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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

- California Municipal Finance Authority
- Orange Line Development Authority
- Power and Water Resources Pooling Authority
- Quantification Settlement Agreement Authority

A written comment period has been established commencing on **October 1, 2004** and closing on **November 15, 2004**. Written comments should be directed to the Fair Political Practices Commission, Attention Jeanette Turvill, 428 J Street, Suite 620, Sacramento, CA 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 15, 2004. 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 costs has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Section 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 revisions 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 Jeanette Turvill, 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 Jeanette Turvill, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **November 18, 2004**, at 10:00 a.m. in the Council Chambers, Second Floor of the Glendale City Hall, 613 E. Broadway, Glendale, California 91026-4308.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **November 18, 2004**, following the Public Meeting in the Council Chambers, Second Floor of the Glendale City Hall, 613 E. Broadway, Glendale, California 91026-4308.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **November 18, 2004**, following the Public Hearing in the Council Chambers, Second Floor of the Glendale City Hall, 613 E. Broadway, Glendale, California 91026-4308.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **November 18, 2004**.

1. TITLE 8: CONSTRUCTION SAFETY ORDERS
Chapter 4, Subchapter 4, Article 24
Section 1670(b)(10) and (17)
Use of Guardrails as Anchorage for Personal Fall Arrest Systems
2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 13
Section 3456
Hand Weeding, Hand Thinning, and Hand Hot-Capping Operations in Agriculture

A description of the proposed changes are as follows:

1. TITLE 8: CONSTRUCTION SAFETY ORDERS
Chapter 4, Subchapter 4, Article 24
Section 1670(b)(10) and (17)
Use of Guardrails as Anchorage for Personal Fall Arrest Systems

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Title 8 section 1670(b)(17) of the Construction Safety Orders (CSO) prohibits the use of guardrails as anchor points for personal fall arrest systems (PFAs). However, Occupational Safety and Health Standards Board (board) staff notes that federal OSHA in 29 CFR 1926.502, Subpart M, Fall Protection in the Construction Industry, Appendix C II, (h)(ii) states that federal OSHA recognizes that situations may exist where it is acceptable to use guardrails or railings for use as an anchor point provided they have been designed for such use. Federal OSHA also addresses the use of anchorages used for PFAs in 29 CFR 1926.502(d)(15)(i) and (ii), which is comparable to California's section 1670(b)(10). Both standards require anchorage for PFAs to be able to support at least 5000 pounds per employee attached. Both 29 CFR 1926.502(d)(23) and California's section 1670(b)(17)

state that PFAs are not to be attached to guardrails except as specified in the respective standards, and, in the case of the federal standard, as specified in Appendix C to Subpart M. Moreover, federal OSHA has issued a Standards Interpretation and Compliance Letter dated June 8, 1998, in which it clarified that it recognizes that there may be a need for employers to devise anchor points from existing structures. As an example, they included guardrails or railings provided they have been designed for use as an anchor point.

Board staff concurs with federal OSHA as expressed in its Appendix C to Subpart M described above, to the extent that there are situations where suitable anchorage for PFAs is not readily available and there is a need for the employer to devise an anchor point from existing structures, such as a guardrail. Board staff also believes that if a guardrail has been designed (engineered) to meet the strength requirement stated in section 1670(b)(10) by or under the direction of a registered engineer, that such point of attachment meets the definition of "anchorage" in section 1504 of the CSO, and therefore is acceptable for use as a ". . . secure point of attachment . . ." for an employee's PFA. Consistent with the aforementioned federal OSHA documents, board staff proposes section 1670(b)(17) be amended to allow guardrails to be used as anchorage for PFAs provided (1) they are engineered for such use by a California registered civil or structural engineer (P.E.) to meet the criteria as stated in section 1670(b)(10), and (2) other conditions are met which include, but are not limited to, onsite maintenance of P.E. approved design documentation, identification of anchor points, and supervision of employees by qualified persons. Additional language has been included which clarifies the meaning of the phrase ". . . to safely support." An exception is included which would prohibit the railings of scaffold systems to be used as anchorage.

This proposed rulemaking action also contains a nonsubstantive, editorial, reformatting of subsection 1670(b)(10)(B) for consistency with Title 8 format. This nonsubstantive revision is not discussed in this Informative Digest. However, this proposed revision is clearly indicated in the regulatory text in underline and strikeout format. In addition to this nonsubstantive revision, the following action is proposed:

Section 1670. Personal Fall Arrest Systems, Personal Fall Restraint Systems and Positioning Devices.

This section contains California's personal fall protection system requirements and addresses the use, care, and maintenance of PFAs, fall restraint and positioning device systems which include, but are not limited to, the following: (1) trigger heights for the use of personal fall protection systems, (2) criteria for the design, use, and care of PFAs when used on scaffolds

in conjunction with lanyards and lifelines, (3) strength requirements for personal fall protection components, (4) methods of attaching lifelines to employees in elevator shafts, (5) use of self-retracting lifelines and lanyards, (6) use of body belts, (7) employee rescue in the event of an employee fall, and (8) anchorage criteria for PFAs.

Subsection (b) specifically addresses use of PFAs and prohibits the use of body belts as part of a PFA system after January 1, 1998. Subsection (b)(17) states that PFAs shall not be attached to hoists, except as specified in the CSO, nor shall they be attached to guardrails. Revisions are proposed to add language in subsection (b)(17) that would permit employers to attach a PFA to a guardrail provided four conditions described in subsections A-D are met which include: guardrail designed (engineered) for such use by a registered structural or civil engineer (P.E.) to safely support the intended load(s) as specified in the anchorage requirement contained in the preceding subsection (b)(10) of section 1670, clarification of the phrase "to safely support;" onsite maintenance of guardrail engineering documentation (design calculations, location, use and identification of anchor points, etc.); the guardrail anchor points are clearly identified and their condition inspected by a qualified person before and after each use; and the employees using guardrails as a PFAs anchor point are supervised by a qualified person who will ensure that only guardrails that have been designed, identified and inspected are used as an anchor point.

The proposed revisions would have the effect of providing the construction industry employers with an alternative means of anchorage for their employees who wear PFAs. The proposal would provide flexibility by allowing them to engineer their own guardrails with anchorage in accordance with the proposed anchorage requirements or purchase manufactured guardrail systems that have been engineered as specified in the existing anchorage criteria contained in section 1670(b)(10). Currently, employers who cannot find suitable anchorage points as provided by the building's structural members would have to provide alternative means of addressing an employee's fall protection (e.g., additional guardrails, safety nets, fall protection plan). The proposal would permit the employer to use an engineered guardrail as anchorage, obviating the need for additional or alternative measures. The proposal would prohibit the use of scaffold railings for anchorage.

COST ESTIMATES OF PROPOSED ACTION
Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The board has made an initial determination that this proposal 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.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

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

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does 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 B 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 standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way

require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to this standard 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

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

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**

Chapter 4, Subchapter 7, Article 13
Section 3456

**Hand Weeding, Hand Thinning,
and Hand Hot-Capping Operations
in Agriculture**

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

This rulemaking action was initiated in response to Petition File No. 446 submitted to the Occupational Safety and Health Standards Board (Board) by the California Rural Legal Assistance Foundation, United Farm Workers of America, and the California Labor Federation. The Board received Petition 446 on July 1, 2002.

Currently, Section 3456 prohibits the use of short handled tools for weeding, thinning or hot-capping operations in agriculture when such tools are used in a stooped, kneeling or squatting position. This provision is intended to prevent worker back injuries. Section 3456 does not address the practice of hand weeding, hand thinning, or hand hot-capping, which exposes workers to an even greater risk of back injury than the use of a short handled tool. Performing these hand operations results in workers having to bend down an additional 6 to 12 inches, which places additional

stress on the back. When a long-handled tool or other alternative means to perform the work is available, these hand operations defeat the intent of Section 3456. Furthermore, Section 3456 does not provide protective measures to reduce the risk of injury to workers who perform hand weeding, hand thinning, or hand hot-capping when no alternative means is available to perform the work.

Where a suitable and appropriate alternative means of performing the work is readily available, the proposed amendment to Section 3456 would prohibit hand weeding, hand thinning, or hand hot-capping. However, in specific agricultural situations and where occasional or intermittent hand weeding, hand thinning, or hand hot-capping are incidental to a non-hand weeding operation, such practices would be permitted. The proposal would provide additional rest time for employees performing hand weeding, hand thinning, or hand hot-capping when these operations are not determined to be occasional or intermittent as defined by the standard. Furthermore, employees who perform hand weeding, hand thinning, or hand hot-capping, would receive training and personal protective equipment.

The effects of the proposed amendments are outlined below:

Section 3456. Hand-Held Tools.

Section 3456(c)(1)

Language is proposed which would prohibit hand weeding, hand thinning, or hand hot-capping in agriculture where there is a readily available alternative means of performing the work that is suitable and appropriate to the production of the agricultural or horticultural commodity. The effect of this proposal is to clarify when handwork in specified agricultural operations is permitted.

Section 3456(c)(2)

The proposed language would clarify that, when requested by the Division of Occupational Safety and Health, it is the employer's responsibility to justify that the use of hand weeding, hand thinning, or hot capping was required due to the unsuitability of long-handled tools or other alternative means of performing the work. The effect of this amendment is to clarify who, if the Division inquires, must justify that long handled tools or other alternatives to performing hand weeding, hand thinning, or hand hot-capping are unsuitable, and when the justification is required.

Section 3456(c)(3)

The proposed language would clarify that occasional or intermittent hand weeding, hand thinning, or hand hot-capping is permitted when performed incidental to a non-hand weeding operation. Occasional or

intermittent is defined to mean an employee is devoting 20 percent or less of his or her weekly work time to hand weeding, hand thinning, or hand hot-capping. The effect of this amendment is to further clarify when hand weeding, hand thinning, or hand hot-capping is permitted.

Section 3456(c)(4)

Language is proposed which would require employers to provide employees engaged in hand weeding, hand thinning, and hand hot-capping, which is not occasional or intermittent, an additional five minutes of rest period time. The proposed revision would clarify that the authorized rest period time shall be based on the total hours worked daily at the rate of fifteen minutes per four hours of work, or major fraction thereof, and insofar as practical shall be in the middle of each work period. The proposal would further clarify that authorized rest time shall be counted as hours worked for which there shall be no deduction from wages. The effect of this amendment is to clarify when workers performing hand weeding, hand thinning, or hand hot-capping are to be provided additional rest period time, the length of the rest period, and how workers are to be compensated for rest time.

Section 3456(c)(5)

The proposed language would provide employees engaging in hand weeding, hand thinning, or hand hot-capping with gloves and knee pads, as necessary. The proposal would further require that employees performing these operations be provided the training required to perform the job in accordance with the Section 3203—Injury and Illness Prevention Program. The effect of this amendment is to clarify when gloves and kneepads are to be provided to workers performing hand weeding, hand thinning, or hand hot-capping, and to provide guidance on how workers are to be trained.

Section 3456(c)(6)

Language is proposed which would clarify that it is the obligation of the employer, in accordance with Title 8, Section 11140, to provide any hand tool that may be used under subsection (c)(1). The effect of this amendment is to clarify who is responsible for providing any hand tool that may be used under subsection (c)(1).

Section 3456(d)

A new subsection (d) is proposed that would exempt the following operations from the provisions of subsections (c)(1) and (c)(2):

- (1) High density plants spaced less than 2 inches apart when planted;

- (2) Any agricultural commodity grown without pesticides;
- (3) All agricultural or horticultural commodities when they are seedlings; and
- (4) Horticultural commodities grown in tubs or planter containers when the use of a long handled tool or other alternative is unsuitable to the production of the commodity.

The effect of this amendment is to specify the situations where an employer is permitted to perform hand weeding, hand thinning, or hand hot-capping without justifying that alternative means of performing these operations are unsuitable.

PETITION

Petitioners: California Rural Legal Assistance Foundation, United Farm Workers of America, and California Labor Federation

File No.: 446

The Board received a petition on July 1, 2002, to amend California Code of Regulations, Title 8, Section 3456 of the General Industry Safety Orders regarding hand weeding, hand thinning, and hand hot-capping in agriculture. On October 17, 2002, the Board granted the petition to the extent that the Petitioner's proposal would be referred to a representative advisory committee for consideration.

A copy of the petition, the Division's evaluation and the Board's petition decision are included in the reference materials in the rulemaking file.

ADVISORY COMMITTEE

Two advisory committee meetings were convened at which labor and grower representatives presented information relevant to the petition. A list of advisory committee members, attendance sheets, and minutes are attached as Attachment No. 4. Five additional subcommittee meetings were convened to develop proposed regulatory language, however, no consensus was reached on a proposal. Subsequently, the Labor and Workforce Development Agency met with stakeholders, and as a result of those meetings this proposal was developed.

EMERGENCY STANDARDS

This proposal is submitted concurrently with a proposal to be considered on an emergency basis.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal 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.

The cost associated with providing suitable alternative means of performing hand weeding, as required by the proposal, is expected to be offset by improved productivity. This conclusion is based on statements made by grower representatives during advisory committee meetings, which point out that hand weeding is not as cost effective as using suitable alternative means, such as long handled tools, to perform the work.

The cost of providing additional rest period time for employees engaged in hand weeding, as proposed, is estimated to be insignificant compared to the total production cost per acre. This conclusion is based on cost studies conducted by the University of California Cooperative Extension, which are identified in the Documents Relied Upon section of this report.

Existing standards require gloves and body protection when necessary to protect employees from harmful exposures, therefore any additional cost associated with providing gloves and knee pads to employees performing hand weeding, thinning, and hot-capping, as required by the proposal, is estimated to be insignificant.

The proposed employee training requirements are performance based and do not mandate a specific amount of training time. Training is already required by Section 3203, Injury and Illness Prevention Program, and therefore should not be considered an added cost of this proposed standard.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action; however, the cost impact that businesses would necessarily incur in reasonable compliance with the proposed action is described in the section above.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

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

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does 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 B 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 standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers who perform agricultural operations will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no significant adverse economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this standard 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

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out

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

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than November 12, 2004. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on November 18, 2004 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board’s rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board’s notice and other materials associated with this proposal on the Standards Board’s homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement

of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 10. DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner ("Commissioner") proposes to amend Sections 260.140.72, 260.140.72.1 and 260.140.72.5 of Title 10, California Code of Regulations, under the Corporate Securities Law of 1968, as amended, relating to the offerings of debt securities by churches.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8, subdivision (a), of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed to Kathy Womack, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m. on November 15, 2004. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax (916) 322-3205. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5:00 p.m. on the next business day.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department regulates the offer and sale of securities pursuant to the Corporate Securities Law of 1968, as amended ("CSL"). Under the CSL, it is unlawful to offer or sale any security in the state unless the offer or sale has been qualified with the Commissioner or is exempt from qualification.

Current regulations of the Commissioner set forth specific standards for the qualification of debt securities issued by churches. Specifically, current rules set forth the standards and provisions generally to be followed with respect to an application for qualification filed by a church for a permit to issue promissory notes or other debt securities pursuant to Corporations Code Section 25113 of the CSL.

The proposed rules set forth changes to the Commissioner's rules to: (1) broaden the definition of "church" to include "mosque"; (2) specify that churches are "nonprofit" entities; (3) require an opinion of legal counsel attesting to the authority of the issuer to offer and sell the bonds; and (4) modify language of the regulation to state that the offering shall be accompanied by disclosure documents that contain information required by the offering circular provisions of the Statement of Policy Regarding Church Bonds of the North American Securities Administrators Association ("NASAA") dated April 14, 2002. These changes make various clarifying and conforming revisions to modernize the Commissioner's rules consistent with NASAA's Statement of Policy Regarding Church Bonds dated April 14, 2002.

AUTHORITY

Section 25610, Corporations Code.

REFERENCE

Section 25140, Corporations Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulations. A request for a copy of any modified regulations should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulations for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 25/01-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 25/01-C. These documents are also available at the Department's website www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Law and Legislation maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California.

**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 contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

- Cost or Savings to any State Agency: None.
- Direct or Indirect costs or savings in federal funding to the state: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; or (3) the expansion of businesses currently doing business within the State of California.

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

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

EFFECT ON SMALL BUSINESS

The proposed regulatory action will not affect small businesses because the proposed action makes clarifying changes to current regulations. Moreover, entities

organized as nonprofit institutions are excluded from the definition of small business in Government Code Section 11342.610, subdivision (b)(6).

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Gayle T. Oshima, Corporations Counsel, Department of Corporations, 71 Stevenson Street, Suite 2100, San Francisco, CA 94105, (415) 972-8576.

TITLE 13. AIR RESOURCES BOARD

**NOTICE OF PUBLIC HEARING TO CONSIDER
PROPOSED 2004 AMENDMENTS REFINING
THE CALIFORNIA PHASE 3 REFORMULATED
GASOLINE REGULATIONS**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider proposed 2004 amendments refining the California Phase 3 Reformulated Gasoline (CaRFG3) regulations. The proposed amendments include clarifications, corrections, and improvements in compliance flexibility and enforceability.

Date November 18, 2004

Time 9:00 a.m.

Place California Environmental Protection
Agency

Air Resources Board

Central Valley Auditorium, Second Floor

1001 I Street

Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on Thursday, November 18, 2004, and may continue at 8:30 a.m. on Friday, November 19, 2004. This item may not be considered until Friday, November 19, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before November 18, 2004, and posted on the ARB's website, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to

<http://www.arb.ca.gov/html/ada/ada.htm>

for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. 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 amendments to sections 2260, 2262, 2262.4, 2262.5, 2262.6, 2262.9, 2263, 2265 (and the incorporated “California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model”), and 2266.5 of title 13, California Code of Regulations (CCR).

BACKGROUND

The Existing CaRFG3 Regulations

The ARB administers the CaRFG3 regulations, which were adopted in June 2000 following a December 1999 Board hearing. As subsequently amended, the CaRFG3 regulations prohibit California gasoline produced with the oxygenate methyl tertiary-butyl ether (MTBE) or other specified oxygenates other than ethanol starting December 31, 2003. The regulations establish CaRFG3 standards applicable the same date for the following eight gasoline properties—sulfur, benzene, olefin, aromatic hydrocarbon, and oxygen contents, the 50 percent distillation temperature, (T50), the 90 percent distillation temperature, (T90), and summertime Reid vapor pressure (RVP). In addition, the regulations establish standards for denatured ethanol sold for use in California gasoline.

The CaRFG regulations allow refiners to use a “Predictive Model” to specify alternative formulations. The Predictive Model is a set of mathematical equations that relate emissions rates of exhaust hydrocarbons, oxides of nitrogen (NOx), and potency weighted toxics for four toxic air contaminants (benzene, 1,3-butadiene, formaldehyde, and acetaldehyde) to the values of the eight regulated gasoline properties. An alternative gasoline formulation is acceptable if emissions of hydrocarbons, NOx, and potency-weighted toxics resulting from this formulation are no greater than emissions from gasoline having the specifications set forth in the CaRFG3 standards. Currently, most of the gasoline sold in California complies with the CaRFG3 regulations through the use of the Predictive Model.

When gasoline is oxygenated with ethanol, certain characteristics of the resulting blend make it generally infeasible to be transported through pipeline systems. Because of this, ethanol is typically added to gasoline at the terminal or in the delivery truck. The CaRFG regulations allow a refiner to ship non-oxygenated gasoline from the refinery without complying with the CaRFG standards if it is specially formulated to be combined with oxygenate “downstream” from the refinery and the resulting blend will meet all of the CaRFG standards. This allows entities adding oxygen downstream from the refinery to take advantage of the

contribution the oxygenate can make to complying with the CaRFG standards, particularly by diluting the concentration of compounds like benzene. The non-oxygenated blend is called “California reformulated gasoline blendstock for oxygenate blending,” or “CARBOB.”

The Proposed Amendments

The staff is proposing a series of relatively minor amendments to the CaRFG3 regulations that would clarify current requirements, provide additional flexibility, correct errors, and generally improve enforceability of the regulations.

- Revising restrictions on blending CARBOB with other products downstream of the production or import facility. A CARBOB supplier would be allowed to enter into a protocol with the ARB’s Executive Officer permitting the blending of small amounts of transmix into CARBOB that is downstream from its production or import facility. Protocols covering the blending of small amounts of transmix into downstream gasoline are permitted under the existing regulations, subject to conditions that are identical to those proposed regarding transmix blending into CARBOB. A CARBOB supplier would also be permitted to blend limited amounts of California gasoline containing ethanol under specific conditions so long as the resulting CARBOB does not contain more than 0.1 percent by weight oxygen; the gasoline would have to meet the applicable cap limits for all other properties other than oxygen content. In addition, the Executive Officer would be allowed to develop protocols for the blending of California gasoline or other CARBOB into CARBOB for other situations.
- Changing the documentation requirements for denatured ethanol being supplied from one party to another. The amendments would give an importer of denatured ethanol an option to having to provide documentation identifying the name, location and operator of the facility or facilities at which the ethanol was produced and at which the denaturant was added to the ethanol. Under the option, the documentation would have to identify the date and time the ethanol was supplied and state that the supplier maintains a list of all the facilities at which the ethanol was produced and at which the denaturant was added to the ethanol.
- Eliminating a requirement that CARBOB importers sample and test each batch of imported CARBOB. A requirement that CARBOB producers sample and test each batch was eliminated in 2000, and staff believes a blanket requirement for importers of CARBOB is no longer necessary. Importers of

either CARBOB or California gasoline would still have to sample and test for any properties for which an averaging compliance option is being used.

- Revising a provision designed to make gasoline produced in the Bay Area and received at a Southern California marine terminal in March subject to the Southern California March 1 start of the RVP season rather than the April 1 start date for Bay Area production and import facilities. Under the amendments, such gasoline would not longer be characterized as imported.
- Correcting the “California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the Predictive Model,” which is incorporated by reference in the regulations, to reflect the Board’s original intent that gasoline with an oxygen content within the range of 3.3 to 3.7 weight percent will be evaluated at a single oxygen content of 3.5 weight percent.
- Making various other minor clarifications of and improvements to the CaRFG3 regulations.

COMPARABLE FEDERAL REGULATIONS

The United States Environmental Protection Agency (U.S. EPA) administers the federal RFG regulations, which currently apply to about 80 percent of California’s gasoline and are contained in 40 CFR §§ 80.40 and following. One of the requirements for federal RFG is that it contain at least 2.0 weight % oxygen year-round. California, on the other hand, requires a minimum oxygen content of 1.8 wt.% only during the wintertime in Los Angeles, Orange, Riverside, San Bernardino, Ventura, and Imperial counties. The use of oxygen in gasoline reduces emissions of carbon monoxide (CO) from the existing vehicle fleet, and ambient CO concentrations are the highest in the winter. Unhealthy levels of CO are no longer experienced in California outside the wintertime oxygenate areas. Except for the wintertime requirements, producers and importers of California gasoline may use the Predictive Model to reduce or eliminate oxygen as long as the combined specifications for the gasoline achieve an equivalent emissions performance for hydrocarbons, NOx, and potency-weighted toxics.

California has asked U.S. EPA to exercise its authority to waive the minimum oxygen requirement, but in June 2001 the agency denied the state’s request. The State of California subsequently challenged the U.S. EPA’s denial of the waiver request; and in July 2003, the Ninth Circuit Court of Appeals vacated this denial and directed U.S. EPA to reconsider California’s waiver request giving with full consideration of the impacts on California’s ability to meet federal standards for ozone and particulate matter. The federal agency has taken no action to date.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the environmental and economic impacts of the proposal. The report is entitled “Proposed 2004 Amendments Refining the California Phase 3 Reformulated Gasoline Regulations.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB’s web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing (November 18, 2004).

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 ARB’s web site listed below.

Inquiries concerning the substance of the proposed regulatory action may be directed to the designated agency contact persons, Mr. Steven Brisby, Manager, Fuels Section, (916) 322-6019, or Mr. Dean C. Simeroth, Chief, Criteria Pollutants Branch, Stationary Source Division, at (916) 322-6020.

Further, the agency representative and designated back-up contact persons to who nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. 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.

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/carfg304/carfg304.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, 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, or other nondiscretionary savings to state or local agencies.

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

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses. The proposed amendments would provide clarification and compliance flexibility and would improve the way the regulations are administered. No negative economic impacts on small businesses are expected.

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 CaRFG regulations which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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 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.

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 not physically submitted at the hearing must be received **no later than 12:00 noon, November 17, 2004**, and addressed to the following:

Postal mail is to be sent to:

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

Electronic mail is to be sent to:

carfg304@listserv.arb.ca.gov

and received at the ARB **no later than 12:00 noon, November 17, 2004**.

Facsimile transmissions 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 17, 2004**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written 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 Board 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 that authority granted in sections 39600, 39601, 43013, 43013.1, 43018, and 43101, 43830 Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). This regulatory action is proposed to implement, interpret, and make specific sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43021, 43101, 43830, and 43830.8, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

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 Board may adopt the regulatory language as originally proposed or with nonsubstantial 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 such

event 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, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

TITLES 13. and 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER REGULATORY AMENDMENTS EXTENDING THE CALIFORNIA STANDARDS FOR MOTOR VEHICLE DIESEL FUEL TO DIESEL FUEL USED IN HARBORCRAFT AND INTRASTATE LOCOMOTIVES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the proposed adoption of a fuels regulation and an airborne toxics control measure (ATCM) that would extend the applicability of the California standards for motor vehicle diesel fuel regulations to diesel fuel used in commercial and recreational harborcraft and intrastate diesel-electric locomotives. The proposed fuels regulation and ATCM would apply to diesel fuel sold for use in commercial and recreational harborcraft within the boundaries of the South Coast Air Quality Management District (SCAQMD) beginning January 1, 2006. They would apply statewide to diesel fuel sold for use in commercial and recreational harborcraft and intrastate diesel-electric locomotives beginning January 1, 2007. Operators of intrastate diesel-electric locomotives would be permitted to use an Alternative Emission Control Plan if approved by the ARB's Executive Officer.

DATE: November 18, 2004
 TIME: 9:00 a.m.
 PLACE: California Environmental Protection Agency
 Central Valley Auditorium
 Air Resources Board
 1001 I Street
 Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on Thursday, November 18, 2004, and may continue at 8:30 a.m. on Friday, November 19, 2004. This item may not be considered until Friday, November 19, 2004. Please consult the agenda for the meeting, which

will be available at least ten days before November 18, 2004, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to

<http://www.arb.ca.gov/html/ada/ada.htm>

for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. 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 section 2299, and amendments to sections 2281, 2282, and 2284, title 13, California Code of Regulations (CCR); proposed adoption of section 93116, title 17, CCR.

BACKGROUND

ARB administers regulations that since 1993 have limited statewide the allowable sulfur content of motor vehicle diesel fuel to 500 parts per million by weight (ppmw) and the aromatic hydrocarbon content to 10 percent with a 20 percent limit for small refiners. The regulation limiting aromatic hydrocarbon content allows refiners to comply by selling a certified alternative formulation that has an aromatic hydrocarbon content greater than the basic limits. Most refiners have taken advantage of the regulation's flexibility to produce alternative diesel formulations that provide the required air quality benefits at a lower cost. Diesel fuel meeting the ARB's standards is often referred to as "CARB diesel."

The California diesel fuel regulations are a necessary part of the state's strategy to reduce air pollution through the use of clean fuels and lower emitting motor vehicles and off-road equipment. The use of ultra-low sulfur diesel fuels reduces emissions for in-use engines and enables the use of sophisticated aftertreatment devices necessary to reduce the public exposure to diesel particulate matter. The most recent proposed and adopted standards for diesel engines will require the use of ultra-low sulfur diesel fuel to be effective.

In July 2003, the Board approved amendments—now in effect—which lowered the allowable sulfur content of motor vehicle diesel fuel to 15 ppmw starting June 2006 and retained the existing aromatic hydrocarbon content limit for motor vehicle diesel fuel. California's motor vehicle diesel fuel regulations were already applicable to on-road and off-road vehicular sources and, as part of the July 2003 regulatory amendments, a separate ATCM was adopted making diesel fuel used for most nonvehicular sources subject to the standards for motor vehicle

diesel fuel. Further, provisions were included to ensure there were adequate standards for diesel fuel lubricity. However, diesel fuel for locomotives and marine vessels was specifically exempted from the July 2003 amendments. At the July 2003 public hearing, the Board directed staff to evaluate the feasibility, and if appropriate, develop recommendations to extend applicability of California's motor vehicle diesel fuel regulations to locomotives and marine vessels.

As discussed below, the U. S. Environmental Protection Agency (U.S. EPA) administers a 500 ppmw sulfur standard for on-road motor vehicle diesel fuel. In addition this fuel is to have a cetane index of at least 40 or have an aromatic hydrocarbon content of no greater than 35 percent by volume (vol. %). Starting June 2006, the federal sulfur standard for diesel fuel for on-road motor vehicles will be 15 ppmw. Diesel fuel meeting U.S. EPA's sulfur standards for on-road motor vehicles but not ARB's low-aromatics standard is often referred to as "EPA diesel."

In August 1998, ARB identified particulate matter emitted from diesel engines (diesel PM) as a Toxic Air Contaminant (TAC) and in September 2001, approved the Diesel Risk Reduction Plan to reduce public exposure to diesel particulate matter. The plan identified air toxic control measures and regulations that will set more stringent emissions standards for new diesel-fueled engines and vehicles, establish retrofit requirements for existing engines and vehicles where determined to be technically feasible and cost-effective.

Although ARB's vehicular diesel fuel standards currently do not apply to diesel fuel used in intrastate diesel-electric locomotives and most marine diesel engines, most diesel fuel currently used in those engines has a sulfur content under 500 ppmw. Because of fuel availability and other factors, almost all of the diesel fuel used in intrastate diesel-electric locomotive engines in California is either CARB diesel or EPA diesel, with a majority of it being CARB diesel. Passenger-fleet (i.e., ferries and excursion marine vessels) marine diesel engines are required by statute to use CARB diesel fuel. However, harborcraft that generally operate within California coastal waters primarily use EPA diesel, with lesser amounts of CARB diesel.

THE PROPOSED AMENDMENTS

The proposed amendments would apply to persons selling or supplying diesel fuel for use in intrastate diesel-electric locomotives and both commercial and recreational harborcraft. An intrastate diesel-electric locomotive would be defined as a diesel-electric locomotive that annually operates at least 90 percent of the time within the borders of the California, based

on hours of operation, miles traveled, and fuel consumption. Harborcraft are marine vessels with characteristics that distinguish them from large ocean-going ships—they would be defined as marine vessels meeting all of the following criteria: (1) less than 400 feet in length; (2) less than 10,000 gross tons; (3) propelled by engines with a cylinder displacement less than 30 liters per cylinder; and (4) neither a foreign-flagged vessel, nor documented as a foreign trade vessel by the United States Coast Guard.

Diesel fuel sold, supplied, or offered for sale for use in commercial or recreational harborcraft within the SCAQMD be required to be CARB diesel beginning January 1, 2006. This earlier implementation date for the SCAQMD is proposed to satisfy emission reduction commitments for harborcraft in the 2003 State-wide Strategy of the California State Implementation Plan.

Diesel fuel sold, supplied, or offered for sale for use in intrastate diesel-electric locomotive and harborcraft operators throughout the state would be required to be CARB diesel beginning January 1, 2007. To provide flexibility to affected diesel-electric locomotive operators, staff is also proposing that operators of intrastate diesel-electric locomotives be permitted to participate in an Alternative Emission Control Plan. The owner or operator of an intrastate diesel-electric locomotive could submit, for approval by the Executive Officer, a substitute fuel and/or emission control strategy that achieves equivalent or greater reductions than those achieved solely through the use of CARB diesel and that has adequate enforcement provisions. It is expected that operators could propose any combination of fuels, equipment, or operational changes at one or more of their rail facilities in the State. Any plan would have to contain adequate protections for individuals living in areas that have existing local air pollution or localized air toxic impacts.

Under the approach proposed by staff, the Board would adopt a regulation applicable to diesel fuel used in intrastate locomotives and harborcraft pursuant to its Health and Safety Code section 43013 authority to adopt standards and regulations for locomotives and marine vessels. The Board would also adopt identical provisions as an ATCM which would complement and enable the use of high-efficiency emission control devices for non-vehicular diesel engines to reduce emissions of diesel PM.

ARB staff has estimated that the proposed amendments, when fully implemented in 2007, will provide statewide emission reductions of about 2 tons per day (tpd) NO_x, about 1.7 tpd of oxides of sulfur (SO_x), and about 0.6 tpd of diesel PM (both directly and indirectly emitted). Staff has calculated that the cost-effectiveness of the proposed regulatory action ranges between \$1.10 and \$1.60 per pound of NO_x

plus particulate matter reduced. This is in the range of other recent criteria pollutant control measures approved by the Board.

COMPARABLE FEDERAL REGULATIONS

Since 1993, a U.S. EPA regulation—40 C.F.R. §§ 80.29—has imposed a maximum sulfur content limit of 500 ppmw on diesel fuel sold or supplied for use in on-road motor vehicles. In addition, on-road motor vehicle diesel fuel is required to have either a cetane index of at least 40 or an aromatic hydrocarbon content of no greater than 35 percent by volume. In January 2001, U.S. EPA published a final rule requiring refiners to meet a maximum sulfur standard of 15 ppmw for highway diesel fuel beginning June 1, 2006. (66 F.R. 5002; 40 C.F.R. §§ 80.500 et seq.). All 2007 and later model year diesel fueled vehicles must be fueled with this new low sulfur diesel.

On June 29, 2004, U.S. EPA published a final rule imposing a 500 ppmw maximum sulfur standard for diesel fuel used in nonroad, locomotive, and marine engines, starting in June 2007 (69 F.R. 38958, 40 C.F.R. §§ 80.510 et seq.). The federal sulfur standard drops to 15 ppm starting June 2010 for diesel fuel used in most nonroad engines, and starting June 2010 for diesel fuel used in locomotives and marine vessels.

Under the proposed amendments, California would receive the benefits of five years of use of ultra-low sulfur (15 ppmw) diesel fuel before the U.S. EPA regulations become applicable to diesel fuel used in locomotives and marine vessels. In addition, the U.S. EPA diesel fuel programs do not achieve the NOx and particulate matter emission reductions provided by the aromatic hydrocarbon requirements for CARB diesel.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the environmental and economic impacts of the proposal and supporting technical documentation. The report is entitled “Proposed Amendments to Extend the Applicability of the California Motor Vehicle Diesel Fuel Regulations to Commercial and Recreational Harbor Craft and Intrastate Locomotives.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB’s web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor,

Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing (November 18, 2004).

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

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Mr. Erik C. White, Manager, Engineering Evaluation Section, (916) 324-8029, or Mr. Dean C. Simeroth, Chief, Criteria Pollutants Branch, Stationary Source Division, at (916) 322-6020.

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, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff 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.

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/carblohc/carblohc.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, 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, or other nondiscretionary savings to state or local agencies.

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.

It is expected that the proposed amendments may have a small impact and modify existing diesel production and consumption patterns in California. In evaluating the potential costs of the proposed amendments, staff has considered the likely diesel fuels expected to be generally available in California in 2007. Based on the fact that diesel-electric intrastate locomotive and harborcraft operators would in any event likely use, at a minimum, EPA diesel meeting a 15 ppmw sulfur limit, staff has determined the costs of the proposed amendments based on the incremental cost in 2007 to produce CARB diesel relative to EPA diesel. Staff estimates that the incremental cost to produce CARB diesel relative to EPA diesel beginning in 2007 will be about 3 cents per gallon. This cost represents the incremental diesel fuel production cost to reduce the aromatic hydrocarbon content of U.S. EPA on-road diesel fuel from a limit of 35 volume percent to a limit of 10 volume percent (or an equivalent formulation limit). Staff expects that the total incremental cost increase will be \$2–3 million annually.

Staff has also identified several cost benefits to diesel fuel end users from the proposed amendments that have not been quantified in the above production cost estimates. These benefits will be felt both initially and over the course of the life of the program. Initially, diesel fuel users are expected to see a decrease in engine wear as a result of low sulfur diesel fuel. In addition, lower sulfur fuels should increase the life of diesel engine lubrication oil, as fuel sulfur tends to increase the acidification of engine lubricating oils resulting in loss of pH control. By reducing the diesel fuel sulfur content, it is expected that the interval between oil changes can be extended, leading to a cost saving to diesel engine operators.

The overall economic impacts on operators of intrastate diesel-electric locomotives and harborcraft were also evaluated. For large intrastate diesel-electric locomotive operators (Class I railroads), the use of CARB diesel could reduce operating income by less than 0.02 percent. For smaller (Class III railroads), the use of CARB diesel could reduce operating costs by up to one percent. For commercial fishing operations and tugboat operations, the use of CARB diesel fuel could reduce the average return on owners' equity by less than one percent and four to seven percent, respectively. These are not expected to be significant adverse economic impacts.

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

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses. The proposed amendments are expected to result in an increase in the cost of producing diesel fuel for use in intrastate diesel-electric locomotives and harborcraft. This increase in diesel fuel production costs may translate into an increase in the price intrastate diesel-electric locomotives and harborcraft operators pay for diesel fuel. Smaller Class III railroad operators, commercial fishing operators and tugboat operators represent the small businesses affected by the proposed amendments. Staff's economic analysis showed that the proposed amendments are not expected to have a significant adverse economic impact on these operations.

Before taking final action on the proposed regulatory action, the Board must determine that no 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.

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 not physically submitted at the hearing must be received **no later than 12:00 noon, November 17, 2004**, and addressed to the following:

Postal mail is to be sent to:

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

Electronic mail is to be sent to:

carbloh@listserv.arb.ca.gov

and received at the ARB **no later than 12:00 noon, November 17, 2004**.

Facsimile transmissions 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 17, 2004**.

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all written 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 that authority granted in sections 39600, 39601, 39650, 39658, 39659, 39666, 39667, 41511, 43013, 43018, 43101, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). This regulatory action is proposed to implement, interpret, and make specific sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39650, 39658, 39659, 39666, 39667, 41511, 43000, 43013, 43016, 43018, and 43101, Health and Safety Code; title 17, CCR section 93000; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

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 Board 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 such event 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, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

TITLE 16. BOARD OF OPTOMETRY

NOTICE IS HEREBY GIVEN that the Board of Optometry 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 400 R Street, Suite 4090, Sacramento, California, at 10:15 AM on November 16, 2004. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Optometry at its office not later than 5:00 p.m. on November 15, 2004 or must be received by the Board of Optometry at the hearing. The Board of Optometry, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 3025 of the Business and Professions Code, and to implement, interpret or make specific Section 2544 and 3042 of said Code, the Board of Optometry is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows: Adoption of section 1508, Optometric Assistant.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill 929 (Chapter 676, Statutes 2000) established the procedures that an assistant may legally provide under the direct responsibility and supervision of an optometrist.

This proposed new regulation defines an optometric assistant and states that assistants are to be under the direct responsibility and supervision of an optometrist. It also requires that assistants demonstrate to the supervising optometrist an understanding and ability to perform authorized statutory tasks in a safe manner and that the supervising optometrist maintain a written policy of the procedures which specific assistants may perform.

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: None

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

Cost Impact on Representative Private Person or Business: The Board of Optometry 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 of Optometry has determined that the proposed regulations would not affect small businesses in that this proposal provides language to conform with statutory changes that optometrists have already utilized and merely provides standards for training and supervising of optometric assistants that currently do not exist.

CONSIDERATION OF ALTERNATIVES

The Board of Optometry 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 of Optometry 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 Optometry at 400 R Street, Suite 4090, Sacramento, California 95814.

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: Rex Farmer
Address: 400 R Street, Suite 4090
Sacramento, CA 95814
Telephone No.: (916) 322-0961
Fax No.: (916) 445-8711
E-Mail Address: rex_farmer@dca.ca.gov

The backup contact person is:

Name: Jane Flint
Address: 400 R Street, Suite 4090
Sacramento, CA 95814
Telephone No.: (916) 323-8722
Fax No.: (916) 445-8711
E-Mail Address: jane_flint@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.optometry.ca.gov

TITLE 16. BOARD OF OPTOMETRY

NOTICE IS HEREBY GIVEN that the Board of Optometry 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 400 R Street, Suite 4090, Sacramento, California, at 10:15 AM on November 16, 2004. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Optometry at its office not later than 5:00 p.m. on November 15, 2004 or must be received by the Board of Optometry at the hearing. The Board of Optometry, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 3025 of the Business and Professions Code, and to implement, interpret or make specific Section 3027.5 and 3041 of said Code, the Board of Optometry is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows: Adoption of section 1522, Infection Control Guidelines.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill 668 (Chapter 13, Statutes 1996) and Senate Bill 929 (Chapter 676, Statutes 2000) increased the scope of optometric practice in California by permitting properly certified optometrists to treat specific ocular diseases and pathologies with specified pharmaceutical agents.

This proposed new regulation incorporates by reference the Board publication "Infection Control Guidelines" which establishes appropriate hygiene procedures and universal precautions to prevent exposure and reduce the risk of the transmission of infectious diseases within optometric practices.

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: None

Impact on Jobs/New Businesses: The Board of Optometry has determined that this regulatory proposal will not have any significant impact on the

creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board of Optometry 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 of Optometry has determined that the proposed regulations would not affect small businesses in that they provide established procedures for hygiene and infectious disease control that will benefit patients, doctors, and staff.

CONSIDERATION OF ALTERNATIVES

The Board of Optometry 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 of Optometry 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 Optometry at 400 R Street, Suite 4090, Sacramento, California 95814.

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: Rex Farmer
Address: 400 R Street, Suite 4090
Sacramento, CA 95814
Telephone No.: (916) 322-0961
Fax No.: (916) 445-8711
E-Mail Address: rex_farmer@dca.ca.gov

The backup contact person is:

Name: Jane Flint
Address: 400 R Street, Suite 4090
Sacramento, CA 95814
Telephone No.: (916) 323-8722
Fax No.: (916) 445-8711
E-Mail Address: jane_flint@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.optometry.ca.gov

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO
CONSIDER AMENDMENTS TO THE
NONVEHICULAR SOURCE, CONSUMER
PRODUCTS, AND ARCHITECTURAL
COATINGS FEE REGULATIONS

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the Nonvehicular Source, Consumer Products, and Architectural Coatings Fee Regulations. The amendments would establish a process for assessing supplemental fees for the 2004–2005 and subsequent fiscal years.

Date November 18, 2004
Time 9:00 a.m.
Place California Environmental Protection Agency
Air Resources Board
Central Valley Auditorium, Second Floor
1001 I Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on Thursday, November 18, 2004, and may continue at 8:30 a.m. on Friday, November 19, 2004. This item may not be considered until Friday, November 19, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before November 18, 2004, and posted on the ARB's website, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to

<http://www.arb.ca.gov/html/ada/ada.htm>

for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of new sections 90805 and 90806; and proposed amendments to sections 90800.8 and 90803, title 17, California Code of Regulations (CCR).

BACKGROUND

In 2003, the Legislature enacted AB10X (Stats. 2003, Chapter 1X), which amended section 39612 and added section 39613 to the Health and Safety Code. AB 10X made a number of changes to existing law, including: (1) increasing the cap on stationary source fees from \$3 million to \$13 million for fiscal year (FY) 2003–2004, and allowing the limitation on the total amount of funds collected from stationary sources to be adjusted annually thereafter for inflation; and (2) expanding the universe of stationary sources subject to the fees by specifying that the fees are to be collected from stationary point sources (i.e. facilities) authorized by district permits to emit 250 tons (instead of the previous 500 tons) or more per year of any nonattainment pollutant or its precursors.

In addition, AB10X authorized ARB for the first time to assess fees on manufacturers of consumer products and architectural coatings. The fees may be assessed on those manufacturers whose total sales of consumer products or architectural coatings will result in the emission in California of 250 tons per year or greater of volatile organic compounds (VOCs). The ARB must use these fees solely to mitigate or reduce air pollution in the State created by consumer products and architectural coatings.

In July 2003, the Board approved regulations to collect the fees authorized by AB10X. The regulations assess uniform fees (on a dollar per ton basis) on large nonvehicular sources (facilities) and large manufacturers of consumer products and architectural coatings. The full text of the current regulations can be found on ARB's web site at <http://www.arb.ca.gov/regact/feereg03/feereg03.htm>.

For FY 2003–2004, the Legislature authorized ARB to collect \$17.4 million in fees from facilities and manufacturers of consumer products and architectural coatings. For FY 2004–2005, the Legislature authorized the ARB to collect an additional \$2.6 million, for a total of \$20 million in fees.

DESCRIPTION OF PROPOSED REGULATORY ACTION

In this rulemaking the staff is proposing amendments to the existing fee regulations. Proposed new section 90805 provides for the collection of supplemental fees from facilities. The supplemental fees would be collected only in fiscal years where the State Legislature has authorized ARB to collect fees in excess of \$17.4 million. Any amount in excess of \$17.4 million would be collected from facilities. The remaining \$17.4 million would continue to be collected on a uniform basis from facilities, manufacturers of consumer products, and manufacturers of architectural coatings, as specified in the existing regulations. The proposed amendments also clarify that under no circumstances will the total amount of fees collected from facilities exceed the amount authorized by Health and Safety Code section 39612(f) or other provisions of State law.

The proposed amendments follow the same basic procedures as the existing regulations with the exception that they apply only to facilities. The facilities subject to the supplemental fees are the same facilities that must pay fees under the existing regulations.

As with the existing regulations, the proposed amendments would allow each district the option to collect the supplemental fees instead of having ARB collect them. Districts who choose this option would follow the same process specified in the existing regulations. For FY 2004–2005, however, the proposed amendments specify that the ARB is to collect the supplemental fees because it is likely that only limited time will remain in this fiscal year by the date the amendments are approved by the Office of Administrative Law and become legally operative. The supplemental fees for FY 2004–2005 will be based on the emissions data submitted by facilities under the existing regulations.

The staff is also proposing the adoption of a new section 90806, which includes two new provisions in order to address possible future changes in State law. The first provision directs ARB Executive Officer to comply with any future direction from the Legislature that particular amounts or percentages are to be collected from the categories of nonvehicular sources, consumer products, or architectural coatings. The second provision directs ARB Executive Officer to use any modified emissions threshold (i.e., different from the existing 250 tons per year threshold) enacted by the Legislature. These provisions would apply to both the existing fees and the supplemental fees, and would allow ARB to comply with possible future changes in State law without having to modify the regulations.

Finally, the proposed amendments modify existing sections 90800.8(c)(1) and 90803, title 17, CCR, to

reference the new supplemental fee provisions. These modifications will insure that all of the regulatory fee provisions work together with no contradictions.

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

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed action, which includes a summary of the potential environmental and economic impacts, and environmental justice considerations of the proposal. The report is entitled: “Initial Statement of Reasons for Proposed Amendments to the Nonvehicular Source, Consumer Products, and Architectural Coatings Fee Regulations”.

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB’s web site listed below, or may be obtained from the Board’s Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (November 18, 2004).

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

Inquiries concerning the substance of the proposed regulatory action may be directed to the designated agency contact persons: Mr. Don Rake, Planning and Technical Support Division, (916) 322-7304, e-mail drake@arb.ca.gov, or Mr. Michael FitzGibbon, Planning and Technical Support Division, (916) 445-6243, e-mail mfitzgib@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

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 www.arb.ca.gov/regact/feereg04/feereg04.htm.

COSTS TO PUBLIC AGENCIES, 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.

The Board's Executive Officer has determined that the regulations will not create costs or savings, as defined in Government Code sections 11346.5(a)(5) and 11346.5(a)(6), 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 non-discretionary savings to state or local agencies.

The proposed regulatory action will impose a mandate upon and create costs to some local agencies. For FY 2004–2005, facilities operated by three local agencies have been identified as being subject to the supplemental fees. The aggregate cost to these three local agencies should be approximately \$20,000 for FY 2004–2005 in addition to about \$80,000 that will be paid in fees under the existing regulation. These costs, as well as any fees that may be paid in subsequent fiscal years by any local agency, are not reimbursable state mandated costs pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, because the fee regulations apply generally to all facilities in the State which emit 250 tons or more per year of nonattainment pollutants or their precursors and, therefore, do not impose unique requirements on local government agencies.

The Board's Executive Officer has also determined that individual districts may incur some administrative costs as a result of the proposed regulatory action if a district chooses to collect fees from facilities instead of the ARB collecting fees. However, districts are not mandated by the proposed regulations to collect the fees; a district would incur no administrative costs unless it chooses to collect the fees itself. In addition, any administrative costs incurred by a district are not reimbursable state mandated costs because of the districts' authority to recover the costs through fee assessments; Health and Safety Code sections 39612(e) and 39612(f)(1), and section 90800.9(c), title 17, CCR, authorize districts to recover these administrative costs from facilities subject to the fees.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impact on private persons and businesses. The Executive Officer has initially determined that there will be a potential cost impact on private persons or businesses directly affected as a result of the proposed regulatory 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 fiscal year 2004–2005, approximately 82 facilities in the State are expected to be assessed under the proposed regulations. Among the operators of these facilities are major oil and gas producers, utilities, and major manufacturing enterprises. The proposed regulatory action would result in an increased cost to individual facilities of \$6,000 to \$225,000, which is in addition to the \$24,000 to \$900,000 paid under the existing regulation.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed regulatory action will have minimal or no impacts on the creation or elimination of jobs within the State of California, minimal or no impacts on the creation of new businesses or the elimination of existing businesses within the State of California, and minimal or no impacts on the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR section 4, that the proposed regulations will not affect small businesses. No facilities subject to the proposed regulations are considered to be small businesses.

Before taking final action on the proposed regulations, the ARB 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 or businesses than the proposed action.

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 not physically submitted at the hearing must be received no later than **12:00 noon, November 17, 2004**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, CA 95814

Electronic mail is to be sent to:

feereg04@listserv.arb.ca.gov

and received at the ARB by **no later than 12:00 noon, November 17, 2004**.

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 17, 2004**.

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written 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 any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 39612 and 39613 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39500, 39600, 39612, and 39613 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing to consider this matter 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 nonsubstantial or grammatical modifications. The ARB 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, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE EFFECTIVE AND OPERATIVE DATES FOR ENHANCED VAPOR RECOVERY STANDARDS IN THE REGULATION FOR CERTIFICATION OF VAPOR RECOVERY SYSTEMS OF GASOLINE DISPENSING FACILITIES (SERVICE STATIONS)

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the

regulations for certification of vapor recovery systems installed at gasoline dispensing facilities (service stations and similar facilities).

Date November 18, 2004
 Time 9:00 a.m.
 Place California Environmental Protection Agency
 Air Resources Board
 Central Valley Auditorium, Second Floor
 1001 I Street
 Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on Thursday, November 18, 2004, and may continue at 8:30 a.m. on Friday, November 19, 2004. This item may not be considered until November 19, 2004. Please consult the agenda for the meeting, which will be available at least 10 days before November 18, 2004, and posted on the ARB's website, to determine the time on which this item will be considered.

If you have a disability-related accommodation need, please go to

<http://www.arb.ca.gov/html/ada/ada.htm>

for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. 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 amendments to section 94011, title 17, California Code of Regulations (CCR), and Table 2-1 in the Vapor Recovery Certification Procedure, CP-201, as last amended July 22, 2004.

BACKGROUND

The Air Resources Board (Board or ARB) certifies the vapor recovery equipment that is used in service stations, also referred to as gasoline dispensing facilities (GDFs). Control of the emissions of air pollutants from GDFs is necessary to reduce hydrocarbon emissions that lead to the formation of ozone and to control emissions of benzene, a constituent of gasoline vapor that has been identified as a toxic air contaminant. The ARB is currently implementing the Enhanced Vapor Recovery (EVR) program, which requires that vapor recovery systems be compatible with fueling vehicles equipped with onboard refueling vapor recovery (ORVR) by April 1, 2005. The EVR program also requires several additional vapor recovery system standards to be met by April 1, 2009.

NEED FOR AMENDMENT AND ADOPTION

Gasoline marketers, service station operators, air pollution control districts and many vapor recovery equipment manufacturers have notified the ARB that more time is needed for existing service stations to upgrade equipment to meet the April 1, 2005, ORVR compatibility deadline. Gasoline marketers have been waiting for a manufacturer to develop and obtain the ARB's certification of a vapor recovery system that meets all EVR requirements to avoid having to upgrade equipment twice, once to meet the April 1, 2005, ORVR compatibility and then a second time to meet the remaining EVR standards.

The first EVR Phase II system is expected to be certified by November 2004 at the earliest. Under the current ORVR compatibility deadline, existing service stations would have four months or less to complete the required upgrades once an EVR Phase II system is certified. During this time, an estimated 3,500 stations will need to choose an EVR or ORVR compatible system, apply and obtain permits, retain a contractor, and install the vapor recovery equipment. Because obtaining the necessary permits alone may take one to three months, it is not feasible to upgrade thousands of service stations by the current April 1, 2005, deadline.

EVR effective and operative dates applicable to new facilities have been delayed previously when it has taken longer than anticipated to certify a system complying with all EVR requirements. The existing regulations allow the Executive Officer to issue executive orders allowing continued installation of pre-EVR systems when the Executive Officer determines that EVR systems are not commercially available. Executive Order G-70-203 extended the EVR Phase II system deadline for new installations from April 1, 2004, to October 1, 2004. Executive Order G-70-205 further extended the EVR Phase II implementation date to January 1, 2005, and the in-station diagnostics (ISD) implementation date to April 1, 2005. These Executive Order actions are not reflected in the effective and operative dates in the regulation and clarification is needed. The proposed action would make the required clarifications.

SUMMARY OF STAFF PROPOSAL

Staff proposes to amend the regulations to extend the ORVR compatibility deadline for existing GDFs by one year to April 1, 2006, and to amend other EVR regulation compliance dates to be consistent with the extensions provided in Executive Orders G-70-203 and G-70-205. Staff has determined that a one-year extension will provide sufficient time for all stations to comply with all of the EVR requirements in an orderly process. Specifically, an extension would also enable the installation of a full EVR Phase II system before the ORVR compatibility deadline. Staff also proposes

to amend the effective date for in-station diagnostics (ISD) for medium throughput stations to April 1, 2006, to maintain the ISD phase-in schedule.

Staff's proposal would change the implementation schedule of the Enhanced Vapor Recovery program. This proposal does not impose additional standards or relax existing standards, but provides more time for gasoline dispensing facility operators to comply with existing requirements.

ARB staff proposes to revise Table 2-1 of CP-201, "Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities," and to amend title 17, CCR, sections 94011, which incorporates CP-201 by reference.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify gasoline recovery systems for service stations; however, changes to ARB vapor recovery regulations have a national impact. ARB certification is required by most other states which mandate Phase I or Phase II vapor recovery at service stations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider Proposed Amendments to the Effective and Operative Dates for Enhanced Vapor Recovery Standards in the Regulation for Certification of Vapor Recovery Systems of Gasoline Dispensing Facilities (Service Stations)."

Copies of the ISOR and full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be obtained from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing (November 18, 2004).

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.

Requests for printed documents and inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Cindy Castronovo or George Lew, Engineering and Certification Branch, Monitoring and Laboratory Division, at (916) 327-0900.

Further, the agency representative and designated back-up contact person to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-6070, or Amy Whiting, Regulations Coordinator, (916) 322-6533. 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.

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/ORVRext/ORVRext.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons and businesses. The ARB has determined that affected gasoline station operators may each save \$1,500 to \$22,000 by having the option to upgrade once to a vapor recovery system that meets the ORVR requirement and all other EVR requirements. The ARB is not aware of any costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Gasoline dispensing facilities operated by state and local agencies, such as the Department of General Services, California Highway Patrol or Caltrans, may realize similar cost savings.

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 above, or other nondiscretionary savings to state or local agencies.

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 initially determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses and the elimination of existing businesses within the State of California, and the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses that own or operate gasoline dispensing facilities (service stations).

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

Before taking final action on the proposed regulatory action, the ARB must determine that no reasonable alternative considered by the ARB or that has otherwise been identified and brought to the attention of the ARB 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 action.

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

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 not physically submitted at the hearing must be received no later than **12:00 noon November 17, 2004**, and addressed to the following:

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, CA 95814

Electronic mail is to be sent to:

ORVRext@listserv.arb.ca.gov
and received at the ARB no later than **12:00 noon, November 17, 2004**.

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 17, 2004**.

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written 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 any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, 39607, and 41954 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39515, 41952, 41954, 41956.1, 41959, 41960 and 41960.2 of the Health and Safety Code.

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 nonsubstantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are 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, Visitors and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING FOR THE MULTIFAMILY HOUSING SUPPORTIVE HOUSING LOANS

Notice is hereby given that the Department of Housing and Community Development (Department) proposes to adopt regulations governing the Multifamily Housing Program-Supportive Housing Loans. The

purpose of these regulations is to establish procedures and policies within the Multifamily Housing program regarding loans for supportive housing projects.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action by the department. The written comment period begins on October 1, 2004 and closes at 5:00 p.m. on November 15, 2004. The department will consider comments received during this timeframe. Please address your comments to Michael Pope, Community Affairs Division, Multifamily Housing Program—Supportive Housing Loans, P.O. Box 952054, Sacramento, California 94252-2054. Comments can be sent via fax transmittal to (916) 327-5704, attention: Michael Pope, Multifamily Housing program—Supportive Housing Loans.

PUBLIC HEARINGS

Public hearings will be held in Los Angeles, CA on October 19, 2004, beginning at 10:30 A.M. at the Junipero Serra State Building located at 320 West Fourth Street, Los Angeles, CA; and in Sacramento, CA on November 15, 2004 beginning at 10:30 A.M. at the HCD headquarters, Room 183, located at 1800 Third Street; Sacramento, CA 95814. Any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest below. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimonies at the hearings.

AUTHORITY AND REFERENCE

The Department is conducting this rulemaking activity under the authority provided by Health and Safety Code sections 50406(n), 50675.1(c), 50675.11, 50675.14(c), and 53533(a)(3) and to implement, interpret, and make specific Sections 50675, 50675.14, and 53533(a)(3) of the Health and Safety Code.

INFORMATIVE DIGEST

The Legislature passed and the Governor approved the Housing and Emergency Shelter Trust Fund Act of 2002 (SB 1227). This Act specifically provided \$195,000,000 to be used under the Multifamily Housing Program for Supportive Housing projects.

The purpose of the Multifamily Housing Supportive Housing Loan regulations is to conform the regulations for MHP to recent statutory changes and establish in regulation the existing supportive housing related program procedures and policies. The new provisions are, as follows:

Section 7340. General. This section governs projects funded for the purpose of providing loans to supportive housing projects.

Section 7341. Definitions. This section provides definitions that apply to supportive housing loans in addition to the definitions in sections 7301 and Section 8301.

Section 7342. Eligible Project. This section sets forth the requirements for an eligible supportive housing project to funded in addition to the requirements in section 7302.

Section 7343. Eligible Sponsor. This section sets forth the requirements for an eligible sponsor to apply for funding in addition to the requirements of Section 7303.

Section 7344. Application Requirements. This section identifies the requirements to apply for funding of a supportive housing loan in addition to the application requirements of Article 3.

Section 7345. Supportive Services Plan. This section identifies the information that needs to be included in a supportive services plan.

Section 7346. Application Point Scoring. Pursuant to Section 7317(c), this section allows the department the discretion to make funds available on a competitive or over-the-counter basis.

Section 7347. Reporting Requirements. This section sets forth the requirements for submitting a supplemental report in addition to the annual requirements in section 7325.

IMPACT OF PROPOSED REGULATIONS

The program regulations are designed to provide financing to projects that meet the array of rental housing needs presented by these low-income and special needs populations. This regulatory package proposes to amend the MHP regulations by adding Article 6 specifically addressing supportive housing projects. The proposed amendments are based largely on the guidelines, and on the Department's experience over the last year and a half administering the supportive housing component of the program.

AFFECT ON SMALL BUSINESS

The proposed regulations do not affect small businesses, because the regulations do not mandate or require small businesses to take any prescribed action, and it has no financial impact on small businesses.

The reason for this finding is that participation in the MHP program, including the supportive housing component, is voluntary. Applicants to the program that qualify as small businesses have determined that the MHP loan funds will provide the financing necessary to allow development of their projects. The non-profit and for-profit small business applicants benefit from the below market interest rate offered by the program.

LOCAL MANDATE

The proposed regulatory activity will not impose a mandate on local agencies or school districts. Eligibility for the program is limited to entities demonstrating willingness and capacity to develop affordable housing. Local agencies are not required to participate. It is not anticipated that school districts will be part of this applicant pool. In any case, participation in the program is voluntary.

FISCAL IMPACT

This regulatory activity does not impose any cost on any local agency or school district that is required to be reimbursed under Part 7 (commencing with sec. 17500) of Division 4 of the Government Code; neither does the regulatory activity result in any other nondiscretionary cost or savings imposed on local agencies or in any cost or savings to any state agency (other than the Department). Participation in the program is voluntary, not mandatory. The program is funded from the State's General Fund and has no impact on federal funding to the state.

EFFECT ON HOUSING COSTS

These programs assist residents of affordable housing developments by facilitating more projects, with lower rents. The proposed amendments will not have an affect on housing costs.

The proposed regulations require that borrowers of MHP funds must maintain the affordability of MHP-assisted rental units to lower-income households for a period of 55 years. In exchange for the low-interest, deferred MHP financing the borrower agrees to provide some units that will be affordable to households with very low incomes. The extremely affordable MHP financing terms of 55 years, 3% simple interest with principal and interest deferred for the term of the loan (except for a .42 of a percent of the outstanding loan balance to cover the Department's loan monitoring costs) insures that the MHP does not result in an increased debt burden for an assisted project, thereby allowing the project to charge tenants lower rents.

INITIAL DETERMINATION OF STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY EFFECTING BUSINESSES

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

ASSESSMENT STATEMENT

The Department has determined that the regulations will not significantly 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. In any case, participation in the program would be voluntary.

**STATEMENT OF POTENTIAL COSTS IMPACT
ON PRIVATE PERSONS AND BUSINESS
DIRECTLY AFFECTED**

The Department is not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses (nonprofits) and individuals are eligible to receive program funds under the program, participation is voluntary.

CONSIDERATION OF ALTERNATIVES

The Department of Housing and Community Development 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.

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

The text of the proposed regulations is available upon request, along with the Initial Statement of Reasons, prepared by the Department, which provides the reasons for the proposals. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Michael Pope at the address and telephone number noted below.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text—with changes clearly indicated—available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michael Pope at the address indicated below. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

CONTACT INFORMATION PERSON

- HCD:** **Lenora Frazier**
(916) 323-7288
- HCD Back-Up:** **Michael Pope (916) 327-5704**
- HCD Address:** **State Department of
Housing and Community
Development
1800 Third Street,
Room 390
Sacramento, California
95814**
- HCD Website:** Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations may be accessed through our website at www.hcd.ca.gov
- HCD Facsimile No:** **(916) 445-0117**

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Direct inquiries concerning the substance of the proposed rulemaking action and any requests for the documents noted above should be made to:

Michael Pope, Program Specialist
Division of Community Affairs—MHP
**State Department of Housing and
Community Development**
P.O. Box 952054, MS 390-5
Sacramento, California 94252-2054
Telephone (916) 327-5704
Fax (916) 445-0117
mpope@hcd.ca.gov

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

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

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

Bay Recycling
800 77th Avenue
Oakland, CA 94621

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

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

Fries Landscaping
25421 Clough
Escalon, CA 95320

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

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

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

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

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

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

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

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

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

DEPARTMENT OF FISH AND GAME

**CESA CONSISTENCY DETERMINATION FOR
PALCO Timber Harvest
Humboldt County**

On September 14, 2004, the Pacific Lumber Company ("PALCO") notified the Department of Fish and Game ("Department") that PALCO proposes to rely on authorization granted by the U.S. Fish and Wildlife Service ("USFWS") in Incidental Take Permit number TE828950-0 to carry out a project that could adversely affect species protected under both the federal Endangered Species Act and California Endangered Species Act ("CESA"). This project is the harvest of certain timber stands in approved Timber Harvesting Plans (THPs) that contain "high quality" marbled murrelet habitat (type "D" stands). This request applies to approximately 14 acres of type "D" stands distributed within 3 THPs.

In a letter to PALCO dated July 9, 2004, USFWS concurred that the release for harvest of the identified stands was covered by and consistent with the conditions of Incidental Take Permit number TE828950-0 and with the process outlined in the PALCO Habitat Conservation Plan (section 6.1.2.3.5) for phasing harvest in areas with marbled murrelet (*Brachyramphus marmoratus*).

Pursuant to Fish and Game Code section 2080.1, PALCO is requesting that the Department determine that the Federal Incidental Take Permit is consistent with CESA for the above described harvest. If the Department determines that the Federal Incidental Take Permit is consistent, PALCO will not be required to obtain a separate incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

PROPOSED RESEARCH ON TWO FULLY-PROTECTED SPECIES: Conducting Surveys for the Yuma Clapper Rail and Light-Footed Clapper Rail

The Department of Fish and Game (Department) is evaluating proposals received from Jane C. Griffith, Griffith Wildlife Biology, Calumet, Michigan, for authorization to take, for research purposes and consistent with conservation and recovery of the species, the Yuma clapper rail (*Rallus longirostris yumanensis*) and the light-footed clapper rail (*R. l. levipes*), both of which are Fully Protected species of birds. The proposed activity consists of searching for vocalizing individuals of each species, employing playback of tape-recorded, species-specific vocalizations, to determine distribution and status of local populations. The researchers would collect data by interpreting calls received from marsh birds responding to the tape and by observing individual rails. There would be no attempt to capture individual rails or to approach nests of rails.

Prior to beginning work on either species of rail, the researcher for Griffith Wildlife Biology would obtain the required State scientific collecting permit (SCP) allowing take of native wildlife. SCP conditions require that the holder of this permit obtain additional, special authorization from the Department for research on Fully Protected species. The Department would provide the special authorization to Griffith Wildlife Biology through specific written conditions in Memorandums of Understanding (MOU). Because both rails are federally-listed species, the holder of a State MOU addressing either species also must possess an appropriate, valid Federal Threatened and Endangered Species permit.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of a Fully Protected species of bird after a notice of 30 days has been provided to affected and interested parties through publication of a notice in the California Regulatory Notice Register. If the Department determines that the proposed research by Griffith Wildlife Biology is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after November 1, 2004, for a term not to exceed three years. Contact John Gustafson, Habitat Conservation Planning Branch, Department of Fish and Game, 1416 Ninth Street, 12th Floor, Sacramento, California 95814, telephone (916) 654-4260.

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at www.oal.ca.gov. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225; FAX (916) 323-6826. Please request by OAL file number.

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW
(Gov. Code, sec. 11349.3)
OAL File No. 04-0730-01 S**

DECISION OF DISAPPROVAL OF REGULATORY ACTION

In re:

DEPARTMENT OF SOCIAL SERVICES

ACTION: Adopt section 31-503 and amend sections 31-206 and 45-201 of the Department's Manual of Policies and Procedures (MPP)

DECISION SUMMARY

This proposed regulatory action deals with the circumstances and factors to be used by a county child welfare department in determining whether it would be in the best interest of a child to make a referral of the child's case to the local child support agency for establishment of a support order for the reimbursement of public assistance (AFDC-FC). The Department of Social Services (Department) submitted this regulatory action to the Office of Administrative Law (OAL) on July 30, 2004. On September 13, 2004, OAL notified the Department that OAL disapproved the regulations because the regulations failed to comply with the Consistency and Clarity standards contained in Government Code section 11349.1.

September 20, 2004

DEBRA M. CORNEZ
Senior Counsel

for: WILLIAM L. GAUSEWITZ
Director

Original: Robert Sertich, Chief Deputy Director

cc: Maureen Miyamura

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.

AIR RESOURCES BOARD
Small Off-Road Engines 2003

This regulatory action adopts exhaust and evaporative emission control requirements for small off-road engines less than or equal to 19 kilowatts and equipment that use such engines.

Title 22
California Code of Regulations
ADOPT: 2405.1, 2405.2, 2405.3, 2750, 2751, 2752, 2753, 2754, 2754.1, 2754.2, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2767.1, 2768, 2769, 2770, 2771, 2772, 2773 AMEND: 2400, 2401, 2403, 2404, 2405, 2407, 2408, 2409
Filed 09/20/04
Effective 10/20/04
Agency Contact: George Poppic (916) 322-3940

BOARD OF EDUCATION

General Education Development Test (GED)
This regulatory action raises the fee to apply for the General Education Development (GED) Test.

Title 5
California Code of Regulations
AMEND: 11530
Filed 09/22/04
Effective 09/22/04
Agency Contact: Debra Strain (916) 319-0641

BOARD OF PHARMACY

Hospital Central Fill, Patient Notification, etc.
This action makes a variety of amendments to existing Board regulations including implementing changes to pharmacy technician licensing and training programs mandated by S.B. 361 (Chap. 539, Stats. 2003).

Title 16
California Code of Regulations
AMEND: 1710, 1711, 1717.1, 1717.4, 1720, 1721, 1723.1, 1724, 1749, 1793, 1793.1, 1793.2, 1793.4, 1793.5, 1793.6, 1793.7

Filed 09/22/04
Effective 10/22/04
Agency Contact:
Paul Riches (916) 445-5014 x4016

CALIFORNIA GAMBLING CONTROL COMMISSION
License Renewal and Work Permit Fees

This is the certification of compliance for an action that increases the work permit application fee from the old amount of \$75.00 to the amended fee of \$250.00.; requires a state gambling licensee to pay an application fee for renewal of a state gambling license; and requires a license applicant to deposit money sufficient to cover the investigation and processing costs of the Division of Gambling Control connected with review of the application.

Title 4
California Code of Regulations
AMEND: 12101, 12122, 12250
Filed 09/20/04
Effective 09/20/04
Agency Contact:
Heather Cline-Hoganson (916) 274-6328

CAL-PERS
Alternative Benefit Plans

This is the certification of compliance for an emergency action that defines the term "alternative benefit plan," identifies the standards such plans must meet, and the basic procedural requirements and timetable for contracting agencies intending to offer alternative health benefit plans.

Title 2
California Code of Regulations
ADOPT: 599.511 AMEND: 599.500(t)
Filed 09/15/04
Effective 09/15/04
Agency Contact: Marilyn Clark (916) 326-3007

DEPARTMENT OF FOOD AND AGRICULTURE
Oak Mortality Disease Control

The regulatory action adds associated articles (nursery stock) of 31 plants to the list of articles declared to be hosts or potential carriers of Phytophthora ramorum, the fungus that causes oak mortality disease(sudden oak death). (Prior OAL File 04-0427-02E:DFA File number PH0431.)

Title 3
California Code of Regulations
AMEND: 3700
Filed 09/20/04
Effective 09/20/04
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE
Karnal Bunt Disease Interior Quarantine

This action adds 16 square miles of land in southeastern Riverside County to the 91 square mile area of land currently quarantined for the purpose of preventing the spread of Karnal bunt disease in wheat.

Title 3
California Code of Regulations
AMEND: 3430(b)
Filed 09/22/04
Effective 09/22/04
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF INSURANCE
Workers' Compensation Rates

This action updates the Workers Compensation Uniform Statistical Reporting Plan—1995 with a revised Pure Premium Rate Section and the Workers Compensation Experience Rating Plan—1995 by slightly lowering the threshold for an employer to qualify for experience rating to correspond with the new rates.

Title 10
California Code of Regulations
AMEND: 2318.6, 2353.1
Filed 09/16/04
Effective 07/01/04
Agency Contact: Larry C. White (415) 538-4423

DEPARTMENT OF INSURANCE
Insurance Claims Handling

This action adds the phrase "first party automobile total loss" to limit the class of claims subject to the provisions of Cal. Code Regs., title 10, section 2695.8, subdivision (b).

Title 10
California Code of Regulations
AMEND: 2695.8(b)
Filed 09/15/04
Effective 09/15/04
Agency Contact:
Risa Salat-Kolm (415) 538-4127

DEPARTMENT OF REAL ESTATE
Use of False or Fictitious Name

This regulatory action repeals a recent amendment restricting the use of nicknames in advertising.

Title 10
California Code of Regulations
AMEND: 2731
Filed 09/22/04
Effective 10/22/04
Agency Contact: David B. Seals (916) 227-0789

FISH AND GAME COMMISSION
Salmon Punch Card

This action would amend the name of the form/card "Steelhead Trout Catch Report-Restoration Card" to "Steelhead Fishing Report and Restoration Card." The change is to more accurately capture the purpose of the card which is to have anglers record complete fishing activity of not only the amount of fish caught and kept but also caught and released.

Title 14
California Code of Regulations
AMEND: 1.74
Filed 09/22/04
Effective 09/22/04
Agency Contact: Tracy L. Reed (916) 653-4899

FISH AND GAME COMMISSION
Waterfowl—Nontoxic Shot

The Fish and Game Commission (Commission) is amending section 507.1, title 14, California Code of Regulations, entitled "Nontoxic Shot Requirement for Waterfowl, American Coot, and Common Moorhen Hunting." The Commission is adding "tungsten-tin-iron-nickle, tungsten-bronze, and tungsten-tin-bismuth" to conform to the requirements set out in title 50, section 20.21(j)(1), Code of Federal Regulations (Federal Register, Vol. 69, No. 152, 48163-48165).

Title 14
California Code of Regulations
AMEND: 507.1
Filed 09/21/04
Effective 09/21/04
Agency Contact: Tracy L. Reed (916) 653-4899

PUBLIC UTILITIES COMMISSION
Amendment to Rules of Practice & Procedure

This regulatory action exempts a decision to extend the time during which certain ratesetting issues must be resolved from public notice and comment requirements.

Title 20
California Code of Regulations
AMEND: Title 20 Division 1, Section 77.7
Filed 09/15/04
Effective 09/14/04
Agency Contact:
John E. Thorson (415) 355-5568

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN MAY 12, 2004
TO SEPTEMBER 22, 2004**

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

08/12/04 ADOPT: 1396 AMEND: 1314, 1321, 1323, 1324, 1334, 1354, 1390, 1392, REPEAL: 1332

Title 2

09/15/04 ADOPT: 599.511 AMEND: 599.500(t)
 09/10/04 AMEND: 54300
 09/09/04 AMEND: 18704.2
 08/31/04 ADOPT: 599.517
 08/20/04 ADOPT: 586, 586.1, 586.2
 08/10/04 ADOPT: 1896, 1896.2, 1896.4, 1896.6, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, 1896.20, 1896.22 REPEAL: 1896, 1896.2, 1896.4, 1896.6, 1896.8, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, 1896.20
 08/09/04 AMEND: 599.508
 08/09/04 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2
 08/04/04 AMEND: 599.515(e)
 07/30/04 ADOPT: 18531.10
 07/28/04 ADOPT: 1172.90, 1172.92
 07/27/04 AMEND: 18404.1
 07/26/04 ADOPT: 18530.9 AMEND: 18531.5
 07/22/04 ADOPT: 1859.51.1, 1859.70.2 AMEND: 1859.2, 1859.51, 1859.70, 1859.103
 07/02/04 AMEND: 1859.2, 1859.145, 1859.145.1
 06/28/04 ADOPT: 599.516
 06/21/04 ADOPT: 22600, 22600.1, 22600.2, 22600.3, 22600.4, 22600.5, 22600.6, 22600.7, 22600.8, 22600.9, 22601, 22601.1, 22601.2, 22601.3, 22601.4, 22601.5, 22601.6, 22601.7, 22601.8
 06/15/04 ADOPT: Div. 8, Ch. 99, Sec. 58800
 06/15/04 AMEND: 18707.1
 06/03/04 AMEND: 2270, 2271
 06/01/04 ADOPT: 1859.163.1, 1859.163.2, 1859.164.2, 1859.167.1 AMEND: 1859.2, 1859.145, 1859.145.1, 1859.160, 1859.161, 1859.162, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.167, 1859.168, 1859.171
 06/01/04 ADOPT: 20107
 05/25/04 ADOPT: 59152
 05/21/04 ADOPT: 1859.123.1 AMEND: 1859.2, 1859.73.1, 1859.81, 1859.83, 1859.90, 1859.120, 1859.121, 1859.122, 1859.122.1, 1859.122.2, 1859.123,

1859.124, 1859.124.1, 1859.125, 1859.125.1, 1859.126, 1859.127, 1859.129, 1859.130
 05/17/04 AMEND: 48000
 05/17/04 AMEND: 50
 05/17/04 ADOPT: 250
 05/17/04 AMEND: 18616
 05/17/04 AMEND: 50
 05/13/04 ADOPT: 18531.61 AMEND: 18531.6

Title 3

09/22/04 AMEND: 3430(b)
 09/20/04 AMEND: 3700
 09/09/04 AMEND: 6502
 09/08/04 AMEND: 3423(b)
 09/08/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784
 09/02/04 AMEND: 3700(b)(c)
 08/19/04 AMEND: 3700(c)
 08/10/04 ADOPT: 1472.8 AMEND: 1472.5
 08/05/04 AMEND: 3962(a)
 07/09/04 AMEND: 3423(b)
 07/06/04 AMEND: 3430(b)
 07/06/04 AMEND: 3700(c)
 07/02/04 AMEND: 3558(a)
 06/25/04 AMEND: 1380.19(p), 1442.7
 06/09/04 AMEND: 3700(c)
 05/27/04 AMEND: 3428(b)
 05/27/04 AMEND: 3423(b)
 05/27/04 AMEND: 1180(a)
 05/17/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 9784
 05/13/04 AMEND: 3700(b)

Title 4

09/20/04 AMEND: 12101, 12122, 12250
 08/17/04 ADOPT: 12400, 12401, 12402, 12403, 12404, 12405, 12406
 07/19/04 ADOPT: 10300, 10302, 10305, 10310, 10315, 10317, 10320, 10322, 10325, 10326, 10327, 10328, 10330, 10335, 10337 AMEND: 10325(b), 10325(B)(1), 10325(c)(2)(B), 10325(c)(12), 10325(d)(1)
 07/19/04 ADOPT: 10163, 10164 AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162
 07/19/04 ADOPT: 4147, 4148
 07/06/04 ADOPT: 12200, 12200.1, 12200.3, 12200.5, 12200.6, 12200.7, 12200.9, 12200.11, 12200.13, 12200.14, 12200.15, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12200.25, 12201, 12202, 12203, 12204, 12205, 12218, 12218.5, 12218.7, 12218.11, 12218.13, 12220,
 06/01/04 ADOPT: 12370, 12371

CALIFORNIA REGULATORY NOTICE REGISTER 2004, VOLUME NO. 40-Z

Title 5

09/22/04 AMEND: 11530
09/03/04 AMEND: 40000, 40050, 40650, 40900, 41302, 41304, 41901.5, 42501, 43000
09/02/04 ADOPT: 40402.1, 40405, 40405.1, 40405.2, 40405.3, 40405.4, 40901, 41301, 41906, 41910, and 42728
AMEND: 40500, 40501, 40503, 40505, 40506, 41600, 41601, 42395, 42705, 43600, 43601, 43602, 43603, 43604, 43660, 43661, 43662, 43663, 43664, 43665, 43666
08/09/04 AMEND: 590, 591, 592, 593, 594, 595, 596
07/30/04 ADOPT: 58317
07/19/04 ADOPT: 40530, 40531, 40532 AMEND: 40651, 40803, 40803.1
06/30/04 AMEND: 19814(e)
06/23/04 ADOPT: 19810, 19811, 19812, 19813, 19814, 19815, 19816, 19817, 19818, 19819, 19820, 19821, 19822, 19823, 19824, 19825, 19826, 19828, 19829, 19830, 19831 REPEAL: 19827
06/17/04 ADOPT: 19814.1, 19832, 19833, 19834, 19835, 19836, 19837 AMEND: 19814
06/08/04 ADOPT: 18074, 18074.1, 18074.2, 18074.3, 18074.4, 18074.5, 18074.6, 18075, 18075.1, 18075.2, 18076, 18076.1, 18076.2, 18076.3, 18220.6
AMEND: 18413, 18428 REPEAL: 18021
06/01/04 REPEAL: 80032.2, 80058.2, 80466, 80523.3
05/25/04 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
05/24/04 AMEND: 11973, 11974, 11975, 11977, 11978, 11979
05/19/04 ADOPT: 1204.5, 1211.5, 1218.6
AMEND: 1200, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1215, 1217 REPEAL: 1212, 1218.5, 1219.5

Title 8

08/30/04 ADOPT: 32032, 32033, 32034, 32035, 81000, 81005, 81010, 81020, 81030, 81040, 81050, 81055, 81060, 81065, 81070, 81075, 81080, 81090, 81100, 81105, 81110, 81115, 81120, 81125, 81130, 81135, 81140, 81145, 81150, 81155, 81160, 81165, 81170, 81175, 81180, 81
08/27/04 AMEND: 3657
08/26/04 AMEND: 3427
08/02/04 AMEND: 6283(a)

07/29/04 ADOPT: 232.01, 232.02, 232.03, 232.04, 232.05, 232.06, 232.07, 232.08, 232.09, 232.10, 232.11, 232.12, 232.20, 232.21, 232.22, 232.23, 232.24, 232.25, 232.26, 232.27, 232.28, 232.29, 232.30, 232.31, 232.32, 232.33, 232.34, 232.35, 232.36, 232.37, 232.40,
07/20/04 AMEND: 5147
07/13/04 AMEND: 1523
07/07/04 AMEND: 1632, 3212
07/07/04 AMEND: 3301
07/07/04 AMEND: 1716.2
07/07/04 ADOPT: 9881.1, 10117.1, 10118.1
AMEND: 9810, 9880, 9881, 9883 REPEAL: 9882, 10117, 10118
07/06/04 AMEND: 5194
07/06/04 AMEND: 15220, 15220.1, 15220.3, 15220.4
07/02/04 ADOPT: 9788.01, 9788.19788.11, 9788.2, 9788.3, 9788.31, 9788.32, 9788.4, 9788.5, 9788.6, 9788.7, 9788.9, 9788.91
06/30/04 ADOPT: 10250
06/28/04 AMEND: 1953
06/15/04 ADOPT: 9789.10, 9789.11, 9789.20, 9789.21, 9789.22, 9789.23, 9789.24, 9789.30, 9789.31, 9789.32, 9789.33, 9789.34, 9789.35, 9789.36, 9789.37, 9789.38, 9789.40, 9789.50, 9789.60, 9789.70, 9789.80, 9789.90, 9789.100, 9789.110, 9789.111
06/08/04 ADOPT: 32017, 32018, 51096, 71010, 71026, 71037, 71030, 71035, 71040, 71050, 71055, 71060, 71070, 71080, 71090, 71095, 71100, 71110, 71115, 71120, 71130, 71140, 71200, 71210, 71225, 71230, 71235, 71300, 71310, 71320, 71330, 71340, 71680, 71685, 71700, 71
05/24/04 AMEND: 1600, 1601
05/20/04 AMEND: 5001(b), 5008(b)

Title 9

09/01/04 ADOPT: 9807, 9822, 9834, 9836
AMEND: 9800, 9802, 9878 REPEAL: 9830, 9834, 9836
06/28/04 AMEND: 9525

Title 10

09/22/04 AMEND: 2731
09/16/04 AMEND: 2318.6, 2353.1
09/15/04 AMEND: 2695.8(b)
09/01/04 AMEND: 2698.30, 2698.31, 2698.32, 2698.33, 2698.34, 2698.35, 2698.36, 2697.37, 2698.38, 2698.39, 2698.40, 2698.41, 2698.42
08/31/04 ADOPT: 2698.95
08/26/04 AMEND: 2498.5

08/26/04 AMEND: 2498.3
 08/26/04 AMEND: 2498.5
 08/25/04 ADOPT: 2498.4.9 REPEAL: 2400, 2401, 2403, 2404, 2405, 2406, 2407, 2408, 2420, 2421, 2421.1a, 2421.2, 2421.3, 2421.4, 2421.5, 2421.6, 2421.8, 2421.9, 2421.10, 2422, 2430, 2431, 2431.1, 2431.2, 2431.3, 2432, 2441, 2442, 2443, 2443.1, 2444, 2444.5, 2444.6
 08/24/04 AMEND: 2498.6
 08/04/04 ADOPT: 2695.1, 2695.2, 2695.4, 2695.7, 2695.8, 2695.85, 2695.9, 2695.10, 2695.12 REPEAL: 2695.1 2695.2, 2695.4, 2695.7, 2695.8, 2695.85, 2695.9, 2695.10, 2695.12, 2695.14
 07/29/04 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
 07/29/04 AMEND: 2498.6
 07/12/04 ADOPT: 2361
 07/07/04 ADOPT: 2194, 2194.1, 2194.2, 2194.3, 52194.4, 2194.5, 2194.6, 2194.7, 2194.8
 07/01/04 ADOPT: 2699.6608 AMEND: 2699.100, 2699.200, 2699.201, 2699.205, 2699.209, 2699.400, 2699.401, 2699.6500, 2699.6600, 2699.6606, 2699.6607, 2699.6611, 2699.6613, 2699.6617, 2699.6619, 2699.6625, 2699.6631, 2699.6705, 2699.6717, 2699.6725, 2699.6801, 2699.
 05/27/04 REPEAL: 2670.1, 2670.2, 2670.3, 2670.4, 2670.5, 2670.6, 2670.7, 2670.8, 2670.9, 2670.10, 2670.11, 2670.12, 2670.13, 2670.14, 2670.15, 2670.16, 2670.17, 2670.18, 2670.19, 2670.20, 2670.21, 2670.22, 2670.23, 2670.24
 05/17/04 AMEND: 260.102.14

Title 11

08/26/04 AMEND: 1005, 1007, 1008, 1018
 07/07/04 AMEND: 1005, 1007
 06/23/04 AMEND: 51.16
 06/21/04 ADOPT: 2037, 2038 AMEND: 2010, 2050

Title 13

09/09/04 ADOPT: 15.07
 09/02/04 ADOPT: 155.05 AMEND: 155.00, 155.02, 155.04, 155.08, 155.10 REPEAL: 155.06
 07/21/04 ADOPT: 159.00
 07/20/04 ADOPT: 2020, 2021, 2021.1, 2021.2
 07/19/04 AMEND: 1090
 07/16/04 AMEND: 712
 07/15/04 AMEND: 225.45, 225.51, 225.54
 07/07/04 AMEND: 156.00
 05/13/04 AMEND: 110.01, 110.02

Title 13, 17

07/15/04 ADOPT: 2284, 2285, 93114 AMEND: 1961, 2281, 2282, 2701

Title 14

09/22/04 AMEND: 1.74
 09/21/04 AMEND: 507.1
 09/09/04 AMEND: 27.60, 27.65, 27.82, 28.27
 09/07/04 ADOPT: 17913.5 AMEND: 17901, 17902, 17905, 17910, 17911, 17913, 17914, 17914.5
 09/07/04 ADOPT: 15333, Appendix L AMEND: 15023, 15062, 15064, 15065, 15075, 15082, 15085, 15087, 15088, 15088.5, 15094, 15097, 15126.4, 15205, 15206, 15252, 15313, 15325, 15330, 15333, 15378, Appendices C, D
 09/01/04 AMEND: 671
 08/23/04 ADOPT: 18456.2.1, 18460.2.1 AMEND: 18449, 18450, 18451, 18456, 18459, 18459.2.1, 18459.3, 18461, 18462
 08/23/04 AMEND: 7.50
 08/12/04 AMEND: 7.50(b)(180)
 08/10/04 AMEND: 18072
 07/30/04 AMEND: 3698, 3699
 07/22/04 AMEND: 7.50(b)(91.1)
 07/21/04 ADOPT: 18464 AMEND: 18453, 18453.2, 18456.4, 18457, 18459.1, 18460.1, 18460.1.1, 18460.2, 18461, 18465
 07/12/04 AMEND: 180.3
 07/07/04 AMEND: 251, 311, 353, 354, 360, 361, 362, 363, 364, 365, 604, 708
 06/29/04 AMEND: 17383.3, 17383.8, 17402.5, 18223
 06/28/04 AMEND: 2430, 2525, 2535
 06/25/04 ADOPT: 1052.4 AMEND: 895.1, 1052, 1052.1
 06/15/04 AMEND: 677
 06/01/04 AMEND: 1.18
 05/13/04 AMEND: 27.80

Title 15

09/13/04 AMEND: 200, 2400, 2403
 08/30/04 ADOPT: 2251.5 AMEND: 2005, 2057, 2072, 2073, 2074 REPEAL: 2050, 2051, 2052, 2054, 2055, 2056
 06/25/04 AMEND: 2253
 06/18/04 AMEND: 3097
 06/17/04 ADOPT: 3000 AMEND: 3005, 3044, 3062, 3313, 3314, 3315, 3323, 3376 REPEAL: 3045.1
 05/27/04 ADOPT: 3194, 3195 AMEND: 3006, 3044, 3092, 3100, 3101, 3107, 3138, 3161, 3190, 3191, 3192, 3193 REPEAL: 3044, 3092, 3138, 3190
 05/18/04 AMEND: 3426
 05/13/04 AMEND: 2000, 2400, 2403

Title 16

09/22/04 AMEND: 1710, 1711, 1717.1, 1717.4, 1720, 1721, 1723.1, 1724, 1749, 1793, 1793.1, 1793.2, 1793.4, 1793.5, 1793.6, 1793.7
 09/08/04 AMEND: 1399.26
 09/07/04 ADOPT: 1082.3
 09/03/04 AMEND: 1793.3
 09/02/04 AMEND: 1709.1
 08/23/04 AMEND: 901.(d), 902.(c), 903.(b), 905.(a), 913.(f), 914.(d), 919.(g), and 941.(a)(2).
 08/11/04 AMEND: 1381.5
 07/22/04 ADOPT: 1829 AMEND: 1816.2, 1816.3, 1833.3, 1877 REPEAL: 1815
 07/20/04 ADOPT: 2065.8.1, 2065.8.2, 2065.8.3 AMEND: 2065, 2065.7, 2065.8
 07/19/04 AMEND: 12, 12.5, 87, 87.1, 90
 07/16/04 AMEND: 109, 116, 117, 121
 07/13/04 ADOPT: 1996.3 AMEND: 1953, 1970, 1983(j), 1996.1
 07/09/04 AMEND: 472.1, 473.1
 07/02/04 AMEND: 438
 07/01/04 AMEND: 1810
 06/28/04 ADOPT: 325.1
 06/24/04 ADOPT: 643
 06/15/04 ADOPT: 1399.70
 05/17/04 AMEND: 1912
 05/13/04 ADOPT: 1258.4, 1277, 1277.5

Title 17

08/27/04 AMEND: 50604, 50605, 54302, 54310, 54320, 54326, 54332, 54355, 58533
 08/12/04 AMEND: 94011
 07/22/04 ADOPT: 54351, 58800, 58801, 58810, 58811, 5812, 58820, 58821, 58822, 58830, 58831, 58832, 58833, 58834, 58840, 58841, 58842, 58850, 58851, 58860, 58861, 58862, 58863, 58864, 58870, 58871, 58872, 58873, 58874, 58875, 58876, 58877, 58878, 58879, 58880, 5888
 06/07/04 AMEND: 94700
 06/07/04 ADOPT: 60210 AMEND: 60200, 60201, 60202, 60206, 70302, 70303, 70303.1, 70303.5, 70304, Appendix 1, Appendix 2, Appendix 3
 06/01/04 AMEND: 50604, 50608, 54326, 54370, 56003, 56082, 57540, 58510, 58671

Title 18

09/10/04 AMEND: 1603
 08/25/04 AMEND: 302
 08/25/04 AMEND: 305
 08/23/04 AMEND: 131
 08/19/04 AMEND: 1525.7
 08/19/04 AMEND: 1533.1
 08/18/04 AMEND: 1534

08/18/04 AMEND: 1535
 08/17/04 AMEND: 1533.2
 07/27/04 AMEND: 1584
 07/26/04 AMEND: 5010, 5011, 5012, 5024, 5031, 5032, 5033, 5034, 5035, 5036, 5041, 5042, 5043, 5052, 5055, 5056, 5061, 5063, 5072, 5073, 5074, 5, 5077, 5078, 5080, 5081, 5082, 5085
 07/26/04 AMEND: 5020, 5021, 5022, 5023, 5030, 5070, 5071, 5075, 5075.1, 5076, 5076.1, 5079, 5082.1, 5083, 5090, 5091, 5093 REPEAL: 5087
 05/25/04 AMEND: 1614
 05/18/04 ADOPT: 1828

Title 19

06/28/04 ADOPT: 2745.10.5 AMEND: 2735.3, 2735.4, 2740.1, 2745.1, 2745.3, 2745.4, 2745.6, 2745.7, 2745.10, 2750.3, 2750.9 REPEAL: 2745.3(c)

Title 20

09/15/04 AMEND: Title 20 Division 1, Section 77.7
 07/29/04 AMEND: 1604, 1605.1, 1605.2, 1605.3, 1606
 06/02/04 AMEND: 2401

Title 21

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