



California Regulatory Notice Register

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**PROPOSED ACTION ON
REGULATIONS**

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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 **December 13, 2007**, at 10:00 a.m. in the Auditorium, Room 102, of Office Building 9 744 P Street, Sacramento, California 95814.

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 **December 13, 2007**, following the Public Meeting in the Auditorium, Room 102, of Office Building 9 744 P Street, Sacramento, California 95814.

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

BUSINESS MEETING: On **December 13, 2007**, following the Public Hearing in the Auditorium, Room 102, of Office Building 9 744 P Street, Sacramento, California 95814.

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

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

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 Mine Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **December 13, 2007**.

- TITLE 8: CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 4
New Section 1530.1
Control of Employee Dust Exposure from Concrete and Masonry Operations

2. **TITLE 8: MINE SAFETY ORDERS**
Chapter 4, Subchapter 17, Article 17
Section 7016(c)
**Brakes on Haulage Vehicles—
Maintenance**

Descriptions of the proposed changes are as follows:

1. **TITLE 8: CONSTRUCTION SAFETY
ORDERS**
Chapter 4, Subchapter 4, Article 4
New Section 1530.1
**Control of Employee Dust Exposure
from Concrete and Masonry
Operations**

INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW

This is a proposal to adopt a new section in the Construction Safety Orders of Title 8 to regulate the cutting, grinding, coring, and drilling of concrete and masonry materials. The impetus for proposing this standard is widespread recognition that these operations have significant potential, and probably the greatest potential of the operations conducted in construction settings, to generate overexposure to silica dust when the dust generated by these operations is not effectively controlled.

Uncontrolled employee exposures to dusts generated from the cutting and grinding of concrete and masonry materials have been documented to greatly exceed the allowed levels (Permissible Exposure Limits — PELs) stated in Section 5155. While these exposures can frequently exceed the PEL for total airborne particulates, they are of particular concern because they have also been documented to exceed the PEL for airborne respirable crystalline silica. Respirable silica dust is a long-recognized health hazard that can cause or contribute to debilitating and sometimes fatal respiratory diseases including silicosis, lung cancer, and tuberculosis. It is also believed to result, in the absence of these specific diseases, chronic obstructive pulmonary disease (COPD) and decline in pulmonary function.

The basic approach of the proposed new rule is to require the use of water or local exhaust ventilation systems, together with appropriate training, to control the dust generated by the four general activities listed above when performed with powered tools or equipment. This practice is already widespread in the industry as the principle means of using engineering controls to capture dust and comply with applicable PELs, and this proposed rule is intended to provide a means to enforce the use of this practice by all employers so that all employees and employers are equally protected from

those employers who take insufficient action to prevent overexposure.

The applicable PELs in Section 5155 include those for total and respirable crystalline silica, and for total and respirable particulate not otherwise regulated. By incorporating an exception to the requirements for use of dust reduction systems in proposed subsection (c) where applicable PELs are reliably shown not to be exceeded, the rule clarifies how employers are to achieve compliance with the requirement of Section 5141 to use engineering controls to the extent feasible to comply with applicable PELs, but does not impose requirements for a new level of dust control. The proposal does not affect the use of other measures that may be necessary to comply with the requirements of Section 5141.

This proposal was developed with the assistance of a public advisory meeting process which included two open public meetings held on January 17 and March 26, 2007. These meetings were well-attended by representatives of building contractors and contractor associations, organized labor, and equipment manufacturers.

Section 1530.1.

Subsection (a), Scope and Application.

This proposed subsection details the scope and application of the standard. The scope and application is based upon the tools used, the general types of operations conducted, and the materials being operated on. In addition, a number of specific industries and operations are specifically proposed to be excepted from coverage.

The scope is limited to “powered tools or equipment” as defined in proposed subsection (b). The scope is limited with respect to use of such tools to “cut, grind, core, or drill.” The scope of the proposed standard is limited in terms of materials covered to “concrete or masonry materials” as defined in proposed subsection (b). This element of scope is necessary and appropriate, because it is these materials which present the greatest risk of exposure.

This proposed subsection contains a note clarifying that the proposed standard does not preclude application of other Title 8 requirements applicable to operations covered by the proposed standard. A non-exhaustive list of the most prominent of such other potentially applicable Title 8 sections is included.

The proposed subsection contains an exception from coverage under the standard for seven types of operations and materials. These operations are proposed to be excepted from coverage by the standard. However, employers conducting the excepted operations must still comply with the requirements of Section 5141 for control of harmful employee exposures, including control of exposures to below applicable Permissible Exposure Limits found in Section 5155.

Subsection (b), Definitions.

This proposed subsection contains definitions of three terms: “concrete or masonry material,” “powered tools or equipment,” and “dust reduction system.”

The definition of “concrete or masonry material” clarifies for the regulated public the types of materials falling within the scope and application of the standard as stated in proposed subsection (a) and the evidence an employer must provide to rebut a presumption of application of the standard to such materials. In addition to describing the types of materials covered by the standard, this proposed definition also provides examples of such materials. The definition also provides that unless evidence is presented by the employer that a mixture or material that is stone-like in appearance and texture and otherwise appearing to be within the proposed definition does not contain any of a number of materials known to contain crystalline silica, the material shall be presumed to be concrete or masonry material and therefore within the scope and application of the standard.

The definition of “powered tools or equipment” clarifies to the regulated public the types of tools and equipment falling within the scope and application of the standard as stated in proposed subsection (a). The proposed definition provides that the term referred to in the scope and application of proposed subsection (a) means tools in which the motive force that disrupts concrete or masonry is provided by a source other than human energy. Examples of the types of motive force that will put tools and equipment within the proposed definition are provided.

The definition of “dust reduction system” clarifies to the regulated public the technology required to be applied to operations falling within the scope and application of proposed subsection (a). The proposed definition provides that a dust reduction system, when referred to in the standard, means the application of either water or local exhaust ventilation to reduce airborne dust generated by the use of powered tools or equipment. The proposed definition in the interest of further clarification also states examples of the types of local exhaust ventilation systems that would qualify as a dust reduction system under the standard.

Subsection (c), Control of employee exposures to airborne particulate.

This proposed subsection would require that during operations covered by the standard, a dust reduction system be used to effectively reduce employee exposures to airborne particulate. This proposed subsection also contains three exceptions that would make subsection (c) inapplicable if they apply.

The first exception is for operations demonstrated reliably by air sampling not to result in a particulate exposure exceeding any of the applicable Permissible Expo-

sure Limits in Section 5155. The PELs in Section 5155 applicable to the operations covered by this standard include those for total and respirable crystalline silica, and for total and respirable particulate not otherwise regulated.

The second exception is for operations with roofing tile, roofing pavers, or similar materials. This exception is based on concerns of infeasibility and the possibility that use of dust reduction systems in connection with roofing operations could create slipping, falling, and other hazards.

The third exception is for emergency operations of significant importance, as described in the proposed subsection, where compliance with the requirements of this section for use of a dust collection system could impair the timeliness of initiation of such an operation. This exception would be applicable only to the first two hours of the emergency operation.

Subsection (d), Safety and effectiveness of dust reduction systems.

This proposed subsection would establish standards for safe and effective operation of the dust reduction systems required by subsection (c).

Subsection (d)(1).

This proposed subsection would require that procedures be implemented to ensure that dust reduction systems maintain their effectiveness for dust reduction throughout the work shift.

Subsection (d)(2).

This proposed subsection would require that dust reduction systems used to comply with the requirement of subsection (c) installed, operated, and maintained in accordance with manufacturer recommendations.

Subsection (d)(3).

This proposed subsection would require that local exhaust ventilation systems be designed, tested, and maintained, used, and the waste materials they collect be disposed of, in compliance with applicable requirements of Sections 1530 and 5143.

Subsection (d)(4).

This proposed subsection would require that, where electrical tools are used with water as a dust reduction system, this be done in accordance with applicable requirements of the Electrical Safety Orders.

Subsection (e), Training.**Subsection (e)(1), Employee training.**

This proposed subsection would require an employer whose operations include using powered tools or equipment to cut, grind, core, or drill concrete or masonry materials to provide training to all employees prior to their assignment to jobs or work areas where the employer will be conducting these operations. In addition to training prior to assignment to covered operations,

this subsection would also require that employers conduct the training required by this section at least annually.

Subsection (e)(2), Supervisor training.

This proposed subsection would require that, prior to engaging in supervision of employees who will be cutting, grinding, drilling, or coring concrete or masonry materials takes place, supervisory employees be provided the same training required for non-supervisory employees as stated in subsection (e)(1). In addition, they would be required to receive training on how to identify the tasks employees will perform that may result in exposure to concrete or masonry dust, and the procedures for implementing the measures used by the employer to reduce these dust exposures.

Subsection (e)(3), Periodic training.

This subsection would require that employers with operations covered by the proposed standard conduct the training required by the proposed standard at least annually.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

For operations within the scope and application of the proposed standard, all employers are required to use dust reduction systems, and provide annual employee and supervisor training.

Exception No. 1 in subsection (c) for dust-reduction systems excepts operations reliably shown not to result in employee exposures exceeding applicable Permissible Exposure Limits for particulate listed in Section 5155. Section 5141 requires control of employee exposures to hazardous airborne substances below applicable Permissible Exposure Limits. Therefore, the proposed standard rather than imposing any new or additional requirements for control of employee exposures, provides needed clarification of the existing requirement of Section 5141 with respect to the operations proposed to be covered by the standard.

The training costs associated with this proposal are negligible. Employers are already required to conduct periodic training and toolbox or tailgate safety meetings as required by Title 8 sections 1509 and 3203 (Injury and Illness Prevention Programs), and by Section 5194 (Hazard Communication). The proposed training details can be incorporated into employers' existing training programs with a minimum of cost. The proposed standard does not impose unique requirements on state government. All state, local and private employers will be required to comply with the prescribed standards.

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. Minimal costs may be incurred to upgrade existing training for the specifics that would be required by the proposed standard.

Cost Impact on Private Persons or Businesses

The proposed standard may result in a small increase in training costs in order for employers to properly train their employees in accordance with the training requirements of the proposed standard. Employers are already required to conduct periodic training and toolbox or tailgate safety meetings as required by Sections 1509 and 3203 (Injury and Illness Prevention Programs), and training on hazardous substances as required by Section 5194 (Hazard Communication). The proposed training details can easily be incorporated into employers' existing training programs with a minimum of cost.

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 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.)

This 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, this 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 standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments 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 as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8: MINE SAFETY ORDERS**
 Chapter 4, Subchapter 17, Article 17
 Section 7016(c)
**Brakes on Haulage Vehicles—
 Maintenance**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking proposal is the result of the Occupational Safety and Health Appeals Board (OSHSB) Decision after Reconsideration in Teichert Aggregates, OSHAB Docket No. 01-R5D1-1193. In that decision, the OSHAB noted that Section 7016(c) requires that the

brakes of haulage vehicles “be maintained in good condition,” that the standard does not specify what is meant by “maintained in good condition.” The OSHAB agreed with the Administrative Law Judge who heard the case that “maintained in good condition” means, at the very least, that the brakes be maintained “in accordance with the manufacturer’s recommendations, where available.” This requirement is generally applicable to machinery and equipment pursuant to Section 3328(b) of the General Industry Safety Orders (GISO). This proposal would add words derived from Section 3328(b) to Section 7016(c), thereby resolving the ambiguity noted in the OSHAB decision.

Section 7016(c) contains requirements for equipping and maintaining haulage vehicles used in mining operations. Subsection (c) concerns brakes and other holding devices. The subsection requires, among other things, that brakes “be maintained in good condition.” This proposal would remove ambiguity as to what is meant by “maintained in good condition.” The proposal does so by adding wording from GSO Section 3328(b) specifying that the brakes be “inspected and maintained as recommended by the manufacturer where such recommendations are available.”

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 impacts 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 amendment 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 undue 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 employers — state, local and private — will be required to comply with the prescribed standard.

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 busi-

nesses 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 as 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 December 7, 2007. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on December 13, 2007, 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@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals 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 Michael Manieri, Principal Safety Engineer, or Christina Witte, Executive Secretary, 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 9. DEPARTMENT OF REHABILITATION

TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES DIVISION 3. DEPARTMENT OF REHABILITATION CHAPTER 6. BUSINESS ENTERPRISES PROGRAM FOR THE BLIND

NOTICE OF PROPOSED RULEMAKING

Published October 26, 2007

The Department of Rehabilitation, hereafter Department, proposes to amend Sections 7210, 7211, and 7212 and adopt Sections 7212.1, 7212.2, 7212.3, and 7212.4 of California Code of Regulations, title 9, as described below after considering all comments, objections, and recommendations regarding the proposal.

PUBLIC HEARING

The Department will hold a public hearing starting at 10:00 a.m. on December 19, 2007 at the Department of Rehabilitation, 721 Capitol Mall, Sacramento, California. The hearing location is wheelchair accessible. Any person who is deaf or hearing impaired and requires an interpreter at the hearing, or individuals with disabilities who need any other special assistance, should contact Juanita Loyola, Regulations Analyst, at (916) 558-5833 or jloyola@dor.ca.gov at least two weeks in advance of the date of the hearing.

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

be adjourned immediately following receipt of testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed rulemaking action to the Department. The written comment period closes at 5:00 p.m. on December 19, 2007. The Department will consider only comments received at the Department by that date and time. Submit comments to:

Juanita Loyola, Regulations Analyst
Department of Rehabilitation
Office of Legal Affairs and Regulations
721 Capitol Mall
Sacramento, CA 95814-4702
jloyola@dor.ca.gov

AUTHORITY AND REFERENCE

Welfare and Institutions Code sections 19006, 19016, 19632, and 19639, Title 20 United States Code section 107b(5), and Title 34 Code of Federal Regulations part 395.4 authorize the Department to adopt the proposed regulations, which would implement, interpret, or make specific the following: Government Code sections 8880.48 and 12926.1; Welfare and Institutions Code sections 19011, 19013.5(b), 19095, 19095.5, 19150(a)(3) and (10), 19153, 19625, 19626, 19627, 19629, 19630, 19631, 19632, 19635, 19638 and 19639; Title 20 United States Code sections 107, 107a(a)(5), (b) and (e), 107b(3) and (6), 107b-1(2) and (3), 107d-1(a), 107d-3, 107d-4 and 107e(3); Title 29 United States Code section 723(a)(5), (14) and (18); and Title 34 Code of Federal Regulations parts 361.5(b)(5), (29) and (42), 361.48(f), (o) and (q), 395.1(f), (g), (i), (k), (n), (o), (q), (r), (s), (v), (x), (y) and (z), 395.2, 395.3(a)(3), (4), (7), (8) and (11)(ii) and (vi), 395.5, 395.7, 395.8, 395.9, 395.11, 395.13, 395.14, 395.16, 395.32, 395.33, 395.34 and 395.35.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department administers the Business Enterprises Program for the Blind in accordance with Welfare and Institutions Code section 19625 et seq. and the federal Randolph-Sheppard Act (20 U.S.C. 107 et seq.). The purpose of the program is to "provide blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting." The Business Enterprises Pro-

gram for the Blind provides legally blind, United States citizens who are 18 years or older and eligible for vocational rehabilitation services with opportunities to be trained in the operation of cafeterias, dry/wet facilities, food concession vehicles or cart services, snack bar facilities, and vending machine facilities. Upon successful completion of the training program, eligible persons are licensed to operate vending facilities on federal, state, and other property in California.

Welfare and Institutions Code sections 19006, 19016, 19632, and 19639, the Randolph–Sheppard Act at Title 20 United States Code section 107b(5), and the implementing federal regulations at Title 34 Code of Federal Regulations part 395.4 authorize the Department to adopt regulations consistent with the Randolph–Sheppard Act to govern the Business Enterprises Program for the Blind. The current regulations for the Business Enterprises Program for the Blind are found in California Code of Regulations, title 9, sections 7210 through 7227.2. The current regulations define terms specific to the program and establish eligibility requirements and procedures for training, selection of vendors, licensing, disciplinary action, standards for the establishment and operation of vending facilities and collection of vending machine income. The current regulations also include sections regarding the State Committee of Blind Vendors and the appeal processes available to vendors and licensees in the program.

In order to ensure a strong and effective program, the Business Enterprises Program for the Blind, with the participation of the California Vendors Policy Committee, reviewed the existing regulations and determined that regulatory revisions are warranted. The Department intends to accomplish this comprehensive regulatory revision through a number of rulemaking packages, with this being the initial package. The Department proposes to adopt the proposed regulations described herein after considering all comments, objections, and recommendations regarding the proposal. The Department will also submit the regulations to the federal Rehabilitation Services Administration for approval in accordance with Title 34 Code of Federal Regulations part 395.3(a)(11)(iii) prior to implementing the regulations.

The proposed rulemaking amends Articles 1, 2, and 3 of Chapter 6 of Division 3 of Title 9 of the California Code of Regulations as described below. The proposed regulations amend the general provisions in Section 7210, which identify the federal law and regulations that establish the program, the Department as the state licensing agency, and the responsibilities of the Director of the Department under the program. The proposed language in Section 7210 is consistent with state law and federal law and regulations. This proposed section implements, interprets or makes specific the following:

Welfare and Institutions Code sections 19011, 19013.5(b), 19625, and 19639; Title 20 United States Code sections 107 and 107a(a)(5), (b) and (e); and Title 34 Code of Federal Regulations part 361.5(b)(5), 395.2, 395.3(a)(11)(vi), 395.5, and 395.7.

Section 7211 provides definitions for terms specific to the program, and the proposed regulations amend and add definitions in this section. Many of the provisions duplicate language that currently exists in state law and federal law and regulations. The purpose of duplicating existing language is to provide directly affected persons, legally blind, United States citizens who are 18 years or older and eligible for vocational rehabilitation services, with a single, comprehensive source of definitions specific to the program that is easily understood. Proposed Section 7211 also incorporates therein by reference the following forms that the Business Enterprises Program for the Blind utilizes in administering the program: DR 478, Vendor’s Monthly Operating Report (Rev. 07/07); and DR 468, Vending Facility License (Rev. 07/07). This proposed section implements, interprets or makes specific the following: Government Code section 8880.48; Welfare and Institutions Code sections 19011, 19095, 19095.5, 19153, 19625, 19626, 19627, 19629, 19630, 19631, 19632, 19635, and 19638; Title 20 United States Code sections 107, 107a(a)(5), (b), and (e), 107b(3) and (6), 107b–1(2) and (3), 107d–1(a), 107d–3, 107d–4, and 107e(3); and Title 34 Code of Federal Regulations parts 395.1(f), (g), (i), (k), (n), (o), (q), (r), (s), (v), (x), and (y), 395.2, 395.3(a)(3), (4), (7), (8), and (11)(ii) and (iv), 395.5, 395.7, 395.8, 395.9, 395.11, 395.13, 395.14, 395.16, 395.32, 395.33, 395.34, and 395.35.

Proposed Section 7212 amends the eligibility requirements consistent with state law and federal law and regulations and establishes a two–step process for selecting applicants accepted to enter the program. First, an interested person must complete an on–the–job pre–entry evaluation and achieve an overall rating of standard. Persons achieving overall ratings of standard will be interviewed by the Applicant Review Panel, which will select the applicants accepted into the program. If a person is unsuccessful in either stage of the selection process, the person is referred to his or her vocational rehabilitation counselor for the blind for further assistance in identifying or achieving an employment outcome. Proposed Section 7212 also incorporates by reference the DR 446, Pre–Entry Evaluation, (Rev. 07/07), which the Business Enterprises Program for the Blind utilizes in administering the program. This proposed section implements, interprets or makes specific the following: Welfare and Institutions Code sections 19011, 19150(a)(3), 19625, 19632(a) and (b), and 19638(b); Title 20 United States Code sections 107, 107b–1(3) and 107d–4; and Title 34 Code of Federal

Regulations parts 361.48(f), 395.3(a)(4) and (8), 395.7, 395.11, and 395.14(b).

Proposed Section 7212.1 is a new provision, which establishes the procedures for the Vendor Training Program for persons accepted into the program, who are referred to as Client–Trainees. The Vendor Training Program consists of two components, classroom instruction and on–the–job training with vendors who are currently operating Business Enterprises Program for the Blind vending facilities. A Client–Trainee must achieve an overall score of 70 percent or better to be certified as eligible to be licensed to operate a Business Enterprises Program for the Blind vending facility. Proposed Section 7212.1 also incorporates by reference the following forms, which the Business Enterprises Program for the Blind utilizes in administering the program: DR 445, Client–Trainee Training Evaluation (Rev. 07/07); DR 445A, Client–Trainee Training Evaluation Instructions; DR 454 Client–Trainee Final Appraisal (Rev. 07/07); DR 456, Certification of Eligibility for BEP License (Rev. 07/07); and DR 468, Vending Facility License (Rev. 07/07). This proposed section implements, interprets or makes specific the following: Welfare and Institutions Code sections 19011, 19632(b), and 19638(b); Title 20 United States Code sections 107b–1(3) and 107d–4; and Title 34 Code of Federal Regulations parts 395.1(i), 395.3(a)(4) and (8), 395.11, and 395.14(b).

Proposed Section 7212.2 establishes the eligibility requirements and training program for vendors who wish to become Vendor–Trainers and participate in the on–the–job training component of the Vendor Training Program established in proposed Section 7212.1. Proposed Section 7212.2 also incorporates therein by reference the following forms, which the Business Enterprises Program for the Blind utilizes in administering the program: DR 445, Client–Trainee Training Evaluation (Rev. 07/07); DR 445A, Client–Trainee Training Evaluation Instructions (Rev. 07/07); DR 446, Pre–Entry Evaluation (Rev. 07/07); DR 478, Vendor’s Monthly Operating Report (Rev. 07/07); and DR 478A, Vendor’s Monthly Operating Report Instructions (Rev. 07/07). This proposed section implements, interprets or makes specific the following: Health and Safety Code section 113947.1; Welfare and Institutions Code sections 19011, 19632(b), and 19635; Title 20 United States Code sections 107b(6), 107d–1(a), and 107d–4; Title 34 Code of Federal Regulations parts 395.3(a)(7) and (8), 395.11, and 395.13.

Proposed Section 7212.3 establishes the responsibilities and performance standards of the Client–Trainees during the Vendor Training Program. This proposed section also incorporates therein by reference the Transmittal and Receipt of Performance Standards for the BEP Training Program, DR 441 (07/07), which is to

be signed by the Client–Trainee acknowledging receipt and understanding of the performance standards. The proposed regulation also provides that if a Client–Trainee fails to meet the established performance standards and is terminated from the Vendor Training Program he or she shall be referred to his or her vocational rehabilitation counselor for the blind for further assistance in identifying or achieving an employment outcome. This proposed section implements, interprets or makes specific the following: Welfare and Institutions Code sections 19011, 19013.5(b), 19632(b), and 19638(b); Title 20 United States Code sections 107b–1(3) and 107d–4; and Title 34 Code of Federal Regulations parts 361.5(b)(5), 395.3(a)(4) and (8), 395.11, and 395.14(b).

Proposed Section 7212.4 establishes in–service and upward mobility training for vendors in accordance with state law and federal law and regulations. In–service training shall be offered to vendors at least annually in two different locations in the state in a classroom setting or on site at a Business Enterprises Program for the Blind vending facility and may consist of a variety of topics relating to the operation of a vending facility.

Proposed Section 7212.4, subdivision (e) defines upward mobility consistent with federal regulations as “further education and additional training or retraining for improved work opportunities for all licensees and vendors, as necessary to assure that their maximum vocational potential is achieved.” This proposed section also reaffirms that the Business Enterprises Program for the Blind “shall ensure that post–employment services are provided to vendors as vocational rehabilitation services as necessary to assure that the maximum vocational potential of such vendors is achieved and suitable employment is maintained with the State’s vending facility program.” Proposed Section 7212.4 also incorporates by reference the DR 478, Vendor’s Monthly Operating Report (Rev. 07/07), and DR 478A, Vendor’s Monthly Operating Report Instructions (Rev. 07/07), which the Business Enterprises Program for the Blind utilizes in administering the program. This proposed section implements, interprets or makes specific the following: Welfare and Institutions Code sections 19011, 19150(a)(3) and (10), 19632(b), and 19638(b); Title 20 United States Code sections 107b–1(3) and 107d–4; Title 29 United States Code sections 723(a)(5), (14), and (18); Title 34 Code of Federal Regulations parts 361.5(b)(42), 361.48(f), (o), and (q), 395.3(a)(4) and (8), 395.11, and 395.14(b).

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

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

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

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

Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Business Reporting Requirement: None.

Affect small businesses: The vending facility businesses that are part of the Business Enterprises Program for the Blind are considered "small business" as defined in Government Code section 11342.610. These food service businesses are independently owned and operated, not dominant in the food service field, and have gross annual receipts fewer than two million dollars (\$2,000,000). Currently, 133 licensed vendors operate 168 Business Enterprises Program for the Blind vending facilities in California, consisting of 350 sites.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Juanita Loyola, Regulations Analyst
Department of Rehabilitation
721 Capitol Mall
Sacramento, California 95814-4702
Telephone: (916) 558-5833
Email: jloyola@dor.ca.gov

The backup contact person for these inquiries is:

Joely Walker
Department of Rehabilitation
721 Capitol Mall
Sacramento, California 95814-4702
Telephone: (916) 558-5825
Email: jwalker@dor.ca.gov

Questions on the substance of the proposed regulations may be directed to either Juanita Loyola, or the designated backup contact, Joely Walker.

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Juanita Loyola at the address above. The Department will also provide copies of the regulation proposal in large print, Braille, on audiotape, 3.5" diskette, compact disk, or transmit copies of the regulation proposal electronically, upon request.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, Proposed Text of Regulations, nine forms incorporated by reference in the proposed text, and Initial Statement of Reasons. Copies may be obtained by contacting Juanita Loyola at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text with the 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 Juanita Loyola at the address indicated above. The Department will ac-

cept written comments on the modified regulations for 15 days after the date on which they were made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Juanita Loyola at the address above or on the Department's website at www.dor.ca.gov.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the proposed text of the regulations in underline and strikeout, and the nine forms incorporated by reference in the proposed text of the regulations can be accessed through the Department's website at www.dor.ca.gov.

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The Commissioner of Corporations (Commissioner) proposes to amend Rule 310.111 of Title 10, Chapter 3, of the California Code of Regulations relating to compliance with the Federal Trade Commission's new disclosure format for franchises.

PUBLIC COMMENTS

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(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 Karen Fong, Office of Legislation and Policy, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than

5:00 p.m., December 10, 2007. Written comments may also be sent to Karen Fong via electronic mail at regulations@corp.ca.gov or via fax at (916) 322-5875. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

The purpose of this regulatory action is to clarify the procedure for filing the application for registration under the Franchise Investment Law ("FIL"), Corporations Code Section 31000 et seq., as a result of the Federal Trade Commission's ("FTC") recent amendments to its franchise rule.

Under the FIL, franchisors must register with the Department of Corporations to offer or sell franchises in this state. Under the Department's regulations, the application for registration includes the Uniform Franchise Offering Circular ("UFOC") approved by the North American Securities Administrators Association ("NASAA") on April 25, 1993. The UFOC is a disclosure document for prospective franchisees developed by NASAA to comply with the FTC rule regarding franchises (16 CFR Part 436), and to provide enhanced disclosures and other protections for prospective franchisees.

According to the FTC, states may enact laws that provide equal or greater protections to franchisees than the federal rule, but the federal rule will preempt state law where the federal protections exceed state protections. Since December 30, 1993, the FTC has allowed franchisors to comply with the disclosure requirements of the federal franchise rule through the use of the UFOC, thereby acknowledging that the UFOC provides greater protections to franchisees than the federal rule.

On March 30, 2007, the FTC finalized amendments to its franchise rule, increasing the franchisee protections to more closely mirror the UFOC, and exceeding the protections afforded by the UFOC in several areas. As a result, the revised federal rule may preempt state law in some areas. While the effective date of the FTC's amendments is July 1, 2007 (on an optional basis), franchisors may continue to use the FTC's original franchise rule (and thus the UFOC) until July 1, 2008 when the FTC's disclosure document format becomes mandatory. In response to the FTC's amendments to Part 436, NASAA has replaced the UFOC Guidelines with the Franchise Interim Statement of Policy, including the UFDD, which incorporates the FTC's revisions to its franchise rule and incorporates protections from the UFOC that were not included in the FTC's amendments.

The Department is amending its rules regarding the application for registration in order to incorporate the FTC's changes to its franchise rule and to incorporate NASAA's new disclosure document, the UFDD. The proposed amendments allow franchisors to use either the UFOC or the UFDD as their registration application until July 1, 2008, and require franchisors to use the UFDD on or after July 1, 2008.

The proposed rulemaking amends Rule 310.111 to incorporate the UFDD, as adopted by NASAA on June 22, 2007 and effective July 1, 2007, as the Uniform Franchise Registration Application for registration applicants under the FIL.

AUTHORITY

Section 31502, Corporations Code.

REFERENCE

Sections 31110, 31111, 31114, 31122 and 31125, 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 regulation(s). A request for a copy of any modified regulation(s) should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulation(s) 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 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 31/04-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 31/04-C. These documents are also available at the Department's website at www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Legislation and Policy maintains the rulemaking file. The rulemaking file is available for

public inspection at the Department of Corporations, Office of Legislation and Policy, 1515 K Street, Suite 200, Sacramento, California, 95814-4052.

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.

The Department has determined that no less burdensome alternatives are available since the proposed regulations incorporate a uniform disclosure format used across many states.

FISCAL IMPACT

- Cost to Department: None. No cost or savings to any other state agency.
- Direct or indirect costs or savings to the state or in federal funding: None.
- No other nondiscretionary cost or savings are imposed on local agencies.
- Costs to private persons or businesses: Insignificant or none.
- Effect on housing costs: None.

DETERMINATIONS

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

- Does not affect small businesses because any impact on small business is caused by the FTC and not by the Department's actions.
- Does not impose a mandate on local agencies or school districts, or a mandate that is required to be reimbursed 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 businesses, 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.
- Does reduce costs for businesses within California by preventing confusion and providing uniformity and consistency across jurisdictions.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

Any cost impact incurred is caused by the FTC and not by the Department's actions.

EFFECT ON SMALL BUSINESS.

None.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to Karen Fong at (916) 322-3553. The backup contact person is Marilyn Kasper at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Timothy L. Le Bas, Deputy Commissioner, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California, 95814, (916) 322-3553.

TITLE 10. DEPARTMENT OF INSURANCE

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

DATE: October 26, 2007

REGULATION FILE: REG-2007-00045

SUBJECT OF PROPOSED RULEMAKING

The Insurance Commissioner proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to

add to Title 10, Chapter 5, Subchapter 7.5 of the California Code of Regulations the new Article 1.5: Sales to Military Personnel, consisting of new Sections 2695.20, 2695.21, 2695.22, 2695.23, 2695.24, 2695.25, 2695.26, 2695.27 and 2695.28. The regulations set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

PUBLIC HEARING

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

Date and time: Monday, December 10 at 10:00 a.m.

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

The hearing will continue on the date noted above until all testimony has been submitted or 4:00 p.m., whichever is earlier.

**PRESENTATION OF WRITTEN COMMENTS;
CONTACT PERSONS**

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on December 10, 2007. Please direct all written comments to the following contact person:

George Teekell, Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4390

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Joel Laucher
California Department of Insurance
45 Fremont Street, 22nd Floor
San Francisco, CA 94105
Telephone: (415) 538-4381

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact persons at his address listed above, no later than 5:00 p.m. on December 10, 2007. Any written materials received after that time may not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: teekellg@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of George Teekell and sent to the following facsimile number: (415) 904-5490. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code sections 32, 101, 330, 331, 332, 333, 334, 350, 351, 358, 359, 360, 700, 730, 733, 780, 781, 783, 783.5, 790.03, 791.02, 791.03, 1626, 10159.1, 10165, 10168, 10206.5, 10506, 10506.3, 10509.8, 10509.9 and 10540, with reference also to Military and Veterans Code section 823.5 (Stats. 2007, ch. 363, § 1 (AB 1526)). Insurance Code sections 720, 790.10, 10168.92, 10206.5, 10506 and 10506.3 provide authority for this rulemaking, as do the following decisions of the California Supreme Court: *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989), and *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994).

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW AND POLICY STATEMENT OVERVIEW

Under existing law annuities are a form of life insurance. Life insurance products may be sold only by licensed life agents, appointed by and acting on behalf of an insurer. Insurers are responsible for the actions of their agents. Statements by insurers and agents about insurance, or about a person in regard to her conduct of the business of insurance, that are known to be, or that should be known to be, untrue, deceptive or misleading

are illegal. It is illegal for an agent or insurer to pretend to be, or pretend to represent, someone he or it is not or is not representing, or to misrepresent the true purpose of an interview.

According to existing law, each party to an insurance contract (the insured and the agent/insurer) when negotiating the contract has an affirmative duty in good faith to communicate to the other party all facts known to him that are, or that he believes to be, material. A fact or a representation is material if it would probably or could reasonably influence the party to whom it may be communicated in forming an estimate of the disadvantages of entering into the contract or in asking the other party questions. Unless asked, neither party has a duty to communicate: (1) any information which the other party should know, unless the communicating party has reason to suppose the other party is ignorant of that information, or (2) any information about, or that tends to prove the existence of, the existence of a risk that is not covered by the insurance, unless that information is material for some other reason.

Currently it is illegal for an agent or insurer to market a life insurance product to a service member in a misleading or deceptive manner that suggests that the insurer or agent is acting on behalf of or is an affiliate of, or that the product is being offered on behalf of, the military or the Department of Veterans Affairs. Regardless of whether the insurer or agent knows of the falsehood, (1) a materially inaccurate presentation or comparison of an existing contract when made by an insurer or agent in recommending that the contract be replaced or cashed out is illegal, and (2) a representation by an insurer or agent that is false in any material point entitles the insured to rescind the contract. A group life policy may provide that an insurer is not liable, or is liable only in a reduced amount, for losses relating to war or for losses relating to military service.

At present, the term "premium deposit fund" is undefined in California, though the term appears both in the Insurance Code and in regulations promulgated thereunder. Premium deposit funds are exempt from the provisions of nonforfeiture law, which in general specifies, among other things, minimum amounts that holders of certain annuities and other life insurance products are guaranteed to receive in the event they stop making payments.

The policy underlying the proposed action is articulated in the Military Personnel Financial Services Protection Act (the "Act"). 109 Pub. L. No. 290; 120 Stat. 1317. Section 9 of the Act states that it is the intent of Congress that "the States work collectively with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the armed forces from dishonest and predatory insurance sales practices while on a military installation." The pro-

posed regulations seek not only to effect such standards for on-base activity but also to set out standards to protect members of the military from dishonest and predatory sales practices that take place away from military installations. Section 11 of the Act directs the National Association of Insurance Commissioners to investigate “ways of improving the quality of life insurance products sold on military installations. . . which may include . . . creating standards for products specifically designed to meet the particular needs of members of the Armed Forces, regardless of sales location.” The proposed regulations seek to implement just such product standards.

EFFECT OF PROPOSED ACTION

The proposed regulations prohibit certain acts and practices which have not previously been specifically identified as false, misleading, deceptive or unfair in rules promulgated under the Insurance Code.

Beyond requiring the disclosures mandated by Congress in Section 10 of the Act, the proposed regulations proscribe certain false, misleading, deceptive and unfair sale practices both on and off of a military installation. More than twenty prohibited practices are identified, including but not limited to: using fictitious bank accounts to establish premium payments; disparaging Service members’ Group Life Insurance (SGLI), a federally sponsored program that provides up to \$400,000 of term life insurance at a cost of \$28 per month; offering gifts or incentives to lure service members to sales presentations; soliciting in barracks and other prohibited locations; soliciting without the installation commander’s permission and implying sponsorship or sanction by the U.S. Government, the United States Armed Forces, or any state or federal or government agency.

The proposed regulations also address Congressional concerns set out in Section 11 of the Act regarding suitability and product standards. In this regard, the proposed regulations make it a deceptive or unfair trade practice to recommend to service members the purchase of any life insurance product which includes a side fund, unless the insurer has reasonable grounds for believing that the life insurance portion of the product, standing alone, is suitable. Under the proposed regulations, if a service member is enrolled in SGLI, the product is presumed unsuitable. The presumption can be overcome if the insurer, after performing a needs analysis, can show that the SGLI death benefit, together with consideration of other military survivors’ benefits and other sources of income, is insufficient for meeting the applicant’s insurable needs for life insurance.

The proposed regulations address product standards by requiring that “side” or “accumulation” funds associated with life insurance policies credit interest from the date of deposit to the date of withdrawal and to permit withdrawals without penalty; that the applicant be provided with a schedule of effective rates of return based upon cash flows of the combined product; and that no funds accumulated in the “side” or “accumulation” fund be diverted or transferred by default to pay, reduce or offset premiums.

The proposed regulations define the term “premium deposit fund” and extend the scope of that definition to apply beyond the military sales context to all uses of the term in the Insurance Code and the regulations implementing it. The definition excludes all other moneys than those set aside for the sole purpose of paying future obligations on life insurance products that have actually been issued. The proposed regulations prohibit selling or offering for sale to an active duty service member any life insurance product which violates either the Standard Nonforfeiture Law for Life Insurance or the Standard Nonforfeiture Law for Deferred Annuities. Owing to the new definition of premium deposit fund, certain funds that previously have been exempt may now be subject to nonforfeiture protection, regardless of the military or civilian status of the people to whom the affected products are sold or marketed.

The regulations also prohibit the sale to known active duty service members of life insurance products that exclude coverage for death related to war or military service.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS OR IN FEDERAL FUNDING

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

**ECONOMIC IMPACT ON BUSINESS AND
THE ABILITY OF CALIFORNIA
BUSINESSES TO COMPETE**

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

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

**POTENTIAL COST IMPACT ON PRIVATE
PERSONS OR BUSINESSES**

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Insurers that engage in the business practices interdicted by the proposed regulations are not representative of the insurance industry at large. However, an insurer that is representative of the group of insurers that will be affected by the proposed regulations reported direct premiums of \$14.6 million in 2006, of which approximately \$5.7 million represented first-year business for its ordinary life business. Should the proposed regulations become effective, this insurer would not be able to write its current level of military business. The immediate impact would be a loss of its first-year business that could reach \$5.7 million or more annually depending on the volume of military business that is represented in first-year premiums and the amount of new military business that the insurer could generate in future years without regulatory impediment.

The proposed regulations would force the insurer to revamp its business strategy. The company would need to develop new life products viable for sale to military and nonmilitary personnel if it planned to survive as an ongoing concern. We estimate that the development and

start-up costs to launch a new life insurance product line could cost this company \$300,000 (e.g., costs of actuarial consultants, legal advice, regulatory filing and/or approvals, marketing, training, etc.) for each new product line. We also estimate that the company would incur approximately \$750,000 in system development and implementation costs to develop and implement computer applications to manage the new line of business.

To maintain the renewal of its military business that is already on its books, the company would need to revamp the way it collects premiums from military personnel. This could entail having each policyholder establish an individual checking account from a bank of the policyholder's own choosing. The insurer could then use electronic fund transfer to collect the premiums. The cost of implementing such a program would be approximately \$300,000, with a residual effect of the loss of additional business resulting from policyholders' potentially cancelling their policies instead of opting to open a new checking account. The percentage of the company's policyholders that may cancel for this reason is unknown.

**EFFECT ON JOBS AND BUSINESSES
IN CALIFORNIA**

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state.

The proposed regulations could force a domestic insurer to shut down its operations, in which case the salaries, wages, and benefits lost to its employees could represent \$830,000 or more per year. Collectively the agents appointed to the company stand to lose as much as \$5.2 million in commission income. While an insurance company's agents typically are also appointed to many other insurers, several agents appointed to the company could at present derive substantially all of their commission income from sales of the company's product. The insurance businesses of some agents could therefore be eliminated, should the proposed regulations become effective, resulting in elimination of jobs held by individuals employed by those agents. Accordingly, in the Commissioner's assessment, this regulatory action will result in the elimination of businesses and jobs in California. However, the extent to which jobs and businesses will be lost will be relatively minor in terms of the State's aggregate economic activity. The proposed regulations will not, however, affect the expansion of other businesses doing business in California.

FINDING OF NECESSITY

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

IMPACT ON HOUSING COSTS

The proposed regulations will have no significant effect on housing costs.

ALTERNATIVES

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

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed amendments will affect small businesses to the extent that it affects insurance agents. However, insurance companies, which will also be affected, are by definition not small businesses, pursuant to Paragraph (b)(2) of Government Code section 11342.610.

COMPARABLE FEDERAL LAW

The proposed regulations refer to and require the disclosures set forth in Section 10 of the Act. The proposed regulations also track or incorporate relevant Department of Defense solicitation regulations in DoD Instruction 1344.07: *Personal Commercial Solicitation on DoD Installations*, and Army Regulation 210-7: *Commercial Solicitation on Army Installations*.

TEXT OF REGULATIONS AND STATEMENTS OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed action. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final

statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the express terms of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available by appointment for inspection and copying at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find at the righthand side of the page the heading 'QUICK LINKS.' The third item in this column under this heading is 'For Insurers'; on the drop-down menu for this item, select 'Legal Information.' When the 'INSURERS: LEGAL INFORMATION' screen appears, click the third item in the list of bulleted items near the top of the page: 'Proposed Regulations.' The 'INSURERS: PROPOSED REGULATIONS' screen will be displayed. Select the only available link: 'Search for Proposed Regulations.' Then, when the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "REG-2007-00045" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the Office of Administrative Law's notice file number assigned to the regulations ("Z-07-1016-04"), or search by keyword ("military," for example, or "side fund"). Then, click on the 'Submit' button to display links to the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the 'Sales to Military Personnel' link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

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

TITLE 13. DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

TITLE 13. CALIFORNIA CODE OF REGULATIONS, DIVISION 2
AMEND CHAPTER 2, ARTICLE 7,
SECTIONS 691, 693, AND 699

**LAMP SPACING FOR FOG LAMPS, PASSING LAMPS,
AND TURN SIGNAL LAMPS (CHP-R-2006-02)**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13, California Code of Regulations (13 CCR), relating to lamp spacing for fog lamps, passing lamps, and turn signal lamps.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Section 26103 of the California Vehicle Code (VC) authorizes the CHP to adopt regulations establishing standards and specifications for, among other items, lighting equipment. Requirements for the mounting of fog lamps, passing lamps, and turn signal lamps are described in 13 CCR, Article 7. The CHP proposes to amend Sections 691, 693, and 699 of that article by adopting, by reference, the lamp spacing requirements contained in Federal Motor Vehicle Safety Standards (FMVSS), Standard No. 108, "Lamps, Reflective Devices, and Associated Equipment," in effect at the time of vehicle manufacture.

By proposing this regulatory action, the CHP's purpose is to fully harmonize California regulation with federal regulation as required by the Motor Vehicle Safety Act, Chapter 301, Title 49, United States Code (49 USC, 30101 et seq.), and to extend the benefits of the federal regulation to the motoring public.

PUBLIC COMMENTS

Any interested person may submit written comments on this proposed action via facsimile at (916) 446-4579, by email to cvsregs@chp.ca.gov, or by writing to:

CHP, Enforcement Services Division
Commercial Vehicle Section
ATTN: Mr. Cris Morgan
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 PM, December 10, 2007.

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

AVAILABILITY OF INFORMATION

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

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

All documents regarding the proposed action are also available through our website at www.chp.ca.gov/regulations.

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

CONTACT PERSON

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

ADOPTION OF PROPOSED REGULATIONS

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

FISCAL AND ECONOMIC IMPACT

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

The CHP has determined that the proposed regulatory action will not affect small businesses. This proposed regulatory action makes only technical, non-substantive or clarifying changes to current law and regulations.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the California Highway Patrol must determine that no reasonable alternative considered by the California Highway Patrol, or that has otherwise been identified and brought to the attention of the California

Highway Patrol, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The California Highway Patrol invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Vehicle Code Sections 26103.

REFERENCE

This action implements, interprets, or makes specific Vehicle Code Sections 24012, 24402, and 24403 VC.

TITLE 13. DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

TITLE 13. CALIFORNIA CODE OF REGULATIONS, DIVISION 2
AMEND CHAPTER 4, ARTICLE 2, SECTIONS 935

LIQUEFIED NATURAL GAS FUEL SYSTEMS (CHP-R-2006-14)

The California Highway Patrol (CHP) proposes to amend regulations in Title 13, California Code of Regulations (13 CCR), relating to liquefied natural gas vehicular fuel systems.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Sections 2402 and 2402.6 of the California Vehicle Code (VC) authorize the CHP to adopt regulations establishing standards and specifications for fuel containers and fuel systems on vehicles using liquefied natural gas to ensure the safety of the equipment and vehicles and of persons and property using the highways.

The National Fire Protection Association (NFPA) has established standards for liquefied natural gas (LNG) fuel systems in Standard #57 (NFPA 57), "Liquefied Natural Gas Vehicular Fuel Systems Code," and for compressed natural gas (CNG) fuel systems in Standard #52 (NFPA 52), "Compressed Natural Gas Vehicular

Fuel Systems Code,” of which specific editions are currently adopted by reference in 13 CCR. In 2006, NFPA 52 was revised and expanded to include standards for vehicular fuel systems for a variety of alternative fuels including updated LNG standards previously contained in NFPA 57, as well as updated standards for CNG fuel systems.

Requirements for liquefied natural gas fuel systems are described in 13 CCR, Chapter 4, Article 2. The CHP proposes to amend Section 935 of that article to include the 2002 edition of NFPA 57 and the revised title of NFPA 52, “Vehicular Fuels Systems Code,” 2006 edition. Additionally, this proposal contains clarifying language for methane gas detection system performance with regard to the level at which detection shall occur and to require regular gas detection system performance testing.

By proposing this regulatory action, the CHP can incorporate the latest editions of NFPA 57 and NFPA 52 into 13 CCR, extending the benefits of the latest standards to industry and the motoring public.

PUBLIC COMMENTS

Any interested person may submit written comments on this proposed action via facsimile at (916) 446-4579, by email to cvsregs@chp.ca.gov, or by writing to:

CHP, Enforcement Services Division
Commercial Vehicle Section
ATTN: Mr. Cris Morgan
P. O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 PM December 10, 2007.

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

AVAILABILITY OF INFORMATION

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

lowing information: the title of the rulemaking package, the requester’s name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

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

All documents regarding the proposed action are also available through our website at www.chp.ca.gov/regulations.

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

CONTACT PERSON

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

ADOPTION OF PROPOSED REGULATIONS

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

FISCAL AND ECONOMIC IMPACT

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

period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

EFFECT ON SMALL BUSINESSES

The CHP has determined that the proposed regulatory action will not affect small businesses. This proposed regulatory action makes only technical, non-substantive or clarifying changes to current law and regulations.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Vehicle Code Sections 2402 and 2402.6.

REFERENCE

This action implements, interprets, or makes specific Vehicle Code Sections 2402 and 2402.6,

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Section 156.01 in Chapter 1, Division 1, Article 3 of Title 13, California Code of Regulations relating to replacement Clean Air Vehicle Stickers.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., **DECEMBER 10, 2007**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Section 1651 of the Vehicle Code in order to implement, interpret or make specific Sections 5205.5 and 21655.9 of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to add Section 156.01 to Article 3.0, Chapter 1, Division 1, of Title 13 of the California Code of Regulations relating to Clean Air Vehicle Sticker (sticker) replacements.

The passage of Assembly Bill (AB) 2628 (Chapter 725, Statutes of 2004), allows single-occupant access to High-Occupancy Vehicle (HOV) lanes by the cleanest hybrid vehicles as determined by the California Air Resources Board. Vehicle Code Section 5205.5(g) limits Clean Air Vehicle Sticker issuance to 85,000 stickers. This limit was reached on February 16, 2007, prohibiting the department from issuing any more original stickers.

The department is now receiving requests for replacement stickers for hybrid vehicles at a rate of 25 to 50 per day, as well as questions concerning ownership transfers of vehicles bearing the stickers. Requests for new Clean Air Certificates are also being received from new owners of hybrids that have already been issued Clean Air Vehicle Stickers but now need the accompanying Clean Air Certificate issued in the new owner's name.

The department has determined that it would be beneficial to codify the process by which an applicant may request a replacement Clean Air Vehicle Sticker due to damage or loss of a Clean Air Certificate due to a vehicle transfer.

**DOCUMENTS INCORPORATED
BY REFERENCE**

The following forms are incorporated by reference in Section 156.01. These forms are not published in the California Code of Regulations because it would be impractical and cumbersome to publish these documents in the California Code of Regulations.

- Application for Clean Air Vehicle Sticker, form REG 1000 (Rev. 10/2007)
- Statement of Facts, form REG 256 (Rev. 1/2007)

These forms were made available during the public comment period on the department's internet website, in any field office, or by calling the department's toll free telephone number at (800) 777-0133. These documents were made available upon request directly from the department and were reasonably available to the affected public from a commonly known or specified source.

FISCAL IMPACT STATEMENT

- Cost or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- 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. This is a voluntary program and replacement stickers are only issued to vehicles that qualify.

- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. This is a voluntary program and the regulation only specifies what is necessary in order to receive replacement Clean Air Vehicle Stickers.

**PUBLIC DISCUSSIONS OF
PROPOSED REGULATIONS**

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Randi Calkins, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California, 94232-3820; telephone number (916) 657-8898, or rcalkins@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to Erik Meyer, at (916) 657-8954 or emeyer@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

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

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

tact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov. Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 14. SAN DIEGO RIVER CONSERVANCY

NOTICE OF INTENTION OF THE SAN DIEGO RIVER CONSERVANCY TO ADOPT SELECTION PROCESS FOR PRIVATE ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING AND CONSTRUCTION PROJECT MANAGEMENT FIRMS

NOTICE IS HEREBY GIVEN that the San Diego River Conservancy proposes to adopt a Selection Process for Private Architectural, Landscape Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms.

A 45-day written comment period has been established commencing on October 26, 2007 and terminating on December 10, 2007. Any interested party may present written comments concerning the proposed reg-

ulations no later than December 10, 2007, at 5:00 p.m., to the San Diego River Conservancy, care of the Contact Person listed below. No public hearing will be held on this matter unless any interested person or his or her representative, by contacting the Contact Person listed below, requests a public hearing no later than fifteen (15) days prior to the close of the written comment period.

Following the close of the public comment period, the Conservancy may adopt the proposed regulations substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available from the Contact Person identified below for fifteen days prior to its adoption. The Conservancy will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

Authority and Reference:

Public Resources Code, section 32638 authorizes the Conservancy to adopt rules and procedures governing its activities. Article XXII, California Constitution, sections 1 and 2, authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The purpose of the proposed regulations is to implement Government Code, sections 4525 through 4529.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Constitution, Article XXII, sections 1 and 2 authorize the State and other governmental entities to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract extends to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. (Cal. Const., art. XXII, § 1.) Government Code, section 4526 requires that selection of professional services be based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agency and to assure maximum par-

participation of small business firms as defined by the Director of General Services pursuant to Government Code section 14837.

The California Coastal Conservancy currently contracts for such services on behalf of the Conservancy. The purpose of the regulations is to establish a selection process for the Conservancy to contract for such services directly that complies with section 4255 et seq. of the Government Code.

Costs or Savings to State or Local Agencies or School Districts

The San Diego River Conservancy has determined that its proposal:

- (1) Imposes no mandate on local agencies or school districts.
- (2) Imposes no costs or savings to any state agency.
- (3) Imposes no costs to any local agency or school district in which reimbursement is required under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- (4) Will not result in any nondiscretionary cost or savings imposed on local agencies.
- (5) Will not result in any costs or savings in federal funding to the state.

Effect on Business

Pursuant to Government Code section 11346.5, subdivision (a)(7), the San Diego River Conservancy makes an initial determination that the proposed Regulations will not have a significant statewide adverse economic impact directly affecting business. The regulations proposed will not be detrimental to California businesses in competing with businesses in other states. The adoption of the proposed Regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, nor create or expand business in the State of California.

The proposed regulations will not affect small businesses. The proposed regulations adopt a selection process for private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms. Status as a small business is one of the criteria to consider in the selection process. However, the Conservancy determines the regulations will not have a positive or negative effect on small businesses because the California Coastal Conservancy contracts for such services on behalf of the San Diego River Conservancy pursuant to its regulations which provide for a substantially similar selection process.

Cost Impact on Private Person or Business

The San Diego River Conservancy is not aware of any cost impacts that a representative private person or

business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs

The proposed Regulations will not have a significant effect on housing costs.

Alternatives

In making this proposal, the San Diego River Conservancy must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

Availability of Initial Statement of Reasons and Text of Proposal

The San Diego River Conservancy has prepared an initial statement of reasons. The initial statement of reasons and the proposed regulations and all of the information upon which they are based may be obtained from the San Diego River Conservancy by contacting the Contact Person listed below.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below. Any person 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. The rulemaking file is also available on the Conservancy's website at www.sdrc.ca.gov.

Contact Person

Please direct all inquiries concerning this proposal, written comments and any communications required by this notice to:

Michael Nelson, Executive Officer
San Diego River Conservancy
1350 Front Street, Suite 3024
San Diego, CA 92101
Telephone: (619) 645-3183
Fax: (619) 238-7063
Email: mnelson@sdrc.ca.gov

TITLE 14. STATE MINING AND GEOLOGY BOARD

NOTICE OF PROPOSED RULEMAKING

BOARD VESTED RIGHTS DETERMINATION

NOTICE IS HEREBY GIVEN that the State Mining and Geology Board (Board) proposes to adopt the regulation described below after considering all comments and recommendations regarding the proposed action.

REGULATORY ACTION

The Board proposes to adopt § 3506 to the California Code of Regulations (CCR), Title 14, Division 2, Chapter 8, Subchapter 1. The proposed regulation is intended to establish the procedure for conducting a vested rights determination at the request of a surface mine operator when the Board is the lead agency under the Surface Mining and Reclamation Act (Pub. Resources Code, § 2710, et seq. (SMARA)) for that surface mine operation.

PUBLIC HEARINGS AND WRITTEN COMMENTS

The Board has not scheduled a public hearing on this proposed action; however, the Board will hold a hearing to receive comments if it receives a written request for a public hearing from any interested person, or his/her authorized representative, no later than 15 days before the close of the written comment period. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

Any interested person may submit written comments relevant to the proposed regulatory action to the Board. The Written Comment Period closes at 5:00 p.m., December 10, 2007. The Board will consider only relevant comments received at the Board office by that time. Late submittals will not be considered.

AUTHORITY AND REFERENCE

The Board proposes to adopt a regulation that adopts §3506 to Article 1 of the California Code of Regulations, Title 14, Division 2, Chapter 8, Subchapter 1, pursuant to its authority granted in PRC §2755, and PRC §2770(a) and PRC §2774.4(a), and *Calvert v. County of Yuba* (2007) 145 Cal.App.3rd 613. The Board is clarifying and makes specific the administrative process under which a vested rights determination can be made when the Board is acting as a lead agency under SMARA (PRC §2710 et seq.).

INFORMATIVE DIGEST

Statutory and Regulatory Background

The Surface Mining and Reclamation Act of 1975 was enacted to ensure that significant adverse impacts of surface mining to the environment are prevented or

mitigated, and public health and safety are protected. Under SMARA, surface mining operators are required to submit to their respective lead agencies (cities and counties) for approval, a plan for reclaiming mined lands as well as proof of financial assurances to ensure those mined lands are reclaimed in accordance with the approved reclamation plan. Lead agencies are responsible for ensuring their surface mining operators are in compliance with SMARA’s permit and reclamation requirements. The Department of Conservation (Department) and the Board provide SMARA lead agency assistance and oversight.

SMARA is designed to be implemented primarily by local agencies acting as lead agency. A lead agency is defined in PRC §2200.5 (Chapter 2) and PRC §2728 (Chapter 9) as a city, county, the San Francisco Bay Conservation and Development Commission, or the Board, as appropriate.

SMARA provides, under specified circumstances, for the Board to assume the role of lead agency for the administration of SMARA when a local lead agency is not able to perform that role (PRC §2774.4, §2774.5). Since 1998, the Board has assumed the role of SMARA lead agency 49 times. Currently, the Board is the SMARA lead agency for two counties, El Dorado County and Yuba County, and 6 cities, and 11 dredging operations in the San Francisco Bay area, encompassing 47 mines.

PRC §2207(e) authorizes lead agencies, including the Board when acting as a lead agency, to impose a fee upon each mining operation to cover its reasonable costs in implementing Chapter 2 (annual reporting requirements) and Chapter 9 (SMARA) of the Public Resources Code.

Determination of Vested Rights

PRC §2770(a) provides that no person shall conduct surface mining operations unless a permit has been obtained, and a reclamation plan and financial assurances have been submitted and approved by the lead agency. However, a permit is not required if the mining operator has a vested right to mine. A “vested right” is the right to conduct a legal nonconforming use of real property if that right existed lawfully before a zoning or other land use restriction became effective and the use is not in conformity with that restriction when it continues thereafter. A vested right to conduct surface mining operations is established pursuant to PRC § 2776 if, prior to January 1, 1976, the mining operator has, in good faith and in reliance upon a permit or other authorization, where the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor, excluding expenses incurred in obtaining the enactment of an ordinance or the issuance of

a permit. Section 2776 provides that a mining operator who has a vested right to conduct surface mining operations prior to January 1, 1976, shall not be required to secure a permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation.

California Code of Regulations (CCR) Title 14, Article 1, Section 3505, provides special provisions where a surface mine operator with vested rights continues surface mining in the same area subsequent to January 1, 1976. In such circumstances, the operator shall obtain approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In addition, in those cases where an overlap exists, horizontally and/or vertically, between pre- and post-SMARA mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act.

In the matter of William Calvert et al. v. County of Yuba et al., 145 Cal.App.3rd 613, Yuba County, acting as lead agency under SMARA, determined, without public notice and hearing, that Western Aggregates, a mining operation in Yuba County, had a vested right to mine. The 3rd District Court of Appeal found that Yuba County's failure to provide notice and hearing violated the procedural due process rights of the public. The court in its decision stated that SMARA required Western Aggregates either to prove its claim of vested rights in a public adjudicatory hearing or obtain a permit to conduct surface mining operations based on a public adjudicatory hearing. In addition, the court determined that the Board, which had assumed the role of lead agency from Yuba County by this time, was responsible for making the vested rights determination, if petitioned by the operator.

In correspondence dated February 8, 2007, Western Aggregates submitted to the Board a Notice of Intent to seek confirmation of Western Aggregate's vested rights. In addition, requests for vested rights determinations were submitted to the Board for two surface mining operations located in El Dorado County. With no administrative procedure or a funding mechanism pursuant to which the Board could conduct such determination, the adoption of new regulation for such purpose is necessary.

Summary of Proposed Regulation

Therefore, the Board has developed regulations setting forth the administrative procedure for determining vested rights, which procedures include provisions for filing by a surface mining operator (or claimant) of a Request for Determination, establishing a review and determination fees mechanism, and determining jurisdiction, notice of pending determination, public hearing, selection of hearing officer if appropriate, and hear-

ing schedule. The effect of the determination is also provided.

For simplicity, and to address varying level of effort required by the Board to consider and subsequently determine whether a vested right exists for relatively small and large operations, a two phase process is recommended. When a Request for Determination is received by the Board, the claimant must submit a minimum processing fee of \$5,000 for initial review and notification. If the Request is denied, any funds not used will be refunded to the claimant. If the Board accepts the Request, then a determination fee for conducting the vested rights determination will be established. The claimant will be provided with an estimate of the cost of conducting a vested rights determination. Any funds in excess of the amount actually needed for conducting the determination will be refunded to the claimant. The fees shall be paid to the Board prior to release of any vested rights determination.

POLICY STATEMENT OVERVIEW

The proposed language in the regulation clarifies and makes specific the procedure to conduct a vested rights determination at the request of a surface mine operator for when the Board is the lead agency under SMARA for that surface mine operation, and the reasonable cost to be incurred by the Board, when considering and determining whether a vested right exists for a surface mine operation under the Surface Mining and Reclamation Act (SMARA, Public Resources Code § 2710 et seq.).

CEQA COMPLIANCE

The Board staff have determined that this rule making project is either not a project under Title 14, CCR § 15378 of the CEQA Guidelines, or is Categorically Exempt under Title 14, CCR § 15308 of the CEQA Guidelines.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board staff has made the following preliminary determinations:

Mandate on local agencies and school districts: The Board staff determined that adoption of this regulation does not impose any new mandates on local agencies or on local school districts.

Costs or savings to any State agency: The Board staff determined that this proposed regulation imposes no savings or additional expenses to state agencies.

Cost to any local agency or school district which must be reimbursed in accordance with Govern-

ment Code §§ 17500 through 17630: The Board staff determined this proposed regulation does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies: The Board staff determined that no other non-discretionary costs or savings to local agencies are imposed by the proposed regulations.

Cost or savings in Federal funding to the State: The Board staff determined that there are no costs or savings in Federal funding to the State.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: The Board staff determined that no statewide adverse impacts to California businesses result from the adoption of this proposed regulatory language.

Potential cost impact on private persons or directly affected businesses: The Board staff has determined that the proposed regulatory language will not have a potential cost impact on private persons but will have an impact on directly affected businesses should a surface mine operator request a vested right determination.

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

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

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

Effects on small businesses: The Board staff has determined that the imposition of the proposed fee for consideration and conduct of a vested rights determination on a local mining operation (which may meet the criteria for a “small business”) may have a cost impact to that operation, but is not anticipated to have a cost impact on small businesses in general.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative that it considers 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. Board staff has not identified any adverse impacts resulting from the proposed regulation.

No alternatives have been considered by the Board at this time that would be more effective in carrying out

the purpose for which the regulatory action is proposed, nor have any other alternatives been proposed that would be as effective and less burdensome to affected private persons, lead agencies, or small businesses.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

An interested person may request a copy of the proposed regulation and the Initial Statement of Reasons, or direct questions about the proposed regulation and Initial Statement of Reasons and inspect all supplemental information, upon which the regulation is based, contained in the rulemaking file. The rulemaking file is available for inspection at the Board Office at 801 K Street, Suite 2015, Sacramento, California, between 9:00 a.m. and 4:00 p.m., Monday through Friday except during state holidays. Copies of the proposed regulation and the Initial Statement of Reasons may be requested by writing to the above address, or viewed on the Board’s Internet Web Site at:

<http://www.conservation.ca.gov/Board>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the Board may adopt, as final, the proposed regulation substantially as described in this Notice and Informative Digest. Copies of the regulation, as finally adopted, will be sent to all persons on the Board’s public comment mailing list for this issue and others requesting copies. If, as a result of public comment, substantive changes to the regulation are deemed appropriate, copies of the proposed changes will be sent to all persons who testified at the public hearing or submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation. The modified text will be available to the public for at least 15 days before the Board adopts the regulation as revised. The Board will accept written comments for a period of at least 15 days after the date upon which changes were made available. If adopted, the regulation will appear in CCR, Title 14, Division 2, Chapter 8, Subchapter 1, Article 1, §3506. A copy of the Final Statement of Reasons may be obtained by contacting the Board office as described under the section Contact Person.

CONFLICT WITH FEDERAL REGULATIONS

This regulation does not duplicate or conflict with existing Federal statutes or regulations. Also, by Memorandum of Understanding with the Federal Bureau of Land Management, the U. S. Forest Service, the De-

partment of Conservation, and the Board, SMARA and federal law are coordinated to eliminate duplication.

CONTACT PERSON

Inquiries concerning the substance of the adopted regulation should be directed to:

Mr. Stephen M. Testa, Executive Officer
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
(916) 322-1082

Backup contact person:

Ms. Nicole Bristow
State Mining and Geology Board
801 K Street, Suite 2015
Sacramento, California 95814
(916) 322-1082

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter referred to as the "Board") is proposing to take action as described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at the hearing to be held at 2420 Del Paso Road, Sequoia Room, Sacramento, California 95834 at 10:00 a.m., on December 10, 2007. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under the contact person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on December 10, 2007 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference

Pursuant to the authority vested by Sections 7312, 7362 and 7362.1, of the Business and Professions Code, and to implement, interpret or make specific Sections 7316, 7321, 7362, 7362.5 and 7389 of said Code, the

Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 950.2

Business and Professions Code, Section 7312 grants the Board authority to adopt regulations relating to the practice of barbering and cosmetology.

Business and Professions Code, Section 7316 establishes the beauty services that fall under a cosmetology license.

Business and Professions Code, Section 7321 provides the qualifications to examine with the Board.

Business and Professions Code, Section 7362 authorizes the Board to determine the required subjects of instruction to be completed by students including the minimum number of hours of practical and technical instruction.

Business and Professions Code, Section 7362.1 establishes the requirements of approved school including school course requirements.

Business and Professions Code, Section 7362.5 establishes the minimum number of practical training and technical instruction hours for barbering and cosmetology students.

Business and Professions Code, Section 7389 authorizes the Board to develop a health and safety course to be taught by approved schools.

The Board is proposing to revise its current cosmetology curriculum. This revision is necessary to ensure that cosmetology students are up-to-date on current and upcoming trends in the beauty industry.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The proposed regulatory action has no cost impact in terms of increased expenses and/or savings to state agencies and/or federal funding.

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.

Impact on Jobs/New Businesses

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

Cost Impact on Representative Private Person or Business

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

Effect on Housing Costs

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because the proposed cosmetology curriculum is not significantly different from the current cosmetology curriculum. The Board does not predict that small businesses will have to hire additional staff nor purchase additional equipment to conform to the proposed curriculum.

CONSIDERATION OF ALTERNATIVES

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Barbering and Cosmetology at 2420 Del Paso Rd., Suite 100, Sacramento, CA 95834.

**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.

CONTACT PERSON

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

Name: April Oakley
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 575-7102
Fax No.: (916) 575-7281
E-mail Address: April_Oakley@dca.ca.gov

The backup contact person is:

Name: Stacy Meza
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 575-7108
Fax No.: (916) 575-7281
E-mail Address: Stacy_Meza@dca.ca.gov

Web site Access

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

**TITLE 16. SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
BOARD**

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology and Audiology Board is proposing to take the action described in the Informative Digest. No public hearing has been scheduled on the proposed action. However, any interested person or such person's duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on December 10, 2007. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or

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

Authority and Reference: Pursuant to the authority vested by Business and Professions Code Section 2531.95 to implement, interpret or make specific Sections 2538.1 and 2538.7 of the Business and Professions Code, the Board is considering changes to Division 13.4 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is authorized by Business and Professions Code Section 2531.95 to adopt regulations necessary to implement the Speech–Language Pathology and Audiology Licensure Act.

The proposed amendment of Section 1399.152.2 deletes the references to an equivalent supervisor standard as that of national certification and instead replaces the standard with the requirement that practitioners, who are operating as clinical supervisors in board–approved training programs located outside of California, must hold the legal authorization to practice speech–language pathology or audiology, as the case may be, in the state where the experience is being obtained.

Deletes the references to antiquated language regarding the clinical rotation training for students completing clinical preparation within the university training program. Existing subsection (d) references twenty–five hours of clinical preparation that must be obtained in aural rehabilitation under the supervision of speech–language pathologists or audiologists. The term “aural rehabilitation” is somewhat of a nebulous term that holds different meaning depending upon the user of the term. Board–approved training programs no longer track nor require a specified number of clinical hours in aural rehabilitation and therefore, the regulation requirement does not represent contemporary training standards. The amendment to existing subsection (e), now referenced as (d) is a minor grammatical change.

The proposed adoption of Section 1399.153 existing language provides for board–approved supervisors who oversee the required professional experience of applicants who are completing the requisite clinical experience in another state but who wish to qualify such experience toward California licensure. The proposed amendment strikes the language defining a qualified clinical supervisor, who is providing supervision in

another state, as one who holds a national certification issued by the American Speech–Language–Hearing Association (ASHA), and instead defines the “qualified” clinical supervisor, operating in another state, as one who holds the legal authorization to practice in the state where the experience is being obtained. The national certification standard referenced in existing regulations no longer reflects the highest professional standard for the profession of audiology and, as such, has restricted many experienced and highly qualified audiology supervisors from serving in the supervisory role because they no longer pay a fee to maintain the ASHA certification. Further, the national certification does not legally authorize speech–language pathologists and audiologists to provide professional services as almost every state regulates the practice of speech–language pathology and audiology through state licensure. As such, the provision should be amended to acknowledge the legal authorization to practice and supervise as the primary supervisor qualification.

In addition, the section has been amended to include a requirement that all supervisors engage in continuing professional development specific to supervision training both prior to assuming responsibility as a required professional experience supervisor and every two–years thereafter. Such continuing professional development may be applied toward the general continuing education requirements for license renewal provided the professional development activity is obtained by a board–approved provider. The new provision will ensure that all practitioners interested in assuming the role as a qualified supervisor will be exposed to minimum level of supervision training prior to serving in the supervisor capacity. This requirement should better prepare new supervisors for their responsibility. The provision also provides for refresher supervision training so that supervisors may refine their oversight skills and continue to grow as professional mentors.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/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 has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not affect small businesses as the action applies to individuals.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF THE 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 upon request from the Speech-Language Pathology and Audiology Board at 1422 Howe Avenue, Suite 3, Sacramento, CA 95825.

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

All 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: Annemarie Del Mugnaio,
Executive Officer
Address: 1422 Howe Avenue, Suite 3
Sacramento, CA 95825
Telephone No.: (916) 263-2909
Fax No.: (916) 263-2668
E-mail Address: annemarie_delmugnaio@dca.ca.gov

The backup contact person is:

Name: Candace Raney, Board Analyst
Address: 1422 Howe Avenue, Suite 3
Sacramento, CA 95825
Telephone No.: (916) 263-2291
Fax No.: (916) 263-2668
E-mail Address: candace_raney@dca.ca.gov

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

TITLE 17. CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

NOTICE OF PROPOSED REGULATION ADOPTION

**California Code of Regulations
Title 17. — Public Health
Division 4 — California Institute for
Regenerative Medicine
Chapter 2**

Date: October 26, 2007

**Deadline for Submission of Written Comment:
December 10, 2007 — 5:00 p.m.**

Hearing Date: None scheduled.

Subject Matter of Proposed Regulations: Acceptable Research Materials, Use of Fetal Tissue, Additional Requirements for CIRM–Funded Derivation, and Informed Consent Requirements.

Sections Affected:

The proposed amendments affect sections 100080, 100085, 100090 and 100100 of Title 17 of the California Code of Regulations.

Authority: Article XXXV of the California Constitution and sections 125290.35, subdivisions (a), (b)(1), (2), (3), (4), (5) and (6); and 125290.40, subdivision (j), Health and Safety Code.

Reference: Sections 125290.35, 125290.40, 125290.55, 125300, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Institute for Regenerative Medicine (“Institute” or “CIRM”) was established in early 2005 with the passage of Proposition 71, the California Stem Cell Research and Cures Initiative. The statewide ballot measure, which provides \$3 billion in funding for stem cell research and dedicated facilities at California universities and research institutions, was approved by California voters on November 2, 2004, called for the establishment of a new state agency to make grants and provide loans for stem cell research, research facilities and other vital research opportunities.

The Independent Citizens Oversight Committee (“ICOC”) is the 29–member governing board for the Institute. ICOC members are public officials, appointed on the basis of their experience earned in California’s leading public universities, non–profit academic and research institutions, patient advocacy groups and the biotechnology industry.

The Scientific and Medical Accountability Standards Working Group (“Standards Working Group”) makes recommendations to the ICOC on scientific, medical and ethical standards pertaining to stem cell research the Institute funds. Specifically, California Health and Safety Code section 125290.55 requires the Standards Working Group to: 1) recommend to the ICOC scientific, medical and ethical standards; 2) recommend to the ICOC standards for all medical, socioeconomic, and financial aspects of clinical trials and therapy delivery to patients, including, among others, standards for safe and ethical procedures for obtaining materials and cells for research and clinical efforts for the appropriate treatment of human subjects in medical research consistent with paragraph (2) of subdivision (b) of Section 125290.35, and to ensure compliance with patient privacy laws; 3) recommend to the ICOC modification of

the standards described in numbers (1) and (2) as needed; 4) make recommendations to the ICOC on the oversight of funded research to ensure compliance with the standards described in numbers (1) and (2); and, 5) advise the ICOC, the Scientific and Medical Research Funding Working Group, and the Scientific and Medical Research Facilities Working Group on an ongoing basis on relevant ethical and regulatory issues.

The proposed amendments to these regulations make three substantive changes, and a variety of other minor changes that effect no change in substance but seek to clarify existing regulations and to conform references within the regulations. The three substantive changes are:

- 1) To authorize the use of cell lines derived under Japanese Guidelines for Derivation and Utilization of Human Embryonic Stem Cells in CIRM–funded research in addition to those derived under other protocols;
- 2) To establish limitations on derivation and payments for cells used in CIRM–funded research that are consistent with the California Stem Cell Research and Cures Initiative; and
- 3) To authorize the derivation and use of stem cell lines from human somatic cells and tissue that are compliant with federal Office for Human Research Protections (OHRP) guidance for research using existing biological materials in CIRM–funded research.

Technical, Theoretical or Empirical Studies, Reports or Documents:

A. Documents or Laws:

<http://www.hhs.gov/ohrp/humansubjects/guidance/cdebiol.pdf>

B. Public Input:

Discussion and public input received at two public meetings conducted by the Standards Working Group on August 8, 2007, and the ICOC on July 27, 2007.

Copies of the documents referenced above are available at the internet link indicated or at the offices of CIRM located at 210 King Street, San Francisco, California, 94107. Transcripts and meeting minutes of the meetings referenced in Section “B” are available on CIRM’s website, www.cirm.ca.gov under the “Meetings Transcripts” and “Meetings Minutes” links.

Submission of Comments:

Any interested party may present comments in writing about the proposed action to the agency contact person named in this notice. Written comments must be received no later than 5:00 p.m. on December 10, 2007. Comments regarding this proposed action may also be transmitted via e–mail to somaticcomments@cirm.ca.gov or by facsimile transmission to (415) 396–9141.

At this time, no public hearing has been scheduled concerning the proposed regulations. If any interested person or the person's representative requests a public hearing, he or she must do so in writing no later than November 26, 2007.

Effect on Small Business:

CIRM has determined that the proposed regulatory action has no impact on small businesses. The proposed amendments implement conditions on awarding grants for stem cell research. This research is conducted almost exclusively by large public and private non-profit institutions, as well as large for-profit institutions. As such, the regulation is not expected to adversely impact small business as defined in Government Code section 11342.610.

Impact on Local Agencies or School Districts:

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

Costs or Savings to State Agencies:

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

Effect on Federal Funding to the State:

CIRM has determined that no costs or savings in federal funding to the state will result from the proposed regulatory action.

Effect on Housing Costs:

CIRM has made an initial determination that the proposed action will have no effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses:

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

Cost Impacts on Representative Private Persons or Businesses:

CIRM has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. CIRM is not aware of any cost impacts that a

representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on the Creation, Elimination, or Expansion of Jobs:

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

Consideration of Alternatives:

CIRM must determine that no reasonable alternatives considered by the agency, or that have 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 regulatory action.

Availability of Statement of Reasons and Text of Proposed Regulations:

CIRM has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which CIRM relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

Availability of Changed or Modified Text:

After the close of the comment period, CIRM may make the proposed amendments to these regulations permanent if they remain substantially the same as described in the Policy Statement Overview. If CIRM does make changes to the proposed amendments to the regulations, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. CIRM will accept written comments on any changes for 15 days after the modified text is made available.

Agency Contact:

Written comments about the proposed regulatory action; requests for a copy of the Initial Statements of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

Tamar Pachter, General Counsel
 California Institute for Regenerative Medicine
 210 King Street
 San Francisco, CA 94107
 (415) 396-9122

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

Geoff Lomax, Senior Officer for Medical and Ethical Standards
California Institute for Regenerative Medicine
(415) 396-9134

The Notice of Proposed Regulatory Adoption, the Initial Statement of Reasons and any attachments, and the proposed text of the regulations are also available on CIRM's website, www.cirm.ca.gov.

Availability of Final Statement of Reasons:

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9, subdivision (a), may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on CIRM's webpage and accessed at www.cirm.ca.gov.

**OAL REGULATORY
DETERMINATIONS**

**CALIFORNIA STATE UNIVERSITY,
LONG BEACH**

OFFICE OF ADMINISTRATIVE LAW

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

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

Date: October 10, 2007
To: Jack Graham
From: Chapter Two Compliance Unit
Subject: **2007 OAL DETERMINATION NO. 19(S)
(CTU 07-0823-01)**
(Issued pursuant to Gov. Code, sec. 11340.5;
Cal. Code Regs., tit. 1, sec. 270(f)(2)(E))

Petition challenging as an underground regulation the rule that a student's academic record may not be changed after the date of graduation

On August 23, 2007, you submitted a petition to the Office of Administrative Law (OAL) asking for a deter-

mination as to whether the rule that a student's academic record may not be changed after the date of graduation is an underground regulation. The rule was issued by California State University, Long Beach (CSULB), and may be found on pages 65 and 66 of CSULB's school catalog.

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

Generally, a rule which meets the definition of "regulation" in Government Code section 11342.600² is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Education Code section 89030 states:

(a) The trustees [of the California State University system] shall adopt rules and regulations not inconsistent with the laws of this state for the government of all of the following:

- (1) The trustees.
- (2) The appointees and employees of the trustees.
- (3) The California State University.

(b) The adoption of these rules and regulations **shall not be subject to Chapter 3.5** (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. (Emphasis added)

Chapter 3.5 of the Government Code contains the rulemaking requirements and procedures of the APA.

The trustees, then, are responsible for the government of the California State University system. In the "Standing Orders of the Board of Trustees of the California State University" adopted March 15, 2006 (Standing

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

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

² "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

Orders), the trustees delegated to the Presidents of the California State University campuses the

. . . authority and responsibility, with appropriate consultation, to take whatever actions are necessary, consistent with Trustee and Chancellor's policy, and applicable law, for the appropriate functioning of each of their campuses, which includes:

- a. Development of curricular and instructional plans
- ...
- e. Oversight of student affairs
- ...

This list is not inclusive, and is not intended to limit the necessary actions of the Presidents as the chief executive offices of their campuses.

The rules in a university's catalog may be adopted by the President of each university; however, they are adopted pursuant to the authority delegated to the President by the trustees in the Standing Orders for the development of curricular and instructional plans and the oversight of student affairs. They are, then, rules for which the trustees have ultimate authority. Since rules adopted by the trustees of the California State University system are exempt from the APA's rulemaking requirements, the challenged rule prohibiting changes to a student's academic record after the date of graduation in the CSULB catalog is exempt from the requirements of the APA.³

We note that Education Code section 89030.1 establishes a procedure for the trustees to use when adopting regulations. Whether this procedure has been used in the case of this particular rule is not an issue OAL has the authority to determine.

³ For this reason, pursuant to subdivision (f)(2)(E) of section 270, a rule which is included in a statutory exemption is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

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

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

- (A) The challenged rule has been superseded.
- (B) The challenged rule is contained in a California statute.
- (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
- (D) The challenged rule has expired by its own terms.
- (E) **An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

Date: October 10, 2007

/s/
Susan Lapsley
Director

/s/
Kathleen Eddy
Senior Staff Counsel

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

KERN VALLEY STATE PRISON

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS (Summary Disposition)

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

Date: October 11, 2007

To: Thomas Warren

From: Chapter Two Compliance Unit

Subject: **2007 OAL DETERMINATION NO. 20(S) (CTU 07-0830-01)**

(Issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f)(2)(E))

Petition challenging as an underground regulation Operational Procedure (4) 222, Single/Double Cell Criteria issued by Kern Valley State Prison

On August 30, 2007, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether the document you challenge is an underground regulation. The document is Operational Procedure (4) 222, Single/Double Cell Criteria (OP 222), issued by Kern Valley State Prison.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600, which should have been, but was not adopted pursuant to the

Administrative Procedure Act (APA).¹ Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600² is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058 establishes exemptions expressly for the (CDCR):

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

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

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

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

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

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

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

² “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

...

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

Similarly, OP 222 applies solely to the inmates of Kern Valley State Prison. It was issued by the warden at Kern Valley State Prison, George M. Galaza. Similar inmates housed at other institutions are controlled by that institution’s criteria for double or single cells. Therefore, OP 222 is a “local rule” and is exempt from compliance with the APA.³

Date: October 11, 2007

/s/
Susan Lapsley
Director

/s/
Kathleen Eddy
Senior Staff Counsel

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

³ For this reason, pursuant to subdivision (f)(2)(E) of section 270, a rule which is included in a statutory exemption is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

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

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

- (A) The challenged rule has been superseded.
- (B) The challenged rule is contained in a California statute.
- (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
- (D) The challenged rule has expired by its own terms.
- (E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

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

File# 2007-0831-04
AIR RESOURCES BOARD
Zero Emission Buses Regulation

This regulatory action adds an Advanced Demonstration requirement for large (over 200 urban buses) diesel path transit agencies and large alternative path transit agencies. Its purpose is to give transit agency maintenance personnel and operators experience with a larger fleet of zero emission buses. It postpones the Zbus purchase requirement by three years for large diesel path transit agencies and two years for large alternative fuel path transit agencies.

Title 13
California Code of Regulations
AMEND: 2023.1, 2023.3, 2023.4
Filed 10/15/2007
Effective 11/14/2007
Agency Contact: Amy Whiting (916) 322-6533

File# 2007-0831-03
CALIFORNIA ENERGY COMMISSION
Greenhouse Gases Emission Performance Standard

This proposed rulemaking is intended to carry out the California Energy Commission's duty under SB 1368, Statutes of 2006, Chapter 598, to establish a greenhouse gases emission performance standard for all baseload generation of local publicly owned electric utilities and to enforce the statutory requirement that no local publicly owned electric utility may enter into a long-term financial commitment unless any baseload generation supplied under the long-term financial commitment complies with the greenhouse gases emission performance standard established by the Energy Commission.

Title 20
California Code of Regulations
ADOPT: 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913
Filed 10/16/2007
Effective 10/16/2007
Agency Contact: Lisa DeCarlo (916) 654-5195

File# 2007-0926-03
CALIFORNIA HEALTH AND HUMAN SERVICES
AGENCY
Conflict of Interest Code

The California Health and Human Services Agency is amending their conflict of interest code found at section 10100, title 22, California Code of Regulations. The changes were approved for filing by the Fair Political Practices Commission on September 25, 2007.

Title 22
California Code of Regulations
AMEND: 10100 REPEAL: 10101
Filed 10/16/2007
Effective 11/15/2007
Agency Contact: Rae De Long (916) 651-8062

File# 2007-1001-01
CALIFORNIA HIGHWAY PATROL
Motor Carrier Safety — Drivers' Hours of Service

California Highway Patrol (CHP) proposes amendments to Title 13 regulations that establish maximum hours of service, required rest periods, and exemptions that are consistent with recently adopted federal commercial vehicle driver hours of service rules in 49 CFR part 395.

Title 13
California Code of Regulations
AMEND: 1201, 1212, 1212.5, 1213, 1234
Filed 10/12/2007
Effective 11/13/2007
Agency Contact: Gary Ritz (916) 445-1865

File# 2007-1017-02
CALIFORNIA HIGHWAY PATROL
Warning Lamps

This regulatory action deals with warning lamps. (Prior OAL file 07-0830-01S.)

Title 13
California Code of Regulations
AMEND: 811, 813
Filed 10/17/2007
Effective 11/16/2007
Agency Contact: Gary Ritz (916) 445-1865

File # 2007-0904-01
CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD
Hearing Officer and Technical Expertise

This is a filing without regulatory effect that proposes changes to Titles 14 and 27 of the California Code of Regulations. The proposed changes seek to revise incorrect cross references and to make the regulatory provisions consistent with changed California statutes.

Title 14, 27
California Code of Regulations
AMEND: 18050, 18051, 18060, 18070, 18072, 18075, 18077, 18078, 18081, 18104.4, 18105.4, 18105.6, 18209, 18304, 18304.2, 18306, 18307, 18831, 21563, 21615, 21620, 21650, 21680
Filed 10/17/2007
Agency Contact: Robert Holmes (916) 341-6376

File# 2007-0831-01
COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING
Electronics Course Certification Process

POST provides a web based secure Electronic Data Interchange System (EDI) that connects to its law enforcement records database. This regulatory action is the resubmission of a rulemaking that makes the system available to all presenters and requires presenters to submit new course certification requests using the EDI.

Title 11
California Code of Regulations
AMEND: 1053, 1054, 1055, 1058, 1070
Filed 10/15/2007
Effective 11/14/2007
Agency Contact: Patricia Cassidy (916) 227-4847

File# 2007-0831-02
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Registered Domestic Partners

The action amends six provisions of Title 15 to include registered domestic partners as immediate family members pursuant to the enactment of Assembly Bill (AB) 205 in 2003. AB 205 amended Family Code section 297.5(a) to provide that registered domestic partners shall have the "same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses."

Title 15
California Code of Regulations
AMEND: 3000, 3045.2, 3170.1, 3176, 3177, 3815
Filed 10/16/2007
Effective 11/15/2007
Agency Contact: Gail Long (916) 341-7329

File# 2007-1012-01
DEPARTMENT OF FOOD AND AGRICULTURE
Mediterranean Fruit Fly Interior Quarantine

This emergency regulatory action establishes an interior quarantine for the Mediterranean Fruit Fly in the San Jose area of Santa Clara County.

Title 3
California Code of Regulations
AMEND: 3406(b)
Filed 10/15/2007
Effective 10/15/2007
Agency Contact: Stephen Brown (916) 654-1017

File# 2007-0829-01
DEPARTMENT OF INSURANCE
Revised Mandated Benefits Regulations

In this regulatory action, the Department of Insurance amends a regulation in its "Mandated Benefits Analysis Regulations" which implement Health and Safety Code sections 127660 through 127664. The amendment continues the existing fee assessment on health insurers through Fiscal Year 2009-10, as required by an amendment of Health and Safety Code section 127662 in SB 1704, Chapter 684, Statutes of 2006.

Title 10
California Code of Regulations
AMEND: 2218. 63(b)
Filed 10/10/2007
Effective 11/09/2007
Agency Contact: Debra Chaum (415) 538-4115

File 2007-1005-01
DEPARTMENT OF INSURANCE
California Low Cost Automobile Insurance Program

This regulatory action establishes the uniform rates for the liability policy, uninsured motorists and medical payments coverage under the Low Cost Automobile Insurance Program, for the following counties: Merced, Monterey, Santa Barbara, Sonoma, Tulare, and Ventura. The California Low Cost Automobile Insurance Program is a statutorily required plan for equitable apportionment among insurers required to participate in the California Automobile Assigned Risk Plan (CAARP) for persons residing in the specified counties who are eligible to purchase a low cost automobile insurance policy through the program established in those counties. The establishment of the rates in these six

counties is exempt from the APA and OAL's review pursuant to Government Code section 11340.9, subdivision (g); however, the expansion of the program into these six designated counties is subject to the APA and OAL review.

Title 10
 California Code of Regulations
 AMEND: 2498.6
 Filed 10/10/2007
 Effective 10/10/2007
 Agency Contact:
 Mary Ann Shulman (415) 538-4133

File# 2007-0906-01
 DEPARTMENT OF MOTOR VEHICLES
 Administrative Fee for Vehicle Code Book

Department of Motor Vehicles proposes amendment to 13 CCR sec. 425.01 to increase from \$7.00 to \$9.00 per copy the administrative fee for publishing the Vehicle Code book required by Vehicle Code Section 1656(a).

Title 13
 California Code of Regulations
 AMEND: 425.01
 Filed 10/16/2007
 Effective 11/15/2007
 Agency Contact: Randi Calkins (916) 657-8898

File# 2007-0910-03
 FISH AND GAME COMMISSION
 Albacore and Bluefin Tuna Bag Limits

This regulatory action establishes daily bag limits for albacore and bluefin tuna caught in California's jurisdictional waters between the US-Mexico and the California-Oregon borders. These amendments and new sections conform California's ocean sport fish regulations to new federal National Oceanic Atmospheric Association (NOAA) Fisheries regulations. This action establishes a general definition of finfish to be applied in both ocean and inland waters. It also makes some amendments to eliminate unnecessary duplication regarding special bag limits; this allows the general bag limit of 20 fish to stand alone in one section.

Title 14
 California Code of Regulations
 ADOPT: 1.46, 28.38, 28.41, 28.42 AMEND: 1.17, 1.59, 27.60, 27.90, 28.59, 159, 195
 Filed 10/16/2007
 Effective 11/15/2007
 Agency Contact: Sheri Tiemann (916) 654-9872

File# 2007-0827-02
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Snow Avalanche Blasting

This action makes substantial revisions to snow avalanche blasting standards.

Title 8
 California Code of Regulations
 ADOPT: 5349, 5350, 5351, 5352, 5353, 5354, 5355.1 AMEND: 5355, 5356, 5357, 5358
 Filed 10/10/2007
 Effective 11/09/2007
 Agency Contact: Michael Manieri (916) 274-5721

File# 2007-0827-03
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Hammerhead Tower Cranes

Occupational Safety and Health Standards Board proposes amendment to Title 8, section 4884 provisions applicable to California's safety standards for Hammerhead Tower Cranes (HTCs). These standards incorporate by reference ANSI standards, which apply to HTCs depending on the date of manufacture. Amended section 4884 revises and expands existing standards to cover all manufacturing dates and resolves conflicting standards applicable to HTCs manufactured after May 16, 1993 through June 23, 1999.

Title 8
 California Code of Regulations
 AMEND: 4884
 Filed 10/10/2007
 Effective 11/09/2007
 Agency Contact: Keith Umamoto (916) 274-5721

File# 2007-1002-01
 OFFICE OF SPILL PREVENTION AND RESPONSE
 Definitions — Contracting Specifications

This emergency regulatory action allows plan holders to give at least 12 hours advance notice to Oil Spill Response Organizations (OSROs) of their intent to enter non high volume ports to meet the 0-12 hour shoreline protection requirement. New regulations adopted this year have had the unintended consequence of not allowing adequate shoreline protection coverage at smaller ports by denying plan holders the ability to give advance notice. The ports of Humboldt, Monterey, Hueneme and San Diego are affected.

Title 14
 California Code of Regulations
 AMEND: 815.05
 Filed 10/12/2007
 Effective 10/12/2007
 Agency Contact:
 Joy D. Lavin-Jones (916) 327-0910

File# 2007-0906-03
 STATE LANDS COMMISSION
 Performance Standards (Ballast Water Discharge) for
 Vessels in California

This action establishes technology forcing interim standards limiting the concentration of living organisms in the ballast water discharged from ships and a timetable for implementation that begins in January, 2009, and phases in the implementation through January of 2016.

Title 2
 California Code of Regulations
 ADOPT: 2291, 2292, 2293, 2294, 2295, 2296
 Filed 10/15/2007
 Effective 01/01/2008
 Agency Contact: Maurya Faulkner (916) 574-2568

File# 2007-0906-05
 STATE LANDS COMMISSION
 Conflict of Interest Code

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

Title 2
 California Code of Regulations
 Adopt: 2970
 Filed 10/17/2007
 Effective 11/16/2007
 Agency Contact: Anne Kerri (916) 574-1912

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN MAY 16, 2007 TO
 OCTOBER 17, 2007**

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

Title 1
 07/09/07 AMEND: 270
 06/28/07 AMEND: 2616

Title 2
 10/17/07 ADOPT: 2970
 10/15/07 ADOPT: 2291, 2292, 2293, 2294, 2295, 2296
 10/09/07 AMEND: 1896.98, 1896.99.100, 1896.99.120
 10/03/07 ADOPT: 1859.167.2, 1859.167.3
 AMEND: 1859.2, 1859.163.3, 1859.167
 REPEAL: 1859.167.1
 10/01/07 ADOPT: 1859.71.6, 1859.77.4 AMEND: 1859.2
 09/24/07 ADOPT: 18420.5
 09/24/07 ADOPT: 18361 AMEND: 18360, 18361.7
 09/20/07 ADOPT: 18466
 09/20/07 REPEAL: 18530.9
 09/11/07 ADOPT: 18440
 09/10/07 AMEND: 1183.13
 09/04/07 ADOPT: 54700
 08/31/07 ADOPT: 1859.180, 1859.181, 1859.182, 1859.183, 1859.184, Form SAB 50-11
 AMEND: 1859.2, 1859.51, 1859.61, 1859.75.1, 1859.81, 1859.81.1, 1859.81.2, 1859.103, 1859.104, 1859.202, 1866, Form SAB 50-04, Form SAB 50-06
 08/31/07 AMEND: 18109, 18204.5, 18208.5, 18215.2, 18228, 18236, 18241, 18306, 18315, 18323, 18325, 18350, 18404.2, 18410, 18416, 18429, 18432, 18438, 18457, 18500, 18502, 18502.1, 18502.2, 18519.4, 18522, 18526.1, 18530.1, 18531.1, 18531.3, 18531.4, 18532, 18536.1, 18536.2, 18538, 18538.2, 18541, 18564, 18573, 18580, 18585, 18586, 18587, 18588, 18590, 18616.5, 18618, 18619, 18620, 18621, 18622, 18626, 18650, 18700.1, 18702.6, 18704.3, 18707.3, 18720, 18725, 18726, 18726.1, 18726.2, 18726.3, 18726.4, 18726.5, 18726.6, 18726.7, 18726.8, 18727, 18760, 18902, 18930.1, 18931, 18935, 18940.1, 18950.2, 18954
 08/03/07 AMEND: 58800
 08/02/07 ADOPT: 1700
 07/18/07 AMEND: 1859.2, 1859.51, 1859.61, 1859.81, 1859.202, 1866
 07/18/07 AMEND: 18361.2, 18361.4

07/18/07	ADOPT: 7288.0, AMEND: 7288.0, 7288.1, 7288.2, 7288.3	09/10/07	ADOPT: 1391, 1391.1
07/17/07	AMEND: 1859.2	09/05/07	ADOPT: 820.2, 820.7 AMEND: 820, 820.3, 820.4, 820.5, 820.6, 820.7 REPEAL: 820.6
07/02/07	ADOPT: 18531.62 AMEND: 18544, 18545	08/21/07	AMEND: 3434
07/02/07	ADOPT: 1859.302, 1859.324.1, 1859.330 AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329	08/10/07	ADOPT: 3152
06/20/07	ADOPT: 1859.106.1 AMEND: 1859.106	07/24/07	AMEND: 3591.6(a)(1)
06/15/07	AMEND: div. 8, ch. 111, sec. 59560	07/23/07	AMEND: 3589(a)
06/13/07	ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80 REPEAL: 20108.37	07/20/07	AMEND: 3591.6(a)(1)
05/23/07	ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80	07/20/07	AMEND: 3423(b)
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05/17/07	ADOPT: 1859.70.4, 1859.71.6, 1859.77.4, 1859.162.1, 1859.162.2, 1859.162.3, 1859.163.4, 1859.163.5, 1859.163.6, 1859.163.7, 1859.169.1 AMEND: 1859.2, 1859.51, 1859.60, 1859.61, 1859.70.3, 1859.71, 1859.78.9, 1859.83, 1859.93.2, 1859.160, 1859.161, 1859.162, 1859.163.1, 1859.163.2, 1859.163.3, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.167, 1859.167.1, 1866.4, 1866.13 REPEAL: 1859.162.1	07/13/07	AMEND: 3591.20(a)
05/17/07	AMEND: 52900	07/09/07	AMEND: 3433(b)
Title 3		07/06/07	AMEND: 3591.2(a)
10/15/07	AMEND: 3406(b)	07/06/07	AMEND: 3589(a)
10/03/07	AMEND: 3433(b)	06/21/07	AMEND: 3434(b), 3434(c)
09/28/07	AMEND: 3434(b)	06/13/07	ADOPT: 6739 AMEND: 6000, 6720, 6738, 6793
09/25/07	AMEND: 3591.2(a)	06/07/07	AMEND: 3434(b)
09/24/07	ADOPT: 3591.20	06/06/07	AMEND: 3434(b)
09/19/07	AMEND: 3700(c)	06/05/07	AMEND: 3591.20(a)
09/17/07	AMEND: 3406(b)	05/31/07	ADOPT: 900, 900.1, 900.2, 901.5, 901.8, 901.9, 901.10, 901.11, 902, 902.1, 902.3, 902.4, 902.5, 902.6, 902.7, 902.8, 902.9, 902.10, 902.11, 902.12, 902.13, 902.14, 903, 903.1, 903.2, 903.3, 903.4, 903.5, 903.6, 903.7, 903.8, 903.9, 903.10, 903.11, 903.12
09/12/07	AMEND: 3700(c)	Title 4	
09/11/07	AMEND: 3591.5(a)	09/20/07	AMEND: 1844
09/11/07	AMEND: 3433(b)	09/04/07	AMEND: 12205.1, 12225.1
		05/30/07	AMEND: 1481
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		09/24/07	ADOPT: 17604.1, 17605.1, 17624, 17630.1, 17638, 17639, 17643, 17644, 17650 AMEND : 17600, 17601, 17602, 17603, 17604, 17605, 17606, 17607, 17608, 17609, 17625, 17626, 17627, 17628, 17629, 17630.2, 17631, 17632, 17640, 17641, 17642, 17646, 17648 REPEAL: 17633, 17634, 17645, 17647, 17649
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		08/27/07	ADOPT: 9517.2
		08/23/07	AMEND: 42000, 42002, 42003, 42005, 42006, 42007, 42008, 42009, 42010, 42011, 42012, 42013, 42018, 42019

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Title 10		06/28/07	AMEND: 2498.4.9
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10/10/07	AMEND: 2218.63(b)	06/28/07	AMEND: 2498.5
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07/31/07	AMEND: 2699.205, 2699.6600, 2699.6607, 2699.6608, 2699.6613, 2699.6629, 2699.6813	06/28/07	AMEND: 2498.5
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 10/15/07 AMEND: 2023.1, 2023.3, 2023.4
 10/12/07 AMEND: 1201, 1212, 1212.5, 1213, 1234
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 10/12/07 AMEND: 815.05
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07/24/07 ADOPT: 100085
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