



# California Regulatory Notice Register

REGISTER 2011, NO. 45-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

NOVEMBER 11, 2011

## PROPOSED ACTION ON REGULATIONS

### TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION

*Delinquency Fees — Non-Payment of Annual Fees — Notice File No. Z2011-1101-01* ..... 1817

### TITLE 8. AGRICULTURAL LABOR RELATIONS BOARD

*Amendments to Implement SB 126 — Notice File No. Z2011-1031-01* ..... 1821

### TITLE 10. DEPARTMENT OF REAL ESTATE

*Service of Notice to Licensees — Notice File No. Z2011-1101-03* ..... 1824

## GENERAL PUBLIC INTEREST

### FISH AND GAME COMMISSION

*American Pika Notice of Findings* ..... 1826

### FISH AND GAME COMMISSION

*The Cedars Buckwheat Notice of Findings* ..... 1826

## PROPOSITION 65

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

*Announcement of Chemicals Selected by OEHHA for Consideration for Listing by the Carcinogen Identification Committee and Request for Relevant Information on the Carcinogenic Hazards of These Chemicals* ..... 1833

## DECISION NOT TO PROCEED

### OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

*Decision Not to Proceed — Employer Duty to Pay for Personal Safety Devices and Safeguards* ..... 1834

(Continued on next page)

*Time-Dated Material*

## OAL REGULATORY DETERMINATION

DEPARTMENT OF CORRECTIONS AND REHABILITATION

*Section 29.22, Titled "PACKAGES," of Operational Procedure 29* ..... 1835

## SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State ..... 1836

Sections Filed, June 8, 2011 to November 2, 2011 ..... 1838

---

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

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002-931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. "Periodicals Postage Paid in Saint Paul, MN." **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON REGULATIONS**

*Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.*

**TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION**

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING RENEWAL OF GAMBLING LICENSES; LATE APPLICATION FEE; NONPAYMENT OF ANNUAL FEE; TEMPORARY CLOSURE OF GAMBLING ESTABLISHMENT  
CGCC-GCA-2011-04-R**

**NOTICE IS HEREBY GIVEN** that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the proposed regulatory action at a public hearing to be held at **10:00 a.m. on January 24, 2011**, at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on December 26, 2011. Written comments will also be accepted at the above referenced hearing.

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on December 26, 2011**, or provided to the Commission at the above-referenced hearing. Written comments should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not**

**be summarized or responded to regardless of the manner of transmission.**

**ADOPTION OF PROPOSED ACTION**

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 19811, 19823, 19824, 19840, 19841, 19853, 19854, 19864, 19876, 19915, 19950, 19951, 19955, and 19984 of the Business and Professions Code, and to implement, interpret or make specific sections 19800, 19805, 19811, 19826, 19841, 19851, 19853, 19854, 19868, 19876, 19915, 19951, 19955, and 19984 of the Business and Professions Code,<sup>1</sup> the Commission is proposing to adopt the following changes to Chapters 1 and 6 of Division 18 of Title 4 of the California Code of Regulations:

**INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW**

**INTRODUCTION:**

The California Gambling Control Commission (Commission) is proposing to adopt regulations to do the following:

1. Implement legislation<sup>2</sup> that allows the California Gambling Control Commission (Commission) to establish regulations that provide for a delinquency fee to be paid if an application for renewal of a gambling license is not submitted in a timely manner.
2. Clarify that Section 12347 of Title 4, CCR, is applicable to licenses deemed surrendered under Business and Professions Code section 19955, instituted by AB 2596.

<sup>1</sup>All statutory references hereafter are to the Business and Professions Code, unless otherwise specified.

<sup>2</sup> AB 2596 (Portantino, Chapter 553, Statutes of 2010).

3. Amend existing regulations to refer to an “annual fee” rather than a “table fee,” clarify that the annual fee is based upon the number of tables at the close of the licensee’s fiscal year, and make other technical, clarifying changes to existing regulation text.

**SPECIFIC PROPOSAL:**

The proposed action would amend sections in Chapter 1 and Chapter 6 of Division 18 of Title 4 of the California Code of Regulations to provide for the following:

1. **Delinquency Fee:**
  - a. The establishment of a delinquent renewal fee that will be imposed if a licensee does not submit the required renewal application by the statutory deadline.
2. **Annual Fees:**
  - a. The amendment of existing regulations to refer to “annual fees” rather than “table fees,” to conform to the manner in which fees are calculated;
  - b. The establishment of a date certain — the close of the licensee’s fiscal year — as the date on which annual fees are calculated;
  - c. The application of existing consequences to licenses deemed surrendered under section 19955 (the surrender of the gambling license if the licensee fails to pay the required annual fees within 90 days of the statutory deadline).

**EXISTING LAW:**

Business and Professions Code section 19876(c) allows the Commission to extend a license for up to 180 days in specified circumstances.

Business and Professions Code section 19876(f) allows the Commission to order the immediate closure of a gambling establishment if the owner–licensee fails to renew the license as required.

Business and Professions Code section 19876(g) allows the Commission, in the event an owner–licensee does not submit a renewal application by the statutory deadline, to assess reasonable delinquency fees not to exceed three times the usual application fee.

Business and Professions Code section 19955 allows the Commission to order the temporary closure of a gambling establishment if the licensee fails to pay the required annual fees. If the required fees are not paid within 90 days after the payment due date, the gambling license associated with the gambling establishment shall be deemed surrendered.

**EFFECT OF REGULATORY ACTION:**

This proposed action would make the following specific changes to Chapter 1 and Chapter 6 of Division 18 of Title 4 of the California Code of Regulations:

**Sections 12008 and 12345 — Late Renewal Application Delinquency Fee (Business and Professions Code §19876)**

This proposed action will establish a delinquency fee of \$1,000 per application if a gambling license renewal application is deemed delinquent. This fee is authorized by Business and Professions Code section 19876(g), and is intended to provide incentive for licensees to meet their statutory obligations for timely submission of renewal applications. Specifically, this proposal does the following:

**Section 12008**

- Subsection (a), paragraph (1) is added to distinguish between initial application fees and renewal application fees.
- Subsection (a), paragraph (2) establishes a delinquency fee of \$1,000 if a gambling license renewal application is deemed delinquent.

**Section 12342**

- The Commission’s State Gambling License Application form CGCC–030 is amended to do the following:
  - Conform to the changes in Section 12345;
  - Amend the required background investigation deposits to correspond with the Bureau’s newly adopted regulations;<sup>3</sup> and
  - Make technical, clarifying changes that have no regulatory effect.

**Section 12345**

- Subsection (a) has been rewritten and reorganized to follow a more logical progression. The new subsection (a) states that the application for a renewal of a state gambling license is due 120 days prior to the expiration of the current license, as required by Business and Professions Code section 19876(b), and defines a timely<sup>3</sup> application as one received by the Commission by the due date or postmarked as of the due date. This subsection also provides that an application will be “deemed delinquent” if filed or postmarked later than 110 days prior to the expiration date of the current license, providing a 10–day grace period before the delinquency fee is incurred.

This subsection also defines a “complete application” as the fully executed CGCC–030 for the owner–licensee and each endorsed licensee,

<sup>3</sup> “Schedule of Investigating and Process Costs,” OAL File No. 2011–0203–02S, approved March 16, 2011.

the \$1,000 application fee for each application, and any required background deposit.

- Current subsections (b) and (c) have been combined into single subsection (b) and contain editorial changes that do not impose any new requirements, and therefore have no regulatory effects.
- Previous subsection (d) has been incorporated into the current paragraph (3) of subsection (a) with no change to the language of the regulation.
- New subsection (c), previously (e), contains only clarifying and conforming changes and does not impose any additional requirements.
  - Previous paragraph (1) has been moved to subsection (a) for the purposes of clarification. Subsection (c) addresses processing times of the state agencies, and is an inappropriate place to include the applicant's deadline for submittal of an application.
  - Previous paragraph (2) has become paragraph (1). The definition of "application" previously included in this paragraph has been deleted and moved to subsection (a).
  - Previous paragraph (3) has become paragraph (2). The phrase "renewal of" has been added to clarify that renewal applications are required to be forwarded by the Commission to the Bureau within five days. Initial license applications are addressed in a separate section.
  - Previous paragraph (4) has become paragraph (3) and the phrase "unless that application is filed with the Commission less than 120 days prior to the expiration of the current license" has been moved to current paragraph (4) of subsection (d).
- New subsection (d), previously subsection (f), contains conforming changes and does not impose any additional regulatory requirements.
- New subsection (e), previously subsection (g), deletes the requirement that the Commission and Bureau follow the same processing timeframes required in subsection (e), even if the application was not submitted in a timely manner. The language is confusing and contradicts paragraph (4) of subsection (d).
- New subsection (f), previously subsection (g), makes technical, clarifying changes that do not impose any additional regulatory requirements.

**Sections 12335, 12357, and 12359 — Annual Fee (Business and Professions Code section 19955)**

This proposed action clarifies and implements provisions of section 19955 in Section 12357 and makes other technical changes to existing regulations. Specifically this proposal does the following:

**Section 12335**

- The term "table fee" is changed to "annual fee" to more accurately describe the nature of the fee and the manner in which it is calculated.

**Section 12357**

- The term "table fee" is changed to "annual fee."
- New subsection (a), previously an unnumbered introductory paragraph, defines a timely submittal of the required annual fees as being received by the Commission or postmarked as of the due date. This subsection also includes clarifying grammatical changes that have no regulatory effect.
- New paragraph (1) of subsection (a), previously subsection (a), specifies that the annual fee shall be based upon the number of tables at the close of the gambling enterprise's fiscal year.
- New paragraph (2) of subsection (a), previously subsection (b), includes technical, clarifying changes that have no regulatory effect.
- New subsection (b), previously subsection (c), includes technical, clarifying changes that have no regulatory effect, including the revision date of form CGCC-028.
  - Form CGCC-028 — changes include:
    - Updating the header to conform to a universal template.
    - Conforming changes reflecting amendments made in this regulatory package.
    - Technical, grammatical changes.
- New subsection (c) is added to clarify that if the full amount of the required annual fees have not been received within 90 days of the due date and the gambling enterprise's license has been deemed surrendered, as provided in Business and Professions Code section 19955, the surrendered license shall be subject to the conditions in Section 12347 pertaining to abandoned and surrendered licenses.

**Section 12359**

- Subsection (d) contains conforming editorial and grammatical changes that have no regulatory effect.

**FISCAL IMPACT ESTIMATES**

**FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:**

To the extent that this regulation results in any delinquency fees being assessed due to the late filing of license renewal applications, the Gambling Control Fund could realize additional revenue. The amount of that additional revenue is wholly dependent on the extent of compliance by licensees with the requirement to file timely renewal applications and therefore cannot be accurately estimated. However, based on a review of data for late renewals for 2009 and 2010, and the anticipated deterrent effect of the delinquency fee, the average additional revenue that could be realized is estimated not to exceed \$16,000 annually.

There are no costs/savings in federal funding to the state.

**NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:**

None.

**MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:**

None.

**COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:**

None.

**IMPACT ON BUSINESS:**

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

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

This proposed action does not impose any new requirement upon or require any new action by any business. There are no additional reporting or recordkeeping requirements mandated, nor are there any new performance standards imposed, technologies or equipment specified, nor specific actions or procedures prescribed.

*Delinquency Fee:* For licensees who comply with their statutory responsibilities to submit renewal applications by the deadline, there will be no impact. Licensees who do not submit their renewal application within 10 days of the deadline will

realize an additional \$1,000 fee per application required in the application package.

Because each endorsed licensee is required to submit an application, the number of applications received per cardroom can vary. Many small cardrooms have only one associated license; the largest number of applications received in a single package is 75. Of the 24 application packages not submitted in a timely manner in 2009 and 2010, no package had more than six required applications and the mean number of required applications in each late package was three. Based on this data, the average delinquency fee that may be assessed against an owner–licensee for a late renewal application package would total \$3,000.

*Temporary Closure of Gambling Establishment/Surrender of Gambling License:*

For licensees who comply with their statutory responsibility to submit required annual fees within 90 days of the close of their fiscal year, there will be no impact. For licensees who fail to meet their statutory requirement, this proposed action will not create any impact. The consequence for failing to pay required fees is set in statute,<sup>4</sup> and as such, the Commission has no discretion over the matter.

**IMPACT ON JOBS/NEW BUSINESSES:**

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

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

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Commission are:

- Delinquency fees of \$1,000 per application for late submission of a license renewal application package. Based on historical data, the average delinquency fee that may be assessed against an owner–licensee for a late renewal application package would total \$3,000. The delinquency fee may be avoided altogether by simply complying with the requirement to submit a complete renewal application package in a timely manner.

**EFFECT ON HOUSING COSTS:**

None.

**EFFECT ON SMALL BUSINESS:**

The Commission has determined that the proposed regulatory action may affect small businesses if any

<sup>4</sup> Business and Professions Code section 19955.

cardroom qualifies as a small business and submits a late renewal application.

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

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would 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 proposed action described in this Notice.

#### INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language 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 Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

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

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

#### CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Manager  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231  
Telephone: (916) 263-4024  
Fax: (916) 263-0452  
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Shannon George, Research Program Specialist  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231  
Telephone: (916) 263-4904  
Fax: (916) 263-0452  
E-mail: sgeorge@cgcc.ca.gov

#### WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at [www.cgcc.ca.gov](http://www.cgcc.ca.gov).

### TITLE 8. AGRICULTURAL LABOR RELATIONS BOARD

#### NOTICE OF PROPOSED REGULATORY ACTION TO AMEND TITLE 8, SECTIONS 20363, 20365, 20393, 20400, AND 20402, CALIFORNIA CODE OF REGULATIONS

Notice is hereby given that the Agricultural Labor Relations Board (ALRB or Board), pursuant to the authority vested in it by section 1144 of the Labor Code to make, amend, or rescind rules and regulations as may be necessary to implement, interpret, and make specific the provisions of the Agricultural Labor Relations Act (ALRA) (Labor Code sec. 1140, et seq.), proposes to amend sections 20363, 20365, 20393, 20400, and 20402 of its regulations in order to implement Senate Bill No. 126 (SB 126; Chapt. 697, Stats. of 2011). The Board's regulations are codified in Title 8, California Code of Regulations, section 20100, et seq. The proposed amendments are described below in the Informative Digest. An initial statement of reasons for the amendment of these regulations, along with the text of proposed amendments, has been prepared by the ALRB and is available upon request by contacting J. Antonio Barbosa, Executive Secretary, Agricultural Labor Rela-

tions Board, 915 Capitol Mall, Third Floor, Sacramento, CA 95814, (916) 653-3741, Fax: (916) 653-8750, e-mail: [jbarbosa@alrb.ca.gov](mailto:jbarbosa@alrb.ca.gov) or Joseph A. Wender, Jr., Senior Board Counsel, same address and fax number as above, (916) 651-7620, e-mail: [jwender@alrb.ca.gov](mailto:jwender@alrb.ca.gov). This notice, as well as the initial statement of reasons and text of the proposed regulation, also may be found on the Board's website at [www.alrb.ca.gov](http://www.alrb.ca.gov). The final statement of reasons, once it has been prepared, shall be available in the same manner as the initial statement of reasons.

**The ALRB invites all interested persons to submit written comments on the proposed amendments. Comments must be received at ALRB headquarters at the address listed above by 5:00 p.m. on December 28, 2011. A public hearing is not scheduled. However, any interested person or his or her duly authorized representative may submit, in writing, no later than December 13, 2011, a request that a public hearing be held on the proposed amendments.**

#### ADOPTION OF PROPOSED REGULATION

After the comment period closes, and a hearing, if requested, is held, the Board will consider all public comment, written and oral, and decide whether to make any changes to the proposed amendments. The Board may adopt the proposed amendments if no substantial changes are made. If the Board decides to make substantial changes that are "sufficiently related" to the initial proposals, the public will be given notice of those changes and will be given at least 15 days to provide comment. If the Board decides to make "major" changes to the proposals that are "not sufficiently related to" the initial proposals, a new notice of proposed action will issue allowing for a new 45-day comment period.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### **Amend Section 20363. Post-Election Determination of Challenges**

SB 126 includes new subdivision (i) of Labor Code section 1156.3, the existing provision governing elections generally. Subdivision (i) sets forth various time limits for the resolution of challenged ballots and election objections. The time limit for the initial evaluation of whether challenged ballots or election objections warrant an evidentiary hearing is 21 days from the filing of election objections or the submittal of evidence in support of challenged ballots. Under existing regulations, challenged ballots are first evaluated by the Regional Director, who issues a challenged ballot report

subject to appeal to the Board. Similarly, election objections are first evaluated by the Executive Secretary, with an opportunity for Board review of any objections dismissed. The 21-day time limit cannot be met under this existing bi-level review structure. In order to meet the 21-day limit, the ALRB proposes to eliminate the initial review by the Regional Director and Executive Secretary and instead have the Board do the evaluation in the first instance.

In order to effectuate this change, it is proposed that section 20363 be amended to provide that the parties submit to the Board directly any evidence and argument in support of their positions on challenged ballots. The Regional Directors also would be required to forward to the Board, and serve on the parties, any challenged ballot declarations or other evidence in his or her possession. The Board would then directly make the determination on which challenges can be resolved and which require an evidentiary hearing.

##### **Amend Section 20365. Post-Election Objections Procedure**

The ALRB proposes to amend section 20365 for the reasons described above, i.e., in order to meet the new 21-day time period for determining whether election objections must be dismissed or require an evidentiary hearing. The proposed amendments would effectuate this change by deleting all language relating to evaluation of election objections by the Executive Secretary and replacing it, where necessary, with references to the Board. In addition, the proposal includes an amendment ensuring that before the Board issues a bargaining order pursuant to new subdivision (f) of Labor Code section 1156.3 the parties have an opportunity to brief the issue.

##### **Amend Section 20393. Requests for Review; Requests for Reconsideration of Board Action; Requests to Reopen the Record**

The proposed amendments to section 20393 delete references to requests for review of the Executive Secretary's evaluation of election objections, a function that would be eliminated per the proposed changes to section 20365. The proposed amendments also would clarify the regulation with regard to the filing of responses to a request for review. Presently, the regulation reflects a cumbersome and time-consuming two-step process in evaluating a request for review. The first step is to determine whether to grant or summarily deny review, with the provision of a response from opposing parties a matter of Board discretion. Second, if request is granted, then a response is a matter of right and then the Board determines the ultimate merit of the request for review. The proposed amendments eliminate confusion over the procedure by making review a simple one-step process which leaves the filing of responses to the discretion of the Board.

**Amend Section 20400. Filing of Declaration Requesting Mandatory Mediation and Conciliation**

SB 126 makes two changes to the Mandatory Mediation and Conciliation (MMC) provisions of the Agricultural Labor Relations Act. One, for certifications issued after January 1, 2003, it changes the minimum time after an initial request to bargain that must elapse before requesting referral to MMC. Second, it expands the circumstances when referral to MMC may be requested to include a) when the Board has issued a bargaining order pursuant to new subdivision (f) of section 1156.3 of the Labor Code, or b) when the Board has dismissed a decertification petition upon a finding of unlawful employer involvement with the petition. The proposed amendments to section 20400 simply conform the regulation to these changes.

**Amend Section 20402. Evaluation of the Declaration and Answer**

The proposed amendment to section 20402, subdivision (a) conforms the regulation to the proposed changes in section 20400 by adding a necessary reference to new subdivision (c) of section 20400.

RULEMAKING FILE

Pursuant to Government Code sections 11346.5 and 11347.3, the Board shall maintain a rulemaking file containing all materials considered in the rulemaking process.

The file currently contains:

1. A copy of this notice
2. A copy of the Initial Statement of Reasons
3. Text of the Proposed Amendments to Sections 20363, 20365, 20393, 20400, and 20402.

As other materials are received, such as written comments, studies, reports, etc., they will be added to the rulemaking file. The file is available for inspection at the headquarters office of the ALRB, 915 Capitol Mall, Third Floor, Sacramento, CA, during normal business hours.

ALTERNATIVES TO PROPOSED ACTION

The Administrative Procedure Act requires that the Board, in taking any regulatory action, determine that no alternative considered 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.

LOCAL MANDATE STATEMENT

The proposed regulatory changes would not impose any mandate on local agencies or school districts.

IMPACT STATEMENTS

- A. Estimated fiscal impact on local government or school districts: None.
- B. The proposed changes would result in no cost or savings to any state agency, or 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, nor impose other nondiscretionary cost or savings on local agencies or affect cost or savings in federal funding.
- C. Fiscal effect on private persons or businesses directly affected: No increase in costs. The ALRB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- D. The proposed changes would have no effect on small business because the changes impose no new burdens upon parties appearing before the Board.
- E. The proposed changes would have no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- F. The proposed changes would have no effect on the creation or elimination of jobs within the State of California, no effect on the creation of new businesses or the elimination of existing businesses within the State of California, and no effect on the expansion of businesses currently doing business within the State of California.
- G. The proposed changes would have no effect on housing costs.

INQUIRIES

Any inquiries concerning any aspect of the proposed regulatory action noticed herein should be directed to J. Antonio Barbosa, Executive Secretary, Agricultural Labor Relations Board, 915 Capitol Mall, Third Floor, Sacramento, CA 95814, (916) 653-3741, Fax: (916) 653-8750, e-mail: [jbarbosa@alrb.ca.gov](mailto:jbarbosa@alrb.ca.gov) or Joseph A. Wender, Senior Board Counsel, same address and fax number as above, (916) 651-7620, e-mail: [jwender@alrb.ca.gov](mailto:jwender@alrb.ca.gov). Questions concerning the substance of the proposed amendments may be directed to Mr. Wender.

**TITLE 10. DEPARTMENT OF REAL ESTATE**

**SERVICE OF NOTICE TO REAL ESTATE LICENSEE REGULATION PROPOSAL**

**NOTICE IS HEREBY GIVEN**

The Acting Commissioner (“Commissioner”) of the Department of Real Estate (“Department”) proposes to adopt Section 2909 within Chapter 6, Title 10 of the California Code of Regulations (“Regulations”), relating to establishment of registered mail as the Department’s form of service of notice to licensed real estate brokers and salespersons.

**PUBLIC HEARING**

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before 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 Commissioner addressed as follows:

Regular Mail

Department of Real Estate  
Attn: Daniel E. Kehew, Sacramento Legal Office  
2201 Broadway  
Sacramento, CA 95818

Electronic Mail

DRERegulations@dre.ca.gov

Facsimile

(916) 227-9458

**Comments may be submitted until 5:00 p.m., Wednesday, December 28, 2011.**

**INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW**

**AMENDMENT OF SECTION 2834**

As with any disciplinary proceeding of government, the person subject to discipline must be served with no-

tice of the action against him or her. Traditionally, when seeking to impose license discipline, the Department of Real Estate (“the Department”) has served notice via personal service, an action currently undertaken via a private process serving company under contract to the Department. Even under this competitively bid contract, however, each instance of personal service demanded by the Department’s enforcement duties exceeds \$90 in cost.

The Administrative Procedure Act, however, includes provision for the manner of service to the respondent to occur “by any means selected by the agency.” (Government Code Section 11505(c).) The provision also states that, “Service by registered mail shall be effective if a statute or agency rule requires the respondent to file the respondent’s address with the agency and to notify the agency of any change, and if a registered letter containing the accusation and accompanying material is mailed, addressed to the respondent at the latest address on file with the agency.” (Id.)

The Department does require a licensee to keep a current mailing address on file with the Commissioner of Real Estate (“the Commissioner”). Section 2715 of the Regulations (Title 10, Chapter 6, California Code of Regulations) (“the Regulations”) of the Real Estate Commissioner, in conjunction with Sections 10162 and 10163 of the Business and Professions Code (“the Code”), requires each licensee to maintain a current mailing address on file with the Commissioner of Real Estate.

Each instance of service via registered mail will cost less than \$2, a significant savings to the Real Estate Fund over personal service.

With this proposed regulation, the Department adopts as its standard service of notice, where the person being served is a licensee, service via registered mail to licensee’s mailing address on file with the Commissioner. The regulation alerts licensees that their compliance with Section 2715 of the Regulations holds significance beyond the mere fact of the regulation; this mailing address is an active part of their due process right in this licensing scheme.

*Purpose of Section 2909:* This adoption will specify the form of process for notice to be used for active licensees who are subject to potential discipline under the Real Estate Law and Regulations, achieving a substantial cost savings for the Real Estate Fund.

*Rationale of Section 2909:* Licensees are required to have a mailing address on file with the Commissioner. Registered mailing is an accepted, and less expensive, form of service of notice. By specifying in regulation that registered mail is the Department’s form for service of notice to active licensees, the licensee population is reminded of the importance of maintaining a mailing

address on file with the Commissioner, and the Department will achieve substantial cost savings.

AUTHORITY

Section 10080, Business and Professions Code.

REFERENCE

Sections 485, 10086, 10087, and 10175 et seq., Business and Professions Code; and Sections 11504 and 11505, Government 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 the Sacramento offices of the Department. 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. These documents are also available at the Department's website at [www.dre.ca.gov](http://www.dre.ca.gov). As required by the Administrative Procedure Act, the Department's Sacramento Legal Office maintains the rule-making file. The rulemaking file is available for public inspection at the Department of Real Estate, 2201 Broadway, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must de-

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

FISCAL IMPACT

The Department has determined that there is no substantial economic impact on any party from this proposal.

DETERMINATIONS

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

- Creates a savings estimated at \$42,000 annually to the Department. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost nor impose a mandate (nondiscretionary cost or savings) 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. (Statements of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost or savings regarding federal funding to the state. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- 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 the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

EFFECT ON SMALL BUSINESS

The Department has determined that there is no substantial cost to small business in California because this proposal adds no new requirements relating to small business.

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 227-0425, or via email at [DRERegulations@dre.ca.gov](mailto:DRERegulations@dre.ca.gov). The backup contact person is Mary Clarke at (916) 227-0780.

**GENERAL PUBLIC INTEREST**

**FISH AND GAME COMMISSION**

**NOTICE OF FINDINGS**

American pika  
(*Ochotona princeps*)

**NOTICE IS HEREBY GIVEN** that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission, at its October 19, 2011, meeting in Monterey, California, accepted for consideration the petition submitted to list the American pika (*Ochotona princeps*) as a threatened species. Pursuant to subdivision (a)(2) of Section 2074.2 of the Fish and Game Code, the aforementioned species is hereby declared a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department of Fish and Game shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the October 19, 2011, Commission meeting, are on file and available for public review from Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Written comments or data related to the petitioned action should be directed to the Commission at the aforementioned address.

**FISH AND GAME COMMISSION**

**NOTICE OF FINDINGS**

**NOTICE IS HEREBY GIVEN** that the California Fish and Game Commission (Commission), at its May

4, 2011 meeting in Ontario, California, found pursuant to Fish and Game Code Section 2074.2, that the petition to add The Cedars buckwheat (*Eriogonum cedrorum*) to the list of endangered species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) does not provide sufficient information to indicate that the petitioned action may be warranted. On September 15, 2011, the Commission at its meeting in Redding, California, adopted the following findings outlining the reasons for and ratifying its rejection of the petition on May 4, 2011. On October 19, 2011, the Commission, at its meeting in Monterey, California, adopted the following amended findings, more clearly outlining the reasons for and ratifying its rejection of the petition on May 4, 2011.

**I.  
BACKGROUND AND PROCEDURAL  
HISTORY**

December 28, 2010. The Commission office received a petition from the California Native Plant Society, Milo Baker Chapter, to list The Cedars buckwheat as endangered under CESA (Petition). The Petition as submitted to the Commission is dated December 21, 2010.

January 7, 2011. The Commission office determined the Petition was complete, referred the Petition to the Department of Fish and Game (Department) for review and analysis pursuant to Fish and Game Code Section 2073.5, and notified the petitioner of these facts.

January 21, 2011. The Commission published in the California Regulatory Notice Register notification of receipt of the Petition pursuant to Fish and Game Code Section 2073.3. (Cal. Reg. Notice Register 2011, No. 3-Z, p. 87.)

March 18, 2011. The Department submitted its Petition Evaluation Report (also dated March 18, 2011) (Evaluation Report) to the Commission pursuant to Fish and Game Code Section 2073.5.

April 7, 2011. The Commission accepted and acknowledged receipt of the Department's Evaluation Report at its notice meeting in Folsom, California, indicating it would consider the Petition, the Evaluation Report, other information, and related public comments at the Commission meeting scheduled for May 4-5, 2011.

May 4, 2011. The Commission considered the Petition, the Department's Evaluation Report, and other information at its noticed public meeting in Ontario, California. The Department provided an overview of its Evaluation Report and the Petition generally as part of the related public hearing. No other member of the public provided related testimony to the Commission during the public hearing. After hearing the Department presentation and considering the Petition, the Depart-

ment's Evaluation Report, and all other information presented to the Commission during the related administrative proceedings, the Commission rejected the Petition, finding it did not contain sufficient information to indicate the petitioned action may be warranted.

## II. STATUTORY AND LEGAL FRAMEWORK

In general, Commission "Listing of Endangered Species" under CESA is governed by Division 3, Chapter 1.5, Article 2, of the Fish and Game Code, commencing with section 2070. A related regulation is found in Title 14, section 670.1, of the California Code of Regulations. The CESA listing process is also described in published appellate California case law, including *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600 (hereafter *CBD*); *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541–1542; and *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111–1116 (hereafter *NRDC*). Case law describes "listing" under CESA as a two-step process:

"In the first step the Commission determines whether a species is a candidate for listing by determining whether the petition — when considered with the Department's written report and the comments received — provides sufficient information to indicate that the endangered or threatened listing 'may be warranted.' If this hurdle is cleared, the petition is 'accepted for consideration' and the second step begins: the Department conducts a (roughly) year-long scientific based review of the subject species, reports to the Commission, and then the Commission determines whether listing of the candidate as an endangered or threatened species 'is [or] is not warranted.'"

(*NRDC*, 28 Cal.App.4th at pp. 1114–1115.)

The Commission, in the present case, is at the first step of the CESA listing process for the Petition. Specifically, determining whether the Petition, when considered with the Evaluation Report and other related information before the Commission, provides sufficient information to indicate the petitioned action may be warranted. (See generally Fish & G. Code, §2074.2; Cal. Code Regs., tit. 14, §670.1, subd. (e).) This first step is sometimes referred to as the "for consideration" stage in the Commission listing process and the standard governing the Commission's related determination at this first stage is sometimes referred to as the can-

didacy evaluation test. (See, e.g., *CBD*, *supra*, 166 Cal.App.4th at p. 610.)

The candidacy evaluation test governing the Commission's determination at this first step in the CESA listing process is discussed in both the *NRDC* and *CBD* decisions from California's Third District Court of Appeal. In *NRDC*, the Court of Appeal interpreted the statutory language regarding Commission determinations as to whether a petition contains "sufficient information to indicate that the petitioned action may be warranted." (Fish & G. Code, § 2074.2, subd. (a); see also Cal. Code Regs., tit. 14, § 670.1, subd. (e).) In so doing, the court interpreted the standard to mean "that amount of information — when considered in light of the [Department's] written report and comments received — that would lead a reasonable person to conclude there is a 'substantial possibility' the requested listing 'could' occur[.]" (*NRDC*, *supra*, 28 Cal.App.4th at pp. 1108–1109 (internal citations omitted).) In other words, the court concluded that, if a reasonable person reviewing the petition would conclude that listing could occur, the Commission must accept the petition and designate the species as a candidate for listing under CESA. Based on other "guideposts" offered by the court, while the Commission must find more than a reasonable possibility of listing to designate a species as a candidate, it need not find a reasonable probability of such a future listing at this first step in the CESA listing process. (See *Id.* at pp. 1119–1125.)

The *CBD* decision adds important detail regarding the candidacy evaluation test governing the Commission's first step in the CESA listing process. The Court of Appeal affirmed its earlier, related decision in *NRDC*, emphasizing the term "sufficient information" in Fish and Game Code section 2074.2 means that amount of information that would lead a reasonable person to conclude the petitioned action may be warranted; that the phrase "may be warranted" is appropriately characterized as a "substantial possibility that listing could occur"; and that "substantial possibility" means something more than a reasonable possibility, but that it does not require that listing is more likely than not. (*CBD*, *supra*, 166 Cal.App.4th at pp. 609–610.) In so doing, the court also acknowledged that the "Commission is the finder of fact in the first instance in evaluating the information in the record." (*Id.* at p. 611, citing *NRDC*, *supra*, 28 Cal.App.4th at p. 1125.) The court also clarified:

"[T]he standard, at this threshold in the listing process, requires only that a substantial possibility of listing could be found by an objective, reasonable person. The Commission is not free to choose between conflicting inferences on subordinate issues and thereafter rely upon those choices in assessing how a reasonable person

would view the listing decision. Its decision turns not on rationally based doubt about listing, but on the absence of any substantial possibility that the species could be listed after the requisite review of the status of the species by the Department under [Fish and Game Code] section 2074.6.” (*Ibid.*)

Another component to the standard discussed by the Court of Appeal in *CBD* is whether the information in the petition or as otherwise presented to the Commission clearly does, or does not, lead to a certain conclusion. According to the decision, if information clearly would lead a reasonable person to conclude there is a substantial possibility that listing could occur, unless counter information is sufficient to compellingly undercut the petition’s showing (e.g. persuasively, wholly undercuts some important component of a prima facie showing that there is a substantial possibility that listing could occur), the Commission must accept the petition. (*CBD, supra*, 166 Cal.App.4th at pp. 610–612.) In contrast, the Court of Appeal indicated, if all the information before the Commission clearly indicates the absence of a substantial possibility that listing could occur, a Commission decision to reject a petition should be upheld. (*Ibid.*) Finally, the court indicated, if the information on balance is unclear, ultimate discretion rests with the Commission to either reject or accept the petition. (*Ibid.*)

The definitions of endangered and threatened species under CESA also inform the Commission’s decision at the *first step* of the CESA listing process. The Fish and Game Code defines “endangered species,” in pertinent part, to mean:

“[A] native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish & G. Code, § 2062; see also *California Forestry Association, supra*, 156 Cal.App.4th at p. 1540, 1549–1551 (“range” for purposes of CESA means the range of the species in California).)

Likewise in pertinent part, the Fish and Game Code defines “threatened species” to mean:

“[A] native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [CESA].” (Fish & G. Code, § 2067.)

In short, both *NRDC* and *CBD* cast the Commission’s “may be warranted” determination under Fish and

Game Code section 2074.2 in terms of whether a reasonable person would conclude that there is a substantial possibility listing could occur. (*NRDC, supra*, 28 Cal.App.4th at p. 1125; *CBD, supra*, 166 Cal.App.4th at pp. 609–610.) That standard, as emphasized by the Court of Appeal, is an objective standard that does not allow the Commission as the decision making body to substitute its own subjective view for the objective, reasonable person. (*Id.* at p. 610, fn. 13.) The Commission applied this standard, along with related legal principles, in determining in the present case that the Petition does not provide sufficient information to indicate that the petitioned action may be warranted. (Fish & G. Code, § 2074.2, subd. (a)(1).)

### III.

#### FACTUAL AND SCIENTIFIC BASES FOR THE COMMISSION’S FINDING

The factual and scientific bases for the Commission’s finding to reject the Petition to list The Cedars buckwheat as endangered are set forth in detail in the Commission’s administrative record of proceedings. Substantial evidence in the administrative record in support of the Commission’s determination includes, but is not limited to, the Evaluation Report, and other information specifically presented to the Commission and otherwise included in the Commission’s administrative record as it exists up to and including the Commission meeting in Ontario, California, on May 4, 2011.

The Commission finds that the evidence highlighted in the preceding paragraph, along with other evidence in its administrative record of proceedings generally, supports the Commission’s determination that the Petition does not contain sufficient information in relation to the following factors to indicate that the petitioned action may be warranted:

1. Population trend;
2. Range;
3. Distribution;
4. Abundance;
5. Life history;
6. Kind of habitat necessary for survival;
7. Factors affecting the ability to survive and reproduce;
8. Degree and immediacy of threat;
9. Impact of existing management efforts;
10. Suggestions for future management;
11. Availability and sources of information; and
12. A detailed distribution map.

The following discussion highlights in more detail some of the scientific and factual information and other evidence in the administrative record of proceedings that support the Commission’s determination that the

petition does not provide sufficient information to indicate that listing The Cedars buckwheat as endangered may be warranted. Part A below describes each factor individually; and Part B below describes the information considered as a whole in determining if the Petition meets the standard for being accepted by the Commission.

### **A. Factors considered individually.**

#### **1. Population trend:**

The Petition states that populations of The Cedars buckwheat have been stable for over 30 years. The 2009 type description of The Cedars buckwheat states, "A recent survey of the Central Canyon sites shows the population to be extremely stable. While there were few young plants, not a single dead mat was noted. A few plants had their crowns elevated >1.5 dm above the current rock surface, showing they had undergone that much erosion and survived. The lack of any significant disturbance at any site, the lack of senescence or death, and the persistence of plants in extremely harsh sites suggests this taxon is capable of great age." A population that is currently and has been stable over 30 years, without senescent or dead plants, some of which have survived > 6 inches (1.5 dm) of erosion in extremely harsh sites, demonstrates a stable, long-term population trend. This information clearly indicates that the population trend is not declining. As a result, there is insufficient evidence regarding this factor for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur.

#### **2. Range**

The Cedars buckwheat is restricted to an area called The Cedars in Sonoma County, California. The Petition states that The Cedars buckwheat occurs on "less than 500 acres." The actual area of land that The Cedars buckwheat occupies is not clear from the information provided in the Petition and from other information available to the Department. Regardless of the acreage of habitat occupied by The Cedars buckwheat, this species is rare and is endemic to The Cedars. An endemic species is a species that is native to a specific place and occurs nowhere else.

An endangered species is defined as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease." (Fish & G. Code § 2062). A threatened

species is defined as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter." (Fish and G. Code § 2067). A species, although rare and endemic, may not necessarily be in serious danger of becoming extinct, especially if there are no threats to the species; or loss of habitat, change in habitat, over exploitation, predation, competition, or disease. There is no information indicating any change to The Cedars buckwheat's range. As a result, there is insufficient evidence regarding this factor for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur.

#### **3. Abundance**

The Petition states that there are about 3000–4000 plants in existence restricted to three limited areas in The Cedars, Sonoma County while the attached reference to the Petition states that "there are  $\pm$  1500 to 2000 plants in existence." Although there is a discrepancy in the numbers provided in the Petition, the Petition states that populations of The Cedars buckwheat are stable and have been for over 30 years. This statement is supported by the references attached to the Petition as appendices. As a result, there is insufficient evidence regarding this factor for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur.

#### **4. Life History**

Little is known about The Cedars buckwheat life history. Populations of The Cedars buckwheat were previously misidentified as a different buckwheat species, Snow Mountain buckwheat (*Eriogonum nervulosum*), which is another rare species that occurs on serpentine soils in Colusa, Lake, and Glenn Counties. The Cedars buckwheat was differentiated from Snow Mountain buckwheat during field work in 2009, and was formally described as a separate species later that year. A lack of information on life history of The Cedars buckwheat is expected since the species was only recently formally described. Therefore, there is insufficient evidence regarding this factor for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur.

#### **5. Kind of habitat necessary for survival**

The Petition accurately states that The Cedars buckwheat is endemic to The Cedars, which is a

unique and rare geological feature and contains a distinctive associated botanical community. The Cedars buckwheat grows on steep serpentine canyon slopes that consist of mostly open rock and talus (small, loose rock fragments) and that form extensive serpentine barrens. The habitat that this species grows in is remote and difficult to access, and the species is therefore less likely to be impacted by human disturbance. The Petition does not provide any information regarding any loss or change to buckwheat habitat. As a result, there is insufficient evidence regarding this factor for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur.

**6. Factors affecting the ability to survive and reproduce**

The Petition states that there are no known factors affecting the ability of the buckwheat to survive and reproduce and that there is little plant competition in its habitat. The Petition lacks any information regarding overexploitation, predation, competition, or disease of the species. In contrast, the Petition contains information indicating The Cedars buckwheat has a long-term stable population, is reproducing, persists in extremely harsh sites, can survive substantial erosion, and is capable of great age. Thus, the Petition does not provide any information that The Cedars buckwheat's ability to survive and reproduce is being adversely affected. As a result, there is insufficient evidence regarding this factor for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur.

**7. Degree and immediacy of threat**

The Petition lists several hypothetical threats to The Cedars buckwheat populations, but does not present information to substantiate the threats. As a result, there is insufficient evidence regarding this factor for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur. As discussed more fully below, the Petition lists the following factors as potential threats to The Cedars buckwheat: a) mining; b) lack of federal listing under the Federal Endangered Species Act; c) grading; d) feral pigs; e) illegal marijuana growing; and f) wind turbine or solar energy projects.

**a. Mining**

The Petition does not present information to substantiate a realistic, non-speculative threat of mining at The Cedars. Mining has not occurred within The Cedars for over 50 years and there are

no current applications to mine within or near The Cedars. The Petition states that about 75% of The Cedars buckwheat occurrences are on Bureau of Land Management (BLM) property, and that BLM permits mining. The Petition ignores that BLM is aware of the ecological significance of The Cedars and, since 2006, has designated The Cedars an Area of Critical Environmental Concern (ACEC) in order to provide protection for this area and its unique resources. ACEC designation provides the strongest protection that BLM can provide on its lands.

As discussed in the Evaluation Report, The Cedars is not currently zoned as a mineral resource in the Sonoma County General Plan which creates an additional hurdle to mining on private property within The Cedars. Moreover, access to the BLM property is potentially still limited because it may still be landlocked — it may still be surrounded by private land. The Evaluation Report indicated that BLM expected to acquire private property within The Cedars by March 2011, thereby acquiring access to other BLM property. However, the Commission is not aware if BLM's purchase occurred. Regardless of BLM having purchased the land or not, motorized access is not allowed in the ACEC, so development of infrastructure required for mining remains unlikely.

In light of the aforementioned facts regarding mining, the Petition does not present any information to indicate that mining is a credible threat to The Cedars buckwheat.

**b. Lack of listing under the Federal Endangered Species Act**

The Petition inaccurately states that, because The Cedars buckwheat is not listed under the Federal Endangered Species Act, it receives little protection on BLM land. In fact, The Cedars buckwheat is considered a BLM Special Status Plant and, accordingly, is given the same level of protection by BLM as if it were state-listed. (See Evaluation Report p. 8.) The Petition also states that a State listing may bring the species to the attention of BLM and improve management of the species by BLM, but, as noted, BLM has already recognized the species and has provided it the sort of protection the species would receive if state-listed. Listing The Cedars buckwheat under CESA would not provide any additional protection for the species on BLM land.

**c. Grading**

The Petition states that 25% of The Cedars buckwheat occurrences are on private property. Of the four relevant property owners, one landowner

conducted grading during 2010. As noted in the Evaluation Report, the Petition lacks any information regarding the location and extent (acreage) of grading, and does not present any information to indicate whether grading affected or was in proximity to habitat occupied by The Cedars buckwheat.

In addition, the habitat of The Cedars buckwheat is steep serpentine talus slopes, an unstable and challenging landform, that would be expensive to grade and would require regular maintenance. Based on the information provided in the Petition, there is no evidence of a threat to The Cedars buckwheat due to grading.

#### **d. Feral Pigs**

The Petition states that feral pigs have become more abundant at The Cedars over the past 10 years, have become residents in canyons, and have caused serious ecological damage.

As discussed in the Evaluation Report, the Petition does not state whether or not pig rooting occurred around buckwheat plants in The Cedars and, if so, if there were any adverse effects. Nor does the Petition indicate whether or not wild pigs consistently use buckwheat habitat. Although wild pigs can inhabit steep slopes in many habitats, the steep, open, barren talus slope habitat of The Cedars buckwheat is a very low productivity habitat type that supports few mammals and should provide very little food and attraction for wild pigs. Wild pigs are most abundant in a black oak woodland grassland mosaic. They are also found in chaparral, riparian, marsh, and grassland habitats. The Cedars buckwheat habitat lacks primary habitat constituents for feral pigs: a water source and cover. Thus, wild pigs would rarely be in buckwheat habitat. In light of the aforementioned facts regarding wild pigs, the Petition does not present any information indicating that feral pigs present a credible threat to The Cedars buckwheat.

#### **e. Illegal Marijuana Growing**

The Petition states that there is a previous history of growing and harvesting marijuana in the area, but as discussed in the Evaluation Report, the Petition lacks information regarding where marijuana was grown, if it was grown in proximity to The Cedars, and if growing marijuana had an effect on The Cedars buckwheat. Serpentine habitat in The Cedars is arid and exposed. It is not habitat to which marijuana is adapted to because of its chemical nature and drought conditions within

The Cedars. With limited access and sources of water for irrigation, and open exposed, serpentine areas, The Cedars, let alone buckwheat habitat, is not the type of area conducive to growing marijuana. Therefore, the Petition does not present any information indicating that marijuana growing is a credible threat to The Cedars buckwheat.

Of note, large scale marijuana growing has been and continues to be illegal in Sonoma County. Given that illegal activities operate outside governmental regulation, listing The Cedars buckwheat is unlikely to bring the plant any additional protection from possible future illegal marijuana growing or harvesting.

#### **f. Wind Turbine or Solar Energy Projects**

The Petition lacks any specific information regarding the actual or potential threat to The Cedars buckwheat from implementation of wind turbine and solar projects on BLM lands in Sonoma County. The Petition also lacks any information explaining how such projects would adversely affect The Cedars buckwheat.

As discussed in the Evaluation Report, there are no pending or authorized wind or solar energy projects in proximity to The Cedars or in Sonoma County. In addition, The Cedars is well outside BLM's Identified Areas of Wind Power Potential. According to the U.S. Department of Energy (DOE) and Bureau of Land Management Draft Programmatic Environmental Impact Statement (PEIS) for Solar Energy Development in Six Southwestern States, all lands within the jurisdiction of the BLM's Ukiah Field Office, which includes The Cedars, are proposed for exclusion from solar development at this time. (See Evaluation Report, p. 12.)

Furthermore, development of wind or solar energy projects at The Cedars would encounter obstacles similar to those for mining. As noted in part III.A.7.a. above, the BLM property at The Cedars is possibly still landlocked such that BLM does not have access to its property at The Cedars. Also, BLM does not allow motorized vehicle use in The Cedars ACEC.

Therefore, development of the infrastructure required for wind turbine or solar projects is unlikely. Also, the steep serpentine talus slopes inhabited by buckwheat, as compared to other types of landforms, make siting solar or wind energy production facilities especially challenging. In light of the aforementioned facts regarding wind or solar energy projects, the

Petition does not present any information indicating such projects are a credible threat to The Cedars buckwheat populations.

**8. Impact of existing management efforts**

The Petition states that BLM is not managing The Cedars buckwheat and that listing under CESA would inform BLM that California has intent to conserve the species. The Petition refers to a nationwide BLM policy that classifies plants listed under CESA as “Special Status Plants.” The Petition misstates that buckwheat is not designated as a “Special Status Plant” by BLM because it is not listed under CESA, and therefore it receives no special management consideration. The Cedars buckwheat is a California Rare Plant Rank List 1B.3 species. Due to this designation, The Cedars buckwheat is, contrary to the Petition’s statement, automatically designated as a BLM Special Status Plant Species in California and has the same level of protection on BLM land as a state-listed species. (See Evaluation Report, p. 13.)

Also, BLM is aware of the ecological significance of The Cedars and designated The Cedars ACEC in 2006 in order to provide protection to this area. (Evaluation Report, p. 7.) Management of ACECs is focused on the resource values for which the ACEC is designated. In the case of The Cedars, management is required to protect important natural systems or processes, which includes endangered, sensitive, or threatened plant species.

**9. Suggestions for future management**

The Petition suggests that future management of The Cedars buckwheat should include conducting genetic studies, autoecological studies, and surveys for more plant populations. Future studies and surveys could prove useful in gaining a better understanding of this species. However, conducting future studies and surveys for The Cedars buckwheat is not contingent on listing and the Petition does not indicate how a state listing would increase the potential for these studies.

The Petition also states that listing The Cedars buckwheat as endangered under CESA should bring attention to putting The Cedars and its associated rare plant community into some land conservation effort. As noted in the Evaluation Report, the Petition does not explain how listing The Cedars buckwheat would facilitate a land conservation effort for The Cedars. Nor does the Petition explain what is meant by a land conservation effort. In fact, it is unclear how listing The Cedars buckwheat would bring additional focus to the geological features of The

Cedars or to the suite of plants endemic to the area. The California Coastal Conservancy and the Sonoma Land Trust have already expressed interest in studying The Cedars. (Evaluation Report, p. 13.) And although a state listing could alert BLM to the fact that The Cedars buckwheat is considered an Endangered or Threatened species under CESA, a state listing would not change how BLM manages The Cedars buckwheat because this species is already considered a BLM Special Status Plant.

The Petition further states that BLM and the Department should coordinate activities to assess and implement wild pig depredation at The Cedars. As an overall resource management goal, successful management of wild pigs could provide a benefit to sensitive species at The Cedars or in proximity to it. However, the Petition lacks any information as to how listing the Cedars buckwheat would increase coordination between the Department and BLM.

The Petition states that with CESA listing, the Department could coordinate with BLM on wind or solar energy projects to avoid or minimize impacts to The Cedars buckwheat. BLM and the Department currently coordinate on the siting of wind and solar projects in California, such as projects in the California desert. Moreover, the Department routinely reviews projects whether or not listed species are present. BLM would coordinate with the Department if a project could impact a Threatened, Endangered, or sensitive species such as The Cedars buckwheat. As discussed above, a state listing under CESA would not change how BLM manages The Cedars buckwheat.

**10. Availability and sources of information**

The Petition cites two references which were both attached as appendices to the Petition. The two references serve as the most comprehensive published information to date on The Cedars buckwheat and its habitat. The references are from well-published researchers who are knowledgeable about The Cedars buckwheat, related plants, and The Cedars area in general. The Department consulted other available resources during its evaluation of the Petition. A list of these sources is included in the Department’s Evaluation Report.

**11. A detailed distribution map**

The Petition provides a photocopy of a map which is reproduced in black and white, has poor scale, does not show the BLM property lines, and map details are difficult to see. The map does not

provide geographic names for all features shown on the map. The Petition states that approximately 75% of The Cedars buckwheat occurrences are on BLM lands although the map does not delineate The Cedars, BLM land, or private property. Since the Petition focuses on activities, such as marijuana growing and grading, that occur on or in proximity to The Cedars, the map should have provided a level of detail adequate for the Department to identify pertinent features and evaluate potential impacts identified in the Petition.

**B. Petition information, Department’s evaluation report, and comments received: all considered as a whole.**

An analysis of the Petition’s information, as well as all other related information, reveals that the totality of information, is insufficient for an objective, reasonable person to conclude that there is a substantial possibility that listing could occur. Foremost, the Petition acknowledges that The Cedars buckwheat population has been stable over the past 30 years. So despite the species being endemic to The Cedars, the buckwheat’s population has not declined over the decades. The lack of any information indicating any change or loss to The Cedars buckwheat habitat underscores the population’s stability. Moreover, there are no known factors affecting the buckwheat’s ability to survive or reproduce. There is no indication of over exploitation, predation, competition, or disease related to the buckwheat. Therefore, a reasonable person would conclude that the buckwheat’s limited range is a result of the unique habitat present only in The Cedars, not some other factor manmade or otherwise. The mere fact that The Cedars buckwheat is limited in range does not meet CESA’s definition of endangered.

Additionally, the Petition lacks sufficient information to indicate that buckwheat habitat within The Cedars, or The Cedars itself, has been adversely affected or is under threat. The Petition lacks information indicating that mining, grading, feral pigs, marijuana cultivation, or wind/solar energy projects have affected the buckwheat or its habitat. Regarding potential future impacts, there is also no information indicating that mining or wind/solar developments in The Cedars, or specific to buckwheat habitat, are likely to occur. One could speculate as to the potential impact to buckwheat and its habitat by grading, feral pigs, and marijuana cultivation. However, given the fact that there is no evidence of prior effects on buckwheat, and the fact that buckwheat habitat is not conducive to those activities, speculating about such impacts without any corroborating information fails to meet the legal standard. In summary, there is no information from which a reasonable

person could infer that The Cedars buckwheat is in serious danger of becoming extinct as contemplated under CESA. Therefore, the Commission found that the information, taken as a whole, was insufficient for an objective, reasonable person to conclude that there is a substantial possibility that listing The Cedars buckwheat as endangered could occur.

**IV.  
FINAL DETERMINATION BY THE  
COMMISSION**

As explained in Part III. above, having considered the Petition, the Department’s evaluation, and comments received, the Commission finds that the totality of information is not sufficient for an objective, reasonable person to conclude that there is a substantial possibility that listing The Cedars buckwheat as endangered could occur. Therefore, the Commission rejects the Petition.

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)**

**NOTICE TO INTERESTED PARTIES  
November 11, 2011**

**Announcement of Chemicals Selected by OEHHA  
for Consideration for Listing by the Carcinogen  
Identification Committee and  
Request for Relevant Information on the  
Carcinogenic Hazards of These Chemicals**

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65<sup>1</sup>. The Carcinogen Identification Committee (CIC) of OEHHA’s Science Advisory Board serves as the State’s qualified experts and renders an opinion about whether a chemical has been clearly shown to cause cancer. The chemicals identified by the CIC are added to the Proposition 65 list.

OEHHA has selected the chemicals below for the CIC’s review for possible listing under Proposition 65.

<sup>1</sup>Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5 *et seq.*

OEHHA is initiating the development of hazard identification materials on these chemicals.

**Chemicals Selected for Preparation of Cancer Hazard Identification Materials**

Chemical	CAS No.
C.I. Disperse Yellow 3	2832-40-8
Dibenzanthracenes and dibenz[a,c]anthracene	— 215-58-7

These chemicals were selected using the procedure described in a 2004 document entitled: "Process for Prioritizing Chemicals for Consideration under Proposition 65 by the State's Qualified Experts." This document is available on the Internet at [http://www.oehha.ca.gov/prop65/CRNR\\_notices/state\\_listing/pdf/finalPriordoc.pdf](http://www.oehha.ca.gov/prop65/CRNR_notices/state_listing/pdf/finalPriordoc.pdf).

OEHHA selected these chemicals from those prioritized by the CIC in 2011. For details follow this link:

[http://www.oehha.ca.gov/prop65/public\\_meetings/CIC101211/2011CICprioritization.pdf](http://www.oehha.ca.gov/prop65/public_meetings/CIC101211/2011CICprioritization.pdf).

Hazard identification materials for the chemicals in the table above will be presented at future meetings of the CIC for Committee review for possible listing under Proposition 65.

By this notice, OEHHA is giving the public an opportunity to provide information relevant to the assessment of the evidence of carcinogenicity for the chemicals shown above. Relevant information includes but is not limited to:

- cancer bioassays
- cancer epidemiological studies
- genotoxicity testing
- other pertinent data on:
  - pharmacokinetics,
  - biomarkers
  - effects on biochemical and physiological processes in humans.

Interested parties or members of the public wishing to provide such information should send it to the address given below.

The publication of this notice marks the start of a 60-day data call-in period, ending on **Tuesday, January 10, 2012**. The information received during this period will be reviewed and considered by OEHHA as it prepares the cancer hazard identification materials on these chemicals.

Hazard identification materials are made available to the public for comment prior to the CIC's consideration of the chemical for possible listing. The availability of

hazard identification materials will be announced in the *California Regulatory Notice Register* and on OEHHA's website. The time, date, location, and agenda of the CIC meeting where a chemical will be considered for listing will be published in the *California Regulatory Notice Register* and posted on OEHHA's website.

We encourage you to submit relevant information on these chemicals in electronic form, rather than in paper form. Submissions transmitted by e-mail should be addressed to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov). Please include the chemical name in the subject line. Submissions in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita  
Office of Environmental Health  
Hazard Assessment  
P.O. Box 4010, MS-19B  
Sacramento, CA 95812-4010

Fax: (916) 323-8803

Street Address: 1001 I Street  
Sacramento, CA 95814

**In order to be considered at this point in the process, the relevant information must be received at OEHHA by 5:00 p.m. on Tuesday, January 10, 2012.**

**DECISION NOT TO PROCEED**

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

**NOTICE OF DECISION NOT TO PROCEED**

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 7,  
Article 10, New Section 3380.1 of the General  
Industry Safety Orders

**Employer Duty to Pay for Personal Safety Devices and Safeguards**

Pursuant to Government Code Section 11347, the Occupational Safety and Health Standards Board of the State of California decided not to proceed with Title 8, General Industry Safety Orders, Chapter 4, Subchapter

7, Article 10, New Section 3380.1, Employer Duty to Pay for Personal Safety Devices and Safeguards, (Notice File No. Z-2010-1122-02, published December 3, 2010, in the California Notice Register 2010, No. 49-Z, page 2042); and therefore, withdraws this proposed action.

**OAL REGULATORY  
DETERMINATION**

**OFFICE OF ADMINISTRATIVE LAW  
DETERMINATION OF ALLEGED  
UNDERGROUND REGULATION  
(Summary Disposition)**

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

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

**DEPARTMENT OF CORRECTIONS AND  
REHABILITATION**

Date: October 26, 2011  
 To: Timothy Peoples Jr.  
 From: Chapter Two Compliance Unit  
 Subject: **2011 OAL DETERMINATION NO. 22 (S)  
(CTU2011-0901-01)**  
 (Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation section 29.22, titled "PACKAGES," of Operational Procedure 29.

On September 1, 2011, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether section 29.22, titled "PACKAGES," constitutes an underground regulation (Operational Procedure 29.22). The rule is in Operational Procedure 29, dated March 1996, revised February 2010, titled "ADMINISTRATIVE SEGREGATION." Operational Procedure 29.22 concerns a requirement that inmates be disciplinary free for a period of one year

when housed in the Administrative Segregation Unit (ASU) in order to be eligible to receive a package. Operational Procedure 29.22 was issued by the warden at the Salinas Valley State Prison and is attached hereto as Exhibit A.

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,<sup>1</sup> which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).<sup>2</sup> 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 11342.600 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, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (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:

<sup>1</sup>"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.

<sup>2</sup>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.

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

...

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, the rule challenged by your petition was issued by Salinas Valley State Prison and applies solely to the inmates of the Salinas Valley State Prison. Inmates housed at other institutions are governed by those other institutions' criteria for eligibility to receive packages when housed in ASU. Therefore, the rule is a "local rule" and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.<sup>3</sup>

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/  
Debra M. Cornez  
Assistant Chief Counsel/  
Acting Director

/s/  
Elizabeth A. Heidig  
Senior Counsel  
Copy: Matthew Cate  
Tim Lockwood

<sup>3</sup> The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

- (f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) 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 issued 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# 2011-0916-04  
AIR RESOURCES BOARD  
Ocean-Going Vessels 2011

The Air Resources Board adopted the Ocean Going Vessel (OGV) Clean Fuel Regulation in 2008 which requires operators of ocean-going vessels traveling to and from California ports to use less polluting marine distillate fuels instead of heavy fuel oil in their diesel engines and auxiliary boilers while operating within 24 nautical miles of the California coastline. The Air Resources Board in the present rulemaking extends the regulatory boundary further offshore by amending the regulations to include the Southern California offshore islands within the California Baseline and to make other changes to the OGV Clean Fuel Regulation.

Title 13, 17  
California Code of Regulations  
AMEND: 2299.2, 93118.2  
Filed 10/27/2011  
Effective 10/27/2011  
Agency Contact: Amy Whiting (916) 322-6533

File# 2011-0916-02  
BOARD OF EDUCATION  
Parent Empowerment

This rulemaking action implements Senate Bill 4 of the Fifth Extraordinary Session, Chapter 3, Statutes of 2010, which established the Parent Empowerment provisions of the California Education Code. More specifically, the Parent Empowerment regulations establish the procedures by which parents in certain low-performing public schools, and in the "feeder" schools which matriculate into those low-performing schools, may petition for the implementation of specified educational reform interventions described in the federal Elementary and Secondary Education Act. The Parent Empowerment regulations define a number of significant terms, including which schools are eligible for the petition process, and specify the petition process, signature

gathering and verification processes, petition processing and implementation by the Local Education Agency, and the special procedures applicable to petitions which request closure of a subject school and reopening as a charter school, including requests that a school be reopened under a specific charter school operator, charter management organization, or education management organization, and other related provisions.

Title 5  
 California Code of Regulations  
 ADOPT: 4800, 4800.1, 4800.3, 4800.5, 4801, 4802, 4802.05, 4802.1, 4802.2, 4803, 4804, 4805, 4806, 4807, 4808  
 Filed 10/27/2011  
 Effective 11/26/2011  
 Agency Contact: Cynthia Olsen (916) 319-0584

File# 2011-0920-06  
**BUREAU OF AUTOMOTIVE REPAIR  
 STAR Program**

This rulemaking action by the Bureau of Automotive Repair (BAR) establishes inspection-based performance standards and other criteria that existing smog check stations will be required to meet in order to be eligible to test "directed" (likely high-emitting and gross-polluting) vehicles under the STAR program, which will replace the current Gold Shield program on January 1, 2013.

The STAR program is voluntary and based on some criteria currently applied to certified Gold Shield test-and-repair stations, with the addition of new criteria intended to improve the identification of higher-performing stations. Beginning in July 2012, stations will be able to apply for STAR certification using the STAR Station Certification Application form (STAR-1 07/1/2012), which is incorporated by reference. This action identifies short-term statistical measures used to determine STAR program eligibility, as well as long-term measures which BAR will use to invalidate an under-performing station's STAR status. Additionally, these regulations describe the steps BAR will take in evaluating the enforcement history of stations.

Title 16  
 California Code of Regulations  
 ADOPT: 3392.2.1, 3392.3.1, 3392.4, 3392.5.1, 3392.6.1  
 AMEND: 3340.1, 3340.16, 3340.16.5, 3340.41, 3392.1, 3392.2, 3392.3, 3392.5, 3392.6  
 Filed 11/01/2011  
 Effective 11/01/2011  
 Agency Contact: Steven Hall (916) 255-2135

File#2011-0920-01  
**COMMISSION ON PEACE OFFICER STANDARDS  
 AND TRAINING**  
 Triennial Recertification of Academy Instructors

This rulemaking action amends Title 11 section 1009 of the California Code of Regulations to amend the triennial recertification requirement for instructors that teach the Regular Basic Course to a fixed period instead of a period based upon each instructor's anniversary date of their initial completion of the Academy Instructor Certification Course or equivalent process.

Title 11  
 California Code of Regulations  
 AMEND: 1009  
 Filed 11/01/2011  
 Effective 12/01/2011  
 Agency Contact: Patti Kaida (916) 227-4847

File# 2011-0916-03  
**DEPARTMENT OF FOOD AND AGRICULTURE**  
 Citrus Assessment Rates

This File and Print rulemaking amends existing citrus assessment rates pursuant to AB 1795 (Chap. 365, Stats. 2010) allowing the California Citrus Advisory Committee to recommend to the Secretary of Food Agriculture citrus assessment rates.

This action reduces those assessment rates from 8.5 to 6 mills per carton of navel oranges, 3 to 1 mill per carton of lemons, increases rates from 3.5 to 6 mills per carton of Valencia oranges, and reduces rates from 4 to 1 mill per carton of mandarin citrus.

Title 3  
 California Code of Regulations  
 AMEND: 1430.142  
 Filed 10/26/2011  
 Effective 10/01/2011  
 Agency Contact: Steve Patton (916) 445-2180

File# 2011-0927-03  
**DEPARTMENT OF SOCIAL SERVICES**  
 Section 31-502.42 Editorial Correction

This Section 100 action amends section 31-502 Child Fatality Reporting and Disclosure Requirements of the Manual of Policies and Procedures (MPP) by conforming to the requirements of Welfare and Institutions Code section 10850.4 governing redacting of confidential information prior to disclosure.

Title MPP  
 California Code of Regulations  
 AMEND: 31-502.42  
 Filed 10/31/2011  
 Agency Contact: Zaid Dominguez (916) 651-8267

File# 2011-0927-05  
FAIR POLITICAL PRACTICES COMMISSION  
Termination and Reopening of Committees

In this regulatory action, the Commission amended section 18404.1 dealing with the termination and reopening of committees. OAL's review of FPPC proposed regulations is limited to the provisions of the Administrative Procedure Act as it was enacted on June 4, 1974, when voters adopted the California Political Reform Act. (Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer, (April 27, 1992, C010924 [nonpub. opn.]).) As such, OAL's review is limited to determining if the proposed regulations comply with "the form and style prescribed by the Secretary of State. If the department approves the regulation or order of repeal for filing, it shall endorse on the certified copy thereof its approval for filing and shall transmit such copy to the Secretary of State." (Former Gov. Code, sec. 11380.2, repealed by Stats. 1979, ch. 467, § 2.)

Title 2  
California Code of Regulations  
AMEND: 18404.1  
Filed 10/27/2011  
Effective 11/26/2011  
Agency Contact:  
Virginia Latteri-Lopez (916) 324-3854

File# 2011-0927-04  
FAIR POLITICAL PRACTICES COMMISSION  
Definition of Investment

In this regulatory action, the Commission adopted the definition of "Investment" for purposes of Government Code section 82034.

OAL's review of FPPC proposed regulations is limited to the provisions of the APA as it was enacted on June 4, 1974, when voters adopted the California Political Reform Act. (Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer, (April 27, 1992, C010924 [nonpub. opn.]).) As such, OAL's review is limited to determining if the proposed regulations comply with "the form and style prescribed by the Secretary of State. If the department approves the regulation or order of repeal for filing, it shall endorse on the certified copy thereof its approval for filing and shall transmit such copy to the Secretary of State." (Former Gov. Code, section 11380.2, repealed by Stats. 1979, ch. 467, § 2.)

Title 2  
California Code of Regulations  
ADOPT: 18237  
Filed 10/26/2011  
Effective 11/25/2011  
Agency Contact:  
Virginia Latteri-Lopez (916) 324-3854

File# 2011-0920-05  
OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD  
First Aid for Electrical Workers

This File/Print action adopts two regulations and amends two regulations to add federal standards for first-aid requirements for electrical workers to the Construction Safety Orders, Electrical Safety Orders, and General Industry Safety Orders.

Title 8  
California Code of Regulations  
ADOPT: 2320.10, 2940.10  
AMEND: 1512, 3400  
Filed 10/27/2011  
Effective 10/27/2011  
Agency Contact: Marley Hart (916) 274-5721

File# 2011-0923-01  
STATE WATER RESOURCES CONTROL BOARD  
Revised Bacteria Objectives for Waters Designated for REC-1 and LREC-1

This regulatory action updates the bacteria objectives for freshwaters designated for water contact recreation by removing the fecal coliform objectives. This is consistent with the Environmental Protection Agency recommendation pursuant to the Federal Clean Water Act that Escherichia coli replace fecal coliform as an indicator of the presence of pathogens in fresh water.

Title 23  
California Code of Regulations  
AMEND: 3937  
Filed 11/01/2011  
Effective 12/01/2011  
Agency Contact: Nick Martorano (213) 576-6694

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN June 8, 2011 TO  
November 2, 2011**

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

**Title 2**  
10/27/11 AMEND: 18404.1  
10/26/11 ADOPT: 18237  
10/18/11 AMEND: 1859.166.2

**CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 45-Z**

10/17/11 AMEND: 25001  
 10/12/11 AMEND: 59690  
 10/05/11 ADOPT: 649.21  
 09/27/11 ADOPT: 599.506(f) AMEND:  
 599.502(f)  
 09/21/11 AMEND: 1859.90.2  
 09/08/11 AMEND: 1859.2, 1859.82  
 09/07/11 ADOPT: 10000, 10001, 10002, 10003,  
 10004, 10005, 10006, 10007, 10008,  
 10009, 10010, 10011, 10012, 10013,  
 10014, 10015, 10016, 10017, 10018,  
 10019, 10020, 10021, 10022, 10023,  
 10024, 10025, 10026, 10027, 10028,  
 10029, 10030, 10031, 10032, 10033,  
 10034, 10035, 10036, 10037, 10038,  
 10039, 10040, 10041, 10042, 10043,  
 10044, 10045, 10046, 10047, 10048,  
 10049, 10050, 10051, 10052, 10053,  
 10054, 10055, 10056, 10057, 10058,  
 10059, 10060, 10061, 10062, 10063,  
 10064, 10065, 10066  
 09/06/11 AMEND: 29000  
 09/01/11 ADOPT: 58600 REPEAL: 58600  
 09/01/11 AMEND: 54200  
 09/01/11 AMEND: 54600  
 08/08/11 ADOPT: 59700  
 07/27/11 AMEND: 1859.90.2, 1859.81  
 07/15/11 AMEND: 1151, 1153, 1155.500, 1165,  
 1170, 1172.20  
 07/11/11 ADOPT: 21903.5 AMEND: 21903  
 07/11/11 ADOPT: 570.5 AMEND: 571(b)  
 07/06/11 AMEND: 1859.2, 1859.81, 1859.148.2,  
 1859.166.2  
 07/06/11 AMEND: 18360  
 07/05/11 AMEND: 649.3, 649.18, 649.20, 649.24  
 06/30/11 AMEND: 633.9  
 06/21/11 REPEAL: 59152

**Title 3**

10/26/11 AMEND: 1430.142  
 10/19/11 AMEND: 3423(b)  
 10/12/11 AMEND: 3906  
 10/10/11 ADOPT: 3591.25  
 10/10/11 AMEND: 3423(b)  
 09/29/11 AMEND: 3434(b)(8)  
 09/28/11 AMEND: 3425(b)  
 09/19/11 AMEND: 3423(b)  
 09/15/11 AMEND: 3591.2(a)  
 09/07/11 AMEND: 3591.2(a)  
 08/23/11 ADOPT: 6131 AMEND: 6128, 6130  
 08/23/11 ADOPT: 1392.4.1 AMEND: 1392,  
 1392.1, 1392.2, 1392.4, 1392.6,  
 1392.8.1, 1392.9, 1392.11  
 08/03/11 AMEND: 3437(b)  
 07/28/11 REPEAL: 1400.9.1

07/15/11 AMEND: 3434(b)  
 07/15/11 AMEND: 3589  
 07/15/11 REPEAL: 3286  
 07/08/11 AMEND: 3658  
 07/05/11 ADOPT: 3701, 3701.1, 3701.2, 3701.3,  
 3701.4, 3701.5, 3701.6, 3701.7, 3701.8  
 AMEND: 3407  
 06/28/11 AMEND: 3591.15(a)  
 06/27/11 AMEND: 3437(b)  
 06/22/11 AMEND: 3435(b)  
 06/15/11 AMEND: 3437(b)

**Title 4**

10/04/11 AMEND: 1658  
 09/30/11 AMEND: 12100, 12101, 12200.3,  
 12200.5, 12200.6, 12200.9, 12200.10B,  
 12200.14, 12202, 12205.1, 12218,  
 12218.7, 12218.8, 12220.3, 12220.5,  
 12220.6, 12220.14, 12222, 12225.1,  
 12233, 12235, 12238, 12300, 12301.1,  
 12309, 12350, 12354, 12358, 12359,  
 12362, 12400, 12404, 12463, 12464  
 09/28/11 ADOPT: 8035.5  
 09/20/11 AMEND: 12590  
 09/07/11 ADOPT: 1500.1 AMEND: 1498  
 08/16/11 ADOPT: 8078.2 AMEND: 8070, 8072,  
 8073, 8074  
 08/10/11 ADOPT: 10030, 10031, 10032, 10033,  
 10034, 10035, 10036, 10037  
 07/27/11 AMEND: 5064  
 07/21/11 ADOPT: 1844.1  
 07/20/11 AMEND: 4800, 4801, 4802  
 07/20/11 AMEND: 150  
 07/12/11 AMEND: 1606, 1974, 1954.1, 1957,  
 1959, 1976, 1976.8, 1976.9, 1977, 1978,  
 1979, 1979.1  
 07/01/11 ADOPT: 5000, 5010, 5020, 5021, 5030,  
 5031, 5032, 5033, 5034, 5035, 5036,  
 5037, 5038, 5039, 5050, 5051, 5052,  
 5053, 5054, 5060, 5061, 5062, 5063,  
 5064, 5065, 5066, 5080, 5081, 5082,  
 5100, 5101, 5102, 5103, 5104, 5105,  
 5106, 5107, 5120, 5130, 5131, 5132,  
 5133, 5140, 5141, 5142, 5143, 5144,  
 5150, 5151, 5152, 5153, 5154, 5170,  
 5180, 5181, 5182, 5183, 5190, 5191,  
 5192, 5193, 5194, 5200, 5210, 5211,  
 5212, 5220, 5221, 5230, 5231, 5232,  
 5240, 5241, 5250, 5251, 5260, 5265,  
 5266, 5267, 5268, 5269, 5270, 5275,  
 5280, 5281, 5282, 5283, 5290, 5291,  
 5300, 5310, 5311, 5312, 5313, 5314,  
 5315, 5320, 5321, 5330, 5340, 5350,  
 5360, 5361, 5362, 5363, 5369, 5370,  
 5371, 5380, 5400, 5410, 5411, 5420,

**CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 45-Z**

	5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, 5550, 5560, 5570, 5571, 5572, 5573, 5580, 5590	10/17/11	ADOPT: 207.1 AMEND: 201, 202, 203, 207
		09/19/11	AMEND: 15201, 15214, 15251, 15300, 15400.2, 15405, 15430.1, 15478, 15481, 15484
		09/06/11	AMEND: 8608
06/24/11	ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036	08/29/11	AMEND: 1504, 3207
06/21/11	AMEND: 1876	08/10/11	ADOPT: 3302 AMEND: 3308
06/15/11	ADOPT: 340 AMEND: 221, 222, 226, 230, 288, 300 REPEAL: 262	08/05/11	ADOPT: 1603.1 AMEND: 1504, 1600, 1602, 1603
		08/01/11	AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464
<b>Title 5</b>		07/28/11	ADOPT: 6799.1 AMEND: 6755
10/27/11	ADOPT: 4800, 4800.1, 4800.3, 4800.5, 4801, 4802, 4802.05, 4802.1, 4802.2, 4803, 4804, 4805, 4806, 4807, 4808	07/07/11	ADOPT: 1610 (section heading), 1610.1, 1610.2, 1610.3, 1610.4, 1610.5, 1610.6, 1610.7, 1610.8, 1610.9, 1611 (section heading), 1611.1, 1611.2, 1611.3, 1611.4, 1611.5, 1612 (section heading), 1612.1, 1612.2, 1612.3, 1612.4, 1613 (section heading), 1613.1, 1613.2, 1613.3, 1613.4, 1613.5, 1613.6, 1613.7, 1613.8, 1613.9, 1613.10, 1614, 1615 (section heading), 1615.1, 1615.2, 1616 (section heading), 1616.1, 1616.2, 1616.3, 1616.4, 1616.5, 1616.6, 1616.7, 1617 (section heading), 1617.1, 1617.2, 1617.3, 1618 (section heading), 1618.1, 1618.2, 1618.3, 1618.4, 1619 (section heading), 1619.1, 1619.2, 1619.3, 1619.4, 1619.5
10/24/11	ADOPT: 11966.4, 11966.5, 11966.6, 11966.7 AMEND: 11967, 11967.5.1		AMEND: 1694, 2940.7, 6060
10/18/11	ADOPT: 10120.1, 10121	06/27/11	REPEAL: 10119, 10120
09/22/11	ADOPT: 80069.2 AMEND: 80070	06/20/11	AMEND: 10250.1
09/19/11	ADOPT: 30001.5		
09/19/11	ADOPT: 74112, 75020, 75030, 75040, 75050, 75150, 75200, 75210 AMEND: 74110	<b>Title 9</b>	
08/15/11	ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846	10/04/11	ADOPT: 7016.1, 7019.6, 7025.7, 7028.7, 7179.7 AMEND: 7098, 7179.1, 7181.1
08/15/11	ADOPT: 40050.2	08/08/11	ADOPT: 4500, 4510, 4520
08/15/11	ADOPT: 40050.3	<b>Title 10</b>	
08/15/11	AMEND: 40100.1	10/20/11	AMEND: 2222.12
08/15/11	AMEND: 40404	09/26/11	ADOPT: 2785
08/15/11	AMEND: 40405.1	09/26/11	ADOPT: 2830
08/15/11	ADOPT: 40509	09/26/11	ADOPT: 2725.5, 2960, 2961, 2962, 2963 AMEND: 2930
08/15/11	ADOPT: 40513	09/22/11	AMEND: 2318.6, 2353.1
08/15/11	ADOPT: 40514	09/22/11	AMEND: 2318.6, 2353.1, 2354
08/15/11	ADOPT: 40515	08/11/11	AMEND: 2731
08/15/11	ADOPT: 40516	08/01/11	AMEND: 3012.3
08/15/11	ADOPT: 41021	07/27/11	AMEND: 2770.1, 2847.3
08/15/11	ADOPT: 41022	07/25/11	AMEND: 2222.12
08/04/11	ADOPT: 1039.1	07/13/11	AMEND: 210, 221
08/04/11	AMEND: 80047, 80047.1, 80047.2, 80047.3, 80047.4, 80047.5, 80047.6, 80047.7, 80047.8, 80047.9, 80048.6	07/08/11	AMEND: 2699.6707
06/21/11	AMEND: 58771	07/07/11	AMEND: 260.204.9
06/20/11	ADOPT: 80048.9, 80048.9.4 AMEND: 80046.1, 80048.5, 80070.1, 80070.2, 80070.3, 80070.4, 80070.5, 80070.6 REPEAL: 80046, 80070.7, 80070.8		
<b>Title 7</b>			
08/16/11	AMEND: 218		
<b>Title 8</b>			
10/27/11	ADOPT: 2320.10, 2940.10 AMEND: 1512, 3400		
10/17/11	AMEND: 230.1(a)		

**CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 45-Z**

06/30/11	AMEND: 2699.6700, 2699.6709, 2699.6721, 2699.6725	07/14/11	AMEND: 791, 791.7, 792, 793, 794, 795, 796 REPEAL: 791.5
<b>Title 11</b>		07/12/11	ADOPT: 749.6
11/01/11	AMEND: 1009	07/08/11	ADOPT: 708.1, 708.2, 708.3, 708.4, 708.5, 708.6, 708.7, 708.8, 708.9, 708.10, 708.11, 708.12, 708.13, 708.14, 708.15, 708.16, 708.17 AMEND: 360, 361, 362, 363, 364, 365, 366, 353, 354, 478.1, 702, 711 REPEAL: 708
10/25/11	AMEND: 1005, 1007, 1008	06/21/11	AMEND: 7.50
10/07/11	ADOPT: 999.24, 999.25, 999.26, 999.27, 999.28, 999.29 AMEND: 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, 999.22	06/16/11	AMEND: 7.00, 7.50
10/06/11	AMEND: 30.14	06/13/11	AMEND: 632
10/06/11	ADOPT: 30.16	06/09/11	AMEND: 27.20, 27.25, 27.30, 27.32 (renumbered to 27.35), 27.35 (renumbered to 27.40), 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 52.10, 150.16 REPEAL: 27.40, 28.51, 28.52, 28.53, 28.57
09/28/11	AMEND: 1081	<b>Title 15</b>	
09/28/11	AMEND: 1005	10/25/11	ADOPT: 2240
09/02/11	ADOPT: 101.2	10/06/11	REPEAL: 3999.7
09/02/11	AMEND: 101.1	09/27/11	ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323
<b>Title 13</b>		08/16/11	ADOPT: 3769, 3769.1, 3769.2, 3769.3, 3769.4, 3769.5, 3769.6
10/07/11	ADOPT: 345.03, 345.75, 345.76, 345.77	08/03/11	AMEND: 3000
09/15/11	AMEND: 2190	07/28/11	ADOPT: 3084.8, 3084.9, 3086 AMEND: 3000, 3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5, 3084.6, 3084.7, 3137, 3173.1, 3179, 3193, 3220.4, 3482, 3630, 3723 REPEAL: 3085
08/23/11	ADOPT: 345.00 AMEND: 345.02, 345.04, 345.15, 345.18, 345.20, 345.22, 345.23, 345.26	07/19/11	AMEND: 3090, 3176.4, 3315, 3323
08/16/11	AMEND: 1800	07/07/11	ADOPT: 3076.4, 3076.5 AMEND: 3076, 3076.1, 3076.2, 3076.3
07/06/11	ADOPT: 1231.2 AMEND: 1200, 1201, 1217, 1221, 1222, 1232	06/27/11	AMEND: 3140
07/01/11	AMEND: 156.00, 156.01	06/20/11	ADOPT: 8007, 8008 AMEND: 8000
<b>Title 13, 17</b>		06/15/11	ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000
10/27/11	AMEND: 2299.2, 93118.2	06/15/11	ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000
06/20/11	AMEND: Title 13: 2299.5 and Title 17: 93118.5	06/14/11	AMEND: 3000, 3045.3, 3123, 3134, 3250.4, 3269.1, 3274, 3383, 3482
<b>Title 14</b>		<b>Title 16</b>	
10/05/11	AMEND: 913.4, 933.4, 953.4, 959.15 REPEAL: 939.15	11/01/11	ADOPT: 3392.2.1, 3392.3.1, 3392.4, 3392.5.1, 3392.6.1 AMEND: 3340.1, 3340.16, 3340.16.5, 3340.41, 3392.1, 3392.2, 3392.3, 3392.5, 3392.6
10/05/11	AMEND: 913.4, 933.4, 953.4, 959.15 REPEAL: 939.15	10/25/11	REPEAL: 929
10/04/11	AMEND: 29.15	10/17/11	AMEND: 2300, 2302, 2303, 2304, 2311, 2315, 2320, 2321, 2322, 2324, 2326, 2326.1, 2327, 2328, 2328.1, 2329, 2330, 2331, 2332, 2336, 2337, 2338, 2339,
09/28/11	AMEND: 11900		
09/22/11	AMEND: 565, 565.4, 566, 566.1, 569, 570, 571, 572, 573, 576, 583, 593, 598.60, 599		
09/22/11	AMEND: 7.50(b)(1.5), 27.65, 29.80		
09/16/11	AMEND: 11900, 11970		
09/08/11	AMEND: 300, 311		
08/30/11	ADOPT: 3550.16		
08/29/11	AMEND: 502		
08/08/11	ADOPT: 1052.5 AMEND: 895, 916.9, 936.6, 956.9, 1052, 1052.1, 1052.2		
08/03/11	ADOPT: 1051.3, 1051.4, 1051.5, 1051.6, 1051.7 AMEND: 895		
07/22/11	AMEND: 852.60.2, 852.60.3, 852.60.4, 852.61.1, 852.61.2, 852.61.3, 852.61.5, 852.61.6, 852.61.7, 852.61.8, 852.61.9, 852.61.10, 852.61.11, 852.61.12, 852.62.1, 852.62.2, 852.62.3		

**CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 45-Z**

2340, 2351, 2370, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388  
 10/12/11 ADOPT: 1070.6, 1070.7, 1070.8  
 AMEND: 1070, 1070.1, 1070.2, 1071  
 REPEAL: 1071.1  
 10/10/11 AMEND: 2450, 2451  
 10/06/11 ADOPT: 1399.507.5, 1399.523.5,  
 1399.527.5 AMEND: 1399.503,  
 1399.523  
 10/04/11 AMEND: 972  
 09/29/11 AMEND: 1398.26.1  
 09/27/11 ADOPT: 3394.40, 3394.41, 3394.42,  
 3394.43, 3394.44, 3394.45, 3394.46  
 09/22/11 AMEND: 1202, 1203, 1204, 1205, 1208,  
 1208.1, 1210, 1211, 1213, 1214, 1221,  
 1223, 1223.1, 1225, 1229, 1230, 1234,  
 1240, 1241, 1243, 1244, 1245, 1246,  
 1253, 1253.5, 1253.6, 1254, 1256,  
 1258.3, 1267, 1268, 1269, 1271  
 REPEAL: 1280, 1281, 1282, 1283, 1284,  
 1285, 1286, 1287, 1288, 1289, 1290,  
 1291  
 09/22/11 AMEND: 109, 121  
 09/19/11 AMEND: 1715, 1735.2, 1751, 1784  
 09/13/11 AMEND: 3830  
 09/07/11 ADOPT: 319.1  
 09/01/11 AMEND: 1793.5  
 08/31/11 AMEND: 2411, 2414  
 08/24/11 AMEND: 1399.157, 1399.160.3,  
 1399.160.6  
 08/18/11 ADOPT: 1315.50, 1315.53, 1315.55  
 08/18/11 AMEND: 995  
 08/17/11 AMEND: 974  
 08/03/11 AMEND: 999  
 08/01/11 AMEND: 1327  
 07/21/11 AMEND: 1005  
 07/20/11 ADOPT: 4145 AMEND: 4141  
 07/12/11 ADOPT: 1399.547  
 07/01/11 AMEND: 2070, 2071  
 06/14/11 AMEND: 1398.44, 1399, 1399.85

**Title 17**

09/27/11 AMEND: 2505  
 09/23/11 AMEND: 6540  
 09/21/11 AMEND: 56034  
 09/19/11 AMEND: 54342, 57332  
 09/08/11 AMEND: 60201  
 08/29/11 ADOPT: 58883, 58884, 58886, 58887,  
 58888 AMEND: 50604, 54355, 58543  
 06/30/11 AMEND: 2500, 2502, 2505  
 06/30/11 AMEND: 6020, 6035, 6051, 6065, 6070,  
 6075  
 06/17/11 ADOPT: 95356

06/16/11 ADOPT: 95600, 95601, 95602, 95603,  
 95604, 95605, 95606, 95607, 95608,  
 95609, 95610, 95611, 95612  
 06/08/11 ADOPT: 30108.1, 30226 AMEND:  
 30108, 30115, 30125, 30145, 30190,  
 30191, 30192, 30192.1, 30192.2,  
 30192.3, 30192.4, 30192.5, 30192.6,  
 30225, 30257 REPEAL: 30236

**Title 18**

10/10/11 AMEND: 3020, 3301, 4500, 4504, 4507,  
 4508, 4509, 4600, 4609, 4700  
 09/26/11 AMEND: 19591  
 09/26/11 AMEND: 1533.2, 1598  
 09/22/11 ADOPT: 25128.5  
 08/16/11 ADOPT: 1685.5  
 07/20/11 AMEND: 25106.5-11  
 07/08/11 ADOPT: 2558.1  
 06/22/11 AMEND: 1507

**Title 19**

06/30/11 AMEND: 1160.10  
 06/21/11 AMEND: 200, 201, 202, 204, 208, 209,  
 212

**Title 22**

09/29/11 AMEND: 72516, 73518  
 09/22/11 ADOPT: 64419, 64420, 64420.1,  
 64420.2, 64420.3, 64420.4, 64420.5,  
 64420.6, 64420.7 AMEND: 64418,  
 64418.1, 64418.2, 64418.7  
 09/16/11 ADOPT: 2706-8 AMEND: 2706-1,  
 2706-2  
 09/13/11 AMEND: 50605  
 08/23/11 AMEND: 97212, 97213, 97228, 97229,  
 97232, 97240, 97241, 97246, 97248  
 07/21/11 AMEND: 50035.5, 50145, 50179.5,  
 50183, 53845 REPEAL: 50245  
 07/19/11 ADOPT: 64430  
 06/29/11 AMEND: 51008.5  
 06/23/11 ADOPT: 70058, 71054, 72094, 73092,  
 74650, 76138, 76831.1, 78094.1, 79063,  
 79570 AMEND: 70707, 70715, 71507,  
 71515, 72521, 72527, 73519, 73523,  
 74717, 74743, 76521, 76525, 76555,  
 76916, 76918, 78437, 79313, 79799

**Title 22/MPP**

09/29/11 AMEND: 86500, 86501

**Title 23**

11/01/11 AMEND: 3937  
 10/20/11 AMEND: 1062, 1064, 1066  
 10/19/11 ADOPT: 2200.7 AMEND: 2200, 2200.6  
 09/15/11 ADOPT: 3945.2  
 09/08/11 ADOPT: 3929.7

**CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 45-Z**

07/27/11	AMEND: 3939.19	4363.3, 4363.4, 4363.6, 4364, 4369,
07/14/11	ADOPT: 3919.10	4370, 4371, 4372, 4374, 4376, 4379,
07/08/11	ADOPT: 596, 596.1, 596.2, 596.3, 596.4, 596.5	4384, 4385, 4407, 4409, 4420, 4421, 4422, 4423, 4424, 4425, 4426, 4428,
07/05/11	ADOPT: 597, 597.1, 597.2, 597.3, 597.4	4429, 4430, 4431, 4434, 4435, 4436,
06/21/11	ADOPT: 3959.4	4437, 4438, 4439, 4440, 4441, 4442,
06/08/11	ADOPT: 3929.6	4443, 4444, 4445, 4446, 4450, 4451,
06/08/11	AMEND: 3006	4452, 4453, 4455, 4456, 4457, 4458, 4459, 4460, 4461, 4463, 4464, 4465, 4468, 4469, 4470, 4471, 4474, 4475, 4475.2, 4475.5, 4475.7, 4476, 4476.5, 4477, 4478, 4479, 4480, 4481, 4482, 4483, 4484, 4485, 4486, 4492, 4493, 4494, 4496, 4497, 4498, 4498.5, 4500, 4501.7, 4505, 4506, 4517.7, 4535, 4536
<b>Title 25</b>		
09/19/11	ADOPT: 4356.1, 4516.1, 4516.3, 4516.7, 4516.9, 4517.1, 4517.2, 4517.4, 4517.6, 4519.1, 4520, 4520.1, 4520.2, 4521, 4522.1, 4522.2, 4522.3, 4522.4, 4522.5, 4522.6, 4522.7, 4522.8, 4523, 4523.1, 4523.2, 4523.3, 4526 AMEND: 4000, 4004, 4005, 4010.5, 4019, 4350, 4353, 4356, 4358, 4358.3, 4363, 4365, 4368, 4369.5, 4380, 4381, 4383, 4387, 4389, 4391, 4394, 4396, 4397, 4402, 4404, 4414, 4415, 4473, 4495, 4514, 4515, 4516, 4516.5, 4517, 4517.3, 4517.5, 4518, 4519, 4522, 4525, 4527, 4528, 4529, 4530, 4531, 4532, 4533, 4534, 4876 REPEAL: 4354, 4357, 4357.5, 4359, 4360, 4360.2, 4360.4, 4360.6, 4360.7, 4360.8, 4361, 4361.3, 4362.5,	08/02/11 AMEND: 6932
<b>Title 27</b>		
	10/12/11 AMEND: 25703(a)(6)	
	09/26/11 AMEND: 25805	
	09/08/11 AMEND: 27000	
	06/29/11 AMEND: 25805	
<b>Title MPP</b>		
	10/31/11 AMEND: 31-502.42	
	10/24/11 AMEND: 44-111.61	
	07/28/11 AMEND: 63-402.226	