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

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

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

PROPOSED AMENDMENTS TO REGULATION SECTIONS: 1859.2, 1859.73.2, 1859.79.2, 1859.82, 1859.83, 1859.125, 1859.125.1, 1859.145, 1859.163.1, AND 1859.164.2

REGULATION SECTIONS PROPOSED FOR ADOPTION: 1859.71.4 AND 1859.78.1

PROPOSED AMENDMENTS TO THE FOLLOWING FORMS:

Application for Funding, Form SAB 50-04 (Revised 09/04), Referenced in Regulation Section 1859.2

Fund Release Authorization, Form SAB 50-05 (Revised 09/04), Referenced in Regulation Section 1859.2

Application for Joint-Use Funding, Form SAB 50-07 (Revised 09/04), Referenced in Regulation Section 1859.2

Application for Preliminary Apportionment, Form SAB 50-08 (Revised 09/04), Referenced in Regulation Section 1859.2

Application for Charter School Preliminary Apportionment, Form SAB 50-09 (Revised 09/04), Referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to adopt and amend the above-referenced regulation sections, along with

associated forms, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing amendments to eight regulation sections and is adopting two new regulation sections under the authority provided by Sections 17070.35, 17075.15 and 17078.64 of the Education Code. The proposals interpret and make specific reference to Sections 17070.15, 17071.46, 17072.10, 17074.10, 17074.15, 17074.16, 17074.25, 17074.56, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.10, 17078.24, 17078.52, 17078.53, 17078.56, and 100420(c) of the Education Code; and 1771.5, 1771.7(a) and (b) of the Labor Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

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

There are amendments to ten existing regulation sections. These amendments provide clarifying language and non-substantive changes. However, existing Regulation Section 1859.2 provides an additional term that is essential to these regulations.

There are two regulation sections that are being proposed for adoption for purposes of incorporating the provision for the increased funding that is stipulated in Assembly Bill 1506, Chapter 868, Statutes of 2002. They are as follows:

Proposed adoption of Regulation Section 1859.71.4 sets forth a sliding scale and calculation for new construction projects that determines the per-pupil grant increase for the initiation, enforcement, and monitoring of a labor compliance program.

Proposed adoption of Regulation Section 1859.78.1 sets forth a calculation for modernization projects and incorporates the same sliding scale notated in Regulation Section 1859.71.4 that determines the per-pupil grant increase for the initiation, enforcement, and monitoring of a labor compliance program.

Existing Form SAB 50-04 is used when a school district is seeking funding for a new construction or modernization project. The proposed amendments incorporate date specific information validating that a new construction and modernization project is eligible for the increase in the per-pupil grant amount, queries whether the labor compliance program is subject to approval by the Department of Industrial Relations, and provides an additional certification that school districts must acknowledge. There are non-substantive changes also reflected on this Form.

Existing Form SAB 50-05 is used and submitted by school districts in order to release apportioned funds to the appropriate county treasury. The proposed amendment provides an additional certification that school districts must acknowledge. There are non-substantive changes also reflected on this Form.

Existing Form SAB 50-07 is used by school districts to request funding for Joint-Use Projects (Types I and II). The proposed amendment queries whether the labor compliance program is subject to approval by the Department of Industrial Relations, and provides an additional certification that school districts must acknowledge. There are non-substantive changes also reflected on this Form.

Existing Form SAB 50-08 is used by school districts to file for a preliminary apportionment under the Critically Overcrowded Schools Program once the SAB has determined or adjusted the school district's eligibility for new construction funding. The proposed amendment provides an additional certification that school districts must acknowledge.

Existing Form SAB 50-09 is used by school districts and charter schools for purposes of requesting a preliminary apportionment for the new construction of charter school facilities. The proposed amendment provides an additional certification that school districts and charter schools must acknowledge. There are non-substantive changes also reflected on this Form.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

ECONOMIC IMPACT

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

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

EFFECT ON SMALL BUSINESSES

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

SUBMISSION OF COMMENTS, DOCUMENTS, AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than March 14, 2005 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action

or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulation
Coordinator

Mailing Address: Office of Public School
Construction

1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: lisa.jones@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Robert Young, at (916) 445-0083.

ADOPTION OF REGULATIONS

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

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

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

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

1. A copy of the ext of the regulations for which the adoption is proposed in ~~strikeout~~/underline.

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

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

ALTERNATIVES

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

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

PUBLIC MEETING: On **March 17, 2005**, at 10:00 a.m. in the County Administration Center, 1600 Pacific Highway, Room 358, San Diego, California.

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

PUBLIC HEARING: On **March 17, 2005**, following the Public Meeting in the County Administration Center, 1600 Pacific Highway, Room 358, San Diego, California.

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

BUSINESS MEETING: On **March 17, 2005**, following the Public Hearing in the County Administration Center, 1600 Pacific Highway, Room 358, San Diego, California.

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

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

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

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **March 17, 2005**.

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 24
Section 1670
Fall Arrest Free Fall Distance
2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 25
Sections 3649 and 3651(a)
Low Profile Tractors

A description of the proposed changes are as follows:

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 24
Section 1670
Fall Arrest Free Fall Distance

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action is being initiated at the request of the Division of Occupational Safety and Health (Division). The Division submitted a Form 9, Request for New, or Change in Existing Safety Order, dated March 23, 2004, recommending that the maximum free fall distance in Section 1670(b)(11)(B) of the Construction Safety Orders (CSO) for fall arrest systems be amended from 4 feet to 6 feet. CSO Section 1670(b)(11)(B) requires in part that personal fall arrest systems, when stopping a fall, be rigged such that an employee cannot free fall more than 4 feet nor contact any lower level. The Division noted that this 4-foot maximum personal fall arrest free fall distance is inconsistent with the Federal OSHA counterpart standard contained in 29 Code of Federal Regulations (CFR) 1926.502(d)(16)(iii), which permits a maximum free fall of 6 feet, and with other existing Title 8 safety orders. Fall arrest systems outlined in both Section 3648 of Article 24 of the General Industry Safety Orders, and Section 2940.7 of Article 36 in the Electrical Safety Orders, also permit a maximum free fall distance of 6 feet.

The existing 4-foot free fall distance is problematic in that there are situations, depending on where the lanyard can be tied in, whereby an employee must resort to crawling on the working surface in order to maintain this maximum free fall distance because the lanyard is not long enough to allow the employee to stand upright. The Division notes that the more important issues pertaining to a free fall are that the employee does not contact any lower level and that the maximum arresting force on an employee be limited to 1,800 pounds when using a harness. Both of these existing elements are maintained in this proposal.

Section 1670(b)

Existing Section 1670 outlines the specifications for personal fall arrest systems, personal fall restraint systems, and positioning devices required for employees whose work exposes them to falling in excess of 7 1/2 feet from the perimeter of a structure, unprotected sides and ledges, leading edges, through shaftways and openings, sloped roof surfaces steeper than 7:12, or other sloped surfaces steeper than 40 degrees not otherwise adequately protected under the provisions of the Construction Safety Orders.

Subsection (b) specifies the requirements for personal fall arrest systems, and prohibits the use of body belts as part of a personal fall arrest system, except as permitted in subsections (c) and (d). Subparagraph (11)(B) of subsection (b) states that a personal fall arrest system, when stopping a fall, shall be rigged such that an employee can neither free fall more than 4 feet, nor contact any lower level, and where practicable, the anchor end of the lanyard shall be secured at a level not lower than the employee's waist. A revision is proposed to revise the 4 foot free fall distance to 6 feet, consistent with federal counterpart standards contained in 29 CFR 1926.502(d)(16)(iii), and with free fall distances specified elsewhere in Title 8. The proposed amendment will have the effect of enabling employees to have sufficient mobility in those situations where the anchor end of the lanyard cannot be secured at waist level so that they can perform their work. Otherwise, employees have to crawl in order to maintain the 4-foot maximum free fall distance.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does not constitute a "new program or higher level of service of an existing program within the meaning of section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

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

REASONABLE ALTERNATIVES CONSIDERED

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

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

Chapter 4, Subchapter 7, Article 25
Sections 3649 and 3651(a)

Low Profile Tractors

INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action is the result of two separate memorandums to the Occupational Safety and Health Standards Board (Board) from the Division of Occupational Safety and Health (Division), and attached Request for New, Or Change In Existing Safety Orders. The memorandum dated April 21, 2003, requests amendment to the low profile tractor definition in General Industry Safety Order (GISO) section 3649, and the other dated May 1, 2003, pertains to GISO section 3651, agricultural and industrial tractors, specifically amendment to subsection (a) for clarity through the elimination of duplicative language.

The Division stated that a technical, clarifying revision to section 3649 is necessary to indicate to the employer that all of the low profile tractor characteristics specified in the existing standard must be present to be classified as a low profile agricultural tractor. Three of the determining characteristics spelled out in the existing section 3649, low profile tractor definitions, are based on national consensus standard language as specified in part by the American Society of Agricultural Engineers (ASAE) S390.3 JUN01 standard. In reading the ASAE industry-based standard, it is clear to both the Division and Board staff that a low profile tractor is defined by possessing more than one defining characteristic. The existing Title 8, section 3649 definition is not clear as to whether a tractor must possess all four characteristics specified in paragraphs A–D in order to be called a low profile tractor. The proposal would improve clarity by specifying that all four (emphasis added) characteristics must be present in order to confirm the identity of a tractor as being a low profile tractor.

The Division is also proposing amendments to section 3651(a) to reorganize the regulatory text to eliminate duplication in the exception statements by deleting exception No. 1 and combining it with the existing exception No. 2. Board staff and Division agree that this proposed amendment would result in exceptions to the required rollover protective structures (ROPS) use that are clearer and more concise.

Section 3649. Definitions.

This section contains various definitions of terminology used in the regulatory text of Article 25 as they pertain to industrial trucks, tractors, haulage vehicles and earthmoving equipment, specifically definitions

for terms such as but not limited to: agricultural tractor, ASAE, high-lift truck, low profile tractor, etc.

A revision is proposed to the definition for Low Profile Tractor to make it clear that the tractor must possess all four determining characteristics in paragraphs A-D pertaining to clearance, front wheel spacing, etc.

The effect of the proposed amendment will clarify to the employer that for any tractor to be classified as a “low profile tractor,” it must possess all four existing design/functional characteristics specified in the definition.

Section 3651. Agricultural and Industrial Tractors.

This section contains standards pertaining to the use of ROPS on agricultural and industrial tractors and includes exceptions for low profile tractors when they are used in certain situations where the use of ROPS would be infeasible. Additionally, this section contains specifications for the design and installation of ROPS in accordance with specified national consensus standards, ROPS labeling and identification, design of the operator’s station, design of battery, fuel tanks, coolant systems, etc.

A revision is proposed for subsection (a) to delete (a)(1) and amend existing (a)(2) to include language from (a)(1) pertaining to orchards, vineyards and hop yards. Further editorial revisions are proposed to renumber the paragraphs in subsection (a) consistent with existing Title 8 format and to delete the word “which” in existing (a)(2) for replacement by the grammatically correct word “that.”

The effect of the proposed revision will be to eliminate duplicative language in the existing regulatory text contained in subsection (a)(1), thereby rendering subsection (a) clearer and more understandable to the employer with regard to when ROPS are not required on low profile tractors.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

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

REASONABLE ALTERNATIVES CONSIDERED

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

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

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

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than March 11, 2005. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on March 17, 2005, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the

Standards Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

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

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

You can access the Board’s notice and other materials associated with this proposal on the Standards Board’s homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board’s website or by calling the telephone number listed above.

TITLE 8. DIVISION OF WORKERS’ COMPENSATION

**DEPARTMENT OF INDUSTRIAL RELATIONS
NOTICE OF RULEMAKING AFTER
EMERGENCY ADOPTION**

**Workers’ Compensation—Utilization
Review Standards**

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers’ Compensation (hereinafter “Administrative Director”), exercising the authority vested in her by Labor Code sections 59, 133, 4603.5, and 5307.3, has adopted regulations on an emergency basis to implement the provisions of Labor Code sections 4610 and 4604.5, as amended by Senate Bill 228 (Chapter 639, Stats. of 2003, effective January 1, 2004), and Labor Code section 4062 as amended by Senate Bill 899 (Chapter 34, stats. of 2004, effective April 19, 2004). The former section 9792.6 of the California Code of Regulations was repealed effective January 1, 2004, by Senate Bill 228 (Chapter 639, Stats. of 2003, section 49).

The regulations adopted constitute Article 5.5.1 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, sections 9792.6 through 9792.11. The regulations govern utilization review standards. The regulations implement, interpret, and make specific sections 4610 and 4604.5 of the Labor Code.

The emergency regulations listed below became effective on December 13, 2004, and will remain in effect for a period of 120 days from December 13, 2004. The purpose of this rulemaking is to adopt the emergency regulations on a permanent basis.

PROPOSED REGULATORY ACTION

The Department of Industrial Relations, Division of Workers’ Compensation, proposes to adopt Article 5.5.1 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, commencing with Section 9792.6:

- Section 9792.6 Utilization Review Standards—Definitions
- Section 9792.7 Utilization Review Standards—Applicability
- Section 9792.8 Utilization Review Standards—Medically-Based Criteria
- Section 9792.9 Utilization Review Standards—Timeframe, Procedures and Notice Content
- Section 9792.10 Utilization Review Standards—Dispute Resolution
- Section 9792.11 Utilization Review Standards—Penalties

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

Date: March 22, 2005
Time: 10:00 a.m.
Place: Auditorium
The Governor Hiram Johnson
State Office Building
455 Golden Gate Avenue
San Francisco, California 94102

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or any other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Adel Serafino, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 59, 133, 4603.5, 5307.3, 4610, and 4604.5.

Reference is to Labor Code sections 129, 129.5, 4062, 4600, 4600.4, and 4610.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

These regulations are required by a legislative enactment—Senate Bill 899 (Chapter 34, stats. of 2004, effective April 19, 2004). Senate Bill 899 included Labor Code sections 5307.27, requiring the Administrative Director to adopt a medical treatment utilization schedule on or before December 1, 2004, section 4604.5, providing that the medical treatment utilization schedule pursuant to Labor Code section 5307.27 is presumptively correct on the issue of extent and scope of medical treatment, and that until such schedule is adopted the American College of Occupational and Environmental Medicine’s Occupational Medicine Practice Guidelines (ACOEM Practice Guidelines), is presumptively correct on the issue of extent and scope of medical treatment, and section 4610, requiring employers to establish and maintain a utilization review process.

Labor Code section 5307.27 provides that on or before December 1, 2004, the Administrative Director, in consultation with the Commission on Health and Safety and Workers’ Compensation, shall adopt, after public hearings, a medical treatment utilization schedule. The utilization schedule shall address, at a minimum, the frequency, duration, intensity, and appropriateness of all treatment procedures and modalities commonly performed in workers’ compensation cases.

Labor Code section 4610 requires employers to establish and maintain a utilization review process, effective January 1, 2004, consistent with the utilization schedule developed by the Administrative Director pursuant to section 5307.27, and prior to the adoption of that schedule, consistent with the ACOEM Practice Guidelines.

Labor Code section 4604.5 provides that upon adoption by the Administrative Director of a medical treatment utilization schedule, pursuant to section 5307.27, the recommended guidelines set forth in that schedule shall be presumptively correct on the issue of extent and scope of medical treatment until the

effective date of the utilization schedule adopted pursuant to section 5307.27. The presumption is rebuttable and may be controverted by a preponderance of the evidence establishing that a variance from the guidelines is reasonably required to cure or relieve the injured worker from the effects of his or her injury.

Labor Code section 4604.5 further provides that prior to the adoption of a utilization schedule by the Administrative Director, and three months after the publication date of the ACOEM Practice Guidelines, the written policies and procedures governing the utilization review process shall be consistent with the recommended standards set forth in the ACOEM Practice Guidelines. The ACOEM Practice Guidelines shall be presumptively correct on the issue of extent and scope of medical treatment until the effective date of the utilization schedule adopted pursuant to section 5307.27. The presumption is rebuttable and may be controverted by a preponderance of the evidence establishing that a variance from the guidelines is reasonably required to cure or relieve the injured worker from the effects of his or her injury. Section 4604.5 further provides that for all conditions or injuries not covered by the ACOEM Practice Guidelines or by the official utilization schedule after adoption pursuant to section 5307.27, authorized treatment shall be in accordance with other evidence-based medical treatment guidelines generally recognized by the national medical community and that are scientifically based.

Labor Code section 4062 provides that if the employee objects to a decision made pursuant to section 4610 to modify, delay, or deny a treatment recommendation, the employee shall notify the employer of the objection in writing within 20 days of receipt of that decision. These time limits may be extended for good cause or by mutual agreement.

The former section 9792.6 of the California Code of Regulations is repealed effective January 1, 2004, by Senate Bill 228 (Chapter 639, Stats. of 2003, section 49).

The proposed regulations define the terms used in the controlling statutes, set forth the applicability of the utilization review process, identify the medically-based criteria required pursuant to the statute, set forth the timeframes, procedures and notice contents required pursuant to the statute, set forth the dispute resolution process, and identify the penalties which may be assessed for violations of the statute.

The described regulations were adopted as emergency regulations, effective December 13, 2004. This rulemaking would make the regulations permanent.

These proposed regulations implement, interpret, and make specific Sections 4610 and 4604.5 of the Labor Code as follows:

1. Section 9792.6 Utilization Review Standards—Definitions

This section provides definitions for the following key terms: “ACOEM Practice Guidelines,” “claims administrator” (*this definition has been amended for clarity*), “concurrent review,” “course of treatment,” “emergency health care services,” “expedited review,” “expert reviewer,” “health care provider,” “medical services,” “prospective review,” “request for authorization,” “retrospective review,” “utilization review plan,” “utilization review process,” and “written.” The definitions are provided to ensure that their meaning, as used in the regulations, will be clear to the public.

2. Section 9792.7 Utilization Review Standards—Applicability

This section sets forth the applicability of the utilization review rules.

(a) This subdivision provides that effective January 1, 2004 every claims administrator shall establish and maintain a utilization review process for treatment rendered on or after January 1, 2004, regardless of date of injury, in compliance with Labor Code section 4610. The subdivision further identifies, as listed below, the information required in the utilization review process as set forth in the utilization review plan.

(1) This subdivision requires the claims administrator to specify in the utilization review plan the name and medical license number of the employed or designated medical director, who holds an unrestricted license to practice medicine in the state of California issued pursuant to section 2050 or section 2450 of the Business and Professions Code.

(2) This subdivision requires the claims administrator to specify in the utilization review plan a description of the process whereby requests for authorization are reviewed, and decisions on such requests are made, and a description of the process for handling expedited reviews.

(3) This subdivision requires the claims administrator to specify in the utilization review plan a description of the specific criteria utilized in the review and throughout the decision-making process, including treatment protocols or standards used in the process. It further requires a description of the personnel and other sources used in the development and review of the criteria, and methods for updating the criteria. It also indicates that prior to and until the Administrative Director adopts a medical treatment utilization schedule pursuant to Labor Code section 5307.27, the written policies and procedures

governing the utilization review process shall be consistent with the recommended standards set forth in the ACOEM Practice Guidelines. It further indicates that the Administrative Director incorporates by reference the ACOEM Practice Guidelines, Second Edition (2004), published by OEM Press, and provides that a copy may be obtained from OEM Press, 8 West Street, Beverly Farms, Massachusetts 01915 (www.oempress.com).

(4) This subdivision requires the claims administrator to specify in the utilization review plan a description of the qualifications and functions of the personnel involved in decision-making and implementation of the utilization review plan.

(b) (1) This subdivision requires the medical director to ensure that the utilization review process is set up in a manner that complies with this Labor Code section 4610 and these implementing regulations.

(2) This subdivision provides that no person, other than a licensed physician who is competent to evaluate the specific clinical issues involved in the medical treatment services, and where these services are within the licensure and scope of the physician’s practice, may, except as indicated below, delay, modify or deny, requests for authorization of medical treatment for reasons of medical necessity to cure or relieve the effects of the industrial injury.

(3) This subdivision provides that a non-physician reviewer may be used to initially apply specified criteria to requests for authorization for medical services. A non-physician reviewer may approve requests for authorization of medical services. It further provides that a non-physician reviewer may discuss applicable criteria with the requesting physician, should the treatment for which authorization is sought appear to be inconsistent with the criteria. In such instances, the physician may voluntarily withdraw a portion or all of the treatment in question and submit an amended request for treatment authorization, and the non-physician reviewer may approve the amended request for treatment authorization. In addition, it provides that a non-physician reviewer may reasonably request appropriate additional information that is necessary to render a decision but in no event shall this exceed the time limitations imposed in section 9792.9 subdivisions (b)(1), (b)(2) or (c). Any time beyond the time specified in these paragraphs is subject to the provisions of subdivision (f)(1)(A) through (f)(1)(C) of section 9792.9.

(c) This subdivision provides that the complete utilization review plan, consisting of the policies and procedures, and a description of the utilization review process, shall be filed by the claims administrator, or by the external utilization review organization contracted by the claims administrator to perform the utilization review, with the Administrative Director.

This subdivision further provides that in lieu of filing the utilization review plan, the claims administrator may submit a letter identifying the external utilization review organization which has been contracted to perform the utilization review functions provided that the utilization review organization has filed a complete utilization review plan with the Administrative Director.

(d) This subdivision provides that upon request by the public, the claims administrator shall make available the complete utilization review plan, consisting of the policies and procedures, and a description of the utilization review process.

(1) This subdivision provides that the claims administrator may make available the complete utilization review plan, consisting of the policies and procedures and a description of the utilization review process, through electronic means. It further provides that if a member of the public requests a hard copy of the utilization review plan, the claims administrator may charge reasonable copying and postage expenses related to disclosing the complete utilization review plan. Such charge shall not exceed \$0.25 per page plus actual postage costs.

3. Section 9792.8 Utilization Review Standards—Medically-Based Criteria

This section sets the medically-based criteria required in the utilization review process which is to be reflected in the utilization review plan.

(a) (1) This subdivision provides that the criteria shall be consistent with the schedule for medical treatment utilization adopted pursuant to Labor Code section 5307.27. Prior to adoption of the schedule, the criteria or guidelines used in the utilization review process shall be consistent with the ACOEM Practice Guidelines. It further provides that the guidelines set forth in the ACOEM Practice Guidelines shall be presumptively correct on the issue of extent and scope of medical treatment until the effective date of the utilization schedule adopted pursuant to Labor Code section 5307.27. The presumption is rebuttable and may be controverted by a preponderance of the evidence establishing that a variance from the guidelines is reasonably required to cure or relieve the injured worker from the effects of his or her injury.

(2) This subdivision provides that for all conditions or injuries not covered by the ACOEM Practice Guidelines or by the official utilization schedule after adoption pursuant to Labor Code section 5307.27, authorized treatment shall be in accordance with other evidence-based medical treatment guidelines that are generally recognized by the national medical community and are scientifically based.

(3) This subdivision provides that the criteria or guidelines used shall be disclosed in written form to the physician, the provider of goods, if any, the injured worker, and if the injured worker is represented by counsel, the injured worker’s attorney, if used as the basis of a decision to modify, delay, or deny services in a specific case under review. The claims administrator may not charge an injured worker, the injured worker’s attorney or the injured worker’s physician or the provider of goods for a copy of the criteria or guidelines used to modify, delay or deny the treatment request.

(A) This subdivision provides that the claims administrator is required to disclose the criteria or guidelines used as the basis of a decision to modify, delay, or deny services for the specific procedure or condition requested in a specified case under review.

(B) This subdivision provides that a written copy of the relevant portion of the criteria or guidelines used shall be enclosed with the written decision to the physician, the provider of goods, if any, the injured worker, and if the injured worker is represented by counsel, the injured worker’s attorney pursuant to section 9792.9, subdivision (i).

4. Section 9792.9 Utilization Review Standards—Timeframe, Procedures and Notice Content

This section sets the timeframe, procedures and notices required in the utilization review process.

(a) This subdivision provides that the request for authorization must be in written form.

(1) This subdivision provides that for purposes of this section, the written request for authorization shall be deemed to have been received by the claims administrator by facsimile on the date the request was transmitted. This subpart further provides that a request for authorization transmitted by facsimile after 5:30 PM Pacific Standard Time shall be deemed to have been received by the claims administrator on the following business day as defined in section 9 of the Civil Code. It also provides that the copy of the request for authorization received by a facsimile transmission shall bear a notation of the date and place of transmission and the facsimile telephone number to which the request was transmitted or be accompanied by an unsigned copy of the affidavit or certificate of transmission which shall contain the facsimile telephone number to which the request was transmitted.

(2) This subdivision provides that where the request for authorization is made by mail, and a proof of service by mail exists, the request shall be deemed to have been received by the claims administrator five (5) days after the deposit in the mail at a facility regularly maintained by the United States Postal Service. It further provides that where the request for

authorization is delivered via certified mail, return receipt mail, the request shall be deemed to have been received by the claims administrator on the receipt date entered on the return receipt. In the absence of a proof of service by mail or a dated return receipt, the request shall be deemed to have been received by the claims administrator on the date stamped as received on the document.

(b) This subdivision provides that the utilization review process shall meet the following timeframe requirements:

(1) This subdivision provides that prospective or concurrent decisions shall be made in a timely fashion that is appropriate for the nature of the injured worker's condition, not to exceed five (5) working days from the receipt of the written request for authorization.

(2) This subdivision provides that if appropriate information which is necessary to render a decision is not provided with the original request for authorization, such information may be requested within five (5) working days from the date of receipt of the written request for authorization to make the proper determination. In no event shall the determination be made more than 14 days from the date of the original request for authorization by the health care provider.

(A) This subdivision provides that if the reasonable information requested by the claims administrator is not received within 14 days of the date of the original written request by the provider, the claims administrator may deny the request with the stated condition that the request will be reconsidered upon receipt of the information requested.

(3) This subdivision provides that decisions to approve, modify, delay or deny a physician's request for authorization prior to, or concurrent with, the provision of medical treatment services to the injured worker shall be communicated to the requesting physician within 24 hours of the decision. Any decision to approve, modify, delay or deny a request shall be communicated to the physician initially by telephone or facsimile. The communication by telephone shall be followed by written notice to the physician, the provider of goods, if any, the injured worker, and if the injured worker is represented by counsel, the injured worker's attorney within 24 hours for concurrent review and within two business days for prospective review. For purposes of this section "normal business day" means a business day as defined in section 9 of the Civil Code.

(c) This subdivision provides that when review is retrospective, decisions shall be communicated to the physician who provided the medical services and the provider of goods, if any, the individual who received the medical services, and his or her attorney/designee, within 30 days of receipt of the medical information

that is reasonably necessary to make this determination. It further provides that failure to obtain prior authorization for emergency health care services shall not be an acceptable basis for refusal to cover medical services provided to treat and stabilize an injured worker presenting for emergency health care services.

(d) This subdivision provides that prospective or concurrent decisions related to an expedited review shall be made in a timely fashion appropriate to the injured worker's condition, not to exceed 72 hours after the receipt of the written information reasonably necessary to make the determination. It further provides that the provider must indicate the need for an expedited review upon submission of the request. Decisions related to expedited review refer to the following situations:

(1) This subdivision provides that decisions related to expedited review refer to situations when the injured worker's condition is such that the injured worker faces an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily function.

(2) This subdivision provides that decisions related to expedited review further refer to situations when the normal timeframe for the decision-making process, as described in subdivision (b), would be detrimental to the injured worker's life or health or could jeopardize the injured worker's permanent ability to regain maximum function.

(e) This subdivision provides that the review and decision to deny, delay or modify a request for medical treatment must be conducted by a physician, who is competent to evaluate the specific clinical issues involved in the medical treatment services, and where these services are within the scope of the physician's practice.

(f) (1) This subdivision provides that the timeframe for decisions specified in subdivisions (b)(1), (b)(2) or (c) may only be extended by the claims administrator under the following circumstances:

(A) This subdivision provides that the timeframes specified in subdivisions (b)(1), (b)(2) or (c) of this section may be extended when the claims administrator is not in receipt of all of the necessary medical information reasonably requested.

(B) This subdivision provides that the timeframes specified in subdivisions (b)(1), (b)(2) or (c) may also be extended when the physician reviewer has asked that an additional examination or test be performed upon the injured worker that is reasonable and consistent with professionally recognized standards of medical practice.

(C) This subpart provides that the timeframes specified in subdivisions (b)(1), (b)(2) or (c) may further be extended when the claims administrator

needs a specialized consultation and review of medical information by an expert reviewer.

(2) This subdivision provides that if subdivisions (A), (B) or (C) above apply, the claims administrator shall immediately notify the physician, the provider of goods, if any, the injured worker, and if the injured worker is represented by counsel, the injured worker's attorney, in writing, that the claims administrator cannot make a decision within the required timeframe, and specify the information requested but not received, the additional examinations or tests required, or the expert reviewer consulted. The claims administrator shall also notify the physician, the provider of goods, if any, the injured worker, and if the injured worker is represented by counsel, the injured worker's attorney, of the anticipated date on which a decision will be rendered. This subdivision further provides that this notice shall include a statement that if the injured worker believes that a bona fide dispute exists relating to his or her entitlement to medical treatment, the injured worker or the injured worker's attorney may file an Application for Adjudication of Claim and Request for Expedited Hearing, DWC Form 4, in accordance with section 10136, subdivision (b)(1).

(3) This subdivision provides that upon receipt of information pursuant to subdivisions (A), (B), or (C) above, the claims administrator shall make the decision to approve, modify, or deny the request for authorization within five (5) days of receipt of the information for prospective or concurrent review. The decision shall be communicated pursuant to subdivision (b)(3).

(4) This subdivision provides that upon receipt of information pursuant to subdivisions (A), (B), or (C) above, the claims administrator shall make the decision to approve, modify, or deny the request for authorization within thirty (30) days of receipt of the information for retrospective review.

(g) This subdivision provides that every claims administrator shall maintain telephone access from 9:00 AM to 5:30 PM Pacific Standard Time, on normal business days, for health care providers to request authorization for medical services. It further provides that every claims administrator shall have a facsimile number available for physicians to request authorization for medical services. It also provides that every claims administrator shall maintain a process to receive communications from health care providers requesting authorization for medical services after business hours, and that for purposes of this section "normal business day" means a business day as defined in section 9 of the Civil Code. In addition, it provides that for purposes of this section the requirement that the claims administrator maintain a process to receive communications from providers

after business hours shall be satisfied by maintaining a voice mail system or a facsimile number for after business hours requests.

(h) This subdivision provides that a written decision approving a request for treatment authorization under this section must specify the specific medical treatment service approved.

(i) This subdivision provides that a written decision modifying, delaying or denying treatment authorization under this section shall be provided to the physician, the provider of goods, if any, the injured worker, and if the injured worker is represented by counsel, the injured worker's attorney, and shall contain the following information:

(1) The date on which the decision is made.

(2) A description of the specific course of proposed medical treatment for which authorization was requested.

(3) A specific description of the medical treatment service approved, if any.

(4) A clear and concise explanation of the reasons for the claims administrator's decision.

(5) A description of the medical criteria or guidelines used pursuant to section 9792.8, subdivision (a)(3)(B).

(6) The clinical reasons regarding medical necessity.

(7) A clear statement that any dispute shall be resolved in accordance with the provisions of Labor Code section 4062, and that an objection to the utilization review decision must be communicated by the injured worker or the injured worker's attorney on behalf of the injured worker to the claims administrator in writing within 20 days of receipt of the decision. It shall further state that the 20-day time limit may be extended for good cause or by mutual agreement of the parties. The letter shall further state that the injured worker may file an Application for Adjudication of Claim and Request for Expedited Hearing, DWC Form 4, showing a bona fide dispute as to entitlement to medical treatment in accordance with section 10136, subdivision (b)(1).

(8) Include the following mandatory language:

"If you want further information, you may contact the local state Information and Assistance office by calling [enter district I & A office telephone number closest to the injured worker] or you may receive recorded information by calling 1-800-736-7401.

"You may also consult an attorney of your choice. Should you decide to be represented by an attorney, you may or may not receive a larger award, but, unless you are determined to be ineligible for an award, the attorney's fee will be deducted from any award you might receive for disability benefits. The

decision to be represented by an attorney is yours to make, but it is voluntary and may not be necessary for you to receive your benefits.”

(9) Details about the claims administrator’s internal utilization review appeals process, if any, and a clear statement that the appeals process is on a voluntary basis, including the following mandatory statement:

“If you disagree with the utilization review decision and wish to dispute it, you must send written notice of your objection to the claims administrator within 20 days of receipt of the utilization review decision in accordance with Labor Code section 4062. You must meet this deadline even if you are participating in the claims administrator’s internal utilization review appeals process.”

(j) This subdivision provides that a written decision modifying, delaying or denying treatment authorization provided to the physician shall also contain the name of the physician reviewer, the specialty of the reviewer, the telephone number of the reviewer, and hours of availability.

(k) This subdivision provides that authorization may not be denied on the basis of lack of information without documentation reflecting an attempt to obtain the necessary information from the physician or from the provider of goods either by facsimile or mail.

5. Section 9792.10 Utilization Review Standards—Dispute Resolution

This section sets forth the dispute resolution process applicable to utilization review decisions.

(a) (1) This subdivision provides that if the request for authorization of medical treatment is not approved, or if the request for authorization for medical treatment is approved in part, any dispute shall be resolved in accordance with Labor Code section 4062.

(2) This subdivision provides that an objection to a decision disapproving in whole or in part a request for authorization of medical treatment, must be communicated to the claims administrator by the injured worker or the injured worker’s attorney in writing within 20 days of receipt of the utilization review decision. The 20-day time limit may be extended for good cause or by mutual agreement of the parties.

(3) This subdivision provides that nothing in this paragraph precludes the parties from participating in an internal utilization review appeal process on a voluntary basis provided the injured worker and, if represented by counsel, the injured worker’s attorney have been notified of the 20-day time limit to file an objection to the utilization review decision in accordance with Labor Code section 4062.

(4) This subdivision provides that the injured worker or the injured worker’s attorney may also file an Application for Adjudication of Claim, and a Request for Expedited Hearing, DWC Form 4, and request an expedited hearing and decision on his or her entitlement to medical treatment if the request for medical treatment is not authorized within the time limitations set forth in section 9792.9, or when there exists a bona fide dispute as to entitlement to medical treatment.

(b) This subdivision provides that the following requirements must be met prior to a concurrent review decision to deny authorization for medical treatment and to resolve disputes:

(1) In the case of concurrent review, medical care shall not be discontinued until the injured worker’s physician and provider of goods, if any, has been notified of the decision and a care plan has been agreed upon by the physician that is appropriate for the medical needs of the injured worker.

(2) Medical care provided during a concurrent review shall be medical treatment that is reasonably required to cure or relieve from the effects of the industrial injury.

6. Section 9792.11 Utilization Review Standards—Penalties

This section sets forth the penalties applicable in the utilization review process.

(a) This subdivision is reserved for a Labor Code section 4610 penalty rule.

(b) This subdivision provides that the Administrative Director, or his or her delege, may use the audit powers pursuant to Labor Code sections 129 and 129.5 to assess administrative and civil penalties for violations of this Article.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Adoption of this regulation will not: (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- Cost impacts on representative private person or business: The Administrative Director has determined that the proposed regulations will not have a significant adverse economic impact on representa-

tive private persons or directly affected businesses. These representative private persons or directly affected businesses are up to 10,000 businesses. All California employers will be required to establish and maintain a utilization review process through their claims administrator. Many of these employers have some type of utilization review process in place. A small number of these businesses who do not have a utilization review process in place or employers who need to update their utilization review process could experience a minor impact.

- There will be some small costs related to revising and updating computer systems in connection with the utilization review process/plan, and purchase of the ACOEM Practice Guidelines at the cost of \$195.00 per book.

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: None.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The potential costs imposed on all public agency employers by these proposed regulations, although not a benefit level increase, are not a new State mandate because the regulations apply to all employers, both public and private, and not uniquely to local governments. The Administrative Director has determined that the proposed regulations will not impose any new mandated programs on any local agency or school district. The California Supreme Court has determined that an increase in workers' compensation benefit levels does not constitute a new State mandate for the purpose of local mandate claims because the increase does not impose unique requirements on local governments. See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46. The potential costs imposed on all public agency employers and payors by these proposed regulations, although not a benefit level increase, are similarly not a new State mandate because the regulations apply to all employers and payors, both public and private, and not uniquely to local governments.
- 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: None. (See "Local Mandate" section above.)
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed regulation does not apply to any local agency or school district. (See "Local Mandate" section above.)

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations will result in small initial costs to small businesses if they do not have a utilization review process in place already. These small businesses will have to develop their own utilization review process pursuant to the regulations or contract with an external utilization review organization. These small businesses may also have some costs related to revising and updating computer systems in connection with the utilization review process/plan, and may have to purchase the ACOEM Practice Guidelines at the cost of \$195.00/each.

CONSIDERATION OF ALTERNATIVES

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

The Administrative Director invites interested persons to present reasonable alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATION

Public discussion of the proposed regulations pursuant to Government Code section 11346.45 is not required to implement the proposed regulations because the issue addressed is not so complex that it cannot easily be reviewed during the comment period. The Administrative Director, however, prior to the emergency adoption of the regulations, held several stakeholder meetings to which the public was invited, at which proposed regulations were discussed, and at which a representative group of interested parties was present.

In addition, the text of the proposed regulations was made available for three pre-adoption public comment periods through the Division's Internet message board (the DWC Forum).

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulation have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below or a copy will be provided upon written request.

In addition, this Notice, the Initial Statement of Reasons, and the text of regulations may be accessed and downloaded from the Department of Industrial Relations' Internet site at www.dir.ca.gov under the heading "Rulemaking-proposed regulations." Any subsequent changes in regulation text, and the Final Statement of Reasons will be available at that Internet site when made.

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present oral and/or written statements, arguments or evidence at the public hearing. If you provide a written comment, it will not be necessary to present your comment as oral testimony at the public hearing.

Any person may submit written comments on the proposed regulation, prior to the public hearing to:

Ms. Kathleen Llemos
Division of Workers' Compensation—9th Floor
Post Office Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (415) 703-4720. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@hq.dir.ca.gov

Unless submitted prior to or at the public hearing, all written comments must be received by the agency contact person, no later than 5:00 p.m. on **March 22, 2005**. Equal weight will be accorded to oral and written materials.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

Due to the inherent risks of non-delivery by facsimile transmission and email transmission, the Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission or email transmission also be submitted by regular mail.

Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.

AVAILABILITY OF RULEMAKING FILE AND LOCATION WHERE RULEMAKING FILE MAY BE INSPECTED

Any interested person may inspect a copy or direct questions about the proposed regulation, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file.

The rulemaking file, including the Initial Statement of Reasons, the complete text of the proposed regulation and any documents relied upon in this

rulemaking may be inspected during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, excluding public holidays) at the following location:

Division of Workers' Compensation
455 Golden Gate Avenue, Ninth Floor
San Francisco, California 94102

AVAILABILITY OF RULEMAKING DOCUMENTS ON THE INTERNET

Documents concerning this proceeding are available on the Division's website: www.dir.ca.gov. To access them, click on the "Proposed Regulations—Rulemaking" link and scroll down the list of rulemaking proceedings to find the "Utilization Review Standards" rulemaking link.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulation, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be directed to the contact person. The contact person is:

Ms. Kathleen Llemos
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The telephone number of the contact person is (415) 703-4600.

BACK-UP CONTACT PERSON / CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

To obtain responses to questions regarding the substance of the proposed regulation, or in the event the contact person is unavailable, inquiries should be directed to: Minerva Krohn, Industrial Relations Counsel, at the same address and telephone number as noted above for the contact person.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulation as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulation is adopted. The modified text will be made available on the Division's website: www.dir.ca.gov and may be located by following the direction provided above.

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 Division's website: www.dir.ca.gov by following the directions provided above.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted on a permanent basis, the proposed regulation will remain in effect at Title 8, California Code of Regulations, sections 9792.6 through 9792.11.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

**CESA CONSISTENCY DETERMINATION FOR
Pajaro Valley Water Management
Agency Projects
Santa Cruz, Santa Clara, Monterey, and
San Benito Counties**

The Department of Fish and Game ("Department") received notice on January 14, 2005 that the Pajaro Valley Water Management Agency (PVWMA) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the construction of a 23-mile long Import Pipeline, construction of a water recycling facility, and construction of an Integrated Coastal Distribution System. The project will result in impacts to approximately 17.7 acres of grassland habitat and 1.6 acres of riparian habitat.

The U.S. Fish and Wildlife Service issued a biological opinion (1-8-03-F-44) to the Bureau of Reclamation on March 19, 2004 which considers the federally and state endangered least Bell's vireo (*Vireo bellii pusillus*) and Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), and the federally endangered and state threatened San Joaquin kit fox (*Vulpes macrotis mutica*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, PVWMA is requesting a determination that the federal biological opinion 1-8-03-F-44 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, PVWMA will not be required to obtain an incidental take permit under CESA for the proposed project.

DEPARTMENT OF FISH AND GAME

**PROPOSED RESEARCH ON
FULLY PROTECTED SPECIES
Monitoring and Research of
Santa Cruz Long-Toed Salamander**

The Department of Fish and Game ("Department") received a proposal on August 15, 2004, from Mr. Wesley K. Savage, from the University of California at Davis, requesting authorization to take Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), a Fully Protected amphibian, for research purposes, consistent with the protection and recovery of the species.

The applicant is required to have a Scientific Collecting Permit (SCP) to take a protected species of amphibian. Permit conditions require that the holder of an SCP obtain special authorization from the Department for research on Fully Protected species.

With cooperation from the U.S. Fish and Wildlife Service, Mr. Savage is planning to evaluate population structure across all known breeding sites of the Santa Cruz long-toed salamander in southern Santa Cruz and northern Monterey Counties. This will include collecting non-invasive and non-lethal tissue samples from larval, juvenile, and adult long-toed salamanders. Tissue sampling techniques that Mr. Savage is proposing are commonplace in the field of population genetics, and no adverse effects on individuals or populations have ever been documented. The proposed project will use these tissue samples to extract genomic DNA and then use microsatellite genetic markers that Mr. Savage developed for this species to genotype individuals across all populations.

Another goal of the project is to examine the movement and dispersal of individuals between/among breeding sites, and highlight both historical and more recent movement. There have been no population genetic studies that have examined the breeding populations of Santa Cruz long-toed salamanders, hence we do not know anything about their population genetic status, such as if they are genetically isolated from one another or if there is exchange of individuals and alleles among the sites. Given that there has been severe habitat degradation and many breeding populations are spatially fragmented, effective management efforts and species recovery requires an evaluation of population genetic structure within all populations.

Genotypic data are essential to the recovery plan of this species because it will identify if there are any isolated subpopulations (lacking genetic exchange among sites), but also if/where dispersal and gene flow readily occur(s). In the overall management and recovery of SCLTS, genetic data will facilitate our

understanding of the habitat requirements and habits of the species, and potential areas where subpopulations may be in need of greater attention for protection and recovery, such as if genetic information suggests reduced genetic variation at most genetic loci.

The SCLTS recovery plan and effective habitat conservation planning measures depend on determining if populations are subdivided from each other, as well as estimating rates of interpond migration. At the very least, microsatellite genotyping will evaluate the spatial structure of genes and alleles for each breeding population, and this will contribute to an overall assessment of SCLTS population status and spatial heterogeneity

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize the applicant, as the Principal Investigator, to carry out the proposed activities. As these amphibians are also a federally endangered species, applicants are required to possess a valid Federal Threatened and Endangered Species permit.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected Amphibian after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected amphibian, it would issue the authorization on or after March 1, 2005, for a term of three years. Contact: Habitat Conservation Planning Branch, 1416 Ninth Street, Sacramento, CA 95814, Attn.: Betsy Bolster.

DECISION NOT TO PROCEED

**COMMISSION ON
TEACHER CREDENTIALING**

**NOTICE OF DECISION NOT TO PROCEED
WITH RULEMAKING ACTION**

Pursuant to Government Code Section 11347, the California Commission on Teacher Credentialing has decided not to proceed with the amendment of Section 80049 and deletion of Sections 80632, 80632.1, 80632.2, 80632.3, 80632.4, and 80632.5, pertaining to Pupil Personnel Services.

This notice of proposed rulemaking was published in the California Regulatory Notice Register on October 17, 2003, Notice File No. Z-03-1007-01.

**PRECEDENTIAL DECISION
INDEX**

DEPARTMENT OF INSURANCE

CALIFORNIA INSURANCE COMMISSIONER

**NOTICE OF AVAILABILITY OF PRECEDENTIAL
DECISIONS AND DECISION INDEX**

Re: Government Code section 11425.60

NOTICE IS HEREBY GIVEN that the California Insurance Commissioner, pursuant to the requirements of section 11425.60 of the Government Code, maintains an index of precedent decisions. The index is available to the public by annual subscription from the Administrative Hearing Bureau, Department of Insurance, 45 Fremont St., 22nd Floor, San Francisco, California 94105. The text of the decisions themselves, as well as the index, can also be viewed by appointment at the above address or accessed at any time on the internet at <http://www.insurance.ca.gov>, under the "Legal Materials" section.

PROPOSITION 65

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

NOTICE TO INTERESTED PARTIES

**NOTICE OF A PUBLIC HEARING FOR
COMMENT ON A REQUEST FOR A SAFE USE
DETERMINATION FOR A HAND-TO-MOUTH
TRANSFER FACTOR FOR LEAD**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). OEHHA has received a request from the Sports Fishing Coalition that OEHHA grant a safe use determination for a hand-to-mouth transfer factor for lead. The request for a lead transfer factor is confined to lead transferred to the mouth from the hand, which has handled fishing tackle products containing lead. The fishing tackle products may be made of metal alloys or plastics or products with

painted or metal alloy surfaces. The request is made pursuant to Section 12204 of Title 22 of the California Code of Regulations ¹. In accordance with the process set forth in Section 12204(f), a public hearing will be convened on **Wednesday, March 23, 2005**, in the Byron Sher Auditorium, California Environmental Protection Agency Building, 1001 I Street, 2nd Floor, Sacramento, California, as an opportunity for comment on this request for a safe use determination. The hearing will begin at 10:00 a.m. and will end when all business is conducted or 5:00 p.m.

Written comments provided in **triplicate**, along with supporting information, may be submitted to:

Ms. Cynthia Oshita
 Office of Environmental Health
 Hazard Assessment
 Street Address: 1001 I Street
 Sacramento, California 95814
 Mailing Address: P.O. Box 4010
 Sacramento, California 95812-4010
 Fax No.: (916) 323-8803
 Telephone: (916) 445-6900

Comments may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: coshita@oehha.ca.gov. In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered, sent by FAX, or transmitted electronically) by 5:00 p.m. on Wednesday, March 23, 2005.

<p>SUMMARY OF REGULATORY ACTIONS</p>

REGULATIONS FILED WITH SECRETARY OF STATE

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

BOARD OF EQUALIZATION
 Seeds, Plants and Fertilizer

This nonsubstantive action concerns tax exemptions for seeds, plants, and fertilizers and conforms regulations to Revenue and Taxation Code section 6358.

Title 16
 California Code of Regulations
 AMEND: 1588
 Filed 01/13/05
 Effective 01/13/05
 Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF EQUALIZATION
 Containers and Labels

This is a nonsubstantive action concerning tax exemptions for containers and labels and conforms regulations to Revenue and Taxation Code section 6364.

Title 18
 California Code of Regulations
 AMEND: 1589
 Filed 01/13/05
 Effective 01/13/05
 Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF EQUALIZATION
 Aircraft Common Carriers

This action updates the regulation that specifies the partial exemption from Bradley-Burns uniform local sales and use tax for gross receipts from the sale of tangible personal property to common carrier operators of aircraft for use outside the county of sale, and the form for the exemption certificate used to claim the exemption.

Title 18
 California Code of Regulations
 AMEND: 1805
 Filed 01/12/05
 Effective 01/12/05
 Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF EQUALIZATION
 Aircraft Common Carriers

This action updates the regulation that specifies the exemption from district transactions (sales) and use tax for gross receipts from the sale of tangible personal property to common carrier operators of aircraft for use outside the county of sale, and the form for the exemption certificate used to claim the exemption.

Title 18
 California Code of Regulations
 AMEND: 1825
 Filed 01/13/05
 Effective 01/13/05
 Agency Contact: Diane G. Olson (916) 322-9569

DEPARTMENT OF FOOD AND AGRICULTURE
 Oak Mortality Disease Control

This emergency regulatory action amends the existing oak mortality disease control regulation by adding heather, false Solomon's seal, and Fraser's

¹ All further references to regulation are to Title 22 of the California Code of Regulations unless otherwise noted.

photinia to the list of plant hosts and adds European ash, Roble beach, and willowood viburnum to the list of associated articles (nursery stock).

Title 3
California Code of Regulations
AMEND: 3700(c)
Filed 01/14/05
Effective 01/14/05
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE
Hydrilla Eradication Area

In this Certificate of Compliance regulatory action, the Department of Food and Agriculture amends its regulation pertaining to Hydrilla eradication to include Nevada County as an eradication area.

Title 3
California Code of Regulations
AMEND: 3962(a)
Filed 01/13/05
Effective 01/13/05
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF HEALTH SERVICES
Medical Laboratory Technician Licensing Standards

This emergency regulatory action adopts the licensing standards for Medical Laboratory Technicians.

Title 17
California Code of Regulations
ADOPT: 1029.117, 1029.134, 1031.8, 1031.9, 1032.5, 1035.3, 1035.4
Filed 01/13/05
Effective 01/13/05
Agency Contact:
Charles E. Smith (916) 440-7690

DEPARTMENT OF INSURANCE
California Low Cost Automobile Insurance Program

This rulemaking action applies computer-based technologies to streamline the application process for producers and consumers eligible for the low cost automobile insurance pilot programs for the County of Los Angeles and the City and County of San Francisco within the California Automobile Assigned Risk Plan.

Title 10
California Code of Regulations
AMEND: 2498.6
Filed 01/14/05
Effective 02/13/05
Agency Contact:
Mary Ann Shulman (415) 538-4133

DEPARTMENT OF JUSTICE
Certified Handgun Retesting

This regulatory action amends the requirements for retesting to certify handguns as not being unsafe.

Title 11
California Code of Regulations
ADOPT: 968.97, 968.99 AMEND: 968.20, 968.35, 968.44, 968.60
Filed 01/19/05
Effective 01/19/05
Agency Contact: Steven Teeters (916) 263-0849

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Accumulation Time

The Department of Toxic Substances Control is making miscellaneous editorial corrections.

Title 22
California Code of Regulations
AMEND: 66262.34, 66264.145, 66266.103, 66268.7, 66268.34, 66270.60, 66271.33, 67391.1
Filed 01/13/05
Effective 01/13/05
Agency Contact: Joan Ferber (916) 322-6409

EDUCATION AUDIT APPEALS PANEL
Audits of K-2 Local Education Agencies
FY 04-5

This is the certification of compliance for adoption of regulations that update the audit guide for annual review of the books and accounts of local education agencies.

Title 5
California Code of Regulations
ADOPT: 19814.1, 19832, 19833, 19834, 19835, 19836 REPEAL: 19814
Filed 01/19/05
Effective 01/19/05
Agency Contact:
Carolyn Pirillo (916) 445-7745

MEDICAL BOARD OF CALIFORNIA
Required Disclosure Language

The regulatory action specifies disclaimers and explanatory information applicable to internet postings.

Title 16
California Code of Regulations
ADOPT: 1355.35
Filed 01/12/05
Effective 02/11/05
Agency Contact:
Kevin A. Schunke (916) 263-2368

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN SEPTEMBER 1, 2004
TO JANUARY 19, 2005**

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

Title 1

10/13/04 ADOPT: 1015, 1019, 1048, 1050
AMEND: 1000, 1002, 1004, 1006, 1008,
1012, 1014, 1016, 1018, 1020, 1022,
1024, 1026, 1027, 1028, 1030, 1032,
1034, 1038, 1040, 1042, 1044, 1046

Title 2

01/04/05 AMEND: 18703.4, 18730, 18940.2,
18942.1, 18943
01/03/05 ADOPT: Division 8, Chapter 108, Sec-
tion 59530.
12/31/04 ADOPT: 18229
12/31/04 AMEND: 18545
12/20/04 ADOPT: 1859.71, 1859.78.1 AMEND:
1859.2, 1859.73.2, 1859.79.2, 1859.82,
1859.83
12/16/04 ADOPT: 1859.51.1, 1859.70.2 AMEND:
1859.2, 1859.51, 1859.70, 1859.103,
12/06/04 AMEND: 1859.2, 1859.51
11/30/04 AMEND: Div. 8, Ch. 29, Sec. 50000
11/24/04 AMEND: 1866, 1866.1, 1866.2, 1866.4,
1866.4.1, 1866.4.2, 1866.4.3, 1866.5,
1866.5.1, 1866.7, 1866.13
11/22/04 AMEND: 58700
11/18/04 AMEND: 561, 561.1, 561.2, 561.4, 561.5,
561.6, 561.7, 561.8, 561.9, 561.10,
561.11, 561.12, 561.13, 561.14
11/10/04 ADOPT: 1859.163.1, 1859.163.2,
1859.163.3, 1859.164.2, 1859.167.1
AMEND: 1859.2, 1859.145, 1859.145.1,
189.160, 1859.161, 1859.162, 1859.163,
1859.164, 1859.164.1, 1859.165,
1859.166, 1859.167, 1859.168, 1859.171
11/09/04 AMEND: 18530.8
11/04/04 AMEND: 1859.71.2, 1859.78.4
11/02/04 ADOPT: 1859.123.1 AMEND: 1859.2,
1859.73.1, 1859.81, 1859.83, 1859.90,
1859.120, 1859.121, 1859.122,
1859.122.1, 1859.122.2, 1859.123,

1859.124, 1859.124.1, 1859.125,
1859.125.1, 1859.126, 1859.127,
1859.129, 1859.130
11/02/04 AMEND: 1859.51, 1859.105
10/26/04 ADOPT: 18361.1, 18361.2, 18361.3,
18361.4, 18361.5, 18361.6, 18361.7,
18361.8, AMEND: 18361.5, 18406,
18450.4, 18702.2, 18702.5, 18740,
18747, 18754, 18951 REPEAL: 18361
09/29/04 ADOPT: 20107
09/23/04 ADOPT: 588, 588.1, 588.2, 588.3, 588.4,
588.5, 588.6 588.7, 588.8, 588.9, 588.10
09/23/04 AMEND: 18401, 18421.1
09/15/04 ADOPT: 599.511 AMEND: 599.500(t)
09/10/04 AMEND: 54300
09/09/04 AMEND: 18704.2

Title 3

01/14/05 AMEND: 3700(c)
01/13/05 AMEND: 3962(a)
12/20/04 REPEAL: 305, 306
11/29/04 AMEND: 3423(b)
11/17/04 AMEND: 1703.3
11/16/04 AMEND: Subchapter 1.1
11/10/04 AMEND: 3601(g)
11/03/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3,
6784 AMEND: 6000, REPEAL: 6450,
6450.1, 6450.2, 6250.3, 6784
10/25/04 AMEND: 3700(c)
10/14/04 AMEND: 3423(b)
10/13/04 AMEND: 3700(b)
10/06/04 AMEND: 3877(a), 3883, 3885(a)(b),
4603(f) REPEAL: 3902
10/06/04 ADOPT: 2042, 2100, 2101, 2102
10/04/04 AMEND: 1280.2
09/22/04 AMEND: 3430(b)
09/20/04 AMEND: 3700
09/09/04 AMEND: 6502
09/08/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3,
6784 AMEND: 6000 REPEAL: 6450,
6450.1, 6450.2, 6450.3, 6784
09/08/04 AMEND: 3423(b)
09/02/04 AMEND: 3700(b)(c)

Title 4

12/23/04 ADOPT: 10163, 10164 AMEND: 10152,
10153, 10154, 10155 10156, 10157,
10158, 10159, 10160, 10161, 10162
12/20/04 ADOPT: 12200, 12200.1, 12200.3,
12200.5, 12200.6, 12200.7, 12200.9,
12200.10A, 12200.10B, 12200.10C,
12200.11, 12200.13, 12200.14, 12200.15,
12200.16, 12200.17, 12200.18, 12200.20,
12200.21, 12201, 12202, 12203, 12203A,
12203.1, 12203.2, 12203.3, 12203

CALIFORNIA REGULATORY NOTICE REGISTER 2005, VOLUME NO. 4-Z

12/16/04 ADOPT: 144
12/16/04 ADOPT: 10300, 10301, 10302, 10303,
10304, 10305, 10306, 10307, 10308,
10309, 10310, 10311, 10312, 10313,
10314, 10315, 10316, 10317, 10318,
10319, 10320, 10321, 10322, 10323,
10324, 10325, 10326, 10327, 10328,
10329, 10330, 10331, 10332, 10333,
10334
11/29/04 AMEND: 1846.5
11/23/04 ADOPT: 2444 AMEND: 2241, 2242,
2243, 2245, 2250, 2270, 2271, 2272,
2300, 2401, 2422, 2423, 2424, 2425,
2426, 2441, 2442, 2443, 2505, 2507,
2511, 2512
11/08/04 ADOPT: 12360, 12370
10/18/04 ADOPT: 12270, 12271, 12272
10/14/04 AMEND: 1402, 1471, 2056, 2101, 2102,
2103
10/13/04 AMEND: 1371
09/23/04 ADOPT: 144
09/20/04 AMEND: 12101, 12122, 12250

Title 5

01/19/05 ADOPT: 19814.1, 19832, 19833, 19834,
19835, 19836 REPEAL: 19814
01/10/05 ADOPT: 3088.1, 3088.2
12/08/04 ADOPT: 9517.1 AMEND: 9515, 9517
11/16/04 ADOPT: 80089.3, 80089.4
11/15/04 ADOPT: 6116, 6126 AMEND: 6100,
6115, 6125
11/09/04 ADOPT: 14105
11/04/04 AMEND: 11981, 11985
11/02/04 AMEND: 58311, 58316
09/30/04 ADOPT: 19814.1, 19832, 19833, 19834,
19835, 19837, 19837 AMEND: 19814
09/22/04 AMEND: 11530
09/14/04 AMEND: 58310, 58312, 58314
09/08/04 ADOPT: 58139
09/03/04 AMEND: 40000, 40050, 40650, 40900,
41302, 41304, 41901.5, 42501, 43000
09/02/04 ADOPT: 40402.1, 40405, 40405,
40405.2, 40405.3, 40405.4, 40901,
41301, 41906, 41910, 42728 AMEND:
40500, 40501, 40503, 40505, 40506,
41600, 41601, 42395, 42705, 43600,
43601, 43602, 43603, 43604, 43660,
43661, 43662, 43663, 43664, 43665,
43666

Title 7

12/06/04 AMEND: 213, 218

Title 8

12/31/04 ADOPT: 9785.4, AMEND: 9725, 9726,
9727, 9785, 9785.2, 9785.3, 9805, 10150,
10152, 10156, 10158, 10160, 10163,
10165.5 REPEAL: 10151, 10154

12/31/04 ADOPT: 9768.1, 9768.2, 9768.3, 9768.4,
9768.5, 9768.6, 9768.7, 9768.8, 9768.9,
9768.10, 9768.11, 9768.12, 9768.13,
9768.14, 9768.15, 9768.16, 9768.17
12/30/04 AMEND: 3380(d)
12/27/04 ADOPT: 32032, 32033, 32034, 32035,
81000, 81005, 81010, 81020, 81030,
81040, 81050, 81055, 81060, 81065,
81070, 81075, 81080, 81090, 81100,
81105, 81110, 81115, 81120, 81125,
81130, 81135, 81140, 81145, 81150,
81155, 81160, 81165, 81170, 81175,
81180, 81
12/15/04 ADOPT: 9788.01, 9788.1, 9788.11,
9788.2, 9788.3, 9788.31, 9788.32,
9788.4, 9788.45, 9788.5, 9788.6, 9788.7,
9788.8, 9788.9, 9788.91
12/15/04 AMEND: 9789.11
12/09/04 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,
9792.10, 9792.11 REPEAL: 9792.6
12/08/04 AMEND: 3210, 3212
12/08/04 AMEND: 1602(a)
12/07/04 AMEND: 3314
11/09/04 AMEND: 6777
11/03/04 AMEND: 15220, 15220.1, 15220.3,
15220.4
11/03/04 AMEND: 1541(l)(1)
11/01/04 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,
9767.5, 9767.6, 9767.7, 9767.8, 9767.9,
9767.10, 9767.11, 9767.12, 9767.13,
9767.14
10/19/04 ADOPT: 16421, 16422, 16423, 16424
AMEND: 16425, 16426, 16427, 16428,
16429, 16431, 16432, 16433, 16434,
16435, 16436, 16437, 16438, 16439
REPEAL: 16430, 16435.5
10/07/04 AMEND: 5144
10/07/04 AMEND: 3456
10/06/04 AMEND: 344.30
10/04/04 ADOPT: 10202, 10102.1, 10203.1,
10203.2 AMEND: 10200, 10201, 10203,
10204
10/04/04 AMEND: 5155
10/01/04 AMEND: 5155
10/01/04 ADOPT: 3241.1
09/30/04 AMEND: 3381

Title 9

12/06/04 ADOPT: 9805, 9868 AMEND: 9801,
9801.5, 9804, 9812, 9820, 9824, 9848,
9867, 9878
10/28/04 AMEND: 9525
09/01/04 ADOPT: 9807, 9822, 9834, 9836
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