



# California Regulatory Notice Register

REGISTER 2003, NO. 39-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

SEPTEMBER 26, 2003

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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.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order, call (916) 445-5391. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Room 104, Sacramento, CA 95814-0212.

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## PROPOSED ACTION ON REGULATIONS

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### TITLE 2. STATE ALLOCATION BOARD

#### NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD  
PROPOSES TO AMEND AND ADOPT THE  
FOLLOWING REGULATION SECTIONS, ALONG  
WITH ASSOCIATED FORMS, TITLE 2,  
CALIFORNIA CODE OF REGULATIONS,  
RELATING TO LEROY F. GREENE  
SCHOOL FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO REGULATION  
SECTIONS: 1859.2, 1859.51, 1859.103, 1859.106,  
AND 1859.145.1

REGULATION SECTIONS PROPOSED FOR  
ADOPTION: 1859.160, 1859.161, 1859.162,  
1859.162.1, 1859.163, 1859.164, 1859.164.1,  
1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168,  
1859.169, 1859.170, AND 1859.171

#### PROPOSED AMENDMENTS TO

*Enrollment Certification/Projection*, Form SAB 50-01  
(Revised 01/03), Referenced in Regulation Sec-  
tion 1859.2

*Application for Funding*, Form SAB 50-04 (Revised  
01/03), Referenced in Regulation Section 1859.2

#### PROPOSED ADOPTION OF

*Application for Charter School Preliminary Appor-  
tionment*, Form SAB 50-09 (New 01/03), Referenced  
in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend and adopt the above-referenced regulation sections, and associated forms, contained in Title 2, California Code of Regulation (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own

motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

#### AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amendments to and adoption of various regulation sections under the authority provided by Sections 17070.35 and 17078.64 of the Education Code. The proposals interpret and make specific reference to Sections 17071.75, 17072.13, 17078.52, 17078.53, 17078.54, 17078.56, and 17078.62 of the Education Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Leroy F. Greene School Facility Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facility of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. Assembly Bill 14, Chapter 935, Statutes of 2002, impacted the SFP by creating the Charter School Program.

There are amendments to five existing regulation sections. The amendments include clarifying language. However, existing Regulation Section 1859.2 provides additional specific terms essential to the regulations and Regulation Section 1859.145.1 provides additional funding for response action necessary for the clean-up of a site. This regulation section pertains to the Critically Overcrowded Schools (COS) program; however, it is addressed in the Charter School Program regulations because the statute states that the process for making preliminary apportionments shall be substantially identical to the process established for COS and if Charter Schools are eligible to receive the increased funding for toxic clean-up, it seems logical to amend the affected programs so as not to fragment the SFP.

There are 15 regulation sections that are being proposed adoption for purposes of incorporating the Charter School Program into the SFP. They are as follows:

Proposed adoption of Regulation Section 1859.160 instructs charter schools to file a specific form if seeking a preliminary apportionment for new school facilities construction.

Proposed adoption of Regulation Section 1859.161 specifies the timeframes for submitting applications for both the 2002 and 2004 bond issue elections.

Proposed adoption of Regulation Section 1859.162 sets forth the eligibility criteria for a preliminary apportionment for charter schools.

Proposed adoption of Regulation Section 1859.162.1 provides that charter schools that provide education curriculum in school districts that share common boundaries must file two forms requesting pupil grants that are specific to the type of school.

Proposed adoption of Regulation Section 1859.163 provides a collaborative effort between the Authority and the SAB in approving charter school applications for funding.

Proposed adoption of Regulation Section 1859.164 sets forth the specific criteria by which charter school applications must meet if the funding is over-prescribed.

Proposed adoption of Regulation Section 1859.164.1 sets forth the calculation of preference points denoted by specific categories.

Proposed adoption of Regulation Section 1859.165 provides the criteria necessary for the conversion from the preliminary apportionment to the final apportionment. Proposed adoption of Regulation Section 1859.166 provides specific timeframe requirements for preliminary apportionments.

Proposed adoption of Regulation Section 1859.166.1 specifies that a one-year extension may be requested under certain conditions.

Proposed adoption of Regulation Section 1859.167 sets forth the final apportionment funding process.

Proposed adoption of Regulation Section 1859.168 specifies that the preliminary apportionment once it is converted to a final apportionment is subject to the district matching share requirement and that the matching share requirement may be met through lease payments.

Proposed adoption of Regulation Section 1859.169 sets forth the eligible expenditures for the final apportionment, and establishes a specific date expenditures for construction are eligible based on the construction contract.

Proposed adoption of Regulation Section 1859.170 specifies that charter schools filing on their own behalf are subject to the same miscellaneous reporting requirements as school districts (i.e., Restricted Maintenance Fund, Exempt from the Specified Annual Deposit, Maintenance Plan, and Program Expenditure Audit).

Proposed adoption of Regulation Section 1859.171 provides school districts with options once a facility is no longer occupied by a charter school.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

#### ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the state.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

#### EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to the SAB for purposes of funding school facility projects.

#### SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via

U.S. mail, e-mail or fax, must be received at the OPSC no later than November 10, 2003 at 5:00 p.m. The express terms of the proposed regulation as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulation Coordinator

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

E-mail Address: [lisa.ones@dgs.ca.gov](mailto:lisa.ones@dgs.ca.gov)

Fax No.: (916) 445-5526

#### AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Dennis Boydston, at (916) 322-0327.

#### ADOPTION OF REGULATIONS

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

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

#### SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified

text will not be adopted without comply anew with the notice requirements of the Administrative Procedure Act.

#### RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

#### ALTERNATIVES

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

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

#### CONFLICT OF INTEREST CODES

#### AMENDMENT

#### MULTI-COUNTY:

El Dorado Irrigation District

A written comment period has been established commencing on **September 26, 2003** and closing on **November 10, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention Teri Rindahl, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **November 10, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

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

#### EFFECT ON HOUSING COSTS AND BUSINESSES

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

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as

submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

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

#### CONTACT

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

#### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

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

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3417, subsection (b), of the regulations in Title 3 of the California Code of Regulations pertaining to Mexican Fruit Fly Interior Quarantine as an emergency action that was effective on July 24, 2003. 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 21, 2003.

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 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before November 10, 2003.

INFORMATIVE DIGEST//POLICY  
STATEMENT OVERVIEW

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

This amendment of Section 3417(b) removed approximately 56 square miles surrounding the infestation in the South Pasadena area of Los Angeles County as the area under quarantine for Mexican fruit fly. The fly was eradicated from this area on July 13, 2003; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. There is also an approximate 117 square mile area surrounding the Valley Center area of San Diego County that will remain under quarantine for Mexican fruit fly. The effect of this amendment is to remove the authority for the State to regulate the movement of hosts of Mexican fruit fly from, into, and within the area under quarantine because the fly has been eradicated from that area and the quarantine is no longer necessary for the protection of California's agricultural industry. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND  
SCHOOL DISTRICTS

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

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

EFFECT ON HOUSING COSTS

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

EFFECT ON BUSINESSES

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

COST IMPACT ON REPRESENTATIVE PRIVATE  
PERSON OR BUSINESS

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

ASSESSMENT

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

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

REFERENCE

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

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

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

(916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

**INTERNET ACCESS**

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

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

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

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

**TITLE 3. DEPARTMENT OF PESTICIDE REGULATION**

Methyl Bromide Field Fumigation  
DPR Regulation No. 03-004

**NOTICE OF PROPOSED REGULATORY ACTION**

The Department of Pesticide Regulation (DPR) proposes to repeal and readopt section 6450, adopt sections 6450.1, 6450.2, 6450.3, and amend sections 6000 and 6784 of Title 3, California Code of Regulations (3 CCR). The proposed regulatory action pertains to the use of methyl bromide when used to fumigate soil prior to the planting of agricultural crops and focuses on mitigating possible acute (short-term) and subchronic (intermediate) methyl bromide exposure hazards to the public and agricultural employees.

DPR adopted permanent methyl bromide field fumigation regulations that became effective on January 14, 2001. DPR then adopted amendments to these regulations on April 8, 2002. However, the regulations were voided by a recent court decision (*Ventura County Agricultural Association vs. DPR*) on the grounds that DPR did not adequately consult with the California Department of Food and Agriculture

(CDFA) prior to noticing the regulations. DPR filed emergency regulations to repeal and readopt these regulations since it was necessary to maintain continuity and to ensure continued protection of the health and safety of workers and the public when methyl bromide is used for field fumigation. The emergency regulations became effective on September 22, 2002. While DPR reviewed new data and consulted with other agencies, some of which was required pursuant to a court settlement agreement in *Carrillo vs. DPR*, subsequent emergency regulations were refiled with the Office of Administrative Law (OAL) (effective on January 9, 2003, and May 21, 2003). The proposed regulatory action would make permanent methyl bromide field fumigation regulations.

**SUBMITTAL OF COMMENTS**

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on November 18, 2003. Comments regarding this proposed action may also be transmitted via e-mail <dpr03004@cdpr.ca.gov>.

Public hearings have been scheduled for the times and places stated below to receive oral comments regarding the proposed regulatory changes.<sup>1</sup>

DATE: November 14, 2003  
TIME: 1:00 p.m.  
PLACE: California Environmental Protection Agency Headquarters Building  
Coastal Hearing Room  
1001 I Street,  
Sacramento, California 95812

DATE: November 15, 2003  
TIME: 1:00 p.m.  
PLACE: Seaside Park  
Gem and Mineral Building  
10 West Harbor Boulevard  
Ventura, California 93001

DATE: November 17, 2003  
TIME: 6:00 p.m.  
PLACE: Salinas Community Center  
Sherwood Hall  
940 North Main Street  
Salinas, California 93906

A DPR representative will preside at the hearing. Persons who wish to speak will be asked to register before the hearing. The registration of speakers will be conducted at the location of the hearing from 12:30 to 1:00 p.m. in Sacramento and Ventura, and from 5:30 to 6:00 p.m. in Salinas. Generally, registered persons

<sup>1</sup> If you have special accommodation or language needs, please notify DPR. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded the opportunity to do so after the registered persons have been heard. If the number of registered persons in attendance warrants, the hearing officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard. Oral comments presented at a hearing carry no more weight than written comments.

#### EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Methyl bromide is a pesticide commonly used in agriculture. Methyl bromide is a gaseous fumigant used to treat soil before planting vegetable, fruit and nut crops, and flower and forest nurseries. Depending on the crop, field applications may occur annually, or once every several years. Methyl bromide is injected into the soil with specialized application equipment that lays tarpaulins over the ground to minimize off-gassing for several days. Methyl bromide is also used in other settings not covered by this rulemaking action. For example, after harvest, methyl bromide fumigation is used to protect crops from pest damage during storage and transportation. The fumigant is also used for quarantine pest control; termite eradication in homes and other structures; and to control insects in mills, ships, railroad cars, and other transportation vehicles.

Methyl bromide exposure may produce harmful effects on people. Exposure results from inhalation or absorption through the skin. Despite its potential to cause harmful effects to humans, methyl bromide still remains one of the most widely used pesticides in the world due to its outstanding efficacy against a broad range of pests and the lack of effective alternatives.

Methyl bromide is listed as a restricted material in 3 CCR section 6400(d). Possession and use of methyl bromide for agricultural production purposes are allowed only under a permit from the local county agricultural commissioner (CAC). Before issuing a permit, the CAC must evaluate the permit application to determine whether the intended use may cause a substantial adverse environmental impact based on local conditions at the application site. Depending on the results of this review, the CAC may deny the permit or impose permit conditions including the use of specified mitigation measures. In evaluating permit applications, CACs consider and, where appropriate, use information provided by DPR. For methyl bromide, DPR provides this information as suggested permit conditions. The suggested permit conditions provide mitigation measures the CAC can use and are

based on DPR's analysis of available data. CACs can impose more stringent mitigation measures than in the suggested permit conditions based on the local conditions at the application site.

In 3 CCR, there are regulations pertaining to the field fumigation use of methyl bromide. In late December 2000, DPR adopted regulations focused upon mitigating possible acute (short-term) methyl bromide exposure hazards to the public and agricultural employees. Suggested permit conditions formed the foundation upon which the regulations were based.

The regulatory action amended sections 6000 (Definitions), 6450 (Chloropicrin and Methyl Bromide-Field Fumigation), and 6784 (Field Fumigation); and added sections 6450.1 (Notification Requirements), 6450.2 (Buffer Zone Requirements), and 6450.3 (Fumigation Methods). In addition to amending use restrictions and general safe-use requirements for field fumigations, new provisions that were not contained in suggested permit conditions were added. These provisions include submission of a work site plan at the time a property operator applies for a restricted materials permit, notification to neighboring property operators prior to a fumigation, extra protection for children in schools, establishment of minimum buffer zones, and new limits on work hours for fumigation employees. OAL approved the regulations DPR adopted in December 2000, and they became effective on January 14, 2001.

DPR subsequently adopted emergency methyl bromide field fumigation regulations on June 27, 2001, to amend sections 6450.2 and 6450.3(a)(1)(C)2 to provide an immediate and effective mechanism to implement appropriate mitigation measures to protect workers from acute methyl bromide exposure hazards. The regulations that became effective on January 14, 2001, had prohibited inner buffer zones from extending onto public roadways. However, DPR determined the minimal methyl bromide exposure to people traveling along roads did not warrant the restrictions. The impact of this restriction resulted in agricultural acreage being divided into smaller application blocks to be treated over several days over a longer period of time. By increasing the number of field fumigations, fumigation handlers were potentially at greater risk of acute methyl bromide exposure hazards due to the increased need to disassemble application equipment prior to transporting the equipment to the next application site. The emergency regulations allowed the inner buffer zone to extend into public roadways upon commissioner approval and corrected an improper application equipment configuration. The emergency regulations were readopted on October 25, 2001.

On February 22, 2002, DPR filed a certificate of compliance with OAL to make the emergency regulations permanent. These regulations became effective on April 8, 2002. That regulatory action also amended section 6784(b), exempting employees involved in fumigation-handling activities from maximum work-hour restrictions if National Institute for Occupational Safety and Health (NIOSH)-certified respiratory protection specifically recommended for use in atmospheres containing less than five parts per million (ppm) methyl bromide is worn for the entire duration of the fumigation-handling activities. Like the regulations that became effective on January 14, 2001, these regulations focused on mitigating possible acute (short-term) methyl bromide exposure hazards to the public and agricultural employees.

In 2002, a San Francisco Superior Court Judge ruled in *Ventura County Agricultural Association v. DPR* (consolidated with *Environmental Defense Center v. DPR*) that DPR did not adequately consult with CDFG on the development of the methyl bromide regulations as required by law and a 1992 memorandum of agreement. As a result, the court voided the regulations prompting the need to fulfill the consultation requirements with CDFG and readopt the regulations. Although DPR disagrees with the judge's ruling that it failed to consult adequately with CDFG before finalizing the methyl bromide regulations that became effective on January 14, 2001, in the interest of expediency, DPR decided not to appeal the ruling.

At the same time, DPR was in the process of settling another case involving methyl bromide, *Carrillo vs. DPR and Monterey County Agricultural Commissioner*. DPR agreed to review and consider the regulation of subchronic methyl bromide exposure when repromulgating the methyl bromide field fumigation regulations. The repromulgation would be needed because of the *Ventura County Agricultural Association* case, which voided the existing regulations. Because of the additional review and consultation duties that resulted from the *Carrillo* case settlement agreement, DPR filed emergency regulations with OAL (OAL File No. 02-0910-01E) before the stay of the Court's order expired on September 23, 2002. The emergency regulations became effective on September 22, 2002. DPR readopted the emergency regulations (OAL File No. 03-0109-01EE), which became effective on January 21, 2003, as additional air monitoring results from the 2001 use season and new subchronic toxicity studies that potentially could be used to support the permanent regulations were under review.

DPR conducted risk assessments to address the potential risk associated with human exposure to methyl bromide in California. After peer reviewing the draft *Methyl Bromide RCD* (DPR, 1999), the National

Research Council subcommittee recommended additional studies, in particular a new subchronic toxicity study, and exposure monitoring to better characterize the risk. In 2002, DPR finalized the *Methyl Bromide Risk Characterization Document For Inhalation Exposure* (DPR, 2002) in response to the recommendations made by NRC. It included the data from ambient air monitoring conducted in several counties in 2000 and 2001 during high use periods. Further, DPR staff prepared a document entitled *Methyl Bromide Risk Characterization Document For Inhalation Exposure Addendum to Volume I* (DPR, 2003), which is an addendum to the completed risk assessment and reviews all data received to date, including a newly submitted subchronic toxicity study. The newly submitted study was reviewed by scientists from the University of California.

After completion of the Addendum, on February 26, 2003, DPR held a public workshop to present staff analysis on subchronic exposure levels to methyl bromide. DPR solicited public comments on an appropriate target value for subchronic exposures. After the workshop, DPR requested an additional toxicology review from the U.S. Environmental Protection Agency (U.S. EPA). After consideration of all the comments and reviews, DPR scientists have recommended the subchronic exposure levels of 16 parts per billion (ppb) for adults, and 9 ppb for children. These target levels will provide an adequate margin of safety for human subchronic exposure to methyl bromide. The DPR target level for acute exposure is 210 ppb (24-hour time-weighted average)—the same target level used to develop the current emergency methyl bromide field fumigation regulations. (The documents used to support the current regulations refer to the concentration level of 0.21 ppm. The 0.21 ppm is equivalent to 210 ppb, and will hereafter be referred to as 210 ppb).

In addition to the toxicology study evaluations, DPR staff analyzed the 2000 and 2001 methyl bromide air monitoring data, and established some empirical relationships between the ambient air concentration and the field fumigation use of methyl bromide in certain areas and periods. The air monitoring and DPR's analysis was discussed at a public workshop on June 28, 2002.

DPR consulted with other state agencies, air pollution control districts, CACs, and the University of California to determine if mitigation measures should be considered to protect the public and agricultural employees from possible subchronic methyl bromide exposure hazards. Because of this extensive review and consultation process, some of which is required pursuant to the settlement agreement in the *Carrillo* case, it was necessary for DPR to readopt the

emergency regulations that are the currently in effect. The readopted emergency regulations became effective on May 21, 2003.

The proposed action would permanently adopt methyl bromide field fumigation regulations focusing on mitigating possible acute and subchronic methyl bromide exposure hazards to the public and agricultural employees.

The “shaded areas” of the proposed text show language that is not in the existing emergency regulations and are being provided as a convenience to the reader.

#### 6000. Definitions.

This section contains proposed definitions for “application block” and “buffer zone.” These definitions are needed for the proposed regulatory action.

#### 6450. Chloropicrin and Methyl Bromide-Field Fumigation.

Methyl bromide may be used singly or in combination with chloropicrin or other pesticides. These regulations pertain to field soil fumigation use requirements using methyl bromide and are intended to mitigate exposures to methyl bromide used during field fumigations.

Proposed section 6450 specifies what is required in a proposed work site plan and what information a CAC shall include when conditioning a permit to use methyl bromide. The section also includes limits on the size (acreage) of an application block and specifications for the tarpaulins that are often used in field fumigations.

Proposed section 6450 clarifies that field fumigation does not apply to golf courses, tree holes, potting soil, greenhouses, and other similar structures. The proposed regulatory action focuses upon preplant field soil fumigations pertaining to the production of agricultural commodities. Greenhouse, golf course, potting soil, tree hole fumigations, and raised-tarpaulin nursery fumigations of less than one acre may be addressed in future regulatory actions. In addition, since the definition for “field” in section 6000 includes greenhouses, this statement is needed for consistency. Proposed section 6450 also clarifies and defines certain employee tasks that are considered “fumigation handling activities.” This means employees involved in assisting with covering the tarpaulin at the end of the rows (shoveling); observing the overall operation, checking proper tarpaulin placement, changing cylinders (copiloting); operating application equipment (driving); tarpaulin cutting; and tarpaulin removal prior to the expiration of the restricted entry interval.

Subsection (a) pertains to a proposed work site plan. The operator of the property where the fumigation will take place shall provide a proposed work site plan to

the CAC for evaluation at least seven days prior to submitting a notice of intent. Subsection (a) specifies what is to be included in the proposed work site plan and that the plan shall be retained by the CAC for one year after permit expiration.

Proposed subsection (b) states that the CAC, pursuant to section 6432 (Permit Evaluation), shall evaluate local conditions and the proposed work site plan.

Proposed subsection (c) specifies the information CACs shall include when “conditioning” a permit. The permit conditions shall include buffer zone requirements, work hour restrictions, notification requirements, any other restrictions to address local conditions, and if applicable, a description of the tarpaulin repair response plan and tarpaulin removal. The CAC evaluation and conditioning of the permit is to be completed before the permittee submits a notice of intent.

Proposed subsection (d) limits the size of an application block to 40 acres.

Proposed subsection (e) specifies permeability factors for tarpaulins used in fumigations. Tarpaulins meeting specified gas-retention standards are added to a list of DPR-approved tarpaulins maintained by the Department. This list is available from DPR.

Proposed subsection (f) requires that tarpaulins shall be buried under at least four inches of firmly packed soil at the ends of the rows and remain in place for the time specified in proposed section 6450.3.

Proposed subsection (g) states that fumigation equipment is to be operated to eliminate pesticide drip by clearing the fumigant from the injection device before it is lifted from the soil.

Proposed subsection (h) limits that amount of methyl bromide that can be applied in any calendar month to 270,000 pounds in any township.

#### 6450.1. Methyl Bromide Field Fumigation Notification Requirements.

Proposed section 6450.1 incorporates into regulation specific notification requirements pertaining to methyl bromide field fumigations. It covers notification requirements for property operators prior to fumigation of their property. DPR has specified time frames for notification of the CAC and neighboring property operators prior to a fumigation.

Proposed subsection (a) “Notification to the Commissioner,” specifies what information a restricted materials permit holder must provide to the CAC and when it must be provided. A permittee would be required to notify the CAC at least 48 hours prior to fumigating a property and provide the hour the fumigation is intended to commence along with the information specified in section 6434(b). Subsection (a) also would require that a new notice of intent be

submitted to the CAC if the fumigation does not commence within 12 hours of the intended starting time specified on the original notice of intent. However, the 48-hour requirement does not apply unless required by the CAC. In addition, this subsection contains notification provisions for multiple application blocks that are to be fumigated sequentially.

Proposed subsection (b) is entitled "Notification to Property Operators." Subsection (b) would require the operator of the property to be treated to assure that operators of specified properties within 300 feet from the outer buffer zone perimeter are notified that a permit has been issued by the CAC. The specified properties are those that contain schools, residences, hospitals, convalescent homes, onsite employee housing, or other similar sites identified by the CAC.

Notification shall be in writing, or by other means approved by the CAC. The operator of the property to be treated shall assure that notification is delivered at least seven days prior to the submission of the notice of intent. The content of the notification is to include the name of the chemical(s) to be applied, the name, business address, and telephone number for both the operator of the property to be treated and local CAC, the earliest and latest dates that the fumigation will start, and how to request subsequent notification of the specific date and time of the fumigation.

For the notified persons that subsequently request specific fumigation information, the operator of the property to be treated shall provide it to them at least 48 hours prior to starting the fumigation. If a request for specific notification is received after the submission of the notice of intent and before the fumigation begins, the specific fumigation notification shall be provided prior to starting the fumigation, but the 48-hour requirement shall not apply.

#### 6450.2 Methyl Bromide Field Fumigation Buffer Zone Requirements.

Proposed section 6450.2 incorporates into regulation specific information pertaining to buffer zones. It establishes minimum buffer zone distances and durations, limits activities that can occur in a buffer zone, and includes special protections for schools.

Proposed subsection (a) states that the CAC shall approve buffer zone sizes and durations based upon local conditions. The CAC shall rely upon the information provided in *Methyl Bromide Field Fumigation Buffer Zone Determination, Est. 6/03*, to condition restricted material permits unless the CAC determines, based on other information, that deviation from the information provided can be made in a way that assures equal or less exposure. The CAC shall consult with the director prior to approving any deviation resulting in buffer zone sizes or durations

less than specified in the *Methyl Bromide Field Fumigation Buffer Zone Determination, Est. 6/03*. At no time shall the inner buffer zone be less than 50 feet, and the outer buffer zone be less than 60 feet, or the buffer zone durations be less than 36 hours. The document entitled, *Methyl Bromide Field Fumigation Buffer Zone Determination, Est. 6/03*, is being incorporated by reference and is available from the Department upon request.

Proposed subsection (b) specifies how a buffer zone shall be measured. Buffer zone distances are measured from the perimeter of the application block.

Proposed subsection (c) states that buffer zones shall begin at the start of fumigation. The buffer zone restrictions shall remain in effect for at least 36 hours after the completion of the injection to the application block.

Proposed subsection (d) specifies two buffer zones—an inner and outer—to be determined by the CAC after the proposed work site plan is submitted. These zones can be visualized as concentric rings around an application block.

Proposed subsection (e), entitled "Inner Buffer Zone Restrictions," specifies that an inner buffer zone shall be at least 50 feet. Activities in an inner buffer zone are limited to fumigation handling activities and transit through the zone.

An inner buffer zone shall not extend into adjoining property unless certain requirements are met. The property must be an agricultural property and the adjoining property operator must give written permission and allow the operator of the property to be treated to post the inner buffer zone on the adjoining property with signs. With approval from the CAC, the inner buffer zone may extend across sites only where transit activities may occur, including streets, roads, roads within agricultural property, highways, and other similar means of travel. If the CAC is not convinced that possible access by road crews and utility workers will not be a problem, he/she can disapprove the extension of the inner buffer zone across the site.

Proposed subsection (f), entitled "Outer Buffer Zone Restrictions" specifies that an outer buffer zone shall be at least 60 feet. Only fumigation handling, transit, and CAC-approved activities would be allowed in an outer buffer zone while it is in effect. CAC-approved outer buffer zone activities must be identified in the restricted material permit conditions and cannot exceed 12 hours in a 24-hour period. The outer buffer zone may extend into adjoining property with the permission of the adjoining property operator. In no instances shall the outer buffer zone contain occupied residences or occupied onsite employee housing while the outer buffer zone is in effect. The outer buffer zone shall not extend into properties that contain schools, convalescent homes, hospitals, or

other similar sites determined by the CAC. The outer buffer zone may extend across roads, highways, or similar means of travel or sites approved by the CAC.

Proposed subsection (g) requires that the operator of the property to be treated shall assure that the operator of the other specified properties into which a buffer zone may extend notify onsite employees, including those of a licensed pest control business or farm labor contractor, that a buffer zone(s) has been established on the property. The notice to employees shall be given prior to the commencement of the employee's work activity. Notification to farm labor contractor employees may be done by giving written notice to the farm labor contractor who shall then give the notice to the employee.

Proposed subsection (h) requires that if the operator of the other property notifies his/her employees as specified in (g), then the operator of the property to be treated shall assure that specific notification of the date and time of the start of the fumigation and anticipated expiration of buffer zones is provided to the other property operator. This specific fumigation notification shall be provided to the other property operator at least 48 hours prior to starting the fumigation.

Proposed subsection (i) states that when a school property is within 300 feet of the perimeter of the outer buffer zone, the injection shall be completed 36 hours prior to the start of a school session. School session shall be those times when students are attending scheduled classes. It is not intended to include times before or after school, or on evenings, weekends, or holidays during which people may be present on the school grounds for educational, extracurricular, administrative, maintenance, or community activities.

#### 6450.3 Methyl Bromide Field Fumigation Methods.

Proposed section 6450.3 lists the allowable methods of soil field fumigation, the requirements for each, and some general restrictions.

Proposed subsection (a) lists, on a method-by-method basis, the field soil fumigation methods that will be allowed. For each method, DPR has included application rates, equipment specifications, tarpaulin cutting and removal times (if applicable), and restricted entry intervals. An exception to the restrictions of this section is allowed for experimental research purposes covered under a valid research authorization issued pursuant to section 6260.

Notwithstanding section 6770, proposed subsection (b) would restrict persons entering an application block before the restricted entry interval expires except to perform tarpaulin cutting, removal, and repair as described in section 6784(b)(4) and (5). This proposed action would further reduce potential exposure to fumigation handlers.

#### 6784. Field Fumigation.

Proposed section 6784 includes employer record-keeping requirements, limits on work hours for employees involved in those activities, and procedures for tarpaulin cutting, removal, and repair.

Current subsection 6784(a) has been relocated to subsection (b)(2)(B).

Proposed subsection (a) states that signs required be posted in accordance with section 6776(f) shall remain in place until aeration is complete.

The introductory sentence in subsection (b) clarifies that the subsection pertains to field soil fumigations in which methyl bromide is used singly or in combination with chloropicrin or any other pesticide or warning agent pursuant to the fumigation methods described in section 6450.3.

Proposed subsection 6784(b)(1) states that the employer shall maintain records for all employees involved in application, tarpaulin cutting, tarpaulin repair, and tarpaulin removal activities. The records shall identify the person, work activity(ies), date(s), duration of handling, the U.S. EPA Registration Number, and the brand name of the methyl bromide product handled. The employer shall maintain these use records at a central location for two years.

Proposed subsection 6784(b)(2)(A) specifies that shovelers (employees that cover the edges of the tarpaulins with soil at the end of the treatment rows) are allowed to work only at the ends of the application rows unless respiratory protection specified in 6487(b)(6) is worn. Subsection (b)(2)(B) requires that two employees be present during introduction of the fumigant and during removal of the tarpaulins.

Proposed subsection 6784(b)(3) specifies work hours and workdays limitations. This subsection includes two tables, Table 1—Maximum Work Hours, and Table 2—Maximum Work Hours in a Maximum Three (3) Workdays per Calendar Month. These tables list the maximum employee work hours in a 24-hour period, during the injection period and the restricted entry interval for various methods of applications.

Proposed subsection 6784(b)(4)(A) requires that unsealing of tarpaulins be discontinued at any time if the presence of gas is readily evident. This is evidence by onset of eye irritation or odor.

Proposed subsection 6784(b)(4)(B) covers the cutting procedures required in tarpaulin broadcast fumigations. Only mechanical methods (all-terrain vehicle or tractor with a cutting wheel) can be used and tarpaulin panels must be cut lengthwise.

In proposed subsection 6784(b)(5), DPR is requiring property operators to provide a "tarpaulin repair response plan" to the CAC. The tarpaulin repair response plan is to be approved by the CAC in the work site plan and must state with specificity the situations when tarpaulin repair must be conducted.

The situations should be based on, but not limited to, hazard to the public, residents, or workers; proximity to occupied structures and size of the damaged area(s); timing of damage; feasibility of repair; and environmental factors such as wind speed and direction. In addition, a certified applicator of the licensed pest control business, using a testing device as specified by the pesticide product labeling, must test the ambient air in the areas in which tarpaulins are to be repaired. Self-contained breathing apparatus must be worn when conducting these tests. During repair activities, employees must wear respiratory protection if there is five ppm or greater methyl bromide concentration in the work area. If there is less than a five ppm methyl bromide concentration, respiratory protection is not required, but employees involved in tarpaulin repair activities are limited to one work hour in a 24-hour period unless respiratory protection specified in subsection 6784(b)(6) is worn.

Proposed subsection 6784(b)(6) would require fumigation handlers to wear NIOSH-certified respiratory protection specifically recommended by the manufacturer for use in atmospheres containing less than five ppm methyl bromide, if required by section 6784. Fumigation handlers would be required to wear the required respiratory protection during the entire duration of the fumigation-handling activity and any requirements for respiratory protection on the product label shall not be superceded by this regulation. NIOSH-approved, air-supplying respiratory protection could be used in lieu of chemical cartridge respirators.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code, because the regulatory action does not constitute a "new program or higher level of service of an existing program" within the meaning of section 6 of Article XIII of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts are expected to result from the proposed regulatory action.

CAC offices will be the local agencies responsible for enforcing the proposed regulations. DPR anticipates that there will be no fiscal impact to these agencies because CACs will be following the same permit evaluation process that is currently performed. CACs already approve buffer zones during this permit evaluation process pursuant to section 6450.2(d). Processing permit applications falls under the current pesticide enforcement program that includes a negotiated work plan. DPR negotiates with the CACs an annual work plan for enforcement activities.

#### COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

#### EFFECT ON FEDERAL FUNDING TO THE STATE

DPR has determined that no costs or savings in federal funding to the State will result from the proposed action.

#### EFFECT ON HOUSING COSTS

DPR has determined that the proposed action will have no effect on housing costs.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. However, there will be additional economic impacts beyond that already incurred by businesses since the regulations were initially adopted.

DPR made its economic impact determination based upon two economic impact assessments performed by the California Environmental Protection Agency's (Cal/EPA's) Agency-Wide Economic Analysis Unit. The economic impact assessments are listed in the "Documents Relied Upon" section of the Initial Statement of Reasons for this proposed regulatory action and are available from DPR.

After noticing the originally proposed text for the initial regulatory proposal on January 10, 2000, DPR received and considered many comments and subsequently incorporated some of them into modified texts. Comments received during the first and second 15-day public comment periods for the modified texts confirmed that the changes would make the regulations less burdensome to affected private persons or businesses than the regulations as originally proposed. The modifications became effective in January 2001.

Growers who use methyl bromide for field soil fumigation prior to planting agricultural crops have incurred new restrictions on the use of this pesticide since DPR's regulations became effective on January 14, 2001. Pest control businesses that apply methyl bromide as a field soil fumigant have also been impacted. The economic impacts include a reduction in the number of allowable methyl bromide application methods, larger buffer zone areas surrounding methyl bromide application sites, new provisions pertaining to notification of adjoining property operators prior to a fumigation, and limits on work hours for fumigation handling employees. In addition, operators

of properties to be fumigated have had to complete and submit to their local CAC a work site plan at least seven days prior to submission of the notice of intent.

Some businesses (growers) have incurred a significant adverse economic impact because they cannot provide the required buffer zones. These are primarily growers with smaller fields, those located near sensitive areas, those who must use methods with larger buffer zone requirements, those that cannot secure permission from neighbors for an extension of a buffer zone onto adjoining property, and those that cannot use one of the available substitutes. Even those that incurred a significant impact the first year of the regulation will probably be more seriously affected by the federal methyl bromide phaseout that began in 2001. DPR cannot predict the proportion of growers that will be significantly affected.

Some growers may not have incurred a significant adverse economic impact because they have untreated land available to serve as a buffer zone, they can use application methods with lower buffer requirements, and apply in the off-peak application season.

DPR assumed at the time the first economic impact assessment was conducted that commercial applicators would pass on some additional application costs to growers. In addition, DPR assumed that the acreage treated in California would be determined by the amount of methyl bromide available in the market, so the regulation would not reduce the acreage treated by the commercial applicators.

Cal/EPA's Agency-Wide Economic Analysis Unit prepared a second economic impact assessment for the methyl bromide regulations DPR adopted in April 2002. The amendments adopted at that time substantially mitigated the impact of the previous regulations to directly affected businesses.

The second Cal/EPA economic impact assessment indicated that two provisions of the regulations noticed on December 14, 2001, would reduce compliance costs to those applying methyl bromide by reducing the number of treatment days required. The regulation allowed inner buffer zones to extend across roadways and exempt workers equipped with NIOSH-certified respirators from restrictions on the time they spend applying methyl bromide. Data limitations precluded an estimate of the amount of reduced compliance costs.

Under the regulations that became effective on January 14, 2001, the inner buffer zone could extend across property lines if the adjoining land was agricultural and the owner gave permission. If the land had other uses, was a public roadway, or the owner did not give permission, the buffer zone could not extend beyond the property line. That increased the amount of field area that fell within the minimum buffer zone. The grower would then have to determine which was

more costly—leaving the area untreated or building up the buffer zone with a series of treatments over several days.

DPR has tables within the suggested permit conditions that relate treated area and amount of methyl bromide used to determine the size of the buffer zones required. These tables have a minimum buffer zone, which is 50 feet for the inner buffer zone, for each main application method. To minimize untreated land, applicators select the largest initial treatment area that would result in a buffer zone of the minimum size. The initial area treated can then be used as buffer zone for later treatments, so the area treatable in one day can be increased. The tables will be incorporated by reference in the proposed regulations in the document, *Methyl Bromide Field Fumigation Buffer Zone Determination, Est. 6/03*.

Allowing the inner buffer zone to extend across roadways could dramatically reduce the amounts of acres left untreated and reduce the number of treatment days. If the land across the roadway from the property to be treated was also agricultural, the buffer zone could be made large enough that no land would be left untreated and the area that qualifies as an isolated block ceases to constrain the area treated in one day.

The regulations prior to April 8, 2002, also restricted the number of hours crews could apply methyl bromide. This limited the maximum number of acres the crews could treat in a day. If the field was larger than the allowable number of acres, the crew had to return another day to complete the treatment or additional crews had to be brought in. The post-April 8, 2002, regulation exempted workers from the time restrictions if they were equipped with a certain type of respirator.

The number of acres a crew could treat in one day would be determined by the application method and the size of the treatment block allowed, given the available buffer zones. By simultaneously relaxing the two constraints of buffer zone restrictions and work hour limitations, application workers could complete a field fumigation with fewer trips and with less land left untreated. Crews completing a fumigation in one day could also move to another field the same day, which was less likely to occur under the regulations that became effective on January 14, 2001.

After those regulations became effective, DPR received reports of a 10 to 30 percent increase in the number of treatment days. However, DPR does not know how much of this increase was due to the inability to extend buffer zones across roadways, the inability to extend the buffer zones into nonagricultural property, instances where neighbors refuse to allow the extension across property lines, or where worker daily hour limitations limit application times.

DPR also does not know in how many cases the inability to extend the inner buffer zones results in applicators being unable to treat an entire field. Consequently, the number of growers that will benefit from the regulations adopted on April 8, 2002, is unclear.

Application companies should observe a net decrease in costs for performing methyl bromide fumigations, due to reduced labor costs and a lower equipment cost as rigs are not left idle. However, some of this cost reduction would be offset when applicators purchase the more expensive compliant respirators. Some of these cost reductions would be passed on to growers in the form of lower fees charged by the applicators. Growers would benefit from increased yields in parts of their fields as the amount of area left untreated decreases.

The proposed regulation limits the amount of methyl bromide used in any township in any calendar month. Since no township had a monthly use level that exceeded the reference concentration levels in 2001, and with the continuing federal phaseout of methyl bromide, DPR does not anticipate this mitigation measure to impact businesses.

In March 2002, the University of Davis, Department of Agricultural and Resource Economics, completed an economic analysis entitled *Economic Analysis of the Effects of the January 2001 DPR Methyl Bromide Fumigation Regulations on the California Strawberry Industry*. This is listed in the "Documents Relied Upon" section of the Initial Statement of Reasons. This document provides an analysis of the economic effects of the regulations implemented in January 2001.

No other less burdensome alternatives were received, identified, or evaluated in response to DPR's subsequent regulations that were noticed on December 14, 2001, and then adopted on April 8, 2002.

Since then, DPR has not identified or received any proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following considerations:

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

#### IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS

DPR has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

DPR previously determined that the regulation originally noticed on January 10, 2000, would impose a significant economic impact on some application workers but not adversely affect the creation or elimination of jobs. The worker schedule restrictions would limit the number of hours trained application workers could remain in the fields in a 24-hour period. For some application methods, the decrease could be by more than one-half of their current daily work hours. Commercial applicators would then have to recruit more workers and redistribute work hours to them. Thus, even if there were no net decrease in the total number of labor hours demanded, some workers would be adversely affected by the redistribution. There would be no change in the number of full-time jobs, as the newly-recruited application workers would be transferred from other application activities. Most likely some workers would see additional hours available to them.

For the subsequent regulations that became effective on April 8, 2002, DPR stated that if the regulation did reduce the number of additional days required to treat fields with methyl bromide, there would be a reduction in the number of worker hours needed to transport, assemble, and disassemble equipment. This might represent a decrease in income for the workers performing these tasks. However, the reduction was not expected to be large enough to result in a significant adverse economic impact on workers. Moreover, the regulation might allow application companies to reduce the amount of time their application rigs were used on each field treated with methyl bromide. The companies might be able to find additional application jobs, in which case the workers might not observe any decrease in work hours. Many of the workers involved in the transport could be workers whose time spent applying methyl bromide is limited by the existing regulations. These workers would be able to spend more of their time in the higher paying application tasks rather than transporting equipment.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

For the regulation noticed on January 10, 2000, DPR had determined that it was a "major regulation" as defined in Health and Safety Code section 57005. A major regulation is any Cal/EPA regulation that will

have an economic impact of more than \$10 million on California business. The Cal/EPA economic impact assessment estimated the first-year cost of the regulation at around \$16 million. Due to data limitations, several strong assumptions were required in order to develop adjustments to the estimate. The economic impact assessment addressed these assumptions and the adjustments made to the estimates, as well as the overall reliability of the estimate.

Due to the continuing federal phaseout of methyl bromide, the regulation was expected to impose significantly lower costs in subsequent years. Beginning in 2001, the supplies available in the U.S. would be 50 percent of the 1991 level. DPR felt it was likely that few growers would be able to secure sufficient supplies to treat their entire planned acreage. Acreage that cannot be treated due to the reduced supply could then be used to satisfy buffer zone requirements. Estimates of the acreage required to satisfy the inner buffer zone amounted to about 14 percent of acreage treated from 1995–98. Given the magnitude of the supply reduction, the amount of untreatable acreage could be much higher. Thus, growers were expected to face reduced costs of satisfying the inner buffer zone requirement beginning in 2001. Growers would continue to face the costs of notification and additional partial treatments.

For the regulations noticed on December 14, 2001, and then adopted on April 8, 2002, DPR made an initial determination that their adoption would not have a significant cost impact on representative private persons or businesses. DPR determined that no businesses were expected to incur a significant adverse economic impact. DPR determined that there would be a significant reduction in compliance costs to those applying methyl bromide to agricultural fields. Allowing applicators to extend the “inner” buffer zone across roadways should reduce the number of sequential partial treatments required to treat a field, which would reduce the labor cost of transporting, assembling, and disassembling application equipment. Some of the cost reduction would be passed through to growers in the form of lower application fees. Growers could also benefit from more timely applications if the proposed regulation reduces the amount of time rigs are used to treat each field.

The extent of potential compliance cost reductions would depend on individual field characteristics, such as size, distance to roadways, and the presence of sensitive sites. The absence of data on these characteristics precluded an estimate of the amount of reduced compliance costs.

The proposed regulation would require the use of respiratory protection, in most cases, if an employee who performs fumigation-handling activities works more than three days in a calendar month. Equipping

workers with the compliant chemical cartridge respirators would cost about \$25 per worker per day. The total cost per day would depend on crew size, which varies by field size and the application method being used. Under the previously adopted regulations, the applicators could choose to use the respiratory protection equipment when the equipment cost is less than the cost of having to return to the field another day to complete the treatment. As an option, the proposed regulations provides the use of air-supplying respiratory protection in lieu of chemical cartridge respirators. Although the initial cost of this type of respiratory protection may be higher, over a period of time it may be more cost effective.

The use of respiratory protection for potentially all handlers of methyl bromide will trigger the requirements of 3 CCR section 6738(h). Since methyl bromide handlers will, in most cases, be required to wear NIOSH-approved respiratory protection, they must fulfill the section 6738(h) requirements of training, fit testing, cleaning and disinfecting, and medical review. Though the tractor driver and the copilot of a methyl bromide application crew may already be required to wear respiratory protection in some instances (hence already in compliance with section 6738), the proposed regulations draw all other associated crew members (i.e., shovelers, tarpaulin cutters and removers, etc.) into the respirator requirements. This will require an additional cost in training and outfitting these workers.

#### CONSIDERATION OF ALTERNATIVES

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

#### AUTHORITY

This regulatory action is taken pursuant to the authority vested by Food and Agricultural Code sections 11456, 12976, 12981, 14005, 14102, and 11502.

#### REFERENCE

This regulatory action is to implement, interpret, or make specific Food and Agricultural Code sections 11501, 12981, 14006, and 14102.

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

DPR has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial

Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

#### AGENCY CONTACT

Written comments about the proposed regulatory action, requests for a copy of the Initial Statement of Reasons and/or the proposed text of the regulation, and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator  
Office of Legislation and Regulations  
Department of Pesticide Regulation  
P.O. Box 4015  
Sacramento, California 95812-4015  
(916) 445-3991

Questions on the substance of the proposed regulatory action may be directed to:

Randy Segawa, Sr.  
Environmental Research Scientist  
Environmental Monitoring Branch  
Department of Pesticide Regulation  
(916) 324-4137

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

## TITLE 5. BOARD OF EDUCATION

### NOTICE OF PROPOSED RULEMAKING

#### Standardized Testing and Reporting Program

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

The State Board will hold a public hearing beginning at 10 a.m. on November 10, 2003, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on November 10, 2003**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, California 95814  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone: (916) 319-0641  
FAX: (916) 319-0155

#### AUTHORITY AND REFERENCE

Authority: Sections 12001, 33031 and 60605, Education Code.

Reference: Sections 60615, 60640, 60642, and 60642.5, Education Code; 20 USC Section 6311.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Education Code section 60605(f) states, "The State Board of Education shall adopt regulations for the conduct and administration of the testing and

assessment program.” Section 60605(g) requires the State Board of Education to adopt a regulation for minimum-security procedures to ensure the security and integrity of test and assessment questions and materials.

The purpose of these amended regulations is to modify regulations previously adopted by the State Board of Education to:

- Conform to legislative changes in the California Education Code.
- Expand and clarify sections related to ensuring the security and integrity of test and assessment questions and materials where the lack of clarity has resulted in security breaches.
- Replace terms that are no longer used in the Program.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

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

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

Adoption of these regulations will not:

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

Significant effect on housing costs: None.

Affect on small businesses: The proposed regulations will have no effect on small businesses because they only apply to local educational agencies.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying

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

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

**CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Lownes, Consultant  
 Standards and Assessment Division  
 California Department of Education  
 1430 N Street, 5<sup>th</sup> Floor  
 Sacramento, CA 95814  
 E-mail: [lownes@cde.ca.gov](mailto:lownes@cde.ca.gov)  
 Telephone: (916) 445-9441

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0584.

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

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board 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, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

**TITLE 5. SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

NOTICE OF PROPOSED RULEMAKING

Regional Market Rate—Child Care and  
Development Programs

The State Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The Superintendent will hold a public hearing starting at 10:00 a.m. on November 18, 2003 at 1430 N Street, Room 1103, Media Center, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Superintendent requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period closes at **5:00 p.m. on November 11, 2003**. The Superintendent will only consider written comments received by the Regulations Adoption Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the Superintendent's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, California 95814  
Telephone: (916) 319-0641  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)

AUTHORITY AND REFERENCE

Authority: Sections 8222, 8261, 8263, 8265, 8265.5, and 8269.

Reference: Sections 8208(e), (1), (x); 8220, 8222, 8263, 8265, 8266.5, 8269, 8354, 8357, and 8461, Education Code.

INFORMATIVE DIGEST AND POLICY  
STATEMENT OVERVIEW

The 2003–2004 Budget Act directs the California Department of Education to promulgate emergency regulations governing the use of the Regional Market Rate (RMR) to provide statewide consistency as well as clarify reimbursement categories and the appropriate rate of reimbursement for child care services. As required by the Budget Act, the proposed emergency regulations change the definitions of certain rate categories and provide conditions and limitations on the use of certain rates and adjustment factors.

Education Code, Chapter 2 (the “Child Care and Development Services Act”), Article 11, Section 8269, authorizes the Superintendent to adopt rules, regulations, and guidelines to facilitate the funding and reimbursement procedures required by Chapter 2. This section authorizes the Superintendent to comply with requirements of the 2003–2004 Budget Act.

The proposed regulations apply to all programs utilizing the RMR for provider reimbursement, and provide clear, consistent definitions, conditions, and limitations on the use of certain rates, rate categories, and adjustment factors as required by the 2003–2004 Budget Bill.

FORMAT

The proposed emergency regulations became effective on September 4, 2003. However, changes were subsequently made to the regulations after the effective date. The Superintendent initially used the “underline” and “~~strikeout~~” as a method of identifying the changes made to the emergency regulations. Changes made to the regulations after they became effective are identified by “**bold double underline**” and “~~**bold strikeout**~~.” The “**bold double underline**” language is to be added to the proposed regulations. The “~~**bold strikeout**~~” language is to be deleted from the proposed regulations.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

Mandate on local agencies and school districts:  
None

Cost or savings to any state agency: None

Cost to any local agency or school district which  
must be reimbursed in accordance with Government  
Code section 17561: None

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

Cost or savings in federal funding to the state: None

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

Cost impact on a representative private person or  
business: Lower reimbursement amounts possible for  
some individual providers.

Adoption of these regulations will not:

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

Significant effect on housing costs: The superinten-  
dent has made an initial determination that the  
proposed regulatory action would not affect housing  
costs.

Affect on small businesses: Lower reimbursement  
amounts possible for some individual providers.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section  
11346.5(a)(13), the Superintendent must determine  
that no reasonable alternative considered by the  
Superintendent or that has otherwise been identified  
and brought to the attention of the Superintendent  
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 Superintendent invites interested persons to  
present statements or arguments regarding alternatives  
to the proposed regulations at the above-mentioned  
hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed  
action should be directed to:

Greg Hudson, Administrator  
California Department of Education  
Child Development Division  
1430 N Street, 6th Floor  
Sacramento, California 95814  
Email: [ghudson@cde.ca.gov](mailto:ghudson@cde.ca.gov)  
Telephone (916) 322-6233

Requests for a copy of the proposed text of the  
regulations, the Initial Statement of Reasons, the  
modified text of the regulations, if any, or other  
technical information upon which the rulemaking is  
based or questions on the proposed administrative  
action may be directed to the Regulations Adoption  
Coordinator, or to the backup contact person, Najia  
Rosales, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT  
OF REASONS AND TEXT OF  
PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have  
the entire rulemaking file available for inspection and  
copying throughout the rulemaking process at her  
office at the above address. As of the date this notice  
is published in the Notice Register, the rulemaking file  
consists of this notice, the proposed text of the  
regulations, and the initial statement of reasons. A  
copy may be obtained by contacting the Regulations  
Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED  
OR MODIFIED TEXT

Following the public hearing and considering all  
timely and relevant comments received, the Superin-  
tendent may adopt the proposed regulations substan-  
tially as described in this notice. If the Superintendent  
makes modifications that are sufficiently related to the  
originally proposed text, the modified text (with  
changes clearly indicated) will be available to the  
public for at least 15 days before the Superintendent  
adopts the regulations as revised. Requests for copies  
of any modified regulations should be sent to the  
attention of the Regulations Adoption Coordinator at  
the address indicated above. The Regulations Adop-  
tion Coordinator 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, a copy of the Final Statement  
of Reasons may be obtained by contacting the  
Regulations Adoption Coordinator at the above  
address.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Rulemaking,  
the Initial Statement of Reasons, the text of the  
regulations in underline and strikeout, and the Final  
Statement of Reasons, can be accessed through the  
California Department of Education's website at  
<http://www.cde.ca.gov/regulations>.

**TITLE 8. CALIFORNIA  
WORKFORCE  
DEVELOPMENT AGENCY**

DIVISION OF LABOR STATISTICS  
AND RESEARCH

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Division of Labor Statistics and Research 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 a hearing to be held beginning at 10 a.m. in the Division of Occupational Safety and Health conference room on the tenth floor of the Hiram Johnson State building at 455 Golden Gate Avenue, San Francisco, California on November 12, 2003. These facilities are accessible to persons with mobility impairments.

Written comments must be received by mail, by fax or by email no later than 5:00 p.m. on November 12, 2003 or must be received at the hearing. Comments must be addressed to either of the following:

Robert Nakamura, Senior Industrial Hygienist  
Department of Industrial Relations  
Division of Occupational Safety and Health  
455 Golden Gate Avenue, 10th Floor  
San Francisco, CA 94102  
Fax: (415) 703-5114  
email: DOSHInfo@dir.ca.gov

Ramon Cruz, Research Manager  
Department of Industrial Relations  
Division of Labor Statistics and Research  
455 Golden Gate Avenue, 8th Floor  
San Francisco, CA 94102  
Fax: (415) 703-3029  
email: DOSHInfo@dir.ca.gov

The official record of the rulemaking proceeding will be closed at 5:00 p.m. on November 12, 2003. The Division of Labor Statistics and Research shall not consider written comments received after that date and time unless an extension of time in which to receive specific written comments is announced at the public hearing.

The Division of Labor Statistics and Research may thereafter adopt the proposed regulations substantially as described below, or may modify it if such modification is 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 or any changes to the proposal.

AUTHORITY AND REFERENCE

Authority cited: Labor Code Sections 50.7 and 6410.

Reference: Labor Code Section 6410.

INFORMATIVE DIGEST OF PROPOSED  
ACTION/POLICY STATEMENT OVERVIEW

Pursuant to Labor Code Section 6410, the Division of Labor Statistics and Research (DLSR), a division within the Department of Industrial Relations, is charged with prescribing and providing the forms necessary for maintenance of records of occupational injuries and illnesses required by the United States Department of Labor under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). Requirements for fulfilling this mandate are currently found in Article 2 of Subchapter 1, Chapter 7, Division 1 of Title 8 in the California Code of Regulations ("Article 2").

On July 1, 2002, the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated amendments to regulations at Title 29 Code of Federal Regulations (29 CFR) section 1904 addressing Occupational Injury and Illness Recording and Reporting Requirements for occupational hearing loss and musculoskeletal disorders (MSDs) and setting an implementation date of January 1, 2003. See Federal Register Volume 67, No. 126, pages 44037-44048 and 44124-44127. OSHA then delayed the implementation of the hearing loss column and MSD instructions on December 17, 2002 until January 1, 2004. See Federal Register Volume 67 pages 77165-77170. OSHA subsequently eliminated the requirement for recording work-related musculoskeletal disorders (MSDs) as a specific category on June 30, 2003 but did not eliminate the hearing loss column. See Federal Register Volume 68, No. 124, pages 38601-38607.

29 CFR 1902.3(k), 29 CFR 1952.4, and 29 CFR 1956.10(i), require the State of California to adopt regulations for recording occupational injuries and illnesses that are substantially identical to the requirements of revised 29 CFR 1904.10; 29 CFR 1904.12; and 29 CFR 1904.29 Forms, subpart (b)(7)(vi).

DLSR now proposes to adopt requirements for the recording of occupational hearing loss that are substantially identical to the requirements of the revised OSHA standards. Section 14300.10 "Recording criteria for cases involving occupational hearing loss, paragraph (b)(7) How do I complete the 300 Log for a hearing loss case?" would be amended by adding the instruction to record hearing loss cases in the column on the Form 300 beginning on January 1, 2004. The "Cal/OSHA Form 300 Log of Work-Related Injuries and Illnesses" would be modified to include a column to indicate occurrences of recordable

hearing loss in section M of the form. Also, the "Cal/OSHA Form 300A Annual Summary of Work-Related Injuries and Illnesses" would be modified to include a space for the number of hearing loss cases in section M. In a similar manner, Appendix D Required Elements for the Cal/OSHA 300 Equivalent Form, would be amended to require a hearing loss column for the type of injury or illness, and Appendix E Required Elements for the Cal/OSHA 300A Equivalent Form would be amended to require a space for the number of hearing loss cases.

In response to the OSHA final rule regarding MSD recordkeeping, DLSR proposes to amend Section 14300.12 by deleting the time span statement. DLSR also proposes to amend Section 14300.29 (7)(F) by deleting the statement; "Musculoskeletal disorders (MSDs) are not considered privacy concern cases." and the time span statement in the Note.

**MORE INFORMATION**

The full text of the proposed regulations, and all information upon which the proposed regulations are based, including an initial statement of the reasons for the proposed regulations, are available upon request. Inquiries concerning the proposed regulations, including questions regarding the substance of the proposed regulations, may be directed to:

Robert Nakamura, Senior Industrial Hygienist  
 Department of Industrial Relations  
 Division of Occupational Safety and Health  
 455 Golden Gate Avenue, 10th Floor  
 San Francisco, CA 94102  
 Phone: (415) 703-5160  
 Fax: (415) 703-5114  
 Email: doshinfo@dir.ca.gov

The designated back-up contact person is:

Ramon Cruz, Research Manager  
 Department of Industrial Relations  
 Division of Labor Statistics and Research  
 455 Golden Gate Avenue, 8th Floor  
 San Francisco, CA 94102  
 Phone: (415) 703-4757  
 Fax: (415) 703-3029  
 Email: doshinfo@dir.ca.gov

The Division's rulemaking file on the proposed regulations is open for public inspection Monday through Friday, from 8:00 a.m. to 5:00 p.m., at 455 Golden Gate Avenue, 10th Floor, San Francisco, California. Interested parties may obtain copies of the Initial Statement of Reasons, the actual text of the proposed regulations, this notice, and the final statement of reasons, (once it has been prepared pursuant to Government Code Section 11346.9(a))

from the representatives named above, or from the Department's website [www.dir.ca.gov](http://www.dir.ca.gov). Click on "Proposed Regulations."

**COST OR SAVINGS OF THE PROPOSED REGULATIONS**

**Costs or Savings to State Agencies:** No costs or savings to state agencies will result as a consequence of the proposed regulations.

**Impact on Housing Costs:** The proposed regulations will not significantly affect housing costs.

**Impact on Business:** The Division determined that the proposed regulations will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. OSHA has determined that there may be a small training cost and a minimal cost for revising software if an employer voluntarily produces their own form. The Division concurs with this assessment.

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

**Costs or Savings in Federal Funding to the State:** The proposed regulations will not result in costs or savings in federal funding to the State.

**Costs or Savings to Local Agencies or School Districts:** No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate".

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies:** The proposed regulations do not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The proposed regulations do not impose a mandate on local agencies or school districts. The Division has determined that the proposed regulations do not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments

and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.).

The proposed regulations do not require any local agency to carry out the governmental function of providing services to the public.

#### EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations may affect small businesses.

#### ASSESSMENT

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

#### REASONABLE ALTERNATIVES CONSIDERED

The Division must determine that no reasonable alternative considered by the Division, or that has been identified and brought to the attention of the Division, 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 10. DEPARTMENT OF CORPORATIONS

#### NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE

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

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

These amendments revise and update the employees designated in the code to reflect the current organizational structure of the Department, condense the disclosure categories, and make other technical changes. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing

no later than November 10, 2003, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than October 24, 2003, by contacting the Contact Person set forth below.

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

The Department of Corporations has determined that the proposed amendments:

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

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

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

Ms. Kathy Womack, Associate Analyst  
Office of Law and Legislation  
Department of Corporations  
1515 K Street, Suite 200  
Sacramento, CA 95814  
Telephone: (916) 322-3553  
E-mail: [regulations@corp.ca.gov](mailto:regulations@corp.ca.gov)

**TITLE 10. DEPARTMENT  
OF INSURANCE**

**NOTICE OF PROPOSED ACTION AND NOTICE  
OF PUBLIC HEARING REGARDING REVISIONS  
TO PUBLIC AUTO CLASSIFICATIONS USE  
CLASS FOR LIMOUSINE**

**RH03026444  
May 22, 2003**

**SUBJECT OF HEARING**

California Insurance Commissioner John Garamendi will hold a public hearing to address comments on whether the Plan should be revised to introduce a rating procedure for limousines with a seating capacity in the excess of eight that is not considered in the California Automobile Assigned Risk Program (CAARP) manual.

The Commissioner will consider the proposed change and invites other comments from the public. Premium rates are specified in the program's Plan of Operations, approved by the Commissioner. California Insurance Code Section 11624, and California Code of Regulations, Title 10, Chapter 5, Section 2498.5.

**AUTHORITY TO ADOPT RATES AND  
PROCEDURES AND REFERENCE**

The Commissioner will consider the proposed rates pursuant to the authority vested in him by California Insurance Code Sections 11620 and 11624. Government Code Section 11340.9(g) applies to this proceeding.

**HEARING DATE AND LOCATION**

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed rates, limits, and premium payment option at the following date, time, and place:

**Date and Time: November 10, 2003  
10:00 a.m.**

**Location: 45 Fremont Street  
22<sup>nd</sup> Floor Hearing Room  
San Francisco, California 94105**

**ACCESS TO HEARING ROOM**

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

**WRITTEN AND/OR ORAL COMMENTS:  
AGENCY CONTACT PERSON**

All persons are invited to submit written comments to the Insurance Commissioner on the proposed changes prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov)  
Telephone: (415) 538-4226  
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[mohre@insurance.ca.gov](mailto:mohre@insurance.ca.gov)  
Telephone: (415) 538-4112  
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

**DEADLINE FOR WRITTEN COMMENTS**

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on November 6, 2003**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

**ADVOCACY OR WITNESS FEES**

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

#### INFORMATIVE DIGEST

California Insurance Code Sections 11624 requires the Commissioner to set rating rules for insured's obtaining coverage through CAARP and CAARP's Commercial Automobile Insurance Procedure. Insurance Code Sections 11620 and 11624 require the Commissioner to hold a public hearing before amending assigned risk plan rates.

Sections 11620 of the Insurance Code require that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of those persons admitted to transact liability. The plan also contains rules and rates. This plan, approved by the Commissioner, is referenced in Title 10, Section 2498.5 of the California Code of Regulations.

The purpose of the proposed change to the current regulation is to revise Rule 94 of the CAARP manual deleting the reference to the seating capacity of eight or fewer under the Use Class for Limousines. CAARP proposes to introduce a rating factor of .75 for limousines with a seating capacity in excess of eight. This is an increase of .25 over the .50 factor for limousines with a seating capacity of eight or fewer and is the same procedure used for taxicabs.

The proposed change was introduced because the CAARP Manual does not have a rating procedure for limousines with a seating capacity in excess of eight. The revision would provide a rating procedure in the CAARP Manual for limousines seating capacity in excess of eight.

#### COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

#### LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

#### COST OR SAVINGS TO AGENCIES / SCHOOL DISTRICTS / FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will the proposal affect federal funding to the state.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

Because the proposal involves rates for commercial trucker's liability, the Insurance Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

#### COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner has initially determined that the proposal will not impact businesses, but will have a potential cost impact on private persons directly affected.

#### IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

#### SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

#### ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, 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 agency invites interested persons to present statements or arguments with respect to rates and coverage limits for the additional coverages and the premium payment option at the scheduled hearing or during the written comment period.

#### PLAIN ENGLISH

The rate application describing CAARP's proposal is in plain English.

#### TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the rate in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to a contact

person listed above. Further details of CAARP's rate application are on file with the Commissioner and available for review as set forth below.

**ACCESS TO RULEMAKING FILE**

Any interested person may inspect a copy of or direct questions about CAARP's proposed rate application, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

**AUTOMATIC MAILING**

A copy of this Notice, including the Informative Digest, Initial Statement of Reasons, and proposed text is being sent to all persons on the Insurance Commissioner's mailing list.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

**TITLE 10. DEPARTMENT OF INSURANCE**

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING REGARDING TRUCKERS LIABILITY COVERAGE**

**RH02024992  
May 22, 2003**

**SUBJECT OF HEARING**

California Insurance Commissioner John Garamendi will hold a public hearing to address the rating for cost of hire for container haulers picking up freight at the port of California and delivering within California under the California Automobile Assigned Risk Program (CAARP).

A review of CAARP's current manual does not address the rating of excess cost of hire for container haulers picking up freight at the port of California and delivering within California. This type of carrier is not subject to any operating authority when transporting within the state. RH02024995 will revise Rule 75 to specify that a discount applies for the hiring of risks not subject to the Department of Motor Vehicles filing requirements that transport interstate commerce within the state of California.

The Commissioner will consider the current rates and CAARP's rate and invites other comments from the public. Premium rates and payment options are specified in the program's Plan of Operations, approved by the Commissioner. California Insurance Code Section 11624, and California Code of Regulations, Title 10, Chapter 5, Section 2498.5.

**AUTHORITY TO ADOPT RATES AND PROCEDURES AND REFERENCE**

The Commissioner will consider the proposed rates pursuant to the authority vested in him by California Insurance Code Sections 11620 and 11624. Government Code Section 11340.9(g) applies to this proceeding.

**HEARING DATE AND LOCATION**

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed rates, limits, and premium payment option at the following date, time, and place:

**Date and Time: November 10, 2003  
10:00 a.m.**  
**Location: 45 Fremont Street  
22<sup>nd</sup> Floor Hearing Room  
San Francisco, California 94105**

**ACCESS TO HEARING ROOM**

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

**WRITTEN AND/OR ORAL COMMENTS:  
AGENCY CONTACT PERSON**

All persons are invited to submit written comments to the Insurance Commissioner on the proposed revision prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[Riordanm@insurance.ca.gov](mailto:Riordanm@insurance.ca.gov)  
Telephone: (415) 538-4226  
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel  
California Department of Insurance  
Rate Enforcement Bureau

45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[MohrE@insurance.ca.gov](mailto:MohrE@insurance.ca.gov)  
Telephone: (415) 538-4112  
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

#### DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on November 6, 2003**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

#### ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

#### INFORMATIVE DIGEST

California Insurance Code Sections 11624 requires the Commissioner to set rating rules for insured's obtaining coverage through CAARP and CAARP's Commercial Automobile Insurance Procedure. Insurance Code Sections 11620 and 11624 require the Commissioner to hold a public hearing before amending assigned risk plan rates.

Sections 11620 of the Insurance Code require that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of those persons admitted to transact liability. The plan also contains rules and

rates. This plan, approved by the Commissioner, is referenced in Title 10, Section 2498.5 of the California Code of Regulations.

The purpose of the proposed regulation is to revise Rule 75 of the CAARP manual to specify a discount for risks not subject to the Department of Motor Vehicles (DMV) filing requirements that transport interstate commerce within the state of California.

CAARP has proposed that Rule 75 be revised to specify that a 90% discount will apply for the firing of risks not subject to DMV filing requirements.

#### COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

#### LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

#### COST OR SAVINGS TO AGENCIES / SCHOOL DISTRICTS / FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will the proposal affect federal funding to the state.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

Because the proposal involves rates for commercial trucker's liability, the Insurance Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

#### COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner has initially determined that the proposal will not impact businesses, but will have a potential cost impact on private persons directly affected.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, 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 agency invites interested persons to present statements or arguments with respect to rates and coverage limits for the additional coverages and the premium payment option at the scheduled hearing or during the written comment period.

PLAIN ENGLISH

The rate application describing CAARP's proposal is in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the rate in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to a contact person listed above. Further details of CAARP's rate application are on file with the Commissioner and available for review as set forth below.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed rate application, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, Initial Statement of Reasons, and proposed text is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

**TITLE 10. DEPARTMENT  
OF INSURANCE**

NOTICE OF PROPOSED ACTION  
AND NOTICE OF PUBLIC HEARING  
REGARDING REVISIONS TO CALIFORNIA  
AUTOMOBILE ASSIGNED RISK PLAN

**RH02022905  
August 5, 2003**

SUBJECT OF HEARING

California Insurance Commissioner John Garamendi will hold a public hearing to address the addition of an on line application submission system called the Electronic Application Submission Interface (EASi) under the California Automobile Assigned Risk Program (CAARP).

The Commissioner will consider the proposed change and invites other comments from the public. Premium rates are specified in the program's Plan of Operations, approved by the Commissioner. California Insurance Code Section 11624, and California Code of Regulations, Title 10, Chapter 5, Section 2498.5.

AUTHORITY TO ADOPT RATES AND  
PROCEDURES AND REFERENCE

The Commissioner will consider the proposed addition pursuant to the authority vested in him by California Insurance Code Sections 11620 and 11624. Government Code Section 11340.9(g) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed rates, limits, and premium payment option at the following date, time, and place:

**Date and Time: November 10, 2003  
10:00 a.m.**

**Location: 45 Fremont Street  
22<sup>nd</sup> Floor Hearing Room  
San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are

requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS:  
AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposed addition prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov)  
Telephone: (415) 538-4226  
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[mohre@insurance.ca.gov](mailto:mohre@insurance.ca.gov)  
Telephone: (415) 538-4112  
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on November 10, 2003**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST

California Insurance Code Sections 11624 requires the Commissioner to set rules for insured's obtaining coverage through CAARP. Insurance Code Sections 11620 and 11624 require the Commissioner to hold a public hearing before amending assigned risk plan rates.

Sections 11620 of the Insurance Code require that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of those persons admitted to transact liability. The plan also contains rules and rates. This plan, approved by the Commissioner, is referenced in Title 10, Section 2498.5 of the California Code of Regulations.

The purpose of the proposed change to the current regulation is to amend the CAARP manual to allow certified producers certified by the Plan to submit applications on-line. CAARP proposes changes to the Introduction and Personal, Part 23 and 24 expanding references to the original application to include EASi. A new Availability of Forms, Manuals, Etc. subsection provides direction on the availability of Plan manuals, applications and other forms in both hardcopy and electronic format.

To coordinate with the new Plan provisions for EASi, several definitions in Section 1 have been updated. The term application has been expanded to include electronic application. Postmark is revised to clarify that a metered mail postmark, electronic stamp, or other postage service or stamp are not considered as postmarks of the United States Postal Service. A new definition for EASi has been introduced stating that an electronic application may be completed on-line and transmitted to the Plan Office.

The existing Electronic Effective Date procedure (EEDP) in Section 28.C.2 that offers immediate coverage by telephone has been reformatted for clarity. Plan procedures have been reformatted into those applicable to immediate coverage and a future effective date. To assist producers, a retraction procedure is provided. An additional performance standard pertaining to EASi has been introduced in the Producer Certification and Performance Standards Part, Section 20

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

COST OR SAVINGS TO AGENCIES / SCHOOL DISTRICTS / FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will the proposal affect federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner has initially determined that the proposal will not impact businesses, or impact private persons.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, 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 agency invites interested persons to present statements or arguments with respect to rates and coverage limits for the additional coverages and the

premium payment option at the scheduled hearing or during the written comment period.

PLAIN ENGLISH

The rate application describing CAARP's proposal is in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to a contact person listed above. Further details of CAARP's rate application are on file with the Commissioner and available for review as set forth below.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, Initial Statement of Reasons, and proposed text is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

**TITLE 10. DEPARTMENT OF INSURANCE**

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING REGARDING COMMERCIAL AUTOMOBILE INSURANCE PROCEDURE RATES FOR THE CALIFORNIA AUTOMOBILE ASSIGNED RISK PLAN

**RH03030185  
August 5, 2003**

SUBJECT OF HEARING

California's Insurance Commissioner will hold a public hearing to consider the application of the California Automobile Assigned Risk Plan

("CAARP" or the Plan) for approval of increased rates the four commercial sub-lines for the Commercial Automobile Insurance Procedure ("CAIP").

AUTHORITY AND REFERENCE  
TO ADOPT RATES

The Commissioner will consider the proposed rates pursuant to the authority vested in him by Section 11620 of the California Insurance Code. The Commissioner's decision on the proposed rates will implement, interpret, or make specific the requirements of Insurance Code Section 11624(e). Government Code § 11340.9(g) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed rates at the following date, time, and place:

**November 13, 2003–2:00 p.m.**

Department of Insurance  
45 Fremont Street 22<sup>nd</sup> Floor Hearing Room  
San Francisco, CA 94105

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW AND POLICY  
STATEMENT OVERVIEW

Pursuant to California Insurance Code Section 11624, the Commissioner establishes rates to be charged to those obtaining commercial automobile coverage through CAIP. Section 11624 provides: "Premium charges for the plan shall not be excessive, inadequate, nor unfairly discriminatory, and shall be actuarially sound so as to result in no subsidy of the plan." Title 10, California Code of Regulations, § 2498.5 references the commercial automobile rate manual, which is approved by the Commissioner but not printed in full in the California Code of Regulations.

The Commissioner is holding the hearing referenced above to accept comments on CAARP's recent rate application. CAARP has proposed rate changes for four CAIP sublines, amounting to an overall average **19.6 percent rate increase**. The four sublines are Trucks, Tractor and Trailers; Taxis, Limousines and Van Pools; All Buses Combined; and Zone Rated Risks. CAARP is not seeking a rate change for Employers Non-Ownership Liability at this time. The proposed changes are shown on the attached Explanatory Memorandum. Further details appear in the rate application on file with the Commissioner and available for review as set forth below.

TEXT OF RATE APPLICATION AND INITIAL  
STATEMENT OF REASONS

The Insurance Commissioner has prepared an initial statement of reasons for the proposed rate change, in addition to the informative digest included in this notice. Upon written request, the initial statement of reasons will be made available for inspection or copying. Written requests for the statement of reasons, or specific questions regarding this proceeding, should be directed to the contact person for these hearings (listed below).

The file for this proceeding is available for inspection **by prior appointment** at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Please reference file number "RH03030185" when contacting the contact person.

ACCESS TO HEARING ROOMS

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

PRESENTATION OF ORAL AND/OR WRITTEN  
COMMENTS: CONTACT PERSON

All persons are invited to submit written comments to the Commissioner prior to the public comment deadline. Comments should be addressed to the following contact person:

California Department of Insurance  
Attention: Michael Riordan  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
(415) 538-4226  
[riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov)

or  
California Department of Insurance  
Attention: Elizabeth Mohr  
45 Fremont Street 21<sup>st</sup> Floor  
San Francisco, CA 94105  
(415) 538-4112  
[mohre@insurance.ca.gov](mailto:mohre@insurance.ca.gov)

Any interested person may present oral and/or written testimony at the public hearing. Written comments transmitted via facsimile machine will be accepted and considered. The facsimile number is (415) 904-5490. Written comments may also be submitted by e-mail to [riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov).

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of

Regulations, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall Suite, 1700  
Sacramento, CA 95814  
(916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information please contact the Office of the Public Advisor.

#### DEADLINE FOR WRITTEN COMMENTS

Written comments on the proposed new rates must be **received** at the San Francisco office of the Commissioner by **5:00 p.m. November 13, 2003**. Late submissions will not be considered.

#### ALTERNATIVES

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

#### COST OR SAVINGS AND MANDATE ON AGENCIES OR SCHOOL DISTRICTS

The Commissioner has determined that the proposal does not impose a mandate on local agencies or school districts. The proposal will not result in any cost or in significant savings to state agencies, or in costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings imposed on local agencies.

#### IMPACT ON HOUSING COSTS

The action proposed herein will not affect housing costs.

#### IMPACT ON BUSINESSES, COMPETITION OR COMPETITIVENESS ECONOMIC IMPACT ON BUSINESSES, JOBS, AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

CAARP is proposing overall rate increases for trucks, tractors and trailers; taxicabs, limousines, and van pools; buses; and zone rated risks. Therefore, the

proposed rate changes could have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed rate changes could also have an adverse impact on competition or competitiveness. The proposal could also negatively affect the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California. However, California Insurance Code section 11624(e) requires that premium charges for the plan shall be actuarially sound so as to result in no subsidy of the plan by the voluntary market. Therefore, if and to the extent that CAARP is able to demonstrate that certain existing rates are no longer actuarially sound and that rate increases are warranted, the Commissioner is required to approve increased rates. Of course, the Commissioner also recognizes that section 11624(e) requires that rates not be excessive, and the Commissioner will not approve an increase that results in excessive rates.

#### EFFECT ON SMALL BUSINESSES

The proposed rate changes could affect small businesses.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESS

The Insurance Commissioner has determined that there could be potential negative cost impacts on businesses directly affected by the proposed rate increases. Although the rate application involves commercial automobile insurance rates, to the extent a rate increase negatively impacts business, it could also negatively impact private persons employed by those businesses. The rate increase could also negatively impact private persons wishing to purchase goods or services from businesses if the price of goods or services is increased to cover the increased cost of insurance coverage.

#### FEDERAL FUNDING TO THE STATE

The proposal will not affect federal funding.

#### NON-DISCRETIONARY COSTS OR SAVING

The proposal will not impose any non-discretionary cost or savings on local agencies.

#### PLAIN ENGLISH

The application describing the proposal is in plain English. However, the application itself is based on technical actuarial principles.

#### SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of the proposal would not mandate the use of specific technologies or equipment.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

AUTOMATIC MAILING

A copy of this notice is being sent to all persons on the Insurance Commissioner's mailing list.

**TITLE 10. DEPARTMENT OF INSURANCE**

NOTICE OF PROPOSED ACTION  
AND NOTICE OF PUBLIC HEARING  
REGARDING REVISIONS TO PUBLIC AUTO  
CLASSIFICATIONS BINGO BUSES  
**RH03026459**  
**May 22, 2003**

SUBJECT OF HEARING

California Insurance Commissioner John Garamendi will hold a public hearing to address the deletion of the "Bingo Bus" classification under the California Automobile Assigned Risk Program (CAARP).

The Commissioner will consider the proposed change and invites other comments from the public. Premium rates are specified in the program's Plan of Operations, approved by the Commissioner. California Insurance Code Section 11624, and California Code of Regulations, Title 10, Chapter 5, Section 2498.5.

AUTHORITY TO ADOPT RATES AND PROCEDURES AND REFERENCE

The Commissioner will consider the proposed rates pursuant to the authority vested in him by California Insurance Code Sections 11620 and 11624. Government Code Section 11340.9(g) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed rates, limits, and premium payment option at the following date, time, and place:

**Date and Time: November 10, 2003**  
**10:00 a.m.**

**Location: 45 Fremont Street**  
**22<sup>nd</sup> Floor Hearing Room**  
**San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are

requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS:  
AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposed changes prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
[riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov)  
Telephone: (415) 538-4226  
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
[mohre@insurance.ca.gov](mailto:mohre@insurance.ca.gov)  
Telephone: (415) 538-4112  
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on November 6, 2003**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

#### INFORMATIVE DIGEST

California Insurance Code Sections 11624 requires the Commissioner to set rating rules for insured's obtaining coverage through CAARP and CAARP's Commercial Automobile Insurance Procedure. Insurance Code Sections 11620 and 11624 require the Commissioner to hold a public hearing before amending assigned risk plan rates.

Sections 11620 of the Insurance Code require that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of those persons admitted to transact liability. The plan also contains rules and rates. This plan, approved by the Commissioner, is referenced in Title 10, Section 2498.5 of the California Code of Regulations.

The purpose of the proposed change to the current regulation is to revise Rule 94 of the CAARP manual deleting the "Bingo Bus" classification and Primary Classification-Rating Factors and Classification Designators for the bingo bus class. The revision is proposed due to the misuse of producers.

CAARP has stated and believes the risk affected by the proposed change would always fall within one of the other definitions of buses

#### COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

#### LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

#### COST OR SAVINGS TO AGENCIES/SCHOOL DISTRICTS/FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will the proposal affect federal funding to the state.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

Because the proposal involves rates for commercial trucker's liability, the Insurance Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

#### COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner has initially determined that the proposal will not impact businesses, but will have a potential cost impact on private persons directly affected.

#### IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

#### SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

#### ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, 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 agency invites interested persons to present statements or arguments with respect to rates and coverage limits for the additional coverages and the premium payment option at the scheduled hearing or during the written comment period.

#### PLAIN ENGLISH

The rate application describing CAARP's proposal is in plain English.

#### TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the rate in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to a contact

person listed above. Further details of CAARP's rate application are on file with the Commissioner and available for review as set forth below.

#### ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed rate application, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

#### AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, Initial Statement of Reasons, and proposed text is being sent to all persons on the Insurance Commissioner's mailing list.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

### TITLE 13. CALIFORNIA HIGHWAY PATROL

#### NOTICE OF PROPOSED REGULATORY ACTION

#### TITLE 13, CALIFORNIA CODE OF REGULATIONS (13 CCR), DIVISION 2, CHAPTER 6.5, AMEND ARTICLE 1, SECTIONS 1202.1 AND 1202.2, AND ARTICLE 6, SECTION 1232.

Motor Carrier Safety Regulations—Consistency with  
Title 49, Code of Federal Regulations  
(CHP-R-03-16)

The California Highway Patrol proposes to amend the Motor Carrier Safety Regulations contained in Title 13, California Code of Regulations (13 CCR) to be consistent with the current version of adopted federal regulations in Title 49, Code of Federal Regulations (CFR).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

13 CCR, Division 2, Chapter 6.5 contains the California Highway Patrol's Motor Carrier Safety Regulations. Article 1, Sections 1200 through 1202.2, contain the Definitions and General Provisions and Article 6, Sections 1229 through 1235 contain the Carrier Requirements.

#### (1) Section 1202.1

Currently, regulation incorporates by reference various publishing dates for 49 CFR. This amendment will incorporate 49 CFR as published on October 1, 2002, to replace all publication dates as they currently exist in this section. This will allow California carriers to discard their 1997 editions of the federal regulations, retaining only their 2002 editions.

#### (2) Section 1202.2

Currently, regulation incorporates by reference various publishing dates for 49 CFR. This amendment will incorporate 49 CFR as published on October 1, 2002, to replace all publication dates as they currently exist in this section.

#### (3) Section 1232, Subsection (e)

Subsection (e) currently incorporates by reference 49 CFR, Section 396.25, as published on October 1, 1997. This amendment replaces the existing publication date with the current 49 CFR publishing date of October 1, 2002. 49 CFR, Section 396.25 has not changed in the interim, so this update of 13 CCR 1232(e) serves to allow carriers to discard their 1997 edition of the federal regulations, retaining only the 2002 version.

#### PUBLIC COMMENTS

Any person may submit written comments on the proposed action via facsimile at (916) 446-4579, e-mail to [cvsregs@chp.ca.gov](mailto:cvsregs@chp.ca.gov), or by writing to:

California Highway Patrol  
Commercial Vehicle Section—062  
ATTN.: Gary Ritz  
PO Box 942898  
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 P.M., November 10, 2003.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the California Highway Patrol, Commercial Vehicle Section, no later than 15 days prior to the close of the written comment period.

#### AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 446-4579 or by calling the CHP, Commercial Vehicle Section at (916) 445-1865. Facsimile requests for information should include the following information: the title of the rulemaking package, the requester's name, proper

mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the California Highway Patrol, Commercial Vehicle Section, 444 North Third Street, Sacramento. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our web site at [www.chp.ca.gov/regulations](http://www.chp.ca.gov/regulations).

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our web site.

#### CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Mr. Gary Ritz or Mr. Cullen Sisskind, CHP, Commercial Vehicle Section at (916) 445-1865. Inquiries regarding the substance of the proposed regulations should be directed to Mr. Gary Ritz.

#### ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

#### FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency, school district, or state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The California Highway Patrol 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 SMALL BUSINESSES

The California Highway Patrol has determined that the proposed regulatory action may affect small businesses.

#### ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the California Highway Patrol must determine that no reasonable alternative considered by the California Highway Patrol, or that has otherwise been identified and brought to the attention of the California Highway Patrol, 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 California Highway Patrol invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

#### AUTHORITY

This regulatory action is being taken pursuant to Vehicle Code Sections 2402 and 34501.

#### REFERENCE

This action implements, interprets, or makes specific Vehicle Code Sections 2402 and 34501.

### TITLE 14. FISH AND GAME COMMISSION

#### NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE FISH AND GAME COMMISSION

(Continuation of Register 2003, No. 35-Z, and Commission Meeting of August 2, 2003)

**(NOTE: To be responsive to public input on proposed changes in the sport fishing regulations, the Commission is exercising its powers under Section 202 of the Fish and Game Code. Some changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice.)**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 205, 206 and 220 of said Code, proposes to amend sections 1.17, 1.59, 2.09, 2.10, 5.00, 5.50, 5.75, 7.00, 7.50, 8.00, 27.60, 43 and 195, Title 14, California Code of Regulations (CCR), as part of the proposed Sport Fishing Regulations for years 2004 and 2005 (as explained in the following two paragraphs).

Proposed changes to sections as set forth in the first notice regarding Sport Fishing Regulations (Notice Register 2003, No. 35-Z, published August 29, 2003) remain the same, **except for additional public recommendations proposed for Sections 7.00, 7.50, and 29.15** (see Informative Digests below).

Also, proposed changes to the Department of Fish and Game recommendation to amend subsection 7.50(b)(178), Title 14, CCR has been withdrawn at the request of the department. At the early August meeting of the Commission, the Department submitted Initial Statements of Reasons for an angling regulation change on Silver King Creek (Alpine County). The change was associated with a restoration project for Paiute cutthroat trout, a federally listed threatened species. The restoration project has been suspended until further notice, and the regulation change is now not necessary.

In addition, Sausal Creek (Alameda Co.) and tributaries, subsection 7.50(b)(172.2), Title 14, CCR has been added to an Amended Initial Statement of Reasons, regarding “*South Central Sport Fishing District Regulations, adding additional steelhead waters to the Alphabetical List of Waters with Special Fishing Regulations*” **with the following Updated Informative Digest:**

Current regulations in known steelhead waters of the South Central Sport Fishing District are directed at providing catch-and-release angling opportunities for adult steelhead during December through February. Trout fishing during the summer general trout season in steelhead streams is prohibited. Recent information has identified five additional streams in the South Central Sport Fishing District as possible steelhead streams that are currently not regulated under steelhead angling regulations. These streams are currently regulated under the general trout season which allows for the harvest of 5-trout per day. To prevent unnecessary mortality on ESA-listed juvenile steelhead and to cooperate with NOAA-Fisheries in the protection and recovery of threatened steelhead, the Department is proposing a regulation change to prohibit summer trout fishing and allow no-harvest angling during the winter steelhead season from December 1 through March 7 in the following five streams: 1) Codornices Creek (Alameda Co.), 2) Coyote Creek downstream from Upper Penitencia Creek (Santa Clara Co.), 3) Upper Penitencia Creek (Santa Clara Co.), 4) Pinole Creek (Contra Costa Co.) and 5) Stevens Creek downstream of Stevens Reservoir (Santa Clara Co.). During this period fishing would be allowed only on Saturdays, Sundays, Wednesdays, legal holidays and opening and closing days. Only barbless hooks could be used. This proposed change will make

regulations in the above streams consistent with other steelhead streams in the South Central Sport Fishing District.

**In addition, current regulations on Sausal Creek, a small urban stream in Alameda County, allow for fishing during the general trout season from the last Saturday in April through November 15, with a five-fish daily bag limit. Local residents have become interested in restoring Sausal Creek that has been degraded because of urbanization, unnatural flows, sedimentation, and contaminants. Along with restoration efforts, many of the local residents have expressed interest in reducing any harvest of trout. Most of the observed angling activity in this stream is by children. Although little data is available determine the impact of current regulations on the trout population, to honor the concerns from the local citizens and maintain angling opportunities in an urban area, the Department recommends changing the regulations for Sausal Creek to a zero bag limit, with artificial lures and barbless hooks only.**

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### Subsection (b)(1) of Section 7.00—Gear Restrictions in Shasta and Tehama Counties

Central Valley steelhead, *Oncorhynchus mykiss*, listed as threatened by NOAA Fisheries in 1998 and Central Valley spring-run Chinook salmon, *Oncorhynchus tshawytscha*, listed as threatened by NOAA Fisheries and the Fish and Game Commission in 1999, warrant maximum protection from anglers pursuing resident trout in tributaries to the Sacramento River. There are currently bait and hook restrictions on the tributaries of Shasta and Tehama counties currently listed in the special regulations section. Those anadromous streams without special regulations, however, do not have bait, harvest or hook restrictions other than the general statewide regulations regarding these items. This proposed regulation would eliminate the use of bait and barbed hooks in anadromous waters in Shasta and Tehama counties in the general regulations for the Sierra District. When regulations for anadromous waters in Shasta and Tehama counties were adopted in 2001, gear restrictions in the general district section were inadvertently omitted from the regulations. This oversight allows the use of bait and barbed hooks in waters where no trout or salmon are allowed to be harvested and thus could subject the fish to unnecessary injury and mortality.

Subsection (f) of Section 7.00, and Subsections (b)(168.6), (b)(170.1), (b)(170.5), (b)(171.6), (b)(172.3), (b)(190), (b)(193.5) of Section 7.50—Southern District Steelhead Waters

Steelhead trout populations within the Southern California Steelhead Evolutionarily Significant Unit (ESU), from the Santa Maria River (inclusive) to Malibu Creek, were listed by the federal government as endangered in October 1997. On May 2, 2002, the National Marine Fisheries Service (NMFS) extended the range of the Southern California Steelhead ESU from Malibu Creek to the Mexican border.

Current general regulations for the Southern Fishing District allow fishing all year with a five-fish bag limit in all streams of Orange, San Bernardino, Riverside, and portions of Los Angeles counties, except for waters listed in Special Fishing Regulations. Regulations for streams in San Diego County allow fishing all year with artificial lures and barbless hooks only, and a two-fish bag limit, except for waters listed in Special Fishing Regulations.

In recognition of the new range extension and to comply with federal Endangered Species Act, NMFS and the Department are recommending that anadromous portions of all streams in the newly extended range be closed to all fishing. Specific streams listed in the Special Fishing Regulations that this proposal will affect include: San Juan Creek (Orange County), San Mateo Creek (San Diego and Riverside counties), Santa Margarita River (San Diego and Riverside counties), San Luis Rey River (San Diego County), Sweetwater River (San Diego County), and Topanga Creek (Los Angeles County). In addition the District General Regulations will include closures to anadromous portions of streams not named in the Special Fishing Regulation section. For angler clarification, the Department is proposing to describe the anadromous sections of Arroyo Trabucco Creek and Santa Ynez River, and add these streams to the list of waters with special regulations.

Subsection (b)(72.5) of Section 7.50—Guadalupe River

Current regulations allow fishing in the Guadalupe River from the last Saturday in May through November 15 with a five-fish, trout and salmon bag limit. The Guadalupe River below Guadalupe Reservoir is an anadromous stream that currently supports steelhead trout and Chinook salmon. Steelhead trout are listed as federally threatened according to the Endangered Species Act. The Department is recommending a regulation change that eliminates the harvest of resident trout, steelhead trout or salmon in

the Guadalupe River below Guadalupe Reservoir, but allows catch-and-release fishing for trout and salmon during last Saturday in May through November 15. The Department is also proposing that anglers may use only artificial lures with barbless hooks.

Available evidence does not support the contention that legal angling is suppressing the Chinook salmon population that has recently developed in the Guadalupe River. However, the Department is supporting this regulation request, that includes a zero bag limit for salmon, to simplify the regulations, and encourage continued cooperative efforts by several government and private agencies, and local citizens directed at restoring anadromous salmonid habitat in the Guadalupe River. Because the Chinook salmon in Guadalupe River are not considered unique and are not listed as threatened or endangered, future consideration may be given to allowing a limited harvest, if Chinook population levels warrant.

Subsection (b)(91.1) of Section 7.50—Anadromous Waters of the Trinity River

Current regulations close the Trinity River from the Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat, and from Hawkins Bar Bridge (Road to Denny) downstream to the mouth of the Trinity to all fishing from April 1 through the Friday preceding the fourth Saturday in May. These closures were intended to reduce the incidental catch and mortality of hatchery-origin juvenile steelhead trout during the peak downstream migration of April and May. The Department is proposing a year-round open season for these sections of river because the current regulations are not necessary and the proposed changes will simplify the regulations. Trinity River Hatchery, for the last 10 years, has met or exceeded steelhead egg-taking requirements. After discussion with hatchery management, a proposed year-round open season should have no effect on the fish program there. Department biologists have determined that steelhead population levels are currently at a level that will allow angling during April and May, and any incidental harvest of juvenile steelhead would not significantly affect the steelhead population. Basin quotas for Chinook salmon will still be maintained in these sections of river, and all seasonal closures for adult Chinook salmon will be designed to maximize and distribute the harvest of adult fall-run Chinook salmon while managing the fishery within the impact quota.

Current regulations in the Trinity River from the Highway 299 West Bridge at Cedar Flat downstream to the Hawkins Bar Bridge (Road to Denny) allow angling during the fourth Saturday in May through August 31, and from December 1 through March 31. These regulations prohibit fishing during the peak migration period of juvenile hatchery-origin steelhead

(April and May) and when peak spawning occurs for adult fall-run Chinook salmon (September through November) to reduce the incidental catch and mortality of juvenile steelhead trout and to protect fall-run Chinook salmon spawners. The Department is proposing to eliminate the closure during April and May in this section of river because the current regulations are not necessary and the proposed changes will simplify the regulations. Trinity River Hatchery, for the last 10 years, has met or exceeded steelhead egg-taking requirements. After discussion with hatchery management, a proposed year-round open season should have no effect on the fish program there. Department biologists have determined that steelhead populations levels are currently at a level that will allow angling during April and May, and any resulting incidental harvest of juvenile steelhead would not significantly affect the steelhead population. The protection of spawning fall Chinook salmon will still be maintained in this section of river. The Department is proposing that no salmon over 22 inches total length may be retained from the South Fork Trinity River downstream to the confluence with the Klamath from April 1 through the Friday preceding Memorial Day.

Subsection (b)(158) of Section 7.50,—Salinas River

Current regulations for the Salinas River and tributaries upstream of the Arroyo Seco River confluence (including San Antonio drainages) allow for a five-trout daily bag limit from the last Saturday in April through November 15. Due to the presence of federally threatened steelhead in the upstream (southern) reaches of the Salinas River, the Department and NOAA Fisheries is recommending eliminating the harvest of trout and changing the regulations to catch-and-release only, zero harvest. Although access to the ocean for anadromous fish is prevented by stream-flow management in some years, the trout present in the upper reaches are considered to be genetically linked to steelhead stocks.

Also present in the upper Salinas River drainage are warm-water fisheries that do not target trout and are considered the predominate fisheries in these reaches during the summer-fall period. Because of the popular warm-water fishery, the Department is recommending a gear restriction of barbless hooks only that will reduce hooking mortality for trout while allowing anglers to fish for warm water species.

Anadromous portions of the Salinas River drainage that this proposal will affect are defined as:

- a. Mainstem Salinas River above the Arroyo Seco River to State Highway 58.
- b. Santa Antonio River below San Antonio Reservoir and Dam.
- c. Paso Robles Creek and all its tributaries.

- d. Graves Creek and its branches/tributaries.
- e. Atascadero Creek.
- f. Santa Margarita Creek and its tributaries.

Subsection (b)(178.5) of Section 7.50—Sisquoc Creek

Steelhead trout populations within the Southern California Steelhead Evolutionarily Significant Unit (ESU), from the Santa Maria River (inclusive) to Malibu Creek, were listed by the federal government as endangered in October 1997. On May 2, 2002, the National Marine Fisheries Service (NMFS) extended the range of the Southern California Steelhead ESU from Malibu Creek to the Mexican border.

Current regulations for Sisquoc Creek and tributaries allow fishing all year with a five-fish daily bag limit. Because Sisquoc Creek is within the Southern California Steelhead ESU and contains potential habitat for endangered steelhead, the Department has discontinued stocking catchable trout in this watershed. Although stocking has ceased, the Department would like to maintain no-harvest fishing opportunities while supporting restoration efforts to aid the recovery of endangered Southern California steelhead. To help satisfy these goals, the Department and NOAA Fisheries are recommending changing angling regulations to a zero bag limit with gear restrictions of artificial lures and barbless hooks only, open season all year.

Section 29.15—Abalone.

Under existing regulation (Section 29.15, Title 14, CCR), abalone may be only taken for sport purposes north of a line drawn due west magnetic from the center of the mouth of San Francisco Bay. Current regulations specify: seasons, hours, daily limits, special gear provisions, measuring devices, abalone report card requirements, and sizes.

Members of the public have requested that Section 29.15 be reviewed for clarification. The following is a summary of the changes proposed for Section 29.15, Title 14, CCR:

- (a) require an abalone report card only for persons required to have a sport fishing license;
- (b) require persons taking abalone from a boat to complete their abalone report card immediately upon returning and boarding the boat;
- (c) specify that the correct way to make a hole in the abalone punch card is by removing the punched section;
- (d) make it the responsibility of the license agent to record the abalone report card number on the fishing license, and the fishing license number on the abalone report card;
- (e) change the name of the “abalone report card” to “abalone permit report card”;

(f) minor editorial changes are (also) proposed to improve the clarity and consistency of the regulations.

**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 City Council Chambers, City Hall, 777 Cypress Avenue, Redding, CA, on October 3, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may also be submitted to the Fish and Game Commission office at the address given below.

**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 Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, CA, on November 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Friday, October 31, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than Friday, November 7, 2003 at the hearing in San Diego. All correspondence, including E-mail, must include the true name and mailing address of the commenter.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Resources Building Auditorium, 1416 Ninth Street, Sacramento, CA, on December 5, 2003, at 8:30 a.m., to consider adoption of the proposed Sport Fishing Regulations for the 2004 and 2005 seasons. Additional testimony on the proposed regulations may be received if substantive changes result from the November 7, 2003, meeting or if regulatory alternatives are under consideration.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing September 10, 2003. Oral or written comments relevant to these documents will be received at the October 3, 2003, meeting in Redding. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., October 27, 2003. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game's headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Chino and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON OCTOBER 27, 2003.**

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, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon Snellstrom at the preceding phone number. Jim Hopelain, (916) 445-3597, (Inland) Fisheries Program Branch, and Don Schultze (916) 651-7670, (Ocean Fishing) Marine Region have 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 above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.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. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

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

#### IMPACT OF REGULATORY ACTION

**Subsection (f) of Section 7.00, and Subsections (b)(168.6), (b)(170.1), (b)(170.5), (b)(171.6), (b)(172.3), (b)(190), and (b)(193.5) of Section 7.50, Re: Southern District Steelhead Waters.**

**Subsection (b) of Section 7.00, Re: Gear Restrictions in Shasta and Tehama Counties.**

**Subsections (b)(42.3), (b)(50.8), (b)(135.8), (b)(139.7), (b)(172.7) and (b)(187.5) of Section 7.50, Re: South Central Sport Fishing District Regulations,**

adding additional steelhead waters to the Alphabetical List of Waters with Special Fishing Regulations.

**Subsection (b)(72.5) of Section 7.50, Re: Guadalupe River (Santa Clara County).**

**Subsection (b)(91.1) of Section 7.50, Re: Anadromous Waters of the Trinity River.**

**Subsection (b)(158) of Section 7.50, Re: Salinas River.**

**Subsection (b)(178.5), of Section 7.50, Re: Sisquoc Creek.**

**Section 29.15, Re: Abalone**

- (a) Significant Adverse Economic Impact on Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed changes are expected to result in roughly as much angling effort as currently occurs, so should not result in a net change in angler related expenditures.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None:
- (c) Cost Impacts on a Representative Private Person or Business:  
The 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: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

**EFFECT ON SMALL BUSINESS**

It has been determined that the adoption of these regulations may affect small business.

**CONSIDERATION OF ALTERNATIVES**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is

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

**TITLE 16. BOARD OF PSYCHOLOGY**

NOTICE IS HEREBY GIVEN that the Board of Psychology (hereinafter "board") 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 a hearing to be held at the Department of Consumer Affairs, Greg Gorges Conference Room, 1424 Howe Avenue, Sacramento, California, at 10:00 a.m., on November 15, 2003. 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 Thursday, November 13, 2003 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 2930 of the Business and Professions Code, and to implement, interpret or make specific Sections 2940 and 2941 of said Code, the board is considering changes to Division 13.1 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Amend section 1381 to remove reference to specific deadlines for which an application must be received to take an examination. This was required when the board gave its examinations twice a year on specific dates. As a result of changes to the board's regulations the examinations went from a pencil/paper format to a computerized format allowing the candidate to schedule the examinations at their convenience anytime throughout the year. Therefore, the application deadlines are no longer required.

**FISCAL IMPACT ESTIMATES**

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

Nondiscretionary Costs/Savings to Local Agencies:  
None

Local Mandate: None

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

#### BUSINESS IMPACT

The board 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.

#### AND

The following studies/relevant data were relied upon in making the above determination: N/A

#### IMPACT ON JOBS/NEW BUSINESSES

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

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would affect 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 board 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 Board of Psychology at 1422 Howe Avenue, Suite 22, Sacramento, California 95825.

#### 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

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

Name: Kathy Bradbury  
Address: 1422 Howe Avenue, Suite 22  
Sacramento, CA 95825  
Telephone No.: (916) 263-0712  
Fax No.: (916) 263-2697  
E-Mail Address: kathy\_bradbury@dca.ca.gov

The backup contact person is:

Name: Jeffrey Thomas  
Address: 1422 Howe Avenue, Suite 22  
Sacramento, CA 95825  
Telephone No.: (916) 263-1617  
Fax No.: (916) 263-2697  
E-Mail Address: jeff\_thomas@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [www.psychboard.ca.gov](http://www.psychboard.ca.gov).

### TITLE 16. BOARD OF PSYCHOLOGY

NOTICE IS HEREBY GIVEN that the Board of Psychology (hereinafter "board") 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 a hearing to be held at the Department of Consumer Affairs, Greg Gorges Conference Room, 1424 Howe Avenue, Sacramento, California, at 10:00 a.m., on November 15, 2003. 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 Thursday, November 13, 2003 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 2915(g) and 2930 of the Business and Professions Code, and to implement, interpret or make specific Sections 29 and 2915 of said Code, the board is considering changes to Division 13.1 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend section 1397.61—Continuing Education Training Requirements.

SB 564, Chapter 481, Statutes of 2002, which becomes operative January 1, 2004, requires licensees renewing their licenses to take a continuing education course in spousal or partner abuse assessment, detection and intervention strategies for his or her first renewal after the operative date. This is a one-time continuing education requirement. This course must be no less than one (1) hour in length.

SB 953, Chapter 541, Statutes of 2002, which becomes operative January 1, 2005, requires all licensees renewing their licenses to take a continuing education course in the biological, social, and psychological aspects of aging and long-term care. This is a one-time continuing education requirement. This course must be no less than three (3) hours in length.

This proposal will also eliminate the language referring to acquired immune deficiency syndrome (AIDS) and replace it with HIV disease and issues of human diversity, thereby eliminating the referral to the final diagnosis of AIDS, rather the virus that causes AIDS.

#### FISCAL IMPACT ESTIMATES

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

#### BUSINESS IMPACT

The board 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.

#### AND

The following studies/relevant data were relied upon in making the above determination:

SB 564 (Attachment A)

SB 953 (Attachment B)

#### IMPACT ON JOBS/NEW BUSINESSES

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

#### EFFECT ON HOUSING COSTS

None

#### EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses because it relates to continuing education training as a condition of renewal of licensure.

#### 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 board 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 Board of Psychology at 1422 Howe Avenue, Suite 22, Sacramento, California 95825.

**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**

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

Name: Kathy Bradbury  
Address: 1422 Howe Avenue, Suite 22  
Sacramento, CA 95825  
Telephone No.: (916) 263-0712  
Fax No.: (916) 263-2697  
E-Mail Address: kathy\_bradbury@dca.ca.gov

The backup contact person is:

Name: Jeffrey Thomas  
Address: 1422 Howe Avenue, Suite 22  
Sacramento, CA 95825  
Telephone No.: (916) 263-1617  
Fax No.: (916) 263-2697  
E-Mail Address: jeff\_thomas@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [www.psychboard.ca.gov](http://www.psychboard.ca.gov).

**TITLE 16. BOARD  
OF PSYCHOLOGY**

NOTICE IS HEREBY GIVEN that the Board of Psychology (hereinafter "board") 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 a hearing to be held at the Department of Consumer Affairs, Greg Gorges Conference Room, 1424 Howe Avenue, Sacramento, California, at 10:00 a.m., on November 15, 2003. 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 Thursday, November 13, 2003 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 2914(f) and 2930 of the Business and Professions Code, and to implement, interpret or make specific Sections 2914(f) of said Code, the board is considering changes to Division 13.1 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

Amend section 1382.5 and adopt section 1382.6.

Section 1382.5—Spousal or Partner Abuse Assessment, Detection, and Intervention Training Requirements.

Under current board regulation all persons applying for a license as a psychologist are required to have completed coursework in spousal or partner abuse assessment, detection, and intervention strategies. Currently, applicants are required to complete two (2) hours of coursework in this area. SB 564, Chapter 481, Statutes of 2002, in part, requires all persons applying for a license as a psychologist who began graduate training on or after January 1, 2004 to meet this requirement, however, such course shall consist of at least fifteen (15) contact hours. This proposed regulation would amend current section 1382.5 to make it consistent with the statute.

Section 1382.6—Aging and Long-Term Care Training Requirements.

SB 953, Chapter 541, Statutes of 2002, requires any applicant for licensure as a psychologist who begins graduate study on or after January 1, 2004 to complete a minimum of ten (10) hours of coursework in aging and long-term care in the biological, social, and psychological aspects of aging. This proposed regulation would adopt a new section (1382.6) to set forth the requirements of this legislative mandate and define the coursework requirements.

**FISCAL IMPACT ESTIMATES**

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

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

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

**BUSINESS IMPACT**

The board 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.

**AND**

The following studies/relevant data were relied upon in making the above determination:

SB 564 (Attachment A)

SB 953 (Attachment B)

**IMPACT ON JOBS/NEW BUSINESSES**

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

Effect on Housing Costs: None

**EFFECT ON SMALL BUSINESS**

The board has determined that the proposed regulations would not affect small businesses because they relate to training requirements as a condition of licensure.

**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 board 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 Board of Psychology at 1422 Howe Avenue, Suite 22, Sacramento, California 95825.

**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**

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

Name: Kathy Bradbury  
Address: 1422 Howe Avenue, Suite 22  
Sacramento, CA 95825  
Telephone No.: (916) 263-0712  
Fax No.: (916) 263-2697  
E-Mail Address: kathy\_bradbury@dca.ca.gov

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Sacramento, CA 95825  
Telephone No.: (916) 263-1617  
Fax No.: (916) 263-2697  
E-Mail Address: jeff\_thomas@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [www.psychboard.ca.gov](http://www.psychboard.ca.gov).

**TITLE 17. AIR RESOURCES BOARD**

**NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PROPOSED AIRBORNE TOXIC CONTROL MEASURE FOR STATIONARY COMPRESSION IGNITION ENGINES**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting an airborne toxic control measure (ATCM) to reduce public exposure to diesel particulate matter (PM) and to control criteria pollutants emitted from stationary diesel-fueled, compression-ignition engines (stationary diesel engines). The control measure would reduce diesel PM and control criteria pollutant emissions through a combination of limits on annual operating hours and application of best available control technology. Owners, operators, sellers, buyers, and long-term renters of stationary diesel engines would be subject to and have responsibilities under the control measure.

This notice summarizes the proposed control measure. The staff report presents the control measure in greater detail.

DATE: November 13, 2003

TIME: 9:00 a.m.

PLACE: California Environmental  
Protection Agency  
Air Resources Board  
Central Valley Auditorium, Second Floor  
1001 I Street  
Sacramento, California 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., November 13, 2003, and may continue at 8:30 a.m., November 14, 2003. This item may not be considered until November 14, 2003. Please consult the agenda for the meeting, which will be available at least 10 days before November 13, 2003, to determine the day on which this item will be considered.

If you have special accommodation or language needs, please contact the ARB's Clerk of the Board at (916) 322-5594 or [sdorais@arb.ca.gov](mailto:sdorais@arb.ca.gov) as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

#### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed adoption of new section 93115, title 17, California Code of Regulations (CCR). The following documents are incorporated herein by reference: (1) American Society for Testing and Materials (ASTM) Standards D 613-03b, D 975-03, D 1655-02 ; (2) *Risk Management Guidance for the Permitting of New Stationary Diesel-Fueled Engines*, dated October 2000; (3) Air Force Space Command Instruction 21-0114, dated March 27, 2000; (4) Office of the Chief of Naval Operations (OPNAV) Instruction 1500.51B, dated March 31, 1989; (5) Military Specifications MIL-DTL-5624T, dated September 18, 1998, and MIL-T-83133E, dated April 1, 1999; (6) *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines*, 13 CCR 2700-2710; (7) *Exhaust Emission Standards and Test Procedures—Off-Road Compression-Ignition Engines*, 13 CCR 2423; (8) National Fire Protection Association (NFPA) 25—*Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, 1998; (9) 2001 California Building Code, 24 CCR Part 2, Vol. 2, Chapter 35 (Uniform Building Code Standards); (10) California Air Resources Board (ARB) Method 5, *Determination of Particulate Matter Emissions from Stationary Sources*, as amended July 28, 1997; (11) California Air Resources Board (ARB) Method 100, *Procedures for Continuous*

*Gaseous Emission Stack Sampling*, as amended July 28, 1997; and (12) International Organization for Standardization (ISO) Methods 8178-1:1996(E), 8178-2:1996(E), and 8178-4:1996(E).

#### BACKGROUND

The California Toxic Air Contaminant Identification and Control Program (Program), established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code (H&SC) sections 39650–39675, requires the ARB to identify and control air toxicants in California. In 1998, the Board identified diesel particulate matter as a toxic air contaminant (TAC) with no Board-specified threshold exposure level.

Following the identification of a substance as a TAC, H&SC section 39665 requires the ARB, with participation of the air pollution control and air quality management districts (districts) and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance. H&SC section 39665(b) requires that this “needs assessment” address, among other things, the technological feasibility of proposed ATCMs and the availability, suitability, and relative efficacy of substitute products or processes of a less hazardous nature.

A needs assessment for diesel PM was conducted between 1998 and 2000, which resulted in the ARB's development of the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel RRP). The Diesel RRP presented information that identified the available options for reducing diesel PM and recommended control measures to achieve further reductions. The scope of the Diesel RRP was broad, addressing all categories of engines, both mobile and stationary. For stationary diesel engines, the Diesel RRP identified and recommended the development of this proposed ATCM. ARB staff has prepared an Initial Statement of Reasons (ISOR or staff report) for the proposed ATCM that, together with the Diesel RRP, serves as the report on the need and appropriate degree of regulation for the proposed ATCM.

Once the ARB has evaluated the need and appropriate degree of regulation for a TAC, H&SC section 39666(c) requires the ARB to adopt regulations (ATCMs) to reduce emissions of the TAC to the lowest level achievable through the application of best available control technology (BACT) or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors. In developing the proposed ATCM, State law also requires an assessment of the appropriateness of substitute products or processes.

Stationary diesel engines emit approximately 910 tons per year of diesel PM. These engines are distributed throughout California, and many are located in urban centers where the population is exposed to diesel PM emissions. The proposed ATCM is designed to minimize the public's exposure to diesel PM by establishing stringent operational requirements and emission limits for these engines.

In addition to emitting TACs, stationary diesel engines also emit criteria pollutants such as oxides of nitrogen (NO<sub>x</sub>), oxides of sulfur (SO<sub>x</sub>), carbon monoxide (CO), and non-methane hydrocarbons (NMHC). Emissions of these criteria pollutants contribute to violations of applicable California and national ambient air quality standards (CAAQS and NAAQS, respectively). To control criteria pollutant emissions, H&SC section 43013(b) directs the ARB to adopt standards and regulations for nonvehicle engine categories, including but not limited to construction equipment, farm equipment, and utility engines. Because they are nonvehicle engines, stationary diesel engines subject to the proposed ATCM are covered by this mandate.

### **Description of the Proposed Regulatory Action**

#### *Applicability*

With enumerated exceptions, the proposed ATCM would apply to any person who owns, operates, sells, offers for sale, leases, or buys a regulated stationary diesel engine for use in California. In general, a stationary diesel engine is one that remains in one location at a facility for more than 12 months. A new engine is one that is installed after January 1, 2005, while an in-use engine is one that is installed prior to January 1, 2005. The proposed ATCM has separate provisions for engines that are no more than 50 brake horsepower (bhp) and engines that are greater than 50 bhp.

#### *Initial and Annual Reporting Requirements*

Owners and operators of existing stationary diesel engines rated greater than 50 bhp would be required to submit to the air districts specified information regarding their engines' make, model, fuel use, general use of the engine, and hours of operation. This information would be due no later than July 1, 2005.

Sellers of stationary diesel engines that are less than or equal to 50 bhp or engines used in agricultural operations would be required to submit to the ARB information identifying the types of engines sold and the number of engines sold per year. This information would be due no later than January 1, 2006 and annually thereafter for the prior year.

#### *Bifurcated Standards and Requirements Based on Horsepower*

For new engines that are less than or equal to 50 bhp, the ATCM requires compliance with the current Off-Road Compression Ignition Engine Standards (Title 13 CCR Section 2423) applicable to an engine of the same brake horsepower rating and model year. These standards represent best available control technology for this category of engines. The ATCM would not require retrofits for any in-use engines in this horsepower category.

For engines that are greater than 50 bhp, the proposed ATCM establishes different requirements for emergency standby engines and prime engines, which are engines used in non-emergency applications. Separate requirements are also established for engines used in agricultural operations.

#### *Clean Fuel Use Requirement*

By January 1, 2005, all stationary diesel engines greater than 50 bhp would be required to use either CARB diesel or a "clean" alternative, which includes CARB diesel/CNG (compressed natural gas) dual-fuel systems and alternative diesel fuels that have met the requirements of the ARB's Verification Procedure (Title 13 CCR 2700-2710).

#### *Requirements for Emergency Standby Engines*

An emergency standby engine is used to provide power during an electrical power outage; to provide for the emergency pumping of water during a flood or for fire suppression; or to power high-power, airport runway lights under low-visibility conditions. Because emergencies are generally infrequent, an emergency standby engine mostly operates during scheduled maintenance and testing periods. Rather than limiting the hours of engine operation during an emergency, the proposed ATCM would establish different diesel PM standards for both new and in-use emergency standby engines based on the number of maintenance and testing hours these engines are operated annually.

To provide flexibility for engine owners while ensuring that public exposure to diesel PM is minimized, the tiered diesel PM standards become more stringent as the annual hours of maintenance and testing operation increase. For example, an in-use engine that emit between 0.15 and 0.4 grams diesel PM per brake horsepower-hour (g/bhp-hr) would be permitted to run up to 30 hours annually for maintenance and testing. By contrast, an in-use engine that emits more than 0.40 g/bhp-hr would be permitted only 20 hours annually for maintenance and testing.

In addition to the diesel PM limits, the proposed ATCM would restrict criteria pollutant emissions by requiring new emergency standby engines to meet current Off-Road Compression Ignition Engine

Standards. The ATCM would also prohibit in-use emergency standby engines from increasing criteria pollutant emissions when controlling diesel PM emissions.

#### *Requirements for Prime Engines*

A prime diesel engine can be used in a wide variety of non-emergency applications. These include remote power generation, cranes, sand and gravel processing, and the pumping of fluids. Prime engines typically operate many more hours per year than emergency standby engines. Because of this, the ATCM would require prime engines to meet much more stringent emission limits than emergency standby engines. New prime engines would be limited to 0.01 g/bhp-hr of diesel PM, while in-use prime engines (that are off-road certified) would need to either meet the 0.01 g/bhp-hr standard or reduce diesel PM emissions by 85 percent from baseline levels. In-use prime engines that are not off-road certified would be given the option of either meeting the 0.01 g/bhp-hr standard or reducing diesel PM emissions by 30 percent (relative to baseline levels) by 2005 then replacing the engine in 2013 with an engine that emits no greater than 0.01 g/bhp-hr.

As with the requirements for emergency engines, the proposed ATCM restricts the criteria pollutant emissions by requiring new prime engines to meet current Off-Road Compression Ignition Engine Standards. In-use prime engines would be prohibited from increasing criteria pollutant emissions when controlling diesel PM. Because the ATCM focuses on applying best available control technology to prime engines, it does not limit the number of hours new and in-use prime engines may operate.

#### *Requirements for Engines Used in Agricultural Operations*

The proposed ATCM also establishes separate diesel PM emission limits for new stationary diesel engines used in agricultural operations. These engines would be limited to diesel PM emissions of no greater than 0.15 g/bhp-hr. To control criteria pollutants, new agricultural engines would need to meet the Off-Road Compression Ignition Engine Standards applicable to engines of the same size and model year. In this proposal, the ATCM would not apply restrictions to in-use engines in agricultural operations. However, the ARB staff will continue investigating retrofit controls and other opportunities for future emission reductions from these engines.

#### *Exemptions and Other Provisions*

The proposed ATCM establishes a number of exemptions from some or all of the operational requirements and emission limits discussed in the previous paragraphs. The proposed ATCM also con-

tains sections addressing recordkeeping and reporting, monitoring equipment, compliance schedules, definitions, emissions data, and test methods.

There are no federal regulations that are comparable to the proposed ATCM.

#### *Additional Provisions Under Consideration*

The ARB staff is currently considering language that would address diesel PM and criteria pollutants from stationary diesel engines operating under interruptible service contracts (ISC). Some engine owners have entered into ISCs with electric utilities to reduce their electrical demand when requested by the utilities in exchange for reduced electricity prices or other non-monetary consideration. Provisions to address these engines have been considered in prior workshops, but the exact language has not yet been developed. ARB staff will continue further development of such language during the 45-day comment period leading up to the Board hearing starting on November 13, 2003. If the provisions are finalized by that time, the ARB staff will present such language as a modification to the proposed ATCM for the Board's consideration at the hearing. As described below, an additional 15-day comment period will then be provided if the Board adopts either the ISC language proposed by ARB staff or a different version.

The ARB staff is also considering language that would define violations of the ATCM requirements and specify the applicable penalties. If the violation and penalties provisions are finalized before the Board hearing, the ARB staff will present such language as a modification to the proposed ATCM for the Board's consideration at the hearing. As noted previously, an additional 15-day comment period will then be provided if the Board adopts either the violations and penalties provision proposed by ARB staff or a different version.

#### AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal, if any. The ISOR is entitled, "Staff Report: Initial Statement of Reasons for the Proposed Airborne Toxic Control Measure for Stationary CI Engines."

Copies of the ISOR and the full text of the proposed regulatory language may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing which will begin on November 13, 2003.

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

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Peggy Taricco, Manager of the Technical Analysis Section, at (916) 327-7213 or by email at [ptaricco@arb.ca.gov](mailto:ptaricco@arb.ca.gov), or Alex Santos, Staff Air Pollution Specialist, at (916) 327-5638 or by email at [asantos@arb.ca.gov](mailto:asantos@arb.ca.gov).

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

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the Air Resources Board ADA Coordinator at (916) 323-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/statde/statde.htm>.

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

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

While there are no impacts for fiscal years (FYs) 2003 and 2004, the proposed ATCM will impose a mandate upon and create costs to some local agencies for fiscal year 2005 and beyond. For FYs 2005-2009,

local agencies operating diesel engines regulated under the proposed ATCM will need to spend approximately \$1.10 million per year. These costs are not reimbursable state mandated costs pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code because most, if not all, of these agencies are authorized to collect fees to recoup their costs under Section 17500, et seq., of the Government Code, and the ATCM applies to all entities that own or operate stationary diesel engines and, therefore, does not impose unique requirements on local government agencies.

The Executive Officer has also determined that State government agencies with regulated engines will not incur costs during FYs 2003 and 2004. However, it is anticipated that State agencies will incur an annualized cost of about \$20,600 per year for FYs 2005 through 2009. This is the aggregate cost for all affected State agencies and represents the annualized capital cost and annual recurring cost savings from reduced fuel use. Given the current fiscal and economic conditions, the Executive Officer cannot determine with certainty whether State agencies will be able to absorb these additional costs within current or future budgets, but it is anticipated that the agencies will be able to absorb annualized costs of this magnitude.

The Board's Executive Officer has also determined that individual local air districts may incur some permitting and enforcement costs as a result of implementing the proposed ATCM. However, the costs incurred by the air districts are not reimbursable state mandated costs because of the districts' authority to recover the costs through fee assessments authorized under H&SC sections 41512 and 42311.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will have some impact, although not significant, on small businesses that own or operate affected stationary diesel engines. During the initial years of implementation, the increased cost of equipment may lead to lower profits for some small businesses, primarily those operating prime engines.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the ARB's Executive Officer has found that the reporting requirements of the regulation that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

In accordance with H&SC 43013(c), the Executive Officer has determined that the standards and other requirements in the proposed ATCM are necessary, cost-effective, and technologically feasible for stationary diesel engines used in agricultural operations (i.e., farm equipment).

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

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, November 12, 2003**, and addressed to the following:

Postal mail is to be sent to:

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

Electronic mail is to be sent to: [statde@listserv.arb.ca.gov](mailto:statde@listserv.arb.ca.gov), and received at the ARB **no later than 12:00 noon, November 12, 2003**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, November 12, 2003**.

The Board requests but does not require 30 copies of any written submission. Also the ARB requests that written, facsimile, and e-mail statements be filed at

least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39665, 39666, 41511, and 43013. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39002, 39650, 39658, 39659, 39665, 39666, 40000, 41511, and 43013.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the ARB may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

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

## TITLE 17. DEPARTMENT OF DEVELOPMENTAL SERVICES

### NOTICE OF PROPOSED RULEMAKING

#### Behavior Analyst Regulations

The Department of Developmental Services (DDS) proposes to amend Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 2 by amending sections 54342 and 57332.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action of DDS. The written comment period closes at 5:00 p.m. on

November 10, 2003. Please submit any written comments to the DDS contact persons designated below by 5:00 p.m. on November 10, 2003. Both oral and written comments will be received at the public hearing.

#### PUBLIC HEARING

One public hearing is scheduled. The public hearing to receive oral and written comments is scheduled to begin at 10:00 a.m. on November 10, 2003 and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. This hearing will be held at 1600 9<sup>th</sup> Street, Room 360, Sacramento, California. DDS requests that persons who make oral comments at the public hearing submit a written copy of their testimony at that hearing. The hearing location has wheelchair access.

#### AUTHORITY AND REFERENCE

Authority: Sections 4405 and 4648, Welfare and Institutions Code and section 11152, Government Code.

Reference: Sections 4631, 4648 and 4691, Welfare and Institutions Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The category of Behavior Analyst became effective on June 2, 2001. Since that time, the Department has become aware that the same national certification Board that certifies Behavior Analysts also certifies Associate Behavior Analysts. Many persons with developmental disabilities have a need for, but limited or no access to, behavior analysis services. The Department proposes to add the category of Associate Behavior Analyst to assist in filling the unmet need of consumers for behavior analysis services.

##### **54342—Types of Services**

This section is being amended by: 1) adding a new services code and category for Associate Behavior Analyst; 2) specifying the conditions under which a Behavior Management Assistant may work under the direct supervision of a Behavior Analyst or Behavior Management Consultant; 3) adding education and work experience requirements for Behavior Management Consultants; and 4) replaces the phrase “and Child Counselor” with “Therapist” to be consistent with Business and Professions Code 4980.

##### **57332—Maximum Rates of Reimbursement for Non-Residential Services**

This section is being amended by adding Associate Behavior Analyst to the list of vendors receiving the maximum rate of reimbursement.

#### SMALL BUSINESS DETERMINATION

DDS has determined that the proposed regulations will not affect small business. Associate Behavior Analysts will be employed by regional centers to provide services to the developmentally disabled, none of which are considered a small business.

#### SMALL BUSINESS DETERMINATION

DDS has determined that the proposed regulations will not affect small business.

#### LOCAL MANDATE DETERMINATION

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

#### ASSESSMENT STATEMENT

DDS has determined that the proposed regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California.

DDS has made an initial determination that the proposed regulations will not have: 1) a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states; or 2) a significant effect on housing costs.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

#### ALTERNATIVES CONSIDERED

DDS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DDS 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.

DDS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearings.

**CONTACT PERSON**

Comments and inquiries concerning the proposed action may be directed to:

Diana Nicolaou  
1600 9<sup>th</sup> Street, MS 3-9  
Sacramento, CA 95814  
email: [dnicolao@dds.ca.gov](mailto:dnicolao@dds.ca.gov)  
Phone: (916) 654-1760  
Fax: (916) 654-2775

If Ms. Nicolaou is unavailable, comments and inquiries may be directed to:

Gregg Wagner  
1600 9<sup>th</sup> Street, MS 3-15  
Sacramento, CA 95814  
email: [gwagner@dds.ca.gov](mailto:gwagner@dds.ca.gov)  
Phone: (916) 653-0805  
Fax: (916) 654-3666.

**AVAILABILITY OF  
RULEMAKING DOCUMENTS**

DDS has prepared and has copies ready for public review of the exact text of the proposed regulations, an Initial Statement of Reasons for the proposed regulations, and all of the information upon which the proposed regulations are based. Copies of the initial statement of reasons and text of the proposed regulations, along with all other public records, reports, documentation or other material related to the proposed regulations will be contained in the rulemaking file and will be available for inspection and copying throughout the rulemaking process from the contact person at the above address. In addition, the text, Initial Statement of Reasons and other materials for this rulemaking may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov).

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

After the close of the comment period, DDS may adopt the proposed regulations as described in this notice. If DDS makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available for public comment at least 15 days before DDS adopts the regulations as revised. If the text is modified, the text may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Please send requests for copies of any modified regulations to the contact persons named above.

**FINAL STATEMENT OF REASONS**

When the Final Statement of Reasons is available, it may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Additionally, requests for the Final Statement of Reasons could be made to the contact persons named above.

**TITLE 24. BUILDING  
STANDARDS COMMISSION**

REGARDING PROPOSED AMENDMENTS  
TO THE CALIFORNIA CODE OF  
REGULATIONS, TITLE 24, PART 2,  
CALIFORNIA BUILDING CODE

**SEISMIC UPDATES TO  
STRUCTURAL PROVISIONS**

Notice is hereby given that the California Building Standards Commission (CBSC) is proposing to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The CBSC is proposing building standards related to seismic updates to structural provisions.

**PUBLIC COMMENT PERIOD**

A public hearing has not been scheduled; however, written comments will be accepted by the California Building Standards Commission regarding the proposed changes from September 26, 2003 until 5:00 PM on November 10, 2003.

Please address your comments to:

California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833

Attention: Stanley T. Nishimura, Executive Director  
Written Comments may also be faxed to  
(916) 263-0959 or E-mailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Pursuant to Government Code Section 11346.5 (a)17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

**AUTHORITY AND REFERENCE**

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health & Safety Code Section 18934.5. The purpose of these building standards is to implement, interpret, and make specific the provisions of 18934.5. The California Building Standards Commission is proposing this regulatory action based on 18928, & 18934.5

**INFORMATIVE DIGEST**

Summary of Existing Laws

California Building Standards Law (Health and Safety Code Section 18900–18949.6) establishes the California Building Standards Commission to oversee the adoption and publications of building standards for state regulated occupancies in California. Further, existing law requires any state agency that proposes and/or adopts a building standard to submit the building standard to the Commission for approval and

publication in the California Building Standards Code. Specifically pertaining to this regulatory action, Health and Safety Code section 18934.5, authorizes the Commission to adopt building standards providing the minimum standards for the design and construction of state-owned buildings, buildings constructed by the Regents of the University of California to the extent permitted by law, and buildings constructed by the Chancellors of the State University, where no other state agency has the authority.

Summary of Existing Regulations

Existing regulations pertaining to this regulatory action are contained in the 2001 California Building Code (California Code of Regulations, Title 24, Part 2), which is based upon the 1997 Uniform Building Code of the International Conference of Building Officials. The regulations being modified by this action are contained in Chapters 16, 17, 19, 22, and 23. Chapter 16 contains the structural design requirements; Chapter 17 contains structural testing and inspection requirements; Chapter 19 contains the concrete standards; Chapter 22 contains the steel construction standards; and, Chapter 23 contains the wood construction standards.

Summary of Effect

This regulatory action makes some of the more critically needed updates to California standards. These update are currently accepted, nationally recognized standards and engineering principles, which have been determined to be lacking in the California Building Code.

Comparable Federal Statute or Regulations

FEMA: Federal Emergency Management Agency standards.

NEHRP—National Earthquake Hazard Reduction Program standards

Small Business Affect

This regulatory action may or may not have an affect on small businesses, as the standards contained in building codes offer designers and owners optional construction techniques and materials. Also the size and design of a building has a bearing upon the affect, which is controlled by the designer and owner.

This enactment of standards is no different than adoption of a new cycle of codes. These standards are not different from what most states enforce in the United States. This is an improvement in standards that will provide greater structural safety in active seismic regions. These will apply only to state-owned buildings, buildings constructed by the Regents of the University of California to the extent permitted by law, and buildings constructed by the Chancellors of the State University.

OTHER MATTERS PRESCRIBED BY  
STATUTE APPLICABLE TO THE AGENCY OR  
TO ANY SPECIFIC REGULATION OR  
CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to this proposed action.

MANDATE ON LOCAL AGENCIES  
OR SCHOOL DISTRICTS

The California Building Standards Commission has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES

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

DECLARATION OF EVIDENCE

The CBSC affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code, Section 18928, & 18934.5.

Therefore, the CBSC's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

FINDING OF NECESSITY FOR THE PUBLIC'S  
HEALTH, SAFETY, OR WELFARE

The CBSC has made an assessment of the proposed code changes and has determined that these changes do not require a report.

**COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

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

**ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION**

The CBSC has assessed whether or not and to what extent this proposal will affect the following:

The creation or elimination of jobs within the State of California.

**No affect**

The creation of new businesses or the elimination of existing businesses within the State of California.

**No affect**

The expansion of businesses currently doing business with the State of California.

**No affect**

**INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS**

The CBSC has made an initial determination that this proposal would not have a significant effect on housing costs.

**CONSIDERATION OF ALTERNATIVES**

The CBSC has determined that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency 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 RULEMAKING DOCUMENTS**

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

Interested parties 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.

**CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Michael Nearman or Tom Morrison  
(back-up person)  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833**

**Telephone No.: (916) 263-0916  
Facsimile No.: (916) 263-0959**

**PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Michael Nearman, Code Analyst  
California Building Standards Commission  
(916) 263-5888  
Michael.nearman@dgs.ca.gov  
(916) 263-0959

**TITLE MPP. DEPARTMENT OF SOCIAL SERVICES**

**NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS) ORD #0603-16**

**ITEM #1 Child Care Intercounty Transfers**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held November 12, 2003, as follows:

November 12, 2003  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on November 12, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written

comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814

TELEPHONE: (916) 657-2586

FACSIMILE: (916) 654-3286

E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

#### CHAPTERS

Manual of Policies and Procedures, Division 47 (CalWORKs Child Care), Chapter 47-100 (The Stage One Child Care Program), Section 47-110 (Definitions); and Chapter 47-300 (Responsibilities of the County), Section 47-310 (Intercounty Transfers).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current CalWORKs Child Care regulations provide a description of individuals including children, CalWORKs clients and child care providers, who are eligible to participate in this program. They also include a description of county responsibilities for operating Stage One of the CalWORKs Child Care Program, including optional provisions that counties may implement if needed to meet the child care needs of participants in their county. However, they do not address Intercounty Transfers situations. These proposed regulations will minimize the disruption of Stage One child care services for current recipients when transferring from one county to another. They will assure consistency in the regulations during those time periods of an Intercounty Transfer when Stage One child care must be provided.

These proposed regulations also specify the responsibility of the first county to inform the client to apply for child care in the new county. It also requires the second county to establish a child care case during the cash aid transfer period when the client applies for and meets child care eligibility requirements. These regulations provide standards for which county has payment responsibility when a client moves to a new county. Additionally, the regulations specify reasonable time periods for both counties to ensure that current and former CalWORKs clients receive Stage One child care services when transferring from one county to another without a delay.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: None.
2. Costs to Local Agencies or School Districts: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate on local agencies, but not on local school districts. There are no reimbursable state-mandated costs because these regulations only make technical nonsubstantive or clarifying changes.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

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

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

#### SMALL BUSINESS IMPACT STATEMENT

These proposed regulations would not affect small business as they regulate county responsibilities during intercounty transfers. These regulations ensure continuous child care services when transferring from one county to another. The cost of such services is included in existing allocations to counties.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of

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

**STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

**STATEMENT OF ALTERNATIVES CONSIDERED**

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

**AUTHORITY AND REFERENCE CITATIONS**

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Section 10553 and 10554. Subject regulations implement and make specific Welfare and Institutions Code Section 10553 and 10554.

**CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF  
THE PROPOSED REGULATION**

Contact Person: Anthony J. Velasquez  
(916) 657-2586  
Backup: Everardo Vaca  
(916) 657-2586

**TITLE MPP. DEPARTMENT OF  
SOCIAL SERVICES**

**NOTICE OF PROPOSED CHANGES IN  
REGULATIONS OF THE CALIFORNIA  
DEPARTMENT OF SOCIAL SERVICES (CDSS)  
ORD #1002-24**

**ITEM #2 CCL Transitional Housing Placement  
Program**

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held November 12, 2003, as follows:

November 12, 2003  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in

need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on November 12, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

**CONTACT**

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: ord@dss.ca.gov

**CHAPTERS**

Chapter 7 (Transitional Housing Placement Program), Article 1. (General Requirements), Section 86000 (GENERAL), Section 86001 (Definitions), Section 86005 (License Required), Section 86009 (Availability of License), Section 86010 (Limitations on Capacity and Ambulatory Status); Article 3. (Application Procedures), Section 86018 (Application

for Licensure), Section 86020 (Fire Clearance), Section 86022 (Plan of Operation), Section 86023 (Plan of Operation), Section 86024 (Department Approval for Remote Site Model), Section 86028 (Capacity Determination), Section 86030.5 (Identification of Transitional Housing Placement Program Participant Living Units), Section 86031.5 (Notification), Section 86036 (Application Processing and Annual License Fees); Article 4. (Administrative Actions), Section 86044 (Inspection Authority of the Licensing Agency), Section 86044.5 (Decertification Authority of the Licensing Agency), Section 86045 (Evaluation Visits); Article 5. (Enforcement Provisions) [Reserved]; Article 6. (Continuing Requirements), Section 86061 (Reporting Requirements), Section 86064 (Administrator Qualifications and Duties). Section 86065 (Personnel Requirements), Section 86065.2 (Social Work Supervisor), Section 86065.3 (Social Work Personnel), Section 86065.4 (Social Work Supervisor/Social Worker Ratio), Section 86065.5 (Social Worker Ratios), Section 86066 (Personnel Records), Section 86068.1 (Intake Procedures), Section 86068.2 (Needs and Services and Transitional Independent Living Plan (TILP), Section 86068.3 (Modifications to Needs and Services and Transitional Independent Living Plans), Section 86068.4 (Removal and/or Discharge Procedures), Section 86070 (Participant Records), Section 86072 (Personal Rights), Section 86073 (Telephone Service), Section 86074 (Transportation), Section 86075 (Health Related Services), Section 86078 (Responsibility for Providing Care and Supervision); and Article 7. (Physical Environment), Section 86087 (Buildings and Grounds), Section 86087.1 (Administrative Office/Sub-Administrative Offices), and Section 86088 (Fixtures, Furniture, Equipment and Supplies).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Every year hundreds of foster care and group home youths, including probation youths are emancipated from the foster care system. Emancipation refers to the release of teenagers from the control of the juvenile court system and the care of the county social services agencies. At 18 years of age the law requires them to leave the system because they are no longer the responsibility of the state or county, and are expected to fend for themselves.

For some foster teenagers, the transition is relatively smooth. However, for the majority it is very difficult. Confronted with this statewide dilemma, in 1993, California authorized a five-year pilot program, pursuant to the passage of AB 1198 (Chapter 799 of Statutes of 1993), which created Transitional Housing Placement Programs (THPP), whose purpose was to

assist youth in transition from foster care to independence by providing the greatest amount of freedom possible while, at the same time, assisting in the preparation of these youth to lead self-sufficient lives.

The passage of AB 1198 created THPPs in 3 counties for youth who were currently participating in the Independent Living Program (ILP). In 1998, AB 2774 (Chapter 873, Statutes of 1998) established THPPs as a permanent statewide program to serve youth 17 and 18 years of age. AB 427 (Chapter 125, Statutes of 2001) expanded the age of youth served in licensed THPPs to persons who are at least 16 years of age and not more than 18 years of age, except as provided in Welfare and Institutions Code Section 11403, and additionally creates a separate, license-exempt, county-optional, certified THPP-Plus program for youth 19 up to 21 years of age.

These proposed THPP emergency regulations implement the provisions of AB 427. The Department of Social Services is directed to adopt emergency regulations to govern licensed transitional housing placement programs. These regulations are written to provide program guidance to THPPs that provide services to foster care and group home youths, including probation youths who are preparing to emancipate, while ensuring that they are subjected to fewer restrictions than those who are younger, in order to successfully prepare these foster care and group home youths, including probation youths for a future of self-sufficiency.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: The Department has determined no fiscal impact exists because the regulations do not affect any state agency or program.
2. Costs to Local Agencies or School Districts: The Department has determined no fiscal impact exists because the regulations do not affect any local entity or program.
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: The Department has determined no fiscal impact exists because the regulations do not affect any federally funded state agency or program.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE  
ECONOMIC IMPACT ON BUSINESS

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

STATEMENT OF POTENTIAL COST IMPACT  
ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION  
OR ELIMINATION

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

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

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

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Sections 1530, 1559.110. Subject regulations implement and make specific Health and Safety Code Sections 1501, 1502, 1503, 1503.5, 1505, 1507, 1508, 1509, 1514, 1520, 1520.11, 1522.42, 1523.1, 1524, 1525.3, 1526.5, 1530, 1531, 1531.2, 1533, 1534, 1538, 1538.4 and .5, 1559.110, 1559.115; and Welfare and Institutions Code Sections 11400, 11401, 11403, 16001.9, 16500,

16522, 16522.1, 16522.5 and .6; Government Code Section 15378; Education Code Section 94301; Vehicle Code Sections 27630 and 27630.5; Section 21 of Assembly Bill 1695 (Chapter 653, Statutes of 2001); Title 42 U.S.C. Sections 675 and 677 of the Social Security Act; and 29 U.S.C. Section 1501 et seq.

CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF  
THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586

Backup: Rick Torres  
(916) 657-2659

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

**GENERAL PUBLIC INTEREST**

**AIR RESOURCES BOARD**

**CHANGE OF LOCATION**

NOTICE OF PUBLIC HEARING TO CONSIDER  
ADOPTION OF THE HEAVY-DUTY DIESEL  
ENGINE SOFTWARE UPGRADE REGULATION  
(CHIP REFLASH)

By notice dated August 26, 2003, and published in the September 5, 2003, California Notice Register, Register 2003, No. 36-Z, the Air Resources Board (the Board or ARB) announced it would conduct a public hearing to consider adoption of the proposed heavy-duty diesel engine software upgrade regulation. The hearing was originally scheduled to be heard at the California Environmental Protection Agency, Air Resources Board, Auditorium, Second Floor, 1001 I Street, Sacramento, CA.

**PLEASE BE ADVISED** that the location has changed as follows:

DATE: October 23, 2003  
TIME: 9:00 a.m.  
PLACE: **South Coast Air Quality  
Management District  
Auditorium  
21865 East Copley Drive  
Diamond Bar, CA 91765-4182**

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., on October 23, 2003 and may continue at 8:30 a.m., October 24, 2003, if necessary.

If you have special accommodation or language needs, please contact the ARB's Clerk of the Board at (916) 322-4011 or [amalik@arb.ca.gov](mailto:amalik@arb.ca.gov) as soon as possible. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

## **DEPARTMENT OF HEALTH SERVICES**

### **NOTICE OF GENERAL PUBLIC INTEREST**

#### **INTENT TO INTRODUCE A NEW RATE METHODOLOGY FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC AND ORTHOTIC APPLIANCES, CLINICAL LABORATORY SERVICES, AND HEARING AIDS AND HEARING AID ACCESSORIES**

This notice is being given to provide information of public interest with respect to new rate methodologies for Durable Medical Equipment (DME), Prosthetic and Orthotic (P & O) Appliances, Clinical Laboratory Services, and Hearing Aids and Hearing Aid Accessories. It is the intent of the Department of Health Services (DHS) to implement the new rate methodologies as specified below effective October 1, 2003, pursuant to mandates of the State Budget Act of 2003.

#### **DURABLE MEDICAL EQUIPMENT**

Reimbursement for durable medical equipment with a specified maximum rate, except wheelchairs, wheelchair accessories, and DME supplies and accessories, will be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) an amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 of the Welfare and Institutions Code plus a percentage markup to be established by the department.

Reimbursement for wheelchairs and wheelchair accessories with a specified maximum rate will be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) an amount that does not exceed 100 percent of the lowest maximum allowance for California established by the federal Medicare program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to

Section 14105.3 of the Welfare and Institutions Code plus a percentage markup to be established by the department.

Reimbursement for all durable medical equipment with no specified maximum allowable rate will be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 of the Welfare and Institutions Code plus a percentage markup to be established by the department, or (3) actual acquisition cost plus a markup to be established by the department, or (4) 80 percent of the manufacturer's suggested retail purchase price, or (5) a price established through targeted product-specific cost containment provisions developed with providers.

Reimbursement for durable medical equipment supplies and accessories will be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) the acquisition cost plus a 23 percent markup.

#### **PROSTHETIC & ORTHOTIC**

Reimbursement for prosthetic and orthotic appliances may not exceed 80 percent of the lowest maximum allowance established by the federal Medicare program for the same or similar services.

#### **CLINICAL LABORATORY SERVICES**

Reimbursement for clinical laboratory services may not exceed 80 percent of the lowest maximum allowance established by the federal Medicare program for the same or similar services.

#### **HEARING AIDS AND HEARING AID ACCESSORIES**

Reimbursement may not exceed the lesser of (1) the billed amount, (2) the cost of the item, plus a percentage markup as determined by the department, (3) the rate established by the department's contracting program.

#### **PUBLIC REVIEW**

The changes discussed above are available for public review at local county welfare offices throughout the State. In addition, copies of the proposed changes may be requested and comments may be sent in writing to Kathy Menda, Chief, Professional Provider Unit, Department of Health Services, MS 4600, P. O. Box 942732, Sacramento, CA 94234-7320.

**PROPOSITION 65**

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)

NOTICE TO INTERESTED PARTIES

OCTOBER 17, 2003 MEETING OF THE  
SCIENCE ADVISORY BOARD'S CARCINOGEN  
IDENTIFICATION COMMITTEE

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

The Carcinogen Identification Committee (CIC) of OEHHA's Science Advisory Board identifies chemicals for addition to the list of chemicals known to the State to cause cancer, which is mandated by Health and Safety Code Section 25249.8. The Committee serves as the "State's qualified experts" for determining whether a chemical has been clearly shown, through scientifically valid testing according to generally accepted principles, to cause cancer.

A public meeting of this committee will be held on **Friday, October 17, 2003** at the California Environmental Protection Agency Headquarters Building, Sierra Hearing Room, at 1001 I Street, Sacramento, California, beginning at 10:00 a.m. and continuing until all business has been conducted, or 5:00 p.m.

The tentative agenda for this meeting is as follows. It should be noted that the order of items on the agenda is provided for general reference only. The order in which items are taken up by the Committee is subject to change at the discretion of the Chair.

CONSIDERATION OF A CHEMICAL AS KNOWN  
TO THE STATE TO CAUSE CANCER

**Chloral Hydrate**

- Staff presentation
- Committee discussion
- Public comments
- Committee discussion and decision

CONSIDERATION OF PROPOSED  
ACRYLAMIDE WORK PLAN

**A. Proposed Work plan**

- Staff presentation
- Committee discussion

- Public comments
- Committee discussion and recommendation on overall work plan

**B. Part 1. No Significant Risk Level (NSRL)**

- Staff presentation
- Committee discussion
- Public comments
- Committee discussion and recommendation on whether the NSRL should be updated, and if so, factors to consider

UPDATES

- Status of chemical listings via the administrative listing mechanisms
- Status of hazard identification documents preparation for statin drugs
- Status of subcommittee discussions on prioritization procedure
- Public comments

SUMMARY OF COMMITTEE ACTIONS

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)

CHEMICALS UNDER CONSIDERATION FOR  
POSSIBLE LISTING VIA THE AUTHORITATIVE  
BODIES MECHANISMS: REQUEST FOR  
RELEVANT INFORMATION

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65 or the Act) requires the Governor to publish, and update at least annually, a list of chemicals known to the State to cause cancer or reproductive toxicity. The Act provides two mechanisms for administratively listing chemicals as known to the State to cause cancer or reproductive toxicity (Health and Safety Code Section 25249.8(b)).

One mechanism by which a chemical is listed is if a body considered to be authoritative by the state's qualified experts has formally identified it as causing cancer or reproductive toxicity. For carcinogenicity, the U.S. Environmental Protection Agency (U.S. EPA), the International Agency for Research on Cancer (IARC), the National Toxicology Program (NTP), the U.S. Food and Drug Administration (FDA), and the National Institute for Occupational Safety and Health (NIOSH) have been identified as authoritative bodies for purposes of the Act. The criteria for listing

chemicals through the “authoritative bodies” mechanism are set forth in Title 22, California Code of Regulations (22 CCR) Section 12306.

As the lead agency for the implementation of Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is investigating the possible listing of the chemicals identified below, based upon information in the references cited. Documentation summarizing the rationale for considering the evaluation of these chemicals for possible administrative listing is available from OEHHA’s Proposition 65 Implementation Office at the address and telephone number indicated below, or from the Internet at the following address: <http://www.oehha.ca.gov/prop65.html>.

OEHHA is committed to public participation and external scientific peer review in its implementation of Proposition 65, and welcomes public input on this listing process. As part of its efforts to ensure that regulatory decisions are based upon a thorough consideration of all relevant information, OEHHA is soliciting information which may be relevant to the evaluation of these chemicals in the context of the Proposition 65 administrative listing regulatory criteria (22 CCR Section 12306).

A public forum will be held on **Wednesday, October 29, 2003**, to provide an opportunity for interested parties to present oral comments and to discuss the scientific data and other information relevant to a determination as to whether these chemicals meet the criteria for listing set forth in 22 CCR Section 12306. The public forum will be held at the California Environmental Protection Agency Headquarters Building, Sierra Hearing Room, at 1001 I Street, Sacramento, California. The meeting will begin at 10:00 a.m. and will end at 12:00 p.m. If additional time is needed to present oral comments, OEHHA will extend the forum until all comments are heard or until 5:00 p.m. Written comments provided in **triplicate**, along with supporting information, may also be submitted to:

Ms. Cynthia Oshita  
 Office of Environmental Health Hazard Assessment  
 Street Address: 1001 I Street  
 Sacramento, California 95814  
 Mailing Address: P.O. Box 4010  
 Sacramento, California 95812-4010  
 Fax No.: (916) 323-8803  
 Telephone: (916) 445-6900

**In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered or sent by fax) by 5:00 p.m. Tuesday, November 25, 2003.**

Following the review of all comments received, OEHHA will announce its intention to proceed with

the listing of those candidate chemicals that meet the regulatory criteria for administrative listing in a *Notice of Intent to List Chemicals*.

- A. Chemicals which may meet the criteria set forth in 22 CCR Section 12306 for listing as known to cause **carcinogenicity** via the “authoritative bodies” mechanism:

Chemical	CAS No.	Reference
3,3'-Dimethoxybenzidine-based dyes metabolized to 3,3'-dimethoxybenzidine	—	NTP (2002a)
3,3'-Dimethylbenzidine-based dyes metabolized to 3,3'-dimethylbenzidine	—	NTP (2002a)
Ethylbenzene	100-41-4	IARC (1999)
Propylene glycol mono- <i>t</i> -butyl ether	57018-52-7	NTP (2003a; 2003b)
Thiouracil	141-90-2	IARC (2001)
Vanadium pentoxide	1314-62-1	NTP (2002b)

REFERENCES

International Agency for Research on Cancer (IARC, 1999). *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*. Volume 77: 227-266. *Some Industrial Chemicals*. IARC, Lyon France.

International Agency for Research on Cancer (IARC, 2001). *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*. Volume 79. *Some Thyrotropic Agents*. IARC, Lyon France.

National Toxicology Program (NTP, 2002a). *Tenth Report on Carcinogens*. U.S. Department of Health and Human Services, Public Health Service, National Institutes of Health, NTP, Research Triangle Park, NC.

National Toxicology Program (NTP, 2002b). *Toxicology and Carcinogenesis Studies of Vanadium Pentoxide (CAS No. 1314-62-1) in F344/N Rats and B6C3F<sub>1</sub> Mice (Inhalation Studies)*. NTP Technical Report Series No. 507. NIH Publication No. 03-4441. U.S. Department of Health and Human Services, Public Health Service, National Institutes of Health, NTP, Research Triangle Park, NC.

National Toxicology Program (NTP, 2003a). *Toxicology and Carcinogenesis Studies of Propylene Glycol Mono-*t*-butyl ether (CAS No. 57018-52-7) in F344/N Rats and B6C3F<sub>1</sub> Mice and a Toxicology Study of Propylene glycol Mono-*t*-butyl ether in male NBR rats*. Board Draft. NTP Technical Report Series No. 515. NIH Publication No. 03-4449. U.S. Depart-

ment of Health and Human Services, Public Health Service, National Institutes of Health, NTP, Research Triangle Park, NC.

National Toxicology Program (NTP, 2003b). *Actions on Draft Technical Reports by the NTP Board of Scientific Counselors Technical Reports Review Subcommittee on May 22, 2003*, as reported on the NTP website at <http://ntp-server.niehs.nih.gov>.

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)

NOTICE TO INTERESTED PARTIES

OCTOBER 16, 2003 MEETING OF THE SCIENCE  
ADVISORY BOARD'S DEVELOPMENTAL AND  
REPRODUCTIVE TOXICANT (DART)  
IDENTIFICATION COMMITTEE

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

The Developmental and Reproductive Toxicant (DART) Identification Committee of OEHHA's Science Advisory Board identifies chemicals for addition to the list of chemicals known to the State to cause reproductive toxicity, which is mandated by Health and Safety Code Section 25249.8. The Committee serves as the "State's qualified experts" for determining whether a chemical has been clearly shown, through scientifically valid testing according to generally accepted principles, to cause reproductive toxicity.

A public meeting of this committee will be held on **Thursday, October 16, 2003** at the California Environmental Protection Agency Headquarters Building, Sierra Hearing Room, at 1001 I Street, Sacramento, California, beginning at 10:00 a.m. and continuing until all business has been conducted, or 5:00 p.m.

The tentative agenda for this meeting is as follows. It should be noted that the order of items on the agenda is provided for general reference only. The order in which items are taken up by the Committee is subject to change at the discretion of the Chair.

**CONSIDERATION OF CHEMICALS  
AS KNOWN TO THE STATE TO CAUSE  
REPRODUCTIVE TOXICITY**

**A. Phenol**

- Staff presentation
- Committee discussion
- Public comments
- Committee discussion and decision

**B. Propachlor**

- Staff presentation
- Committee discussion
- Public comments
- Committee discussion and decision

**UPDATES**

- Status of chemical listings via the administrative listing mechanisms
- Status of hazard identification documents preparation for perchlorate
- Status of subcommittee discussions on prioritization procedure
- Public comments

**SUMMARY OF COMMITTEE ACTIONS**

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

NOTICE TO INTERESTED PARTIES

ANNOUNCEMENT OF PUBLICATION OF THE  
FINAL TECHNICAL SUPPORT DOCUMENTS  
FOR PUBLIC HEALTH GOALS FOR 11  
CHEMICALS IN DRINKING WATER

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the availability of the final technical support documents for a Public Health Goal (PHG) for each of the following eleven (11) chemicals in drinking water: asbestos, barium, beryllium, chlorobenzene, 1,1-dichloroethane, diethylhexyl adipate, ethylene dibromide, hexachlorobenzene, silvex, 1,1,2,2-tetrachloroethane, and toxaphene. The documents will be posted on the OEHHA Web site ([www.oehha.ca.gov](http://www.oehha.ca.gov)) on September 26, 2003, along with responses to major review comments. OEHHA has revised the documents as appropriate in response to review comments from the public at the workshop and during the two public review and scientific comment periods, as well as from peer reviewers at the University of California system and state and federal agencies.

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 1996 (Health and Safety Code Section 116365), amended 1999, requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

Printed copies of the final technical support documents may be obtained for a fee from:

Instant Copying and Laser Printing  
 2015 Shattuck Avenue  
 Berkeley, California 94720  
 Phone: (510) 704-9700

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. Written requests should be addressed to:

Ms. Moira Sullivan  
 Pesticide and Environmental Toxicology Section  
 Office of Environmental Health Hazard Assessment  
 California Environmental Protection Agency  
 1515 Clay Street, 16<sup>th</sup> Floor  
 Oakland, California 94612

**CALIFORNIA ENVIRONMENTAL  
 PROTECTION AGENCY  
 OFFICE OF ENVIRONMENTAL  
 HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC  
 ENFORCEMENT ACT OF 1986  
 (PROPOSITION 65)

NOTICE TO INTERESTED PARTIES

**Request for Information on a Chemical to be  
 Considered by the OEHHA Science Advisory  
 Board's Carcinogen Identification Committee**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65; Health and Safety Code Section 25249.5 *et seq.*).

The Carcinogen Identification Committee (CIC) of OEHHA's Science Advisory Board identifies chemicals for addition to the list of chemicals known to the State to cause cancer, which pursuant to Proposition 65 must be updated annually. The Committee serves as the State's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer.

At its December 17, 2002 meeting, the CIC recommended that OEHHA, as resources are available, prepare individual hazard identification documents for each of the statin drugs and present them to the CIC at a future meeting. The CIC at that time would consider each of the statin drugs individually for possible listing.

On February 21, 2003, OEHHA published a notice in the *California Regulatory Notice Register* (CRNR) (Register 03, No.8-Z) soliciting information that may be relevant to the evaluation of six statin drugs which had been at one time or another approved for use in the U.S., namely atorvastatin calcium, cerivastatin sodium, fluvastatin sodium, lovastatin, pravastatin sodium, and simvastatin. Information has been received that OEHHA is reviewing as it prepares a draft hazard identification document for each statin drug. Since the close of the comment period, a new statin drug, rosuvastatin calcium, has been approved for use by the U.S. Food and Drug Administration. In light of the CIC's December 2002 recommendation, OEHHA initiates a 60-day data call-in period for rosuvastatin calcium listed below:

Chemical	CAS No.
Rosuvastatin calcium	147098-20-2

Interested parties or members of the public wishing to provide information relevant to the assessment of carcinogenicity for this chemical should forward such information to the address given below. This period will end on **Tuesday, November 25, 2003**. The information received during this data call-in period will be reviewed and considered by OEHHA as it develops the draft cancer hazard identification document on rosuvastatin calcium.

OEHHA welcomes public participation and public input as part of these scientific assessments. Notification of the availability of the hazard identification documents for each statin drug and the time, date, location, and agenda of the meeting of the CIC where these chemicals will be considered will also be provided in subsequent notices published in the CRNR and posted on the OEHHA web site at [www.oehha.ca.gov](http://www.oehha.ca.gov). It is anticipated that the draft hazard identification documents will be made available for a 60-day comment period prior to the Committee meeting at which these chemicals will be considered.

Relevant information on this chemical should be sent in triplicate by mail or fax to:

Cynthia Oshita  
 Office of Environmental Health Hazard Assessment  
 Proposition 65 Implementation  
 P.O. Box 4010  
 1001 I Street, 19<sup>th</sup> floor

Sacramento, California 95812-4010  
 FAX (916) 323-8803  
 (916) 445-6900

**In order to be considered, the relevant information must be postmarked (if sent by mail) or received at OEHHA (if delivered in person or sent by FAX) by 5:00 p.m. on Tuesday, November 25, 2003.**

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH SECRETARY OF STATE**

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

**BOARD OF EQUALIZATION**

**Change in Ownership—Legal Entities**

The regulatory action deals with “change in ownership-legal entities”.

Title 18  
 California Code of Regulations  
 AMEND: 462.180  
 Filed 09/15/03  
 Effective 10/15/03  
 Agency Contact: Diane G. Olson (916) 322-9569

**BOARD OF EQUALIZATION**

**Packers, Loaders, and Shippers**

This regulatory action deals with the taxation or exemption of disposable temperature recording devices used for shipping perishable food products.

Title 18  
 California Code of Regulations  
 AMEND: 1630  
 Filed 09/15/03  
 Effective 10/15/03  
 Agency Contact: Diane G. Olson (916) 322-9569

**BOARD OF EQUALIZATION**

**Sales of Certain Vehicles and Trailers for Use**

The regulatory action deals with the sales of certain vehicles and trailers for use in interstate or out-of-state commerce.

Title 18  
 California Code of Regulations  
 ADOPT: 1620.1

Filed 09/16/03  
 Effective 10/16/03  
 Agency Contact: Diane G. Olson (916) 322-9569

**BOARD OF PHARMACY**

**Citation and Fine**

The regulatory action deals with citations and fines.  
 Title 16  
 California Code of Regulations  
 ADOPT: 1775.1 AMEND: 1775, 1775.2, 1775.3, 1775.4 REPEAL: 1775.15, 1777, 1777.1, 1777.2, 1777.3, 1777.4, 1777.5, 1778, 1778.1, 1778.2, 1778.3

Filed 09/11/03  
 Effective 10/11/03  
 Agency Contact:  
 Paul Riches (916) 445-5014 x4016

**BUREAU FOR PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION**

**Student Tuition Recovery Fund—AB 201**

This action updates the regulations that govern operation of the Student Tuition Recovery Fund to conform with statutory changes and specify the fees that students must pay to support continued operation of the fund.

Title 5  
 California Code of Regulations  
 ADOPT: 76215 AMEND: 76000, 76010, 76120, 76130, 76200, 76210 REPEAL: 76100, 76110  
 Filed 09/11/03  
 Effective 09/11/03  
 Agency Contact: Julieta Leon (916) 445-3427

**CALIFORNIA HORSE RACING BOARD**

**Prohibited Veterinary Practices**

This rulemaking adds snake venom and snail venom to the list of substances that possession and/or use of, constitutes a prohibited veterinary practice.

Title 4  
 California Code of Regulations  
 AMEND: 1867  
 Filed 09/16/03  
 Effective 10/16/03  
 Agency Contact: Harold Coburn (916) 263-6397

**DEPARTMENT OF CORPORATIONS**

**Administrative Penalties Criteria**

The regulatory action establishes criteria for administrative penalties. (Department of Corporations File PRO 21/02)

Title 10  
 California Code of Regulations  
 ADOPT: 250.70  
 Filed 09/11/03  
 Effective 10/11/03  
 Agency Contact: Kathy Womack (916) 322-3553

**DEPARTMENT OF FINANCE**

**Conflict of Interest Code**

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

Title 2

California Code of Regulations

AMEND: 37000

Filed 09/12/03

Effective 10/12/03

Agency Contact: Dana Bralley (916) 445-3274

**DEPARTMENT OF HEALTH SERVICES**

**Rate Increase for Hospital Outpatient Departments**

This is the timely certification of compliance for an emergency action that increased the maximum reimbursement rate paid to hospitals under the Medi-Cal program for outpatient services provided on or after July 1, 2001.

Title 22

California Code of Regulations

AMEND: 51509

Filed 09/15/03

Effective 09/15/03

Agency Contact:

Michelle L. Tedrow (916) 653-1747

**DEPARTMENT OF HEALTH SERVICES**

**Lead and Copper Requirements for Drinking Water**

This regulatory action (DHS file no. R-21-01) deals with the lead and copper level requirements for drinking water.

Title 22

California Code of Regulations

ADOPT: 64670, 64671.05, 64671.08, 64671.09, 64671.10, 64671.15, 64671.30, 64671.35, 64671.40, 64671.55, 64671.65, 64671.70, 64671.75, 64671.80, 64671.85, 64673, 64674, 64675, 64675.5, 64676, 64677, 64677.5, 64678, 64678.5, 64679, 64680, 64681, 64682, 646

Filed 09/11/03

Effective 10/11/03

Agency Contact:

Charles E. Smith (916) 657-0730

**DEPARTMENT OF MANAGED HEALTH CARE**

**Out of Area Maternity Services**

This regulatory action amends the requirements for provision of maternity care when the enrollee is out of area.

Title 28

California Code of Regulations

AMEND: 1300.67

Filed 09/16/03

Effective 10/16/03

Agency Contact:

Lyn Amor Macaraeg (916) 322-9727

**DEPARTMENT OF PESTICIDE REGULATION**

**Methyl Bromide Field Fumigation**

This emergency action repeals and readopts the current emergency regulations on methyl bromide field fumigation in order to preserve the status quo and allow DPR more time before adopting final regulations.

Title 3

California Code of Regulations

ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784

AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784

Filed 09/11/03

Effective 09/18/03

Agency Contact:

Linda Irokawa-Otani (916) 445-3991

**DEPARTMENT OF SOCIAL SERVICES**

**Cash Assistance Program for Immigrants**

In this regulatory action, the California Department of Social Services amends its regulations pertaining to the Cash Assistance Program for Immigrants; including adding new provisions relating to "sponsor deeming."

Title MPP

California Code of Regulations

ADOPT: 49-037 AMEND: 49-005, 49-020, 49-035, 49-040, 80-310

Filed 09/16/03

Effective 10/16/03

Agency Contact:

Anthony J. Velasquez (916) 657-2586

**DEPARTMENT OF SOCIAL SERVICES**

**Food Stamp Reauthorization Act of 2002—  
Noncitizen Children**

This rulemaking restores federal eligibility to the Food Stamp Program for legal non-citizens under the age of 18 regardless of the date of entry into the United States.

Title MPP

California Code of Regulations

AMEND: 63-405, 63-503

Filed 09/11/03

Effective 10/01/03

Agency Contact:

Anthony J. Velasquez (916) 657-2586

**FAIR POLITICAL PRACTICES COMMISSION**

**Surplus Funds**

This action adopts regulations defining the use of "surplus funds" for campaign funds raised after January 1, 1989, including incumbent candidates who

wish to use funds for a future election, non-incumbent defeated and withdrawn candidates, and deceased candidates. The action is submitted for filing with the Secretary of State and printing only.

Title 2  
California Code of Regulations  
ADOPT: 18951  
Filed 09/15/03  
Effective 09/15/03  
Agency Contact: Scott Tocher (916) 322-5660

OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT  
Safe Drinking Water and Toxic Enforcement Act  
of 1986

The Office of Environmental Health Hazard Assessment is amending title 22, California Code of Regulations, section 12901(b) changing "Department of Pesticide Regulations" to "Department of Food and Agriculture", stating it was an amendment made in error in File No. 02-1121-02S..

Title 22  
California Code of Regulations  
AMEND: 12901  
Filed 09/11/03  
Effective 10/11/03  
Agency Contact: Cynthia Oshita (916) 322-2068

STATE WATER RESOURCES CONTROL BOARD  
Amendment to SD Basin Plan to Establish TMDL

The TMDL addresses toxicity in Chollas Creek caused by the pesticide diazinon. The concentration-based numeric targets and TMDL for diazinon were set equal to the California Department of Fish and Game freshwater Water Quality Criteria for diazinon. The acute Water Quality Criterion of 0.08 ug/L protects aquatic life from short-term exposure to diazinon, while the chronic criterion of 0.05 ug/L protects aquatic life from long-term diazinon exposure. The concentration-based wasteload and load allocations of this TMDL were assigned equally to all diazinon discharge sources in the Chollas Creek Watershed. All allocations were set at 90 percent of the numeric targets resulting in a diazinon allocation equal to 0.072 ug/L under acute exposure conditions (one-hour average) and a diazinon allocation of 0.045 ug/L under chronic exposure conditions (four-day average). Frequency of allowed exceedances are set at once every three years on the average. These allocations include an explicit 10 percent margin of safety to account for uncertainties in the TMDL analysis and represent approximately a 90 percent reduction from current loads.

The responsible parties are the Cities of San Diego, Lemon Grove, and La Mesa, the San Diego Unified Port District, the County of San Diego, and the California Department of Transportation. These enti-

ties are responsible for implementation of the TMDL and for reduction of their diazinon discharges. The Regional Board will revise the San Diego Municipal Separate Storm Sewer System Permit to make it consistent with the wasteload and load allocation part of this TMDL. Compliance numeric limitations for diazinon will be required in accordance with a phased schedule of compliance.

Title 23  
California Code of Regulations  
ADOPT: 3989.1  
Filed 09/11/03  
Effective 09/11/03  
Agency Contact: Greg Frantz (916) 341-5553

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN MAY 14, 2003 TO  
SEPTEMBER 17, 2003**

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

- Title 1**  
07/01/03 AMEND: 1038
- Title 2**  
09/15/03 ADOPT: 18951  
09/12/03 AMEND: 37000  
08/29/03 AMEND: 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153  
08/28/03  
08/25/03 ADOPT: 1859.71.4, 1859.78.1 AMEND: 1859.2, 1859.73.2, 1859.79.2, 1859.82, 1859.83, 1859.125, 1859.125.1, 1859.145  
08/18/03 AMEND: 599.515  
08/14/03 ADOPT: 18531.5  
08/13/03 AMEND: 41000  
08/01/03 ADOPT: 22100, 22110, 22120, 22130  
07/29/03 AMEND: 18404.1  
07/14/03 AMEND: Chapter 55, Section 54400  
07/14/03 AMEND: 649.11  
07/14/03 AMEND: 56800  
07/07/03 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2  
06/19/03 AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4,

1859.75, 1859.75.1, 1859.78.3, 1859.79,  
1859.81.1, 1859.83, 1859.107, 1859.145  
06/16/03 ADOPT: 18530.2  
06/13/03 ADOPT: 1859.160, 1859.161, 1859.162,  
1859.162.1, 1859.163, 1859.164,  
1859.164.1, 1859.165, 1859.166,  
1859.166.1, 1859.167, 1859.168,  
1859.169, 1859.170, 1859.171 AMEND:  
1859.2, 1859.51, 1859.103, 1859.106,  
1859.145.1  
06/12/03 ADOPT: 18329.5  
06/12/03 AMEND: 1555  
06/12/03 AMEND: 1859.77.2  
06/10/03 ADOPT: 18702.5 AMEND: 18702,  
18702.1  
06/04/03 ADOPT: 649.23, 649.24, 649.25

**Title 3**

09/11/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
6784 AMEND: 6000  
REPEAL: 6450, 6450.1, 6450.2, 6450.3,  
6784  
08/26/03 ADOPT: 1310, 1310.1, 1310.2, 1310.3  
08/26/03 AMEND: 1380.19 (b), (q), (r), (t),  
1402.12, 1446.7, 1454.14, 1462.15  
08/21/03 ADOPT: 820, 820.1, 820.2, 820.3, 820.4,  
820.5, 820.6, 820.7, 820.8  
08/12/03 AMEND: 4500  
07/29/03 ADOPT: 760, 760.1, 760.2, 760.3, 760.4,  
760.5, 760.6, 760.7, 760.8, 760.9  
07/28/03 ADOPT: 3650, 3651, 3652, 3653, 3654,  
3655, 3656, 3657, 3658, 3659, 3660,  
3661, 3662, 3663, 3663.5  
07/24/03 AMEND: 3417(b)  
07/10/03 AMEND: 3700(c)  
07/08/03 AMEND: 3700(c)  
07/03/03 ADOPT: 755, 755.1, 755.2, 755.3, 755.4,  
755.5, 755.6, 756, 756.1, 756.2, 756.3,  
757, 758, 758.1, 759 AMEND: 753.2  
REPEAL: 757, 759, 759.1, 759.2, 759.3,  
759.4, 759.5  
06/26/03 AMEND: 3417(b)  
06/12/03 AMEND: 3423(b)  
06/03/03 AMEND: 3417  
06/02/03 REPEAL: 796  
05/28/03 ADOPT: 1392.12  
05/22/03 AMEND: 6860  
05/19/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
6784 AMEND: 6000 REPEAL: 6450,  
6450.1, 6450.2, 6450.3, 6784

**Title 4**

09/16/03 AMEND: 1867  
09/09/03 AMEND: 2000  
09/08/03 ADOPT: 12300, 12301, 12302, 12303,  
12304, 12305, 12306, 12307, 12308,  
12309, 12310 AMEND: 12301, 12303  
08/25/03 ADOPT: 12250

08/18/03 AMEND: 12101, 12122  
07/14/03 ADOPT: 10151, 10152, 10153, 10154,  
10155, 10156, 10157, 10158, 10159,  
10160, 10161, 10162  
06/26/03 AMEND: 12100, 12101, 12104, 12105,  
12120, 12122, 12124, 12126, 12128,  
12130, 12132, 12140, 12142  
06/16/03 ADOPT: 12370  
05/22/03 ADOPT: 12300, 12301, 12302, 12304,  
12305, 12306, 12307, 12308, 12309,  
12310 AMEND: 12301, 12303, 12309

**Title 5**

09/11/03 ADOPT: 76215 AMEND: 76000, 76010,  
76120, 76130, 76200, 76210  
REPEAL: 76100, 76110  
09/04/03 ADOPT: 18074, 18074.1, 18074.2,  
18074.3, 18075, 18075.1, 18075.2,  
18076, 18076.1, 18076.2 AMEND:  
18413, 18428 REPEAL: 18021  
08/26/03 ADOPT: 11971, 11972, 11973, 11974,  
11975, 11976, 11977, 11978, 11979,  
11979.5  
07/31/03 AMEND: 80014, 80015, 80015.1, 80023  
REPEAL: 80085, 80085.1, 80086, 80087,  
80088, 80412, 80413.2, 80414, 80422,  
80680-80690.1  
07/21/03 ADOPT: 1068-1074  
07/18/03 ADOPT: 80473, 80473.1  
07/03/03 AMEND: 51023.5  
06/20/03 ADOPT: 13075  
06/16/03 ADOPT: 9531, 9532  
05/15/03 ADOPT: 24000, 24001, 24002, 24003,  
24004, 24005, 24006, 24007, 24008,  
24009

**Title 7**

07/23/03 AMEND: 213(i)  
06/03/03 AMEND: 201, 202, 203, 204, 208, 209,  
210, 211, 213, 214, 215, 216, 217, 218,  
219, 220, 221, 222

**Title 8**

08/26/03 AMEND: 3273  
08/25/03 AMEND: 2561.31, 2561.32, 4885, 5022  
08/04/03 ADOPT: 3458 AMEND: 3437  
07/31/03 AMEND: 1532, 1532.1, 1535, 5198,  
5200, 5201, 5207, 5211, 5214, 5218,  
5220  
07/28/03 AMEND: 3016, 3120.6, 2122.0  
07/24/03 AMEND: 1532.1  
07/21/03 AMEND: 5557  
07/11/03 AMEND: 1504, 1637  
07/11/03 ADOPT: 5248, 5252.1, 5253.1, 5298.1,  
5307, 5308 AMEND: 1504, 5236, 5237,  
5238, 5239, 5240, 5241, 5242, 5243,  
5244, 5245, 5246, 5247, 5251, 5252,

5253, 5254, 5256, 5257, 5258, 5262,  
5267, 5268, 5269, 5270, 5276, 5277,  
5278, 5279, 5280, 5291, 5292, 5293,  
07/03/03 AMEND: 1635, 1710  
07/03/03 ADOPT: 5006.1 AMEND: 5006  
06/26/03 AMEND: 421, 422, 422.1, 423, 424.1,  
424.2, 424.3, 424.4, 425.1, 425.2, 426,  
427.1, 427.2, 427.3, 427.4, 428  
06/12/03 ADOPT: 3195. 3195.2, 3195.3, 3195.4  
3195.5, 3195.6, 3195.7, 3195.8, 3195.9,  
3195.10, 3195.11, 3195.12, 3195.13,  
3195.14  
06/09/03 AMEND: 344.30  
06/02/03 AMEND: 4821  
05/30/03 ADOPT: 15220, 15220.1, 15220.2,  
15220.3, 15220.4, 15220.5, 15220.6,  
15220.7, 15220.8 AMEND: 15201,  
15210, 15210.1, 15210.2, 15216, 15430  
05/29/03 AMEND: 5161, 5164  
05/27/03 AMEND: 5214  
05/20/03 AMEND: 9785, 9785.2, 9785.3, 9786,  
9787

**Title 9**

06/19/03 ADOPT: 1840.112 AMEND: 1830.215  
06/05/03 ADOPT: 880, 881, 882, 883, 884, 885,  
886, 890, 891, 892  
05/20/03 ADOPT: 7149.1 AMEND: 7174

**Title 10**

09/11/03 ADOPT: 250.70  
09/09/03 ADOPT: 2278, 2278.1, 2278.2, 2278.3,  
2278.4, 2278.5  
09/09/03 AMEND: 2498.6  
09/05/03 ADOPT: 2791.3, 2792.33, 2810.3, 2836,  
2860 AMEND: 2731, 2790.5, 2791.8,  
2792.26, 2848, 2853, 2910, 2911, 2912,  
2930, 2950, 3000, 3006  
09/04/03 ADOPT: 2698.30, 2698.31, 2698.32,  
2698.33, 2698.34, 2698.35, 2698.36,  
2698.37, 2698.38, 2698.39, 2698.40,  
2698.41, 2698.42  
REPEAL: 2698.40, 2698.41, 2698.42,  
2698.43, 2698.44, 2698.45  
09/02/03 AMEND: 2498.6  
08/28/03 AMEND: 2498.6  
08/26/03 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4,  
2192.5, 2192.6, 2192.7, 2192.8, 2192.9,  
2192.10, 2192.11, 2192.12, 2192.13  
08/25/03 ADOPT: 2278, 2278.1, 2278.2, 2278.3,  
2278.4, 2278.5  
08/21/03 ADOPT: 2175.6, 2175.7, 2175.8, 2175.9,  
2178  
08/21/03 ADOPT: 2187.4  
08/12/03 AMEND: 2615.3  
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07/15/03 ADOPT: 2716.1, 2790.1.5, 2805.1.5  
07/14/03 AMEND: 2190.05, 2190.7  
07/14/03 ADOPT: 2020, 2021 AMEND: 250.51  
07/11/03 ADOPT: 2194, 2194.1, 2194.2, 2194.3,  
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07/03/03 AMEND: 2498.2  
06/19/03 AMEND: 5.2001  
06/10/03 ADOPT: 310.156.3 AMEND: 310.114.1  
06/05/03 AMEND: 2695.2  
06/03/03 AMEND: 2509.40, 2509.41, 2509.42,  
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