the public domain. Responsible entities will be required to provide any necessary information DTSC is unable to obtain from the public domain. The type of data and other information that DTSC will seek, to the extent it determines there is a need for the information, include:

- Chemical and product data and information pertinent to the public health, environmental and other factors used to prioritize chemicals and products.
- Information describing the types, categories and classes of products that contain Priority Chemicals.
- Identification of intentionally-added chemicals and chemical ingredients in specified products, including quantities in the entire product or component.
- Chemical and product market data.
- Standard analytical chemistry protocols for the detection and measurement of a chemical in products and in environmental and biological media.

Responsible entities required to provide data and information to DTSC may fulfill information requests by making available to DTSC data and information that has been provided under the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), Toxic Substances Control Act (TSCA), or Canadian Environmental Protection Act (CEPA) programs.

B. Applicability

DTSC will not include in the chemical or product prioritization a chemical or product for which DTSC makes one of the following determinations:

- The chemical is regulated by one or more federal and/or other California State regulatory program(s) that, in combination, address, for each life cycle segment, the same public health and environmental threats addressed by article 14 of chapter 6.5 of division 20 of the Health and Safety Code and this chapter.
- There is no exposure pathway by which the chemical might pose a threat to public health or the environment in California during the useful life or the end-of-life management of the chemical or any product containing the chemical.

C. Chemical Prioritization

Chemicals of Concern are identified and prioritized using a three-step screening process:

- 1) Only chemicals that exhibit a hazard trait, as identified by the OEHHA for purposes of the Toxic Information Clearinghouse, will be considered in the prioritization process. In the event that OEHHA’s hazard traits are not identified by the time DTSC starts the first prioritization process, the hazard traits that will be used for the first chemicals lists are:
 - Carcinogens and reproductive toxins included on specified lists by various other regulatory bodies,
 - Mutagens listed by the European Union, and
 - USEPA-listed persistent bioaccumulative toxins.
- 2) Using the following prioritization factors, DTSC will develop a list of “Chemicals under Consideration”:
 - Chemical and physical properties.
 - Adverse public health impacts.
 - Adverse ecological impacts.
 - Adverse environmental impacts.
 - Volume of the chemical in the stream of commerce in California.
 - Potential for public or environmental exposure to the chemical during the useful life and end-of-life management of consumer products that contain the chemical.
 - Existence of data and other information relating to actual and potential public or environmental exposures to the chemical.

- The degree to which federal and/or other California State regulatory programs address the public health and environmental threats posed by the chemical throughout the life cycle of the chemical and consumer products that contain the chemical.
- 3) From the Chemicals of Concern that are on the Chemicals under Consideration list, DTSC will develop a list of “Priority Chemicals.” Priority Chemicals will be identified based on the following factors:
 - The relative degree of threat posed by each chemical to public health and the environment.
 - Availability of reliable information to substantiate the threat(s) posed by the chemical, and
 - Availability of DTSC resources.

In evaluating the relative degree of threat DTSC will give priority to those chemicals that pose the greatest public health and environmental threats, are most prevalently distributed in commerce and contained in products used by consumers; and for which there is the greatest potential for consumers or environmental receptors to be exposed to the chemical in quantities that can result in public health or environmental harm. DTSC will consider both the potential for exposure to the chemical and the potential harm resulting from potential exposures.

D. Product Prioritization

Products are also identified and prioritized using a three-step screening process:

- 1) Only consumer products that contain a Priority Chemical will be considered in the prioritization process.
- 2) Using the following prioritization factors, DTSC will develop a list of “Products under Consideration”:
 - Volume of the product in the stream of commerce in California, and the product’s contribution to the volume of the Priority Chemical in the stream of commerce in California.
 - Potential for public or environmental exposure to the Priority Chemical in the product during the useful life and end-of-life management of the product.

- Types and extent of consumer uses that could result in public exposure to the Priority Chemical in the product, which, in turn, could result in adverse public health impacts.
 - Product uses or management or disposal practices that could result in releases to the environment of the Priority Chemical in the product, which in turn could result in adverse ecological or other environmental impacts.
 - Existence of data and other information related to actual and potential public or environmental exposures to the Priority Chemical in the product.
 - Whether the product is required to be managed as a hazardous waste in California at the end of its useful life.
 - Whether the Priority Chemical is required to be used in or contained in the product pursuant to a federal or California State law.
 - The degree to which federal and/or other California State regulatory programs address the public health and environmental threats posed by the Priority Chemical in the product throughout the life cycle of the product.
- 3) From the consumer products that are on the Products under Consideration list, DTSC will develop a list of “Priority Products.” Priority Products will be identified based on the following factors:
- The relative degree of threat posed by each product, due to the Priority Chemical in the product, to public health and the environment,
 - Availability of reliable information to substantiate the threat(s) posed by the product,
 - Availability of an existing alternatives assessment that is relevant to the product or the Priority Chemical in the product, and
 - Availability of DTSC resources.

In evaluating the relative degree of threat, DTSC will give priority to those chemicals, and the products that contain them, that pose the greatest public health and environmental threats; are most prevalently distributed in commerce and used by consumers; and for which there is the greatest potential for consumers or environmental receptors to be exposed to the chemical in quantities that can result in public health or environmental harm. DTSC will consider both the

potential for exposure to the chemical in the product and the potential harm resulting from potential exposures.

E. Listing Process

- Prior to finalizing the chemical and product lists, DTSC will make the proposed lists available on its website, for public review and comment, along with supporting documentation, including DTSC’s rationale, data, and data sources.
- DTSC will publish in the CRNR, send to persons on any listserv(s) that DTSC establishes related to this chapter, and post on its website a notice regarding the availability of the proposed lists and supporting documentation. The notice will include the deadline for submitting public comments, and notification of any workshops that DTSC may, at its discretion, hold for the proposed lists.
- After review and consideration of public comments on the proposed lists, DTSC will finalize and post the final lists on its website.
- Using the same procedures, DTSC will update the chemical and product lists as needed. Revisions may include additions and deletions to the prior lists.
- The lists will be issued according to the following schedule:
 - Proposed initial list of Chemicals under Consideration — June 1, 2011
 - Final initial list of Chemicals under Consideration — March 1, 2012
 - Proposed initial list of Priority Chemicals — July 1, 2012
 - Proposed initial list of Products under Consideration — March 1, 2013
 - Proposed initial list of Priority Products — September 1, 2013
 - Final initial list of Priority Products — December 1, 2013

While the four initial lists will be developed separately, subsequent lists may be issued simultaneously or sequentially.

F. Petition Process

- Any person may petition DTSC to evaluate a chemical or a product using the chemical prioritization and/or product prioritization processes described above. Within sixty (60) days of receiving a petition, DTSC will review the petition and determine if it is complete.

- DTSC will prioritize the technical review of petitions determined to be complete based on the comprehensiveness of the petitions and the availability of resources. Highest priority will be given to petitions by federal and other California State regulatory programs that relate to the petitioning agency's legislative and/or regulatory mandates.
- DTSC will conduct a technical review of each petition determined to be complete to determine whether to grant or deny the petition based on: (i) the comprehensiveness of the data and information supporting the petition that pertains to the prioritization factors identified above; (ii) the quality of supporting data and information; and (iii) the availability of data and information, other than the data and information submitted with the petition, for DTSC to determine hazard traits exhibited by the chemical and evaluate the chemical and/or the product based on the prioritization factors identified above.
- After completing the technical review, DTSC will either grant or deny the petition. After granting a petition, DTSC will evaluate and, if applicable, prioritize the chemical and/or the product in accordance with the prioritization processes described above.

Alternatives Assessments

A. Guidance Materials

The regulations require DTSC to prepare and make available on its website, guidance materials to assist persons in performing alternatives assessments, and to post on its website alternatives assessments (AA) that are available in the public domain and are supported by reliable information.

B. AA Notifications & Tier I AA Reports for Early Chemical Substitutions

After a chemical has been listed as a Chemical under Consideration or Priority Chemical, if any product containing that chemical is reformulated or redesigned to remove or reduce the concentration of that chemical, or the original product has been replaced with an alternative product, the responsible entity shall provide an AA Notification to DTSC before placing the reformulated, redesigned or replacement product into the stream of commerce in California.

The AA Notification must include specified information identifying and describing the product, including brand name, the chemical removed from or reduced in the product, and intended uses and customer base. Additionally, the notice must include either: (i) a report for a Tier I alternatives assessment (defined as being sub-

stantially equivalent to the Green Screen For Safer Chemicals, as published and amended by Clean Production Action); or (ii) the following additional information:

- (A) Information explaining the rationale for and the factors considered in selecting the reformulation, redesign or substitution alternative;
- (B) Identification, and a qualitative or quantitative description, of any reduction(s) to adverse public health or environmental impacts achieved by the reformulation, redesign or substitution; and
- (C) Identification of any hazard traits exhibited by the substitute chemical, if another chemical was substituted for the Chemical under Consideration or Priority Chemical.

C. Tier II Alternatives Assessments (AA)

Tier II AA Evaluation and Comparison Process and Factors

The regulations define the term Tier II alternatives assessment (AA) to include a Chemical Hazard Assessment and an Exposure Potential Assessment (which together are referred to as a Tier II–A AA), and a Multimedia Life Cycle Evaluation (referred to as a Tier II–B AA).

The Chemical Hazard Assessment is performed first to evaluate and compare a Priority Product and all alternatives initially identified for consideration. Following completion of the Chemical Hazard Assessment, an Exposure Potential Assessment is performed to evaluate and compare the Priority Product and any alternative being considered that contains a chemical that exhibits one or more hazard traits. An Exposure Potential Assessment is not required if none of the alternatives being considered contain a chemical that exhibits a hazard trait. The results of the Chemical Hazard Assessment and/or, if applicable, the Exposure Potential Assessment, may be used to screen out alternatives before proceeding with the Multimedia Life Cycle Evaluation.

The Priority Product and all alternatives being considered must be evaluated and compared for the same set of life cycle segments, using the same methodologies and a consistent set of factors. In identifying the list of factors that will be used for the AA evaluation and comparison, the person performing the Tier II AA is required to review the list of factors specified in the regulations to determine which factors are pertinent to, and will be used for, the evaluation and comparison. The AA evaluation and comparison factors listed in the regulations include:

Chemical Hazard Assessment — chemical information, public health impacts, ecological impacts, and chemical traits related to environmental impacts.

Exposure Potential Assessment — exposure limitations, chemical quantity information, consumer uses, and environmental releases.

Multimedia Life Cycle Evaluation — product function and performance, materials and resource consumption impacts, environmental impacts, economic impacts.

The regulations list a number of detailed factors for each of the broad categories identified above.

Requirements for Performing a Tier II AA

A responsible entity for a product that is listed as a Priority Product, or a person acting on behalf of or in lieu of the responsible entity, is required to perform a Tier II AA for the product.

A work plan for the AA must be submitted to DTSC no later than one hundred and eighty (180) days following the date that the product is listed as a Priority Product on DTSC's website. The regulations specify the content requirements for the AA work plan, which include: preparer information, product information, supply chain information, AA goal and scope of alternatives, scope of life cycle segments to be evaluated, approach and methodology, and schedule and deliverables. DTSC will review the work plan within sixty (60) days and issue a notice of completeness or notice of deficiency. Notices of completeness will include due dates for submitting reports for the Tier II–A AA and Tier II–B AA, which are submitted separately.

A one–time extension may be requested for the AA work plan and/or AA reports. A one–time extension for an AA Work Plan cannot exceed ninety (90) days, and a one–time extension for an AA Report cannot exceed twelve (12) months.

In lieu of an AA work plan, a report for a previously completed AA for the Priority Product may be submitted to DTSC, if DTSC determines that the report is substantially equivalent to the requirements of the regulations.

All alternatives assessments must be performed by a qualified in–house assessment entity or qualified third–party assessment entity, both of which must be designated by DTSC. The designation process requires the entity to demonstrate its capability and methods for performing alternatives assessment, compliance with ISO 14040 standards, and recordkeeping practices. Each alternatives assessment must be performed under the responsible charge of a lead assessor. An alternatives assessment performed by a qualified in–house assessment entity must also be verified by a second lead assessor employed by a qualified third–party assessment entity. Lead assessors must be trained and accredited by an accrediting body designated by DTSC. The regulations include detailed requirements for accreditation pro-

grams, and detailed qualification requirements for lead assessors.

D. De Minimis Exemptions

A responsible entity is exempt from the Tier II AA requirements if the manufacturer of the responsible entity's product requests, and DTSC grants, a de minimis exemption.

By default, “de minimis” level is defined as the lower of 0.1% by weight to or the lowest applicable federal or California State public health or environmental regulatory threshold. However, in the Priority Products list, DTSC has the option to specify that an exemption is not available for a specific product/chemical combination if: (i) The chemical has been shown to be harmful in concentrations below the de minimis level; or (ii) The chemical is found below the de minimis level in numerous consumer products that are commonly used on a frequent basis, and these cumulative exposures to de minimis concentrations of the chemical have been shown to be harmful.

When the chemical has been shown to be harmful or potentially harmful in concentrations below the de minimis level, DTSC may, at its discretion, specify a lower de minimis level for the product if reliable information identifies a specific lower de minimis threshold for the chemical that is based on a scientific evaluation of public health and environmental adverse impacts. The de minimis exemption will not be allowed in any situation for chemicals, materials, or substances manufactured or engineered at the nanoscale, or which contain nanostructures, or are considered to be a nanomaterial.

A request for a de minimis exemption must be submitted to DTSC no later than sixty (60) days after the product has been listed as a Priority Product. Within sixty (60) days of receiving a de minimis exemption request DTSC will issue a notice granting or denying the exemption or requesting more information. The regulations specify the criteria for DTSC to use in making a decision to grant or deny a de minimis exemption. De minimis exemptions will be rescinded if DTSC determines that the data or other information that DTSC relied upon in granting the exemption was not, or is no longer, valid. All notices granting, denying or rescinding de minimis exemption must include a statement of basis for DTSC's decision.

E. Tier II AA Reports

The Tier II–A and Tier II–B AA Reports must be submitted simultaneously to DTSC and the verifying lead assessor (if verification is required) by the respective due dates specified by DTSC in the notice of completeness for the AA work plan. Both reports must include: information on the preparer, the manufacturer, the facil-

ity, the product, the supply chain, and supporting information used in the AA; an executive summary; and information concerning the lead assessor that will be verifying the AA (if required). The verification statement must be submitted to DTSC within ninety (90) days following submission of the AA Report.

The Tier II–A AA Report must also include: information on the AA goal and scope of alternatives, scope of life cycle segments evaluated, and approach and methodology; detailed information on Chemical Hazard Assessment and Exposure Potential Assessment evaluations and comparisons; and any adjustments to the AA work plan.

The Tier II–B AA Report must also include: explanation of any changes to the Tier II–A AA Report information; information on AA goal and scope of alternatives, scope of life cycle segments evaluated, and approach and methodology; detailed information on the Multimedia Life Cycle Evaluation comparison and evaluation; identification and description of the alternative selected to replace, reformulate or redesign the current Priority Product; implementation plan for the selected alternative; and any proposed regulatory responses.

The information in the Tier II–B AA Report concerning the alternative selection decision must include:

- A description of the alternative, if any, selected, and the rationale for the selection decision. This includes an assessment that evaluates and compares the selected alternative against the Priority Product, and a detailed list and explanation of the reasons for the selection decision, or, alternatively, for the decision not to select and implement an alternative to the Priority Product, whichever is applicable.
- A discussion of the functional equivalency of the selected alternative as compared to the Priority Product, and an assessment of the technological and economic feasibility for the selected alternative. If no alternative is selected, this information must be provided for each alternative considered in the Tier II–B AA.
- A demonstration that the production, use and disposal of the selected alternative, in conjunction with any proposed regulatory response(s), will have no greater significant adverse impacts on public health or the environment than the impacts associated with the Priority Product.
- A list of all chemical ingredients contained in the selected alternative and hazard trait information for those chemicals.

Within sixty (60) days of receiving a Tier II–A or Tier II–B AA Report and, if applicable, the AA verification statement for the AA Report, DTSC will review the AA Report for completeness and for compliance with the

regulations, and issue a notice of completeness or a notice of deficiency. If the submitter of the AA Report fails to adequately and timely respond to two (2) notices of deficiency, the product will be placed on the Failure to Comply List.

The completeness determination notice will be sent to the submitter of the AA Report, as well as the product manufacturer and responsible entities. In the completeness determination notice, or a subsequent notice sent to the manufacturer and responsible entities, DTSC will provide notice of its proposed determination as to whether one or more of the regulatory responses that are triggered by a DTSC finding (as described below) are required. The regulatory response determination does not become final until completion of the regulatory response public notice and comment process described below.

Regulatory Responses

A. Applicability

The regulations specify regulatory responses that will, under specified conditions, apply to: (i) products manufactured as a selected alternative following completion of an AA; (ii) a Priority Product for which an alternative is not selected; and (iii) a Priority Product that will remain in commerce pending development and distribution of the selected alternative. The regulatory responses include: self-implementing regulatory responses; regulatory responses triggered by specified DTSC findings; and other regulatory responses to be determined by DTSC.

Regulatory responses will not be required for a selected alternative product, if it is demonstrated to DTSC's satisfaction that:

- The selected alternative contains no Priority Chemical above applicable de minimis level;
- The selected alternative does not pose a significant public health or environmental threat; and
- The Priority Product being replaced by the alternative will be phased out in 3 years.

B. Self-Implementing Regulatory Responses

For each of the following regulatory responses, the regulations set forth specific circumstances under which the regulatory response will always be required, along with implementation due dates:

- *Product Information for Consumers.* Product information must be provided to consumers (within 12 months) if the alternative product contains a Priority Chemical (or if the manufacturer chooses to retain the Priority Product).

Product information may be provided by including an information sheet in the product packaging, printing the required information on the product packaging, printing the information in

a prominent place in the product manual if a hard copy manual is packaged with the product, or posting the information in a prominent place at the point of sale for products that are not packaged. Unless precluded by the type or size of the product, the product must also be permanently marked or labeled with certain product information.

- End-of-Life Product Stewardship Program. The responsible entity and/or manufacturer must establish, maintain and fund (within 2 years) an end-of-life product stewardship program, and provide product information to consumers, if the alternative product (or the Priority Product, if the manufacturer chooses to retain the Priority Product) is required to be managed as a hazardous waste at end-of-life. The requirements for the product stewardship plan and program are specified in the regulations.

C. Regulatory Responses Triggered by Specified DTSC Findings

For each of the following regulatory responses, the regulations set forth specific DTSC findings that would trigger the regulatory response, along with implementation due dates:

Additional Information. The responsible entity must provide to DTSC any information DTSC determines is necessary to determine and ensure implementation of regulatory responses.

Product Information for Consumers. In addition to the self-implementing requirement described above, product information must be provided to consumers, if DTSC determines any of the following:

- Information for the consumer will promote significantly safer uses, and significantly reduce the threats posed by the product/chemical,
- Product stewardship is needed to address end-of-life impacts, or
- End-of-life reclamation is needed to conserve resources and mitigate damages resulting from extraction of raw materials.

End-of-Life Product Stewardship Program. In addition to the self-implementing requirement described above, the responsible entity and/or manufacturer must establish, maintain and fund an end-of-life product stewardship program and provide product information, if DTSC determines any of the following:

- There is a significant potential for end-of-life mismanagement that would pose significant adverse impacts,

- End-of-life reclamation is needed to conserve resources and mitigate damages resulting from extraction of raw materials, or
- Without a product stewardship program there would be significant waste management costs borne by local government, ratepayers or taxpayers.

Product Sales Prohibition. If the selected alternative contains a Priority Chemical (or if an alternative is not selected), and DTSC determines there is a safer alternative that does not contain a Priority Chemical and that is functionally equivalent and technologically and economically feasible, the responsible entity (or manufacturer) must do one of the following:

- Ensure that the Priority Product is removed from the stream of commerce in California within one year, and ensure that an inventory recall program for the Priority Product is implemented and completed within two years; or
- Submit to DTSC, within 1 year, an AA Report that selects an alternative that does not contain a Priority Chemical. A responsible entity choosing this option, must notify DTSC within 60 days of its intent to submit a revised AA Report.

D. Other Regulatory Responses

The regulations also specify that DTSC may require any of the following as regulatory responses that it determines are necessary to limit exposure to, and reduce the level of public health or environmental hazards posed by, a selected alternative, or a Priority Product for which an alternative is not selected:

- Product information for consumers
- End-of-life product stewardship program
- Product sales prohibition
- Engineered safety measures to control access or limit exposure to the Priority Chemical in a product
- Restrictions on the use of the Priority Chemical
- Green Chemistry R&D project, or Green Chemistry challenge grant
- New AA (but no sooner than 3 years after prior AA) if: (i) the prior AA did not identify or select an alternative, or (ii) DTSC becomes aware of a safer alternative that is functionally equivalent and technologically and economically feasible
- Any other regulatory response determined necessary by DTSC

E. Regulatory Response Exemptions

The regulations provide a process for a responsible entity or manufacturer to request an exemption from an

otherwise applicable regulatory response based on either or both of the following:

- The required regulatory response would conflict with a requirement of another California or federal regulatory program or an international trade agreement, in such a way that the responsible entity or manufacturer could not reasonably be expected to comply with both requirements. In this situation, DTSC may, at its discretion, require implementation of a modified regulatory response that resolves the conflict.
- The required regulatory response substantially duplicates a requirement of another California or federal regulatory program or an international trade agreement.

F. Regulatory Response Process

- For the non-self-implementing regulatory responses (i.e., the responses triggered by a DTSC determination), DTSC will notify affected responsible entities and manufacturers of its proposed regulatory response determination.
- The proposed regulatory response determination will also be made available for public review and comment. DTSC will publish in the CRNR, send to persons on any listserv(s) that DTSC establishes related to this chapter, and post on its website a notice regarding the availability of the proposed determination. The notice will include the deadline for submitting public comments, and notification of any workshops that DTSC may, at its discretion, hold for the proposed lists.
- After review and consideration of public comments on the proposed lists, DTSC will send a final determination notice to the responsible entity(ies) and manufacturer(s) and post the final notice on its website.
- The responsible entity must notify DTSC and California retailers of affected consumer products of the applicability of regulatory responses to the responsible entity's product, within 30 days.
- The responsible entity or manufacturer must notify DTSC upon completion of implementation of the required regulatory response, and, if applicable, upon completion of implementation of the selected alternative. This information must also be posted on the manufacturer's website.
- DTSC will post on its website, and update quarterly, a Regulatory Response Report that identifies the regulatory response(s) for each selected alternative for a Priority Product, and the implementation dates for the alternative and the regulatory response. The Regulatory Response Report will also include information on any

regulatory response exemptions granted by DTSC.

Public Health and Environmental Impacts

The regulations specify a comprehensive list of public health and environmental impacts and exposure potential assessment factors that must be considered during both the prioritization and alternatives assessment processes. These impacts include the factors specified in the statute for the multimedia life cycle evaluation: air pollutant emissions; surface water, groundwater, and soil contamination; disposal or use of byproducts and waste materials; worker safety and impacts to public health; and other anticipated impacts to the environment. The factors specified in the regulations are listed below.

A. Chemical and Physical Properties

- Density
- Dissociation constant
- Explosiveness
- Flammability
- Flash point
- Granularity
- Melting/boiling point
- Oxidizing properties
- Partition coefficient
- Stability in organic solvents and identity of relevant degradation byproducts
- Surface tension
- Vapor pressure
- Viscosity
- Water solubility
- Other physical, chemical, or quantum properties specific to nanomaterials

B. Adverse Public Health Impacts

Includes impacts that may result from single, intermittent or frequent use of or contact with the chemical or product, including dermal, oral and inhalation exposures:

- Acute or chronic toxicity
- Bioaccumulation in humans
- Carcinogenicity
- Cardiovascular toxicity
- Dermatotoxicity
- Developmental toxicity
- Effects of electromagnetic radiation that includes ionizing radiation and non-ionizing radiation
- Endocrine toxicity
- Epigenetic toxicity
- Genotoxicity
- Hematotoxicity

- Hepatotoxicity
- Immunotoxicity
- Musculoskeletal toxicity
- Nephrotoxicity and other toxicity to the urinary system
- Neurotoxicity
- Ocular toxicity
- Organ or tissue system toxicity
- Ototoxicity
- Persistence
- Reactivity in biological systems
- Reproductive toxicity
- Respiratory effects
- Toxicokinetics
- Any hazard traits not listed above that relate to adverse impacts on human health
- Adverse health impacts on sensitive subpopulations

C. Adverse Ecological Impacts

- Acute or chronic toxicity in aquatic, avian or terrestrial organisms
- Adverse impacts on aquatic ecosystems, including, but not limited to, aquatic sediments
- Adverse impacts on terrestrial ecosystems
- Adverse impacts on environmentally sensitive habitats, including, but not limited to, habitat loss or deterioration
- Adverse impacts on habitats essential to the continued existence of an endangered or threatened species, and other factors affecting the ability of an endangered or threatened species to survive or reproduce
- Adverse impacts associated with population loss, decline in population diversity, or changes in historical communities
- Adverse impacts that can cause vegetation contamination or damage, including phytotoxicity

D. Adverse Environmental impacts

- Chemical traits. Includes intrinsic traits of a chemical or its degradation products that relate to adverse impacts on the environment:
 - Stability and persistence in biological and environmental compartments
 - Fate and transport among environmental compartments
 - Bioaccumulation in biological and environmental compartments
 - Biodegradation
 - Photodegradation

- Production of transformation products in environmental settings
- Hydrolysis half-life
- Aerobic and anaerobic soil half-lives
- Aerobic and anaerobic sediment half-lives
- Air quality impacts. Includes adverse impacts associated with air emissions, including air contaminants:
 - Nitrogen oxides
 - Sulfur oxides
 - Toxic air contaminants
 - Greenhouse gases
 - Secondary organic aerosols
 - Stratospheric ozone-depleting compounds
 - Other ozone forming compounds
 - Particulate matter
- Water quality impacts. Includes adverse impacts associated with degradation of the beneficial uses of the waters of California and any of the following:
 - Biological oxygen demand
 - Chemical oxygen demand
 - Total dissolved solids
 - Chronic and acute toxicity in the water column and sediments
 - Chemicals identified as priority toxic pollutants for California pursuant to section 303(c) of the federal Clean Water Act and listed in section 131.38 of Title 40 of the Code of Federal Regulations published in the Federal Register May 18, 2000
 - Pollutants listed by California or the United States Environmental Protection Agency for one or more water bodies in California pursuant to section 303 (d) of the federal Clean Water Act
 - Chemicals identified as contaminants that have primary Maximum Contaminant Levels (MCLs) under the federal Safe Drinking Water Act
 - Pollutants requiring monitoring and reporting in waste discharges to land that have Notification Levels (NLs) specified under the Waste Discharge and Water Reuse Requirements (WDRs/WRRs) of the Porter-Cologne Water Quality Control Act
 - Thermal pollution
 - Other impacts affecting the quality of surface waters and groundwaters
- Soil quality impacts. Includes adverse impacts associated with the following:

- Chemical contamination
- Biological contamination
- Loss of biodiversity
- Loss of organic matter
- Erosion
- Compaction or other structural changes
- Soil sealing
- Other impacts that affect or alter soil function or soil chemical, physical or biological characteristics or properties.
- Any other factors that relate to adverse impacts on the environment, including, but not limited to, the release of heat, odor or radiation

E. Materials and Resource Consumption Impacts

- Water consumption and conservation
- Production, in-use, and transportation energy inputs
- Energy consumption and efficiency
- Reusability and recyclability

F. Waste and End-of-Life Impacts

- Amount of waste and byproducts generated
- Special handling required for the waste and byproducts
- Disposal, treatment or use of waste and byproducts, including solid waste, wastewater and storm water discharge streams

G. Exposure Potential Evaluation

- Potential for the public or the environment to be exposed to the PRIORITY CHEMICAL that is contained in the product, during the useful life of the product and end-of-life disposal or management of the product
- Types and extent of consumer uses that could result in public exposure to the PRIORITY CHEMICAL that is contained in the product, which in turn could result in adverse public health impacts
- Product uses or management or disposal practices that could result in releases to the environment of the PRIORITY CHEMICAL that is contained in the product, which in turn could result in adverse ecological or other environmental impacts
- Existence of data and other information relating to actual or potential public or environmental exposures to the chemical

H. Tier II AA Required Finding of No Adverse Impact

The Tier II AA Report that is required to be submitted to DTSC must include a demonstration that the production, use and disposal of the selected alternative (in con-

junction with any regulatory response(s) proposed by the manufacturer) will have no greater significant adverse impacts on public health or the environment than the current impacts associated with the Priority Product.

I. Early Chemical Substitutions

Once a chemical has been listed by DTSC as a Chemical under Consideration or a Priority Chemical, if a manufacturer reformulates or redesigns a consumer product to remove or reduce the chemical, or substitutes the original product with another product, the manufacturer must notify DTSC of the change, and provide information on the product and the new chemical, including hazard trait information. This will enable DTSC to quickly determine if this new product should be listed as a Priority Product with the consequent requirement for an alternatives assessment that conforms to the regulations. This will ensure an end result that will be either no change, or preferably, a reduction (if not an elimination) of adverse impacts on public health and the environment.

FEDERAL LAWS OR REGULATIONS

- There is no federal law or regulation mandating the adoption of these regulations.
- There is no existing comparable federal regulation or statute.

OTHER STATUTORY REQUIREMENTS

California Environmental Quality Act (CEQA) Compliance

DTSC has found this rulemaking project to be exempt under CEQA. A Notice of Exemption will be filed with the State Clearinghouse when the regulations are adopted.

Peer Review

DTSC is proceeding with a peer review of the scientific basis of these regulations pursuant to Health and Safety Code section 57004.

Environmental Policy Council Review

DTSC is proceeding with a review of the regulations by the Environmental Policy Council pursuant to Health and Safety Code section 25252.5.

IMPACTS ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Mandates on Local Agencies and School Districts:

DTSC has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: DTSC has made a preliminary determination that adoption of these regulations will not: (i) impose a local mandate, (ii) result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code, or (iii) impose any other non-discretionary costs or savings on local agencies.

FISCAL IMPACT

Cost or Savings to Any State Agency: Adoption of these regulations will impose new duties on DTSC. DTSC estimates that it will need an augmentation in its budget of \$10 million to \$13 million in the fiscal year beginning July 1, 2011. Funding will cover additional staff as well as contracts, grants, and laboratory equipment. Additional funding will be needed in future years to implement an enforcement program. This preliminary estimate does not include estimates for information technology systems that may be required or revenue collection costs if new fees are levied to fund these regulations.

In future years, after the release and updates of the Priority Products list, State agencies that purchase products that are Priority Products may incur increased costs for operating expenses attributed to any price increases for Priority Products resulting from these regulations.

Additionally, the California Prison Industry Authority may be impacted if it uses any listed Priority Chemicals in manufacturing its products. Further discussion with California Prison Industry Authority is needed to determine if it would be considered a manufacturer or retailer or both under this regulation. Until the chemicals and products lists are completed, DTSC is unable to estimate the impact on the California Prison Industry Authority.

Cost or Savings in Federal Funding to the State: DTSC has made a preliminary determination that the proposed regulations will have no impact on federal revenues or costs to California.

HOUSING COSTS

DTSC has made an initial determination that there will be no impact on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

Determination

DTSC has made an initial determination that this regulation may have a significant statewide economic im-

act directly affecting businesses, but that it is not expected to affect the ability of California businesses to compete with businesses in other states. DTSC is unable to quantify the economic impact on businesses but has outlined factors that will increase or decrease the economic impact to businesses. Until DTSC prepares the Priority Products list, there is no way to know which or how many products will be on the list or how many businesses will be required to perform an alternatives assessment. Likewise, it is not possible to estimate how many businesses will be subject to regulatory responses.

Types of Businesses Affected

Businesses impacted will primarily be those that directly or indirectly make a Priority Product available in California’s stream of commerce. Businesses involved in the supply chain of Priority Chemicals contained in Priority Products will also be impacted. To a lesser degree, businesses in the supply chain for a broader range of products (and chemicals contained those products) placed into California’s stream of commerce will be impacted, but only with respect to providing chemical and product information to DTSC upon request and a limited notification requirement in certain circumstances. The regulation impacts both out-of-state and in-state businesses. This includes chemical and product producers, brand name manufacturers, retailers, importers, distributors and other businesses in the supply chain.

Projected Compliance Requirements

Compliance requirements will vary from business to business depending on the products they produce, sell, distribute or import, and the arrangements that are made between the various responsible entities in the supply chain for each product. Some business will have no compliance requirements. Others will be required to comply with one or more of the following types of requirements: submission of chemical and/or product information to DTSC; submission of various notifications to DTSC; performance of alternatives assessments and submission of alternatives assessments work plans and reports for Priority Products; and compliance with regulatory responses determined imposed on selected products by DTSC after completion of an alternatives assessment. Most businesses in the supply chain for a product subject to these compliance requirements can “opt out” by ceasing their involvement in placing the product into the stream of commerce in California.

Solicitation of Proposed Alternatives

This regulation impacts in-state and out-of-state businesses similarly as it applies to consumer products placed into the California stream of commerce, regardless of where the product is produced. DTSC has considered alternatives that would lessen any adverse economic impact on business, and has tried to minimize the

impact on businesses by providing a tiered approach to alternatives assessments, providing options to extend compliance deadlines, and allowing business to meet the requirements of the regulations through consortia, partnerships and similar arrangements. DTSC invites you to submit proposals that would lessen any adverse economic impact on business. Submissions may include the following considerations:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
2. Consolidation or simplification of compliance and reporting requirements for businesses.
3. The use of performance standards rather than prescriptive standards.
4. Exemption or partial exemption from the regulatory requirements for businesses.

ASSESSMENT STATEMENTS

Creation or elimination of jobs within California

— DTSC has made the preliminary determination that the proposed regulation can have a possible short term minimal impact on the reduction of jobs, with a much larger potential for creation of new jobs as new materials and processes are developed.

Creation of new businesses or elimination of existing businesses within California — DTSC has made the preliminary determination that the proposed regulation can result in the creation of new businesses as new materials and processes are created, with the potential for expanded export markets for California made products. Furthermore, current firms have time to adapt prioritized consumer products to meet regulatory requirements.

Expansion of businesses currently doing business in California — DTSC has made the preliminary determination that the proposed regulation provides opportunities for growth as California businesses have access to a wider range of safer consumer products and can provide services and products for an expanding number of consumers demanding safer and greener products.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

These regulations do not impose new responsibilities for private persons. These regulations do impact products made available for sale in California and may have the effect of increasing the costs of products identified as Priority Products or their alternatives. The impacts on consumers will be proportionate to the amount of their budget spent on Priority Products. If the Priority

Products represent a small proportion of consumer expenditures, then the impacts to individual consumers should not be significant. It is anticipated that competition will protect consumers from facing higher prices for consumer products. Additionally, it is anticipated at least some consumers will realize cost savings from the use of safer products that do not present the potential health threats associated with Priority Products.

As discussed above, DTSC has made a determination that this regulation will have an economic impact on businesses. However, DTSC is unable to quantify the economic impact on businesses. In particular, DTSC is unable to quantify the cost impacts on a “representative” business, as the compliance requirements will vary from business to business depending on: (i) which products are listed as Priority Products, (ii) which products each business produces, sells, distributes or imports, and (iii) the arrangements that are made between the various responsible entities in the supply chain for each Priority Product.

BUSINESS REPORT

This regulation does not require all businesses to prepare reports. These regulations will require some in-state and out-of-state businesses to prepare and submit alternatives assessment reports for Priority Products. Additionally, some businesses will be required to provide chemical and/or product data and information to DTSC, upon request, which in some cases could be in the form of a report.

DTSC finds that it is necessary for the health, safety, or welfare of the people of California that these reporting requirements apply to businesses.

SMALL BUSINESS

DTSC has determined that these regulations will have an effect on small businesses. However, DTSC is unable to quantify the economic impact on small businesses for the reasons discussed above. DTSC has included provisions to ameliorate the impacts for small businesses meeting specified requirements, including flexibility to allow such businesses longer time frames to meet the compliance requirements of the regulations.

CONSIDERATION OF ALTERNATIVES STATEMENT

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

tion. DTSC invites interested persons to present arguments, with respect to the various options, at the scheduled hearing, or during the written comment period.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Notice, Initial Statement of Reasons and the text of the proposed regulations are available from the Laws, Regulations and Policies page of the DTSC Internet site at <http://www.dtsc.ca.gov/LawsRegsPolicies/index.cfm> or may be obtained from Jeff Woled of DTSC's Regulations Section as specified below. The information upon which DTSC relied is also available at the address listed below.

POST-HEARING CHANGES

After the close of the comment period, DTSC may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text, if substantive changes are made.

FINAL STATEMENT OF REASONS

Once regulations have been adopted, DTSC prepares a Final Statement of Reasons which updates the Initial Statement of Reasons, summarizes how DTSC addressed comments and includes other materials, as required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Jeff Woled at the address listed below. A copy of the Final Statement of Reasons will also be available from the Laws, Regulations and Policies page of the DTSC Internet site at <http://www.dtsc.ca.gov/LawsRegsPolicies/index.cfm>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations may be directed to Odette Madriago of DTSC at (916) 323-4927 or, if unavailable, Corey Yep of DTSC at (916) 445-3601. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or may be presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts these regulations. To be

included in this regulation package's mailing list, and to receive updates of this rulemaking, please visit <http://www.calepa.ca.gov/Listservs/dtsc/> and subscribe to the applicable Listserv. You may also leave a message on the DTSC mailing list phone line at (916) 324-9933 or e-mail: gcregs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Jeff Woled, Regulations
Coordinator
Regulations Section
Department of Toxic Substances
Control

Mailing Address: P.O. Box 806
Sacramento, CA 95812-0806

E-mail Address: gcregs@dtsc.ca.gov

Fax Number: (916) 324-1808

Jeff Woled's phone number is (916) 322-5225. If Mr. Woled is unavailable, please call Jon Cordova at (916) 324-7193.

While not required, we encourage those wishing to submit comments on these proposed regulations to utilize our online comment form, which can be found at:

http://www.dtsc.ca.gov/PollutionPrevention/GreenChemistryInitiative/gc_dr_aft_regs_comment_form.cfm.

GENERAL PUBLIC INTEREST

DEPARTMENT OF CHILD SUPPORT SERVICES

ADDENDUM

TO

NOTICE OF PROPOSED ACTION
Department of Child Support Services

R-50-10
Recovery of Overpayments

Proposed Permanent Regulations

Be advised of the following:
In Register 2010, No. 37-Z, published September 10, 2010, the Department of Child Support Services pub-

lished Notice No. Z2010-0825-01 regarding the recovery of overpayments. There was an error in the public comment period dates in the public notice mailed out. The correct public comment period dates are:

**September 10, 2010 to 5:00PM on
November 1, 2010.**

Public comments will be accepted by any of the following means:

1. Mailed to:
Dept. of Child Support Services
Legal Division MS-70
Attn: Lucila Ledesma
P.O. Box 419064
Rancho Cordova, CA 95741-9064
2. Faxed to:
Dept. of Child Support Services
Legal Division
Attn: Lucila Ledesma
(916) 464-5069
3. E-mailed to: Lucilaledesma@dcss.ca.gov

In all other respects the original public notice that you received was accurate. My apologies for the error.

Sincerely,

/s/
Lucila Ledesma
Staff Counsel

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**California Environmental Protection Agency
Notice to Interested Parties**

September 17, 2010

**ANNOUNCEMENT OF PUBLICATION OF THE
FINAL PUBLIC HEALTH GOALS FOR
BENZO(a)PYRENE, METHOXYCHLOR, AND
TCDD (DIOXIN) IN DRINKING WATER**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the publication of the fi-

nal technical support documents for the Public Health Goals (PHGs) for benzo(a)pyrene, methoxychlor, and TCDD (dioxin) in drinking water. The PHG for benzo(a)pyrene is established at 0.007 parts per billion (ppb), based on carcinogenic effects in rats and mice. The PHG for methoxychlor is established at 0.09 ppb, based on effects in male offspring of female mice treated with methoxychlor during pregnancy. The PHG for TCDD is established at 0.00005 parts per trillion (ppt), based on tumors in multiple sites in female rats.

The Office previously offered a 45-day public comment period and held a public workshop for benzo(a)pyrene on January 6, 2010, methoxychlor on May 26, 2010, and TCDD on August 18, 2005. OEHHA follows the requirements set forth in Health and Safety Code sections 57003(a) and 116365 for conducting the workshop and obtaining public input. After addressing any comments received, all of the documents were subsequently posted for a second (30-day) comment period. Benzo(a)pyrene and TCDD were posted for third 30-day comment periods, after significant changes to the methods for calculation of cancer risk. OEHHA has now finalized the PHG documents and is posting the final versions and our responses to the major comments on the OEHHA web site (www.oehha.ca.gov/water/phg/index.html).

The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996¹ requires OEHHA to develop PHGs based exclusively on public health considerations.² PHGs published by OEHHA are considered by the California Department of Public Health in setting drinking water standards (Maximum Contaminant Levels, or MCLs).³

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below.

Michael Baes (mbaes@oehha.ca.gov)
Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
1515 Clay St., 16th floor
Oakland, California 94612
Attention: PHG Project

¹ Codified at Health and Safety Code, section 116270 et seq.

² Health and Safety Code section 116365(c)

³ Health and Safety Code section 116365(a) and (b)

**REGULATORY
DETERMINATION PROGRAM**

**DEPARTMENT OF MANAGED HEALTH
CARE**

On May 24, 2010, the Office of Administrative Law accepted for consideration a petition submitted by Donald Schutz, counsel for Dental Plans.com. The petition challenged as an underground regulation, a rule by the Department of Managed Health Care that discount health plans be licensed.

On September 2, 2010, the petitioner submitted to the Office of Administrative Law a request to withdraw and dismiss the petition. The Office of Administrative Law has granted the request to withdraw the petition. OAL will cease all consideration of the petition and will not issue a determination in this matter.

If you have questions, please contact Kathleen Eddy, Senior Counsel, 916-323-7465 or keddy@oal.ca.gov.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

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

File# 2010-0723-03
AIR RESOURCES BOARD

Tables of Maximum Incremental Reactivity (MIR)

This regulatory action amends the Tables of Maximum Incremental Reactivity (MIR) Values for various organic compounds and mixtures and for various types of hydrocarbon solvents by providing updated values along with the previously existing value. It also adds hundreds of new compounds with their associated MIR values.

Title 17
California Code of Regulations
AMEND: 94700, 94701
Filed 09/02/2010
Effective 10/02/2010
Agency Contact: Amy Whiting (916) 322-6533

File# 2010-0901-05
BUREAU OF STATE AUDITS
Voter's First Act

This regulatory action revises regulations pertaining to the Citizens Redistricting Commission. This action comes under the jurisdiction of the Bureau of State Audits. Pursuant to Government Code section 8546(g), regulations adopted by the Bureau of State Audits are not subject to the review or approval of the Office of Administrative Law.

Title 2
California Code of Regulations
ADOPT: 60804.1, 60815.1, 60820.1, 60855, 60856, 60857, 60858, 60859, 60860, 60861, 60862, 60863
AMEND: 60841, 60846, 60853 REPEAL: 60855
Filed 09/02/2010
Effective 09/03/2010
Agency Contact: Gloria Gamino (916) 445-0255

File# 2010-0721-03
CALIFORNIA ENERGY COMMISSION
Amendments to Appliance Efficiency Regulations

This action concerning the energy efficiency of televisions defines terms, updates performance standards and specifies test methods for evaluation, reporting and compliance.

Title 20
California Code of Regulations
AMEND: 1601, 1602, 1604, 1605.3, 1606, 1607
Filed 09/01/2010
Effective 01/01/2011
Agency Contact: Harinder Singh (916) 654-4091

File# 2010-0901-03
DEPARTMENT OF FOOD AND AGRICULTURE
Melon Fruit Fly Interior Quarantine

This emergency regulatory action expands the quarantine area for the Melon Fruit Fly, *Bactrocera cucurbitae*, in the Arvin area of Kern County. It is immediately necessary to implement quarantine actions in order to prevent the artificial spread of the Melon Fruit Fly to the uninfested areas of California. This emergency action adds approximately 9 square miles to the existing area under quarantine for the Melon Fruit Fly in Kern County.

Title 3
California Code of Regulations
AMEND: 3425(b)
Filed 09/02/2010
Effective 09/02/2010
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2010-0723-01
 DEPARTMENT OF SOCIAL SERVICES
 Division 31, Grievance Review Procedures

This is the certificate of compliance to make permanent the prior emergency regulatory action (OAL file no. 2010-0506-01EE) that introduced the use of three new forms, established the requirements for county welfare departments to notify an individual of his or her listing on the Child Abuse Central Index (CACI), a child abuse registry maintained by the California Department of Justice, and established the procedures for requesting, scheduling, and conducting a grievance hearing and appealing the decision of a grievance hearing. These regulations also establish factors to be considered when determining whether to temporarily place a child in a home in which a relative or non-related extended family member lives and who is on the CACI list. Additionally, these regulations deal with special requirements for reporting child abuse and neglect to the California Department of Justice.

Title MPP
 California Code of Regulations
 ADOPT: 31-021 AMEND: 31-003, 31-410, 31-501
 Filed 09/03/2010
 Effective 09/03/2010
 Agency Contact:
 Zaid Dominguez (916) 657-2586

File# 2010-0726-02
 DEPARTMENT OF SOCIAL SERVICES
 Reasonable & Prudent Parent Standard

The California Department of Social Services adopted section 84067 and amended sections 83064, 84001, 84706, 84087.2, 84090, 86065, 88065, and 89405 in title 22 of the California Code of Regulations to (1) clarify and create standards for group home administrators or facility managers, or their designees in regard to applying a "Reasonable and Prudent Parent Standard" and (2) add new training requirements for specified staff in group homes, small family homes, foster family agencies, foster family homes, and transitional housing placement programs.

Title 22, MPP
 California Code of Regulations
 ADOPT: 84067 AMEND: 83064, 84001, 84076, 84079, 84087.2, 84088, 84090, 86065, 88065, 89405
 Filed 09/03/2010
 Effective 10/03/2010
 Agency Contact:
 Kenneth Jennings (916) 651-8862

File# 2010-0902-02
 FISH AND GAME COMMISSION
 Upland Game Bird Hunting

The Fish and Game Commission submitted this action to amend title 14, California Code of Regulations, section 300 to set the permit and bag limits for sage grouse hunting in the Central Lassen zone to zero.

Title 14
 California Code of Regulations
 AMEND: 300
 Filed 09/08/2010
 Effective 09/10/2010
 Agency Contact: Sheri Tiemann (916) 654-9872

File# 2010-0726-04
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Application

This change without regulatory effect updates a reference to "Compressed Air Safety Orders" to reflect the reorganization and renaming of the standards as a new group within the General Industrial Safety Orders titled "Pressurized Worksite Standards" (see OAL file no. 2006-0221-03S).

Title 8
 California Code of Regulations
 AMEND: 1502
 Filed 09/01/2010
 Agency Contact: Marley Hart (916) 274-5721

File# 2010-0721-04
 STATE PERSONNEL BOARD
 Promotional Exams and CEA Eligibility for Appt. (2 CCR 234 & 548.70)

The State Personnel Board (Board) amends California Code of Regulations, title 2, sections 234 and 548.70. The amendments implement changes to Government Code sections 18546, 18990, 18991, and 19889.3 regarding eligibility for Career Executive Assignment (CEA) appointments and promotional examinations. The proposed amendments are exempt from the APA pursuant to Government Code section 18211.

Title 2
 California Code of Regulations
 AMEND: 234, 548.70
 Filed 09/01/2010
 Effective 10/01/2010
 Agency Contact: Chian He (916) 653-1403

File# 2010-0901-01
 STATE PERSONNEL BOARD
 Hearings and Appeals

This action is to revise the hierarchical structure so that it reflects the current structure in the California Code of Regulations.

Title 2

California Code of Regulations

AMEND: Renaming of headings only, as follows: Article 4 of Chapter 1 to new Subchapter 1.2; Subarticles 1-10 of new Subchapter 1.2 to new Articles 1-10; and Chapters 1-5 of new Article 6 to new Subarticles 1-5.

Filed 09/07/2010

Agency Contact: John D. Smith (916) 651-1041

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN April 7, 2010 TO
 September 15, 2010**

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

Title 2

- 09/07/10 AMEND: Renaming of headings only, as follows: Article 4 of Chapter 1 to new Subchapter 1.2; Subarticles 1-10 of nes Subchapter 1.2 to new Articles 1-10; and Chapters 1-5 of new Article 6 to new Subarticles 1-5.
- 09/02/10 ADOPT: 60804.1, 60815.1, 60820.1, 60855, 60856, 60857, 60858, 60859, 60860, 60861, 60862, 60863 AMEND: 60841, 60846, 60853 REPEAL: 60855
- 09/01/10 AMEND: 234, 548.70
- 09/01/10 AMEND: 234, 548.70
- 08/18/10 ADOPT: 51.3, 52.1, 52.2, 52.3, 52.5, 52.8, 52.10, 53.1, 53.2, 53.3, 53.4, 54.1, 55.1, 56.1, 56.2, 56.3, 56.4, 57.1, 57.2, 58.1, 58.2, 58.6, 58.7, 58.9, 58.10, 58.11, 59.2, 59.3, 59.4, 60.1, 63.1, 64.1, 64.2, 64.3, 64.4, 64.5, 64.6 AMEND: 51 (renumbered to 51.1), 51.1 (renumbered to 51.2), 51.2 (renumbered to 52.4), 52.3 (renumbered to 52.6), 51.9 (renumbered to 52.7), 51.5 (renumbered to 52.9), 52.6

- (renumbered to 55.2), 52.2 (renumbered to 58.3), 51.4 (renumbered to 58.4), 52.1 (renumbered to 58.5), 57.2 (renumbered to 59.1), 52.5 (renumbered to 60.2), 57.3 (renumbered to 60.3), 53.1 (renumbered to 66.1), 56 (renumbered to 67.1), 56.1 (renumbered to 67.2), 56.2 (renumbered to 67.3), 56.3 (renumbered to 67.4), 56.4 (renumbered to 67.5), 56.5 (renumbered to 67.6), 56.6 (renumbered to 67.7), 56.7 (renumbered to 67.8) REPEAL: 51.3, 52, 52.4, 53, 53.2, 54, 54.2, 56.8, 57.1, 57.4, 60, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 60.10, 65, 547, 547.1

- 08/13/10 AMEND: 18707
- 07/08/10 AMEND: 18313.5(c)
- 07/06/10 AMEND: 51000
- 07/01/10 AMEND: 1859.90.1
- 06/24/10 ADOPT: 1859.90.1 AMEND: 1859.90.1 renumbered as 1859.90.2, 1859.129, 1859.197
- 06/24/10 AMEND: 47000, 47001, 47002
- 06/23/10 AMEND: 1859.184
- 06/17/10 AMEND: 18703.3
- 06/17/10 ADOPT: 18313.5
- 06/09/10 AMEND: Div. 8, Ch. 64, Sec. 55300
- 05/25/10 AMEND: div. 8, ch. 65, sec. 55400
- 05/11/10 AMEND: 18945
- 05/06/10 AMEND: 1859.2
- 05/03/10 AMEND: 60040, 60045
- 04/21/10 AMEND: 1859.96, 1859.148.2, 1859.166.2
- 04/08/10 AMEND: 1859.76

Title 3

- 09/02/10 AMEND: 3425(b)
- 08/26/10 AMEND: 3406(b)
- 08/26/10 AMEND: 3406(b)
- 08/26/10 AMEND: 3434(b) & (c)
- 08/26/10 ADOPT: 6531 AMEND: 6502, 6511, 6530
- 08/24/10 AMEND: 3700(c)
- 08/19/10 AMEND: 3423(b)
- 08/17/10 AMEND: 3437
- 08/16/10 AMEND: 3425(b) and (c)
- 08/13/10 AMEND: 3591.15(a) and (b)
- 08/11/10 AMEND: 3437
- 08/05/10 AMEND: 3423(b)
- 07/26/10 AMEND: 3435(c)
- 07/20/10 AMEND: 3437
- 07/16/10 AMEND: 3434(b) and (c)
- 07/13/10 AMEND: 3591.20(a)
- 07/07/10 ADOPT: 3591.24
- 07/01/10 AMEND: 3437
- 06/30/10 AMEND: 3423(b)

06/18/10	AMEND: 6448, 6448.1, 6449, 6449.1, 6450, 6450.1, 6450.2, 6451, 6451.1	5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5140, 5141, 5142, 5143, 5150, 5151, 5152, 5153, 5154, 5155, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, and 5550
06/10/10	ADOPT: 429, 430 AMEND: 441	
06/10/10	ADOPT: 3024.5, 3024.6, 3024.7, and 3024.8 AMEND: 3024, 3024.1, 3024.2, 3024.3, 3024.4, and 4603	
06/09/10	AMEND: 3434(b), (c), (d), and (e)	
06/07/10	AMEND: 4500	06/21/10 AMEND: 8070, 8072, 8073, 8074
06/02/10	AMEND: 3435	06/09/10 AMEND: 1689.1
06/01/10	AMEND: 3437(b)	06/01/10 AMEND: 10020
05/24/10	AMEND: 3434(b)	05/17/10 ADOPT: 12590 REPEAL: 12590
05/17/10	AMEND: 3591.5(a)	04/29/10 AMEND: 8034, 8035, 8042, 8043
05/17/10	ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407(e), 3407(f) REPEAL: 3000, 3001, 3002, 3003, 3004	04/13/10 ADOPT: 12350, 12351, 12352, 12353, 12354, 12355 AMEND: 12008, 12335, 12340, 12342, 12343 renumbered as and merged with amended 12342, 12344 renumbered as and merged with amended 12345, and 12348 renumbered as 12346 REPEAL: 12347
05/13/10	AMEND: 3437	
05/04/10	AMEND: 3423(b)	
05/04/10	AMEND: 3437(b)	
05/04/10	AMEND: 3434(b)	
05/03/10	AMEND: 3434(b), 3434(c) and 3434(d)	
04/22/10	AMEND: 3434(b)	
04/22/10	AMEND: 3406(b), 3406(c)	
04/20/10	AMEND: 3437(b)	
04/15/10	AMEND: 3434(b)	
Title 4		
08/30/10	ADOPT: 213.2 AMEND: 211, 213, 293, 405	
08/20/10	AMEND: 130	
08/16/10	AMEND: 1689	
07/29/10	ADOPT: 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5560, 5570, 5571, 5572, 5573, 5580, 5590	
07/22/10	AMEND: 10300, 10302, 10305, 10310, 10315, 10317, 10320, 10322, 10323, 10325, 10326, 10327, 10328, 10330, 10335, 10337	
07/13/10	AMEND: 8034, 8035, 8042, 8043	
07/12/10	ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5080, 5081, 5082,	
Title 5		
08/30/10	ADOPT: 30960, 30961, 30962, 30963, 30964	
08/24/10	REPEAL: 18015	
08/20/10	AMEND: 80001	
08/19/10	ADOPT: 59204.1	
08/19/10	ADOPT: 11967.6.1 AMEND: 11967.6	
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97413.3, 97413.5, 97413.7, 97413.9,
97413.11, 97414.1, 97414.3, 97416.1,
97416.3, 97416.5, 97416.7, 97416.9,
97416.11, 97417.1, 97418.1, 97420.1,
97420.3, 97420.5, 97421.1, 97425.1,
97425.3, 97425.5, 97425.7, 97425.9,
97426.1, 97426.3, 97426.5, 97426.7,
97426.9, 97426.11, 97431.1, 97431.3,
97431.5, 97432.1, 97433.1, 97433.3,
97434.1, 97434.3, 97434.5, 97434.7,
97434.9

07/23/10 AMEND: 66261.3, 66261.4, 66268.1,
66268.7, 66268.9, 66268.124

07/22/10 ADOPT: 52000, 52100, 52101, 52102,
52103, 52104, 52500, 52501, 52502,
52503, 52504, 52505, 52506, 52508,
52509, 52510, 52511, 52512, 52513,
52514, 52515, 52516, 52600

07/21/10 AMEND: 97232

06/24/10 AMEND: 51510, 51510.1, 51510.2,
51510.3, 51511, 51511.5, 51511.6,
51535, 51535.1, 51544, 54501

06/22/10 AMEND: 2706-7

06/17/10 AMEND: 51516.1

05/25/10 AMEND: 66262.44

05/19/10 AMEND: 100159, 100166, 100171

05/18/10 ADOPT: 100102.1, 100103.1, 100103.2,
100106.1, 100106.2, 100107.1 AMEND:
100101, 100102, 100103, 100104,
100105, 100106, 100107, 100108,
100109, 100110, 100111, 100112,
100113, 100114, 100115, 100116,
100117, 100118, 100119, 100120,
100121, 100122, 100123, 100124,
100125, 100126, 100127, 100128,
100129, 100130

05/18/10 ADOPT: 100059.1, 100061.2 AMEND:
100057, 100058, 100059, 100059.2,
100060, 100061, 100061.1, 100062,
100063, 100063.1, 100064, 100064.1,
100065, 100066, 100067, 100068,
100069, 100070, 100071, 100072,
100073, 100074, 100075, 100076,
100077, 100078, 100079, 100080,
100081, 100082, 100083

05/18/10 ADOPT: 100340, 100341, 100342,
100343, 100343.1, 100343.2, 100343.3,
100344, 100345, 100346, 100346.1,
100347, 100348, 100349

05/18/10 ADOPT: 100202.1, 100206.1, 100206.2,
100206.3, 100206.4, 100208.1,
100211.1, 100214.1, 100214.2, 100214.3
AMEND: 100201, 100202, 100203,
100204, 100205, 100206, 100207,
100208, 100209, 100210, 100211,
100212, 100213, 100214, 100215,
100216, 100217 REPEAL: 100218

05/12/10 ADOPT: 5300, 5400 AMEND: 5002,
5010, 5052, 5055, 5062, 5102, 5105

05/12/10 AMEND: 11-425, 22-001, 22-003,
22-009, 45-302, 45-303, 45-304,
45-305, 45-306

05/06/10 AMEND: 66273.36

04/08/10 AMEND: 50778

Title 22, MPP

09/03/10 ADOPT: 84067 AMEND: 83064, 84001,
84076, 84079, 84087.2, 84088, 84090,
86065, 88065, 89405

07/09/10 ADOPT: 87606 AMEND: 87202, 87208,
87212, 87455, 87633

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07/19/10 ADOPT: 6932 REPEAL: 6932

07/12/10 ADOPT: 3929.3

07/12/10 ADOPT: 3919.8

05/20/10 ADOPT: 2910 REPEAL: 2910

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07/19/10 ADOPT: 6932 REPEAL: 6932

06/11/10 AMEND: 8315

05/25/10 AMEND: 7966, 7970

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07/13/10 AMEND: 25705(b)

04/09/10 ADOPT: 22100, 22101, 22103, Division
2 Form CalRecycle 114 AMEND: 20164,
21200, 21570, 21640, 21685, 21820,
21840, 21865, 21880, 22102, 22211,
22220, 22221, 22231, 22234, 22245,
22248, Division 2 Appendix 3, Division 2
form Calrecycle 100, Division 2 form
Calrecycle 106

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09/03/10 ADOPT: 31-021 AMEND: 31-003,
31-410, 31-501

08/26/10 AMEND: 40-188

08/26/10 AMEND: 44-211

08/26/10 ADOPT: 91-101, 91-110, 91-120,
91-130, 91-140

06/10/10 AMEND: 42-302, 42-712, 42-713

06/02/10 AMEND: 19-005

05/17/10 ADOPT: 31-021 AMEND: 31-003,
31-410, 31-501

05/17/10 AMEND: 44-211

05/10/10 AMEND: 11-425, 22-001, 22-003,
22-009, 45-302, 45-303, 45-304,
45-305, 45-306