



California Regulatory Notice Register

REGISTER 2009, NO. 50-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

DECEMBER 11, 2009

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Exception for Filers in Connection with Speeches — Notice File No. Z2009-1201-07 2091

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Reporting \$100 Committee Credit Card Payments — Notice File No. Z2009-1201-06 2093

TITLE 10. DEPARTMENT OF CORPORATIONS

California Foreclosure Prevention Act — Notice File No. Z2009-1130-01 2094

TITLE 13. AIR RESOURCES BOARD

Verification Procedures 2010 — Notice File No. Z2009-1201-11 2099

TITLE 13/17. AIR RESOURCES BOARD

Diesel-Fueled Portable Engines and In-Use-Off Road Diesel Fueled Engines — Notice File No. Z2009-1201-10 2104

TITLE 14. DELTA PROTECTION COMMISSION

Governing Land Use & Resource Management in the Primary Zone of the Delta — Notice File No. Z2009-1201-08 2109

TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

Applicant Fee Changes — Notice File No. Z2009-1201-09 2114

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Consistency Determination for South Bay Aqueduct Improvement and Enlargement Project, Alameda County 2116

(Continued on next page)

Time-Dated Material

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Chemicals Known to the State to Cause Cancer or Reproductive Toxicity, December 11, 2009 2119

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
Chemical Listed Effective December 11, 2009 As Known to the State of California to Cause Reproductive Toxicity: Molinate 2136

OAL REGULATORY DETERMINATIONS

DEPARTMENT OF CORRECTIONS AND REHABILITATION
California Code of Regulations Title 15, Section 3106 “Materials” 2137

DEPARTMENT OF CORRECTIONS AND REHABILITATION
Memorandum Titled “Violent Felonies and Minimum Custody Eligibility” 2138

DEPARTMENT OF CORRECTIONS AND REHABILITATION
Form CDC 812–A: — Prison Gang Identification
Form CDC 812–B: — Disruptive Group Affiliation and CCR Title 15, Subsection 3341.5(c)(2)(A)2 2142

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

PUBLIC EMPLOYEES RETIREMENT SYSTEM
Statement of Policy for Disclosure of Placement Agent Fees 2143

DISAPPROVAL DECISIONS

DEPARTMENT OF INSURANCE 2148

DEPARTMENT OF INSURANCE 2148

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 2149
Sections Filed, July 1, 2009 to December 2, 2009 2152

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

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

PROPOSED ACTION ON REGULATIONS

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **January 14, 2010**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **January 12, 2010**.

BACKGROUND/OVERVIEW

The Political Reform Act (the “Act”)¹ places certain restrictions on the receipt of gifts by public officials. The Act prohibits candidates and officials from receiving gifts of more than \$420 or more in a calendar year from any reportable source. A \$10 per month limit applies to gifts to specified state officials from lobbyist or lobbying firms. In addition, the Act prohibits a public official from using his or her position to make, participate in making, or influence a decision involving the donor of a gift valued at \$420 or more. (Section 87103.) Gifts are reportable at \$50 on the official’s statement of economic interests (form 700). Finally, Section 89502(a) states that “no elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept any honorarium.” Section 89501(a) defines honorarium as “any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.”

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

The Act and Commission regulations also provide a series of exceptions to the definitions of gift and honorarium. Two specific exceptions are most commonly applied to gifts of travel.

- Section 89506 provides an exception from the gift limits of the Act where the travel is:
 - Reasonably related to a legislative or governmental purpose or to an issue of state, national, or international public policy, and
 - The travel is either (1) connected to a speech given by the filer at an event in the United States or (2) the travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue.

However, while allowing these payments in excess of the gift limits of the Act, Section 89506 would still require disclosure of the payments and potential disqualification should the donor have business before the filer.

- In addition, Regulation 18950.3 creates an exception for the same types of payments in connection with “in California” travel. Regulation 18950.3 provides:

“Free admission, and refreshments and similar non-cash nominal benefits provided to a filer during the entire event at which the filer gives a speech, participates in a panel or seminar, or provides a similar service, and actual intrastate transportation and any necessary lodging and subsistence provided directly in connection with the speech, panel, seminar, or service, including but not limited to meals and beverages on the day of the activity, are not payments and need not be reported by any filer.”

This “in California” rule differs significantly from Section 89506. For example:

- The regulation does not consider or distinguish the sources of these payments (lobbyists or reportable sources under a conflict of interest code are also exempt sources).

- The regulation does not require the travel be reasonably related to a legislative or governmental purpose or to an issue of state, national, or international public policy.
- The regulation uses a vague “necessary” standard for accommodations that has been construed historically to cover a different period than Section 89506’s rule of the day before, day of, and day after the speech.
- The regulation does not require any disclosure of the payments. Section 89506 does not exempt the official from disclosing the payment.
- The regulation does not require the official to disqualify himself or herself from a decision should the donor of the travel appear before the official as an applicant or the subject of a decision. Section 89506 would not exempt an official from his or her responsibility to disqualify.

Thus, the existence of the two different regulations governing the same types of payments creates a difficult two-layer analysis for travel in connection with speeches.²

REGULATORY ACTION

The proposed amendment to Regulation 18950.3 would result in gifts of travel in connection with speeches (consisting of payments for transportation inside and outside California, lodging, and food and beverages) being analyzed under Section 89506. This will make the rules and analysis consistent whether the speech is in California or elsewhere.

In addition, the draft retains the exception for free admission, food and beverages, and non-cash nominal benefits that are provided to a filer at the event so long as all of the following requirements are met:

- (1) The filer gives a speech, participates in a panel or seminar, or provides a similar substantial service at the event.
- (2) The free admission, food and beverages and non-cash nominal benefits are offered to all speakers at an event (including the filer) and are of the same quality and quantity offered to any attendee to the event for the fee paid for admission.
- (3) The free admission, food and beverages and non-cash nominal benefit is provided on the day

the filer gives a speech, participates in a panel or seminar, or provides a similar substantial service.³

SCOPE

The Commission may adopt or reject all or part of the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues. The Commission may delete provisions, adopt the language noticed herein, or choose new language to implement its policy regarding gifts of travel.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulatory action will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulatory action will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulatory action will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act (Gov. Code Secs. 81000–91014).

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code Sections 82028 and 89506.

CONTACT

Any inquiries should be made to John W. Wallace, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC, or email jwallace@fppc.ca.gov.

The Commission welcomes public comment on the proposed regulatory language which can be accessed

² Regulation 18950.3 predated Section 89506 (Section 89506 was added to the Act in 1990 as part of the Ethics in Government Bill) and arguably should have been repealed with the passage of the ethics statute. However, in 1991 and 1992, when the Commission considered the significance of the regulation in light of the statute, the Commission chose to retain the global regulatory exception for intrastate travel.

³ Historically, while the travel exempted by Regulation 18950.3 is expressly limited to travel within the state, the exception for free admission, food and beverages, and non-cash nominal benefits has been applied wherever the speech takes place, in or outside California. (*Gault*, Advice Letter, No. A-07-158.)

under the “Regulations” section of the Commission’s website at <http://www.fppc.ca.gov/index.html?id=247>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **January 14, 2010**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **January 12, 2010**.

BACKGROUND/OVERVIEW

Pursuant to Government Code Section 82025, “expenditure” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. “Expenditure” does not include a candidate’s use of his or her own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

Section 84211 of the Political Reform Act¹ requires that for each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, the name, address, amount of each expenditure, and a brief description for each expenditure must be disclosed. In 2000, Section 84303 was amended to increase the dollar amount for reporting of expenditures made by an *agent or independent contractor* on behalf or for the benefit of any candidate or committee from \$100 to \$500. Since then, there have been instances of confusion over the reporting threshold for candidates and committees who make expenditures using credit cards and whether a credit card company is an agent or independent contractor. Longstanding advice

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

by the Commission has stated that payments made by a candidate or committee with a credit card are direct expenditures made by the candidate or committee and must be itemized at the \$100 threshold, not the \$500 threshold. The credit card company in this case is not an agent or independent contractor. Both the credit card company and the vendor to which the payment was made using the credit card are considered to be persons to whom an expenditure of \$100 or more has been made and both the credit card company and the vendor must be reported. (*Willet* Advice Letter, No. A-03-165 and *Everman* Advice Letter, No. I-02-012.) Treatment of payments made with credit cards in this manner is consistent with the current reporting procedures used for debit cards.

This proposed regulation seeks to codify current commission advice and instructions already printed on campaign forms so that there will be no further confusion about the reporting threshold of \$100 for payments made by a candidate or committee with a credit card.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18421.9 to read:

The Commission may consider whether to adopt Regulation 18421.9. The following is the proposed language:

§ 18421.9. Reporting Committee Payments of \$100 or More Charged to a Credit Card.

(a) When reporting expenditures made for goods and services charged by a candidate or committee to a credit card, expenditures totaling \$100 or more to any vendor during the period covered by the report must be itemized. Both the credit card company and the vendor must be reported as a person to whom an expenditure of \$100 or more has been made.

(b) Expenditures charged to a credit card by a committee’s agent or independent contractor on behalf of the committee shall be itemized when expenditures total \$500 or more to any vendor during the period covered by the report.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Sections 84211 and 84303.

CONTACT

Any inquiries should be made to Sukhi K. Brar, Counsel, Legal Division, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov>.

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner (Commissioner) proposes to adopt rules entitled, "The California Foreclosure Prevention Act." The proposed regulatory action clarifies the application of Civil Code Sections 2923.52 and 2923.53 under the California Foreclosure Prevention Act. The proposed rules were adopted as emergency regulations on June 1, 2009, and in this rulemaking action the Commissioner proposes to permanently adopt Subchapter 14, Article 1, Sections 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, and 2031.6; Article 2, Sections 2031.7 and 2031.8; Article 3, Section 2031.9; and Article 4, Section 2031.10 to Title 10 of the California Code of Regulations.

PUBLIC COMMENTS

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corpo-

rations' (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department addressed as follows:

Regular Mail

Department of Corporations
Attn: Karen Fong, Office of Legislation and Policy
1515 K Street, Suite 200
Sacramento, CA 95814

Electronic Mail

regulations@corp.ca.gov

Facsimile

(916) 322-5875

Comments may be submitted until 5:00 p.m., January 25, 2010. If the final day for the acceptance of comments is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

In the fall of 2008, in response to the continuing foreclosure crisis in California, the Governor proposed to the Legislature a concept to reduce foreclosures by encouraging loan modifications in the marketplace. This plan was a follow-up to the Administration's previous actions to encourage loan modifications by servicers, including a November 2007 agreement with servicers intended to address resetting interest rates, and the signing of SB 1137 (Perata, Chapter 69, Statutes of 2008) in the summer of 2008, to require residential mortgage servicers reach out to borrowers at least 30 days before a notice of default is filed in a foreclosure proceeding, to attempt to work out a solution.

The Governor's proposal involved encouraging residential mortgage loan servicers to streamline the process for modifying loans by changing the requirements for nonjudicial foreclosures for loans serviced by mortgage loan servicers that had not implemented a comprehensive loan modification program. The initial parameters for a comprehensive loan modification program were modeled after the program that the Federal Deposit Insurance Corporation (FDIC) implemented to modify loans in the IndyMac Federal Bank portfolio after the FDIC was appointed conservator of that institution.

Through the legislative process, the Legislature further developed the Governor's proposal into the California Foreclosure Prevention Act. In February of 2009, during the second extraordinary session the Legislature sent to the Governor two bills enacting the California Foreclosure Prevention Act: ABX2 7 (Lieu, Chapter 5, Statutes of 2009) and SBX2 7 (Corbett, Chapter 4, Statutes of 2009). On February 20, 2009, the Governor signed these bills.

Among other things, the California Foreclosure Prevention Act required the Commissioners of Corporations, Financial Institutions and Real Estate to adopt emergency regulations to clarify the application of Civil Code Sections 2923.52 and 2923.53; two sections added to the Civil Code by the California Foreclosure Prevention Act. The Commissioners adopted the emergency regulations and on June 1, 2009, the regulations were filed with the Secretary of State and became effective. In accordance with the law's provisions, 14 days after the effective date of the regulations, the act became operative.

In this rulemaking action the California Corporations Commissioner seeks to permanently adopt the emergency regulations clarifying the application of Civil Code Sections 2923.52 and 2923.53 of the California Foreclosure Prevention Act.

The Commissioner proposes to adopt Subchapter 14 to Chapter 3 of Title 10 of the California Code of Regulations, entitled "California Foreclosure Prevention Act." In addition, the Commissioner proposes to adopt Article 1 to that subchapter, entitled, "Requirements." Within Article 1 the Commissioner proposes to adopt six sections.

Section 2031.1, entitled, "Scope of Regulations," defines the scope of the regulations. The section provides that the subchapter clarifies the application of Civil Code Sections 2923.52 and 2923.53, and sets forth the minimum requirements for a mortgage loan servicer to obtain an order of exemption from Civil Code Section 2923.52. Civil Code Section 2923.52 provides that a trustee may not proceed with a foreclosure sale until the lapse of 90 days in addition to the 3 months after a notice of default is filed on a borrower under Civil Code Section 2924. However, Civil Code Section 2923.52 provides that a mortgage loan servicer may obtain an order exempting it from the prohibition on proceeding with a foreclosure until after the lapse of 90 days, if the mortgage loan servicer has implemented a comprehensive loan modification program.

The section further provides that the modification of loans in conformance with the Home Affordable Modification Program Guidelines issued by the U.S. Department of the Treasury on March 4, 2009, as amended, shall constitute the implementation of a comprehensive loan modification program and shall be deemed to meet

all of the requirements in the article. The section also defines "residential mortgage loan" and "borrower."

Section 2031.2, entitled "Eligibility," sets forth the minimum eligibility requirements for a borrower and residential mortgage loan under a comprehensive loan modification program, in order for the program to obtain an order of exemption from the Commissioner. A mortgage loan servicer's comprehensive loan modification may be more inclusive than the minimum requirements set forth in this section, but may not be less inclusive, to obtain an order of exemption. Generally, modifications must be available for borrowers and loans meeting the following requirements:

1. The loan was made between January 1, 2003 and January 1, 2008,
2. The borrower lives in the property,
3. The loan is in default,
4. The loan is a first lien on property in California,
5. The borrower can document the ability to pay the modified loan,
6. The borrower has not surrendered the property, the borrower is not engaged in a bankruptcy proceeding, and the borrower has not contracted to delay the foreclosure process while intending to leave the property.

Section 2031.3, entitled, "Availability," requires the loan modification program to be made available to all persons and loans meeting the eligibility requirements who contact their servicer to notify the servicer of a financial hardship or to request a loan modification. In addition, the section requires a servicer to reach out to borrowers in financial hardship by including information on the comprehensive loan modification program in the contact with borrowers required at least 30 days before the service of a Notice of Default under Civil Code section 2923.5 (see SB 1137 (Perata-2008), which requires that borrowers be contacted before the filing of the Notice of Default).

Sections 2031.4, 2031.5 and 2031.6 set forth the minimum requirements for a comprehensive loan modification program. Section 2031.5, entitled, "Loan Modification Features," provides that loans refinanced in accordance with the Hope for Homeowners Program or the Home Affordable Refinance Program meet the minimum requirements of a comprehensive loan modification program. While loan work outs under these federal programs constitute refinancings rather than modifications, the recognition of the federal programs in the rules was intended to clarify that servicers may continue participating in those programs even for borrowers meeting the minimum eligibility requirements for modifications under these rules.

The California Foreclosure Prevention Act provides that a servicer need only modify a loan where the anti-

pated recovery from a modification exceeds the anticipated recovery from a foreclosure, on a net present value basis. Consequently, Section 2031.5 of the proposed rules provides clarification on determining the net present value. The rule provides that the net present value must be based on reasonable assumptions regarding discount rates, property values, costs of foreclosure, costs of modification, and the ability of the borrower to repay the loan. The proposed rule requires a servicer to have internal or external evidence to support the assumptions, and provides that the “Net Present Value Model Parameters” in the Home Affordable Modification Program Guidelines, meets the requirements of the section and does not require supporting evidence. The proposed rules further require servicers to explain deviations from the “Net Present Value Model Parameters” in the exemption application. The proposed rules require that a loan be modified where the net present value of modifying the loan exceeds the net present value of foreclosing on the loan, provided that the borrower can document income, and provided that after the loan is modified, the borrower can establish the ability to pay the modified loan.

The California Foreclosure Prevention Act provides that a comprehensive loan modification program must target a ratio of a borrower’s housing-related debt to a borrower’s gross income of 38% or less, on an aggregate basis. Consequently, Section 2031.5 of the proposed rules provides that a servicer’s loan modifications are to target a 38% housing-related debt-to-gross income ratio, on an aggregate basis. The rules clarify that a servicer is not required to meet this ratio for every loan modified under the program. The rules further provide that a servicer must identify the reasons in its application the reasons its program does not achieve a 38% housing-related debt to gross income ratio, on an aggregate basis, if such is the case.

Section 2031.5 of the proposed rules provide that a comprehensive loan modification program must include at least two of the following features:

1. An interest rate reduction, as needed, for at least 5 years,
2. An extension of amortization period for the loan term to no more than 40 years from the original date of the loan,
3. Deferral of some portion of the principal until maturity,
4. A reduction in principal,
5. Compliance with a federally mandated loan modification program, or
6. Any other feature that Commissioner determines is appropriate, as described in the servicer’s application.

The proposed rules clarify that a program must include at least two of the identified features, but a single loan modification need not include more than one feature. The rules further require that a servicer have criteria in place to define when borrower qualifies for the potential concessions or modifications.

The California Foreclosure Prevention Act provides that when determining a loan modification solution for a borrower, a servicer must seek to achieve long-term sustainability. Consequently, Section 2031.5 sets forth characteristics that are presumed to constitute long term sustainability, including:

1. The modification reduces a borrower’s monthly payment for at least 5 years,
2. The modification results in a housing-related debt-to-income ratio of 38% or less,
3. After a modification, the borrower’s back-end debt-to-income ratio is equal to or less than 55%,
4. The borrower is current under the terms of a modified loan at the end of a 3 month period, or
5. The modification is in accordance with a federal program.

In addition to the foregoing, Section 2031.6 sets forth additional proposed requirements for a loan modification program. Subsection (a) sets forth conditions when a loan modification consists solely of a repayment plan. In particular, a servicer must be able to validate that the borrower has a housing-related debt to gross income ratio of 38% or less, and that the borrower can repay the loan. The subsection further defines a repayment plan as a plan or arrangement where amounts past due are added to the principal amount due on a loan and re-aged so that a loan is no longer delinquent, and no other loan concessions are provided to the borrower.

Subsection (b) requires all eligible loans to be considered for modification under the plan unless an applicable pooling and servicing agreement prohibits the modification. Subsection (c) requires a servicer to use reasonable efforts to remove any prohibitions and obtain waivers or approvals from all necessary parties, including junior lien holders and investors. Subsection (d) requires a servicer to act on a loan modification request within a reasonable time period, and requires a servicer to have procedures in place to ensure that delays in the process not caused by a borrower do not adversely impact a borrower in the loan modification or foreclosure process. Subsection (d) further requires a servicer to acknowledge the receipt of a loan modification request.

Subsection (e) permits a servicer to deny a loan modification request when a borrower abandons or unduly delays the process. Prior to denying the modification request, the servicer must notify the borrower in writing of the time period to respond and the consequence of failing to respond in a reasonable time. Subsection (f)

provides that a comprehensive loan modification program may include foreclosure alternatives for borrowers who do not qualify for a loan modification program. Subsection (g) provides that a servicer is not required to modify a loan more than once.

Within Article 2, the Commissioner proposes to adopt 2 sections. Section 2031.7, entitled “Initial Application,” sets forth instructions on the filing of the application. This section provides that an applicant shall be temporarily exempt from Civil Code Section 2923.52(a) upon the filing of a substantially complete application. Item 1 instructs applicants on where to file the application, and identifies how an applicant determines whether to file an application with the Department of Corporations, the Department of Financial Institutions, or the Department of Real Estate. Item 2 instructs applicants on when to file an application, and provides that an applicant will be temporarily exempt from Civil Code Section 2923.52(a) upon the appropriate department’s receipt of the application.

Item 3 sets forth the manner for the Department to notify an applicant of the temporary order. Item 4 provides that the Department will notify the applicant of whether the applicant has a comprehensive loan modification program within 30 days of the receipt of an application, and notify the applicant of the issuance of a final order. Item 5 provides that upon the denial of an application, the Department will immediately notify the servicer, and the temporary order will remain in effect for 30 days following the denial. Item 6 provides that the Department will accept changes to an application while the application is under consideration.

Section 2031.8, entitled “Changes to Program after Final Order,” sets forth procedures for the modification of a program after the receipt of a final order. Subdivision (a) prohibits a servicer from modifying a program after a final order is issued unless the servicer informs the Commissioner of the change. Subsection (b) provides that a change to a federal program does not constitute a change to a comprehensive loan modification program and does not require notice to the Commissioner.

Article 3 consists of Section 2031.9, which incorporates the application form. The application requests identifying information from an applicant, requests information on whether an applicant is participating in a loan modification program administered by a federal agency, and requires an applicant to submit several exhibits. Exhibit 1 requires an applicant to describe its loan modification program, and to direct the Department to where within the submitted documentation specified program requirements are met. Exhibit 2 requires an applicant to submit copy of the declaration to

be included with the notice of sale, as required by Civil Code section 2923.54. Exhibit 3 requires an applicant to provide the notice to consumers required by Section 2031.3 of these rules. Exhibit 4 requires an applicant to submit 3 months of recent loss mitigation data.

Exhibit 5 requires an applicant to provide additional documentation for other items in the application, if applicable, including the differences between the net present value used by the applicant and the Department of the Treasury’s Net Present Value Model Parameters, the reasons the servicer’s program is unable to achieve an aggregate debt-to-income ratio of 38% or less, and a description of any additional features in the program to be considered by the Commissioner. The application provides that exhibits 1, 4 and 5 are confidential, and requires the application to be signed under penalty of perjury by a specified control person.

Article 4 consists of Section 2031.10, entitled “Reports.” This section provides that upon request of the Commissioner, a servicer shall report loan modification data to the Commissioner on a quarterly basis. The section further incorporates by reference a form for quarterly reporting, entitled Foreclosure Prevention Loan Modification Data, and dated November 25, 2009. The section provides that a servicer may request a hardship exemption from the Commissioner, and provides that the Commissioner may accept a report required by a federal loan modification program, in lieu of the report required in this section.

AUTHORITY

Sections 2923.52 and 2923.53, Civil Code.

REFERENCE

Sections 2923.52 and 2923.53, Civil Code.

AVAILABILITY OF MODIFIED TEXT

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

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

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 05/09–B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 05/09–C. These documents are also available at the Department’s website at www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Legislation and Policy maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Legislation and Policy, 1515 K Street, Suite 200, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

- Cost or savings to any state agency: The Department has determined that the implementation of the California Foreclosure Prevention Act will have an estimated cost of \$120,000 to the Department. This cost represents the cost of implementing and administering the California Foreclosure Prevention Act, including the adoption of regulations, development of procedures and information technology applications, acceptance of applications, review and approval of applications, data collection and reporting. While this cost is attributable to the implementation of the act, it is not necessarily attributable to this rulemaking action.

- Direct or indirect costs or savings in federal funding to the state: none.
- Cost to local agencies and school districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: none.
- Other nondiscretionary costs/savings imposed on local agencies: none.
- Costs to private persons or businesses directly affected: The Department has determined that the cost to directly affected businesses that seek to submit an application for an order of exemption under the California Foreclosure Prevention Act may be up to \$5000 in one time costs for the application, and may be up to \$5000 a year if reporting is required.

BUSINESS REPORTING REQUIREMENT

The Commissioner finds that it is necessary for the health, safety, or welfare of the people of this state that this regulation which requires a report apply to businesses.

DETERMINATIONS

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

- Does not affect small businesses. A mortgage loan servicer does not constitute a small business under Government Code Section 11342.610.
- Does not impose a mandate on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department has determined that the cost to directly affected businesses that seek to submit an ap-

plication for an order of exemption under the California Foreclosure Prevention Act may be up to \$5000 in one time costs for the application, and may be up to \$5000 a year if reporting is required.

EFFECT ON SMALL BUSINESS

The Commissioner has determined that the adoption of these regulations will not affect small business. A mortgage loan servicer does not constitute a small business under Government Code Section 11342.610.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to Karen Fong at (916) 322-3553. The backup contact person is Tanya Bosch at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Colleen Monahan, Deputy Commissioner at (916) 322-3553.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE VERIFICATION PROCEDURE, WARRANTY AND IN-USE COMPLIANCE REQUIREMENTS FOR IN-USE STRATEGIES TO CONTROL EMISSIONS FROM DIESEL ENGINES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines. The proposed amendments would revise, clarify and make specific requirements that pertain to the process for obtaining the ARB's verification of devices or strategies to control emissions from diesel engines.

DATE: January 28, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
Sacramento, California 95814

This item may be considered at a two day meeting of the Board, which will commence at 9:00 a.m., January

28, 2010, and may continue at 8:30 a.m., on January 29, 2010. Please consult the agenda for the meeting, which will be available at least 10 days before January 28, 2010, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 13, California Code of Regulations (CCR), sections 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, and proposed adoption of new section 2711.

Background:

In 1998, ARB identified diesel particulate matter (PM) as a toxic air contaminant (title 17, CCR, section 93000). In 2000, ARB adopted the Diesel Risk Reduction Plan (DRRP) with the goal of reducing PM emissions and their associated health risks by 85 percent by the year 2020. The DRRP identified a number of key measures to achieve this goal: more stringent standards for all new diesel-fueled engines and vehicles, retrofitting in-use diesel engines with diesel emission control systems, and the use of low-sulfur diesel fuel.

To support the DRRP, staff developed a verification procedure (Procedure) for in-use diesel emission control systems (systems or DECS) that was adopted by the Board in May 2002. The Procedure is used by staff to ensure that in-use diesel emission control systems achieve real and durable PM emissions reductions. It specifies test procedures, warranty requirements, and in-use compliance testing requirements. Systems that meet all of the Procedure's requirements are verified and thus become candidate compliance options for ARB fleet regulations that require the control of diesel emissions from in-use fleets.

In-use fleet regulations, both adopted by the Board and currently under development, rely on having verified diesel emission control systems available to fleet owners as compliance options. Diesel vehicles and equipment for which regulations have already been adopted include transit buses (title 13, CCR, section 2023, et seq.), solid waste collection vehicles (title 13, CCR, section 2021, et seq.), vehicles that belong to public agencies and utilities (title 13, CCR, section 2022, et seq.), mobile cargo handling equipment at ports and intermodal rail yards (title 13, CCR, section 2479), transport refrigeration units (title 13, CCR, section 2477), off-road diesel equipment (title 13 CCR, section 2449 et seq.), and private on-road diesel vehicles (title 13, CCR, section 2025 et seq.). These regulations provide several paths to compliance, one of which is the installation of verified diesel emission control systems. To support the successful implementation of these regulations, it is therefore critical for the Procedure to be an ef-

fective and efficient means to evaluate diesel emission control systems. However, as the verification program has matured, staff has found that a number of amendments to the Procedure are necessary to better serve the needs of the in-use fleet regulations.

Proposed Amendments:

The proposed regulatory language and explanations can be found in the Staff Report: Initial Statement of Reasons (ISOR) and the attachments thereto. The most significant proposed amendments are summarized below:

Pre-Installation Compatibility Assessment Requirements

Staff proposes to add new language to section 2706 (Other Requirements) of the Procedure to provide guidance and direction on how to assess the compatibility of a DECS with a candidate vehicle prior to installation. The proposal establishes basic requirements to help standardize the evaluation process and allows for the option of using exhaust temperature data from similar engines and applications in lieu of logging exhaust temperature data for every candidate vehicle.

Remedial Action for High Warranty Claim Rates

The current Procedure requires annual warranty reporting, but does not clearly spell out possible ramifications of high numbers of warranty claims. Most verified device manufacturers recognize that ARB can terminate a verification if a system has catastrophic problems in the field. However, ARB can take less drastic remedial actions according to the situation. Staff proposes to clarify this ability as it is unclear in the current language.

Incident Notification Timeframe

Staff proposes to change the period applicants currently have to submit a report of any incidents during the durability or field demonstration period. This change will result in applicants having a period of no more than 45 days, rather than 90, within which they must submit a report describing device/component failures, unscheduled repairs or unscheduled maintenance events.

Exhaust Temperature and Engine Backpressure Monitoring

Engine history and maintenance information as well as the backpressures, temperatures, and warning and fault codes experienced by a verified device are critical data in determining compatibility with an application as well as helping to resolve warranty disputes. Therefore staff has introduced language that would require all temperature dependent DECS that are verified after the effective date of the proposed amendments to have the capability to measure and record certain operational parameters.

Identification of Off-road Categories

Currently, marine, locomotive, transport refrigeration units, and auxiliary power units are grouped into the off-road engines category, but are typically tested differently for verification (emissions and durability) according to the most appropriate test procedure and durability demonstration for the application. The proposed changes clarify this distinction by acknowledging these applications as individual and unique subcategories within the off road arena.

Installation Warranty Clarifications

Staff proposes to add clarifying language to section 2707 (Warranty Requirements) making it clear that the installation warranty requirements are identical to the product warranty requirements. The proposed clarification does not in any way alter the warranty period or coverage for either the applicant or installer.

Compliance with California's Industrial Safety Regulations

The Division of Occupational Safety and Health of the California Department of Industrial Relations is in the process of developing safety regulations that will pertain to the installation of DECS on off-road vehicles and equipment. Staff proposes that an applicant for verification must conform to these regulations when conducting durability and field demonstrations. Staff's proposal will ensure that each applicant is familiar with California's industrial safety regulations and is able to comply with them.

Photographic Documentation

To better illustrate and document durability and field demonstrations, staff proposes that the applicant must submit digital photographs of each DECS and demonstration vehicle or piece of equipment as part of the application for verification. Staff's proposal would require photographs at three stages of a demonstration: before installation of the DECS, after installation, and after completion of the demonstration. This requirement should not add any significant burden to applicants.

Public Availability of Information on DECS Maintenance

Staff proposes that applicants provide comprehensive DECS maintenance information to the device owner upon delivery. This includes routine maintenance procedures, filter cleaning procedures, the identification of any equipment necessary to clean and maintain DECS components, and any performance criteria used to determine a proper state of maintenance, such as the pressure drop, minimum air flow rates, or filter weight in a fully cleaned filter.

Component Swapping

Staff proposes to extend the ability to swap devices by removing the restriction that components may only

be swapped within a given common ownership fleet under certain conditions. All of the other restrictions and provisions in the current regulation still apply.

Re-Designation Practices for Repowered Engines

Currently, the Procedure does not address situations where the DECS remains on a chassis, but the engine is replaced with a different one. This action is equivalent to a DECS re-designation which is already governed under the Procedure. Staff therefore proposes to allow re-designation to include this situation. All existing re-designation requirements apply.

Component Swapping and DECS Re-Designation Warranty Clarifications

The Procedure is clear on the applicant's warranty responsibilities in the context of component swapping and DECS re-designation, but less so on the installer's responsibilities. Staff's proposal clarifies the installer's warranty responsibilities for both component swapping and DECS re-designation that occur both before and after expiration of the original warranty. Before expiration of the original warranty, the installer must honor the remaining terms of the warranty just as the applicant does. If the original warranty has expired or has less than one year remaining, the installer must provide a new one-year installation warranty. Each installer is thus held responsible for each component swap or re-designation that he or she performs.

Labeling requirements

To ensure that only ARB verified systems carry a label compliant with Section 2706, and have the assigned DECS name, staff proposed to clarify that such label must only be used with verified systems. Therefore any verified device carrying an ARB approved label is obligated to honor all terms and conditions of verification including, but not limited to, warranty requirements.

Unidirectional Design Clarification

Staff proposes to clarify the unidirectional design requirement contained in section 2706(r). As currently specified in the Procedure, this requirement becomes effective January 1, 2010. However, due to the effects of the current global recession, and recent changes to some of the in-use diesel fleet rules, sales of verified DECS are lower than expected, resulting in some DECS manufacturers having excess inventory of DECS that do not meet the unidirectional design requirement. To address this, staff proposes to provide a "sell through" period.

Scope of Compliance

Currently, ARB can enforce or revoke a verification if the verified device manufacturer fails to meet the requirements of the Procedure. Section 2711 clarifies ARB's authority to enforce on issues related to verified devices regardless of the location of the verified device.

Staff's proposal further explains that a product should not be sold, offered for sale, or introduced into commerce as "Verified" or carrying an ARB approved (per section 2706 of the Procedure) label if the product does not meet all the terms and conditions of the governing Executive Order. The amendment gives flexibility to the Executive Officer to modify, revoke or suspend an Executive Order if the applicant violates the terms and conditions thereof. Additionally, staff proposes to clarify that a device which has not been ARB verified may not be represented as such.

Data Logging Date and Time Stamp Requirements

Staff proposes to add language to sections 2704 (Durability Testing Requirements), and 2705 (Field Demonstration Requirements), to clarify the type of data that must be recorded during durability demonstrations and field demonstrations.

Other Proposed Amendments

Staff clarified appropriate contacts and mailing addresses for all application submittals. Staff also modified the application outline in section 2702 to ask for pre-installation compatibility procedures and clarified the scope of information requested describing DECS installation requirements.

COMPARABLE FEDERAL REGULATIONS

The United States Environmental Protection Agency (U.S. EPA) has published a draft document, "General Verification Protocol for Diesel Exhaust Catalysts, Particulate Filters, and Engine Modification Control Technologies for Highway and Nonroad Use Diesel Engines," but has not promulgated formal regulations for this verification protocol. That verification protocol is intended to support the voluntary retrofit programs initiated by U.S. EPA, while staff's proposal is to support ARB's DRRP and all the associated in-use fleet regulations. Additionally, the U.S. EPA program affords no warranty protection.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: *Proposed Amendments to the Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations,

may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on January 28, 2010.

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

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Juan Avila, Air Pollution Specialist, Retrofit Assessment Section, at (626) 575-7098, or Ms. Shawn Daley, Manager, Retrofit Assessment Section, at (626) 575-6972.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at www.arb.ca.gov/regact/2010/verdev2010/verdev2010.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. In general, the ARB is not aware of any cost impacts that a representa-

tive private person or business would necessarily incur in reasonable compliance with the proposed action. Participation in the Procedure is purely voluntary, both in its current form and as amended under the proposed action. Presumably, only entities that expect to benefit financially by obtaining verification will do so. While it is true that participation in the verification process is voluntary and there is no prohibition against selling diesel emission control strategies in California that have not been verified by ARB, the Board has adopted and may in the future adopt regulations requiring reductions of PM from in-use diesel vehicles through the application of verified, retrofitted diesel emission control strategies in specific situations. Entities subject to these retrofit requirements must use verified diesel emission control strategies to comply with these requirements under some compliance options. Consequently, entities that wish to pursue these compliance options will only purchase systems from manufacturers that have obtained ARB's verification. For the most part, the proposed amendments would not raise compliance costs, and in the case of pre-installation assessment flexibility, maintenance procedure availability, and component swapping across fleets, cost savings may be afforded to some participants and end users.

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

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not eliminate jobs within the State of California, and may lead to the creation of new businesses within the State of California. It may also lead to the expansion of businesses currently operating within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would not negatively affect small businesses though it has the potential for creating additional business opportunities. These opportunities may result from the proposals to make maintenance practices transparent, to allow inter-fleet component swapping, and to define representative sampling of candidate engines. These proposals may also benefit fleets that are affected by ARB's in-use fleet regulations.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the

health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the 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.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting and may be submitted by postal mail or by electronic submittal before the meeting. To be considered by the Board, written comments, not physically submitted at the meeting, must be received **no later than 12:00 noon, January 27, 2010**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California
95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600, and 43700. This action is proposed to implement, interpret and make specific sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106,

43107, and 43204–43205.5 of the Health and Safety Code and title 17, CCR, section 93000.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

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

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

SPECIAL ACCOMMODATION REQUEST

To request a special accommodation or language needs for any of the following:

- An interpreter to be available at the hearing.
- Have documents available in an alternate format (i.e. Braille, large print) or another language.
- A disability-related reasonable accommodation.

Please contact the Clerk of the Board at (916) 322–5594 or by facsimile at (916) 322–3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Para solicitar alguna comodidad especial o si por su idioma necesita cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alternativo (es decir, sistema Braille, letra grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Porfavor llame a la oficina del Consejo a (916) 322–5594 o envíe un fax a (916) 322–3928 lo mas pronto posible, pero no menos de 10 dias de trabajo antes del el dia programado para la audencia del Consejo. TTY/TDD/ Personas que nesessitan este servicion pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS TO THE REGULATIONS APPLICABLE TO PORTABLE DIESEL ENGINES AND DIESEL ENGINES USED IN OFF-ROAD AND ON-ROAD VEHICLES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the Statewide Portable Equipment Registration Program (PERP) Regulation, the Airborne Toxic Control Measure for Diesel-Fueled Portable Engines (Portable Engine ATCM), the Regulation for In-Use Off-Road Diesel-Fueled Vehicles (Off-Road Regulation), and the Regulation for In-Use On-Road Heavy-Duty Diesel-Fueled Vehicles (On-Road Regulation).

DATE: January 28, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., January 28, 2010, and may continue at 8:30 a.m., January 29, 2010. This item may not be considered until January 29, 2010. Please consult the agenda for the meeting, which will be available at least 10 days before January 28, 2010, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 13, California Code of Regulations (CCR), article 5, sections 2451, 2452, 2453, 2456, 2458, 2460, 2461 and 2462, the Statewide Portable Equipment Registration Program. Proposed amendments to title 17, CCR, sections 93116.1, 93116.2 and 93116.3, the Airborne Toxic Control Measure for Diesel-Fueled Portable Engines. Proposed amendments to title 13, CCR, section 2449, the Regulation for In-Use Off-Road Diesel-Fueled Vehicles. Proposed amendments to title 13, CCR, section 2025, the regulation for In-Use On-Road Diesel-Fueled Vehicles.

Background:

The Legislature passed the portable equipment registration statutes in 1995. These statutes (Health and Safety Code §41750 et seq.) required ARB to create and maintain a program for the registration of engines and equipment that are operated at more than one location throughout the State. Under these 1995 statutes, the Board approved a Statewide Regulation establishing the Portable Equipment Registration Program (PERP) on March 27, 1997, and it became effective on September 17, 1997. The Board approved amendments to the Statewide PERP Regulation on December 11, 1998, February 26, 2004, June 22, 2006, March 22, 2007, and December 11, 2008. When an engine is registered in PERP, State law provides that the owner of that engine need not obtain local air district permits prior to operating. To be registered in PERP, however, the engine being registered must meet strict eligibility requirements at the time of application.

Most of the engines associated with portable equipment are diesel-fueled, making these engines also subject to the requirements of the Portable Engine ATCM. The Portable Engine ATCM covers all portable engines, not only those registered in PERP. The Board adopted the Portable Engine ATCM in February 2004. Portable engines include a wide variety of engine types and uses. A portable engine may provide primary power to a piece of equipment or it may serve as an auxiliary engine.

The Portable Engine ATCM requires that all diesel engines operating pursuant to a permit or registration in California must be certified to an off-road emission standard contained in 40 CFR Part 89 as of January 1, 2010, except for those engines designated as emergency use or low use. This requirement was first established in 1997 as part of PERP, giving businesses a maximum of 13 years to plan for the replacement or retirement of the older, uncertified engines.

In 2004, this requirement was moved from the PERP regulation to the Portable Engine ATCM so that it would apply to all diesel engines statewide, not just those registered in PERP. The PERP Regulation maintains a similar requirement for older spark-ignition engines to be put out of service by the same date. The owners of older spark-ignition engines have the option of seeking permits with the local districts in lieu of complying with the January 1, 2010 deadline in PERP.

In recent months, numerous members of the regulated community and the local Air districts have expressed concerns about the requirement to replace all uncertified portable engines by January 1, 2010. In response, ARB staff is proposing to allow smaller companies the ability to phase-in compliance by deferring a limited number of uncertified engines until January 1, 2011. This phased-in approach is consistent with other

ARB diesel rules and provides some relief to over 90 percent of the companies that currently have uncertified engines, yet retains over 70 percent of the emissions benefits of the rule expected in 2010.

In addition, members of the California Groundwater Association expressed concern that the replacement of older deck engines on existing two-engine water well drilling rigs is either technologically infeasible or severely cost prohibitive, which would force these rigs out of service without replacement. Because engine replacement on these drilling rigs is often not possible, the only option available to the operators of these vehicles is to retire them or to purchase a new drilling rig. A new drilling rig can cost several hundred thousand dollars. This would severely impact the water well drilling industry and their ability to drill new water wells in the State. These issues are very similar to the issues with two-engine cranes, which were addressed in previous amendments that the Board approved in December 2008. As such, ARB staff is proposing to add two-engine water well drilling rigs to the Off-Road Regulation consistent with other similar types of vehicles.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

On January 28, 2010, staff will present to the Board amendments to the PERP Regulation, the Portable Engine ATCM, the Off-Road Regulation, and the On-Road Regulation. These proposed amendments would extend the deadline for replacing older engines for smaller companies, provide for the eligibility of certain types of engines, and modify the PERP recordkeeping and reporting requirements. These amendments will also subject two-engine water well drilling rigs to the Off-Road Regulation, and exempt them from the Portable Engine ATCM and On-Road Regulation. ARB staff is also proposing some minor revisions that are intended to provide additional clarity and enforceability to the implementation of the Statewide PERP Regulation.

The proposed amendments would allow certain engines to obtain permits or registrations that would not otherwise qualify, and would also provide limited relief for the affected industry relative to the replacement, recordkeeping, reporting, and registration of complying engines. Following is a more detailed description of the proposed amendments.

Statewide PERP Regulation

Spark-ignition Engine Replacement Extension

ARB staff proposes to allow owners of small fleets to designate some of their currently registered spark-ignition engines to operate for one additional year beyond the current date. Under this proposal, owners with 25 or

fewer total portable engines would be able to continue operating either one registered spark-ignition engine of any size or up to five registered engines not to exceed a combined total of 500 brake horsepower (bhp) until December 31, 2010. The owners of these fleets will have to submit a written request to designate which registered engines they wish to continue operating under this proposed regulatory amendment. If the fleet owner uses the one year extension for one large spark-ignition engine or up to five registered spark-ignition engines, they will not also get an additional extension for compression-ignition engines that they may own as proposed in the Portable Engine ATCM. However, the five engines designated to operate for an additional year can be a mix of spark-ignition and compression-ignition engines.

Marine and On-Highway Engines

ARB staff proposes to allow engines that are certified to the on-highway emission standards contained in 40 CFR part 86 and engines that are certified to marine emission standards contained in 40 CFR part 94 and 40 CFR part 1042 to be eligible for registration in PERP if such engines otherwise meet all other Statewide PERP Regulation requirements. In the case of auxiliary marine certified engines operated on vessels, these engines will be subject to the Commercial Harbor Craft ATCM, even if registered in PERP.

Water Well Drilling Rigs

ARB staff proposes to add a definition for two-engine water well drilling rigs as those owned by companies with a specific water well drilling contractors license. The deck engine of these rigs will remain eligible for PERP, but staff proposes to clarify that the engine will be subject to the Off-Road Regulation, not the Portable Engine ATCM. If registered in PERP, the deck engine will still be subject to district inspection requirements and applicable fees as listed in the PERP regulation.

Recordkeeping and Reporting

ARB staff proposes to reduce the amount of recordkeeping for registered certified engines which are not subject to any emission limitations. Staff also proposes to remove the annual reporting requirement for these certified engines. Engines and equipment units with emission limitations will continue to have daily recordkeeping and annual reporting requirements of the applicable operational data. Staff proposes to require that the specific location and date is recorded on a regular basis for certified engines, and each time it is moved for non-certified engines and equipment units. This is necessary to improve the enforceability of the requirement that registered portable engines and equipment units do not reside in one location for more than 12 consecutive months.

Vendor Sales Report

ARB staff proposes to remove the vendor sales reporting requirement from the Statewide PERP Regulation.

Miscellaneous Amendments

ARB staff is proposing the modification, addition, and deletion of terms in the definitions section, deletion of outdated provisions, and minor clarifications where needed. These changes are considered to be non-substantive and are intended to provide additional clarity and expediency to the Statewide PERP Regulation.

Portable Engine ATCM

Diesel Engine Replacement Extension

ARB staff proposes to allow owners of small fleets to designate certain diesel engines to operate for one additional year beyond the current date. Under this proposal, owners of 25 or fewer total portable engines would be able to choose either one diesel engine of any size or up to five diesel engines not to exceed a combined total of 500 bhp to operate until December 31, 2010. These engines would have to be currently registered in PERP or permitted by a local air district. These fleet owners will have to submit a written request to designate which engines they wish to continue operating under this proposed regulatory amendment.

Water Well Drilling Rigs

ARB staff proposes to define water well drilling rigs as those owned by companies with a specific water well drilling contractors license. The deck engines on two-engine rigs will be exempt from the Portable Engine ATCM, as they will be subject to the Off-Road Regulation.

On-Highway Engines

ARB staff proposes to allow engines that are certified to the on-highway emission standards contained in 40 CFR part 86 and used in portable applications to operate beyond January 1, 2010. Many operators are using certified on-highway engines in non-motive, portable applications. This amendment will allow these engines to operate beyond the current replacement deadline. When these on-highway engines become part of the portable fleet, they be subject to the fleet emission standards contained in the Portable Engine ATCM.

Miscellaneous Amendments

ARB staff is proposing the modification, addition, and deletion of terms in the definitions section, deletion of outdated provisions, and minor clarifications where needed. These changes are considered to be non-substantive and are intended to provide additional clarity and expediency to the Portable Engine ATCM.

Off-Road Regulation

Water Well Drilling Rigs

ARB staff proposes to define water well drilling rigs as those owned by companies with a specific water well drilling contractors license. Both engines on two-engine rigs will be subject to the Off-Road Regulation. No special provisions will be added for these drilling rigs. The reporting date for water well drilling rigs will also be extended to allow time for the drilling rigs that were previously not subject to this regulation.

On-Road Regulation

Water Well Drilling Rigs

ARB staff proposes to exempt two-engine water well drilling rigs from the On-Road Regulation, but will be subject to the Off-Road Regulation.

COMPARABLE FEDERAL REGULATIONS

There are no federal regulations comparable to the Statewide PERP Regulation. To date, the United States Environmental Protection Agency has adopted emission standards for new spark-ignition nonroad engines at or below 19 kilowatts (25 horsepower) and compression-ignition nonroad engines at or above 37 kilowatts (50 horsepower).

There are no federal regulations comparable to the proposed regulation to reduce emissions of diesel particulate matter and oxides of nitrogen from in-use on-road diesel vehicles that operate in California. Similarly, there are also no federal regulations comparable to California's in-use off-road vehicle regulation.

**AVAILABILITY OF DOCUMENTS AND
AGENCY CONTACT PERSONS**

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Initial Statement of Reasons for the Proposed Amendments to the Regulations Applicable to Portable Diesel Engines and Diesel Engines Used in Off-Road and On-Road Vehicles.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on January 28, 2010.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested

from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Michael Guzzetta, Manager of the Rule Evaluation Section at (916) 322-6025, or Joseph Gormley, Air Resources Engineer, Rule Evaluation Section, at (916) 322-5616.

Further, the agency representative and designated back-up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2010/perp2010/perp2010.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost to State or local agencies. However, the proposed regulatory action will create savings to some State and local agencies, as described below.

Non-Certified Engine Extension

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB staff estimates that the total economic impact of the proposed amendments to the Statewide Regulation to affected private businesses and public (local, State, and federal) agencies is a savings of \$66 million over the next one year. The savings created are from the one-year extension for replacing older engines as required by the Por-

table Engine ATCM and a reduction of reporting requirements.

The alternative to the proposed extension for older engines is to keep the existing deadline of January 1, 2010. The average cost of an engine replacement is approximately \$175 per horsepower. Approximately 4,400 older engines with a total of about 1,050,000 horsepower are subject to the current requirement to be replaced by January 1, 2010. Approximately 80 engines with a cumulative size of 15,000 bhp are on two-engine water well drilling rigs; therefore the total amount affected is reduced to 1,035,000 bhp. The cost to replace all these engines would be about \$181 million. With the current proposal, approximately 2,000 engines owned by 1,130 companies and public agencies with a combined horsepower of approximately 375,000 will be eligible to operate for an additional year. The cost to replace these engines would be approximately \$66 million, therefore resulting in a savings for small business and public agencies of that amount for one year. The true cost savings will be less, however, because it is not expected that all the eligible engines will utilize the extension in this proposal.

Staff estimates that 210 local agencies will be affected by the proposed amendments. The total potential economic savings for local agencies is estimated by ARB staff to be \$10.3 million.

Staff estimates that three State agencies will be affected by the proposed amendments. The total potential economic savings for State agencies is estimated by ARB staff to be \$220,000.

Staff estimates that nine federal agencies will be affected by the proposed amendments. The total potential economic savings for federal agencies is estimated by ARB staff to be \$510,000.

Water Well Drilling Rigs

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB staff estimates that the economic impact of the proposed amendments to affected businesses is \$13 million. The savings are from moving the two-engine water well drilling rigs into the Off-Road Regulation which does not have requirements until 2013 for medium fleets and 2015 for small fleets. Currently, there are only 80 of these engines registered in PERP, although some estimates put the total at over 400 throughout the State. The savings are due to the delay of the requirement to replace or retrofit older engines until either 2013 or 2015. There are no economic impacts to public agencies as a result of this amendment.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact direct-

ly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses.

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

Before taking final action on the proposed regulation, the 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 amendment is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting and may be submitted by postal mail or by electronic submittal before the meeting. To be considered by the Board, written comments, not physically submitted at the meeting, must be received **no later than 12:00 noon, January 27, 2010**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the pub-

lic upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39665, 39666, 39667, 39674, 39675, 40000, 41511, 41752, 41753, 41754, 41755, 42400, 42400.1, 42400.2, 42402.2, 42410, 43000, 43000.5, 43013, 43016, 43018, 43023, and 43600. This action is proposed to implement, interpret, or make specific Health and Safety Code sections 39600, 39601, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 40000, 41511, 41750, 41751, 41752, 41753, 41754, 41755, 42400, 42400.1, 42400.2, 42402.2, 42410, 43013, 43016, 43018, 43023, and 43600.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

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

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

SPECIAL ACCOMMODATION REQUEST

To request a special accommodation or language needs for any of the following:

- An interpreter to be available at the hearing.

- Have documents available in an alternate format (i.e. Braille, large print) or another language.
- A disability-related reasonable accommodation.

Please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Para solicitar alguna comodidad especial o si por su idioma necesita cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alternativo (es decir, sistema Braille, letra grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Porfavor llame a la officina del Consejo a (916) 322-5594 o envíe un fax a (916) 322-3928 lo mas pronto posible, pero no menos de 10 dias de trabajo antes del el dia programado para la audencia del Consejo. TTY/TDD/ Personas que neessitan este servicion pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

TITLE 14. DELTA PROTECTION COMMISSION

(Notice published December 11, 2009)

The Delta Protection Commission (Commission) proposes to amend its policies governing land use and resource management in the Primary Zone of the Sacramento-San Joaquin Delta. The changes primarily amend, delete and add introduction, overview, goals, policies, and glossary sections of the Land Use and Resource Management Plan for the Primary Zone of the Delta (Management Plan) to assure the maintenance of a comprehensive land use and resource management plan for the Delta as provided for in the Delta Protection Act (Act).

PROPOSED REGULATORY ACTION

The Commission proposes to amend Sections 20030-20110 in Title 14, Chapter 3 of the California Code of Regulations. The sections concern the policies and related components of the Resource Management Plan that provide the basis for governing land use and resource management in the Primary Zone of the Sacramento-San Joaquin Delta.

PUBLIC HEARING

The Commission will hold a public hearing during its January 28, 2010 meeting, which will start at 5:30 p.m.

and will be held at the City of West Sacramento — Galleria, 1110 West Capitol Avenue, West Sacramento, California. The facility is wheelchair accessible. At the hearing, any person may present comments orally or in writing relevant to the proposed action described below in the Informative Digest.

WRITTEN COMMENT PERIOD

Any person may also present comments in writing or by email before the public hearing. To be considered by the Commission, written submissions not physically submitted at the hearing must be received no later than 12:00 p.m. (noon), January 27, 2010.

Postal mail is to be sent to either:

Linda Fiack, Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690

Sheila Singleton, AGPA
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690

Electronic mail is to be sent to either:

linda.fiack@delta.ca.gov
sheila.singleton@delta.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code Section 29752 authorizes the Commission to adopt the proposed regulations, which would implement, interpret, or make specific Sections 29760-29767 of the Public Resources Code.

INFORMATIVE DIGEST

Public Resources Code Sections 29760-29767 govern land use and resource management in the Primary Zone of the Sacramento-San Joaquin Delta. The Land Use and Resource Management Plan for the Primary Zone of the Delta was adopted in 1995 and provided for in the Act. Public Resources Code Section 29770(c) authorizes the Commission to adopt regulations to implement, interpret and make specific these requirements.

The Commission proposes to change its regulations governing land use and resource management in the Primary Zone of the Sacramento-San Joaquin Delta by amending the Resource Management Plan in its entirety as follows:

Section 20030, Overview has been amended, including a title change from Overview to Introduction, to provide background information about the Act and pro-

vide information based on current facts about the Primary Zone of the Delta, goals of the Resource Management Plan as set out in the Act, clarification of the Commission's authority, elements of the Resource Management Plan, process by which the plan was updated, references to materials used in the preparation of the Resource Management Plan, how the elements of the plan are structured, the intent of the Commission to take into consideration projected climate change effects in the implementation of the policies of the Resource Management Plan, and the provision to update the plan every five years if determined to be necessary.

Section 20040, Natural Resources, has been amended, including a title change from Environment to Natural Resources, to more clearly identify the goal of preserving and protecting the natural resources of the Delta, promote protection of remnants of riparian and aquatic habitat, and encourage compatibility between agricultural practices and wildlife habitat based on the factual background information provided in the amended Overview to: (a) address the preservation and protection of natural resources and to encourage compatibility between agricultural practices, recreational uses and wildlife habitat; (b) encourage farmers to implement management practices to maximize habitat values, and to encourage incentives such as conservation easements from willing sellers; (c) provide for land management primarily for wildlife habitat to be managed to maximize ecological values through programs such as "Coordinated Resource Management Planning" (Public Resources Code Section 9408(c)) to ensure full participation by local government and property owners, and to recognize the rightful responsibility to offset the loss of tax revenue; (d) support non-native invasive species control measures; (e) preserve and protect the viability of agricultural areas by including an adequate financial mechanism in any planned conversion of agricultural lands to wildlife habitat for conservation purposes; (f) support the implementation of appropriate buffers, management plans and/or good neighbor policies that limit liability for incidental take associated with adjacent agricultural and recreational activities within lands converted to wildlife habitat; (g) incorporate suitable and appropriate wildlife protection, restoration and enhancement on publicly owned land as part of a Delta-wide plan for habitat management; (h) promote natural resource tourism, including the establishment of National Heritage Area designations; (i) protect and restore ecosystems and adaptively manage them to minimize impacts from climate change and other threats; and (j) ensure that design, construction, and management of any flooding program to provide seasonal wildlife and aquatic habitat on agricultural lands, duck club lands and additional seasonal and

tidal wetlands shall incorporate best management practices.

Section 20050, Utilities and Infrastructure, has been amended to ensure that the construction of new utility and infrastructure facilities is appropriate and the impacts of such new construction on the integrity of levees, wildlife, recreation, agriculture and Delta communities are avoided, minimized and mitigated based on the factual background information provided in the amended Introduction (a) provide guidance relative to the placement of transmission and utilities in the Primary Zone and stipulate the need for consultation with communities early in the planning process for the purpose of creating an appropriate buffer from residences, schools, churches, public facilities and inhabited marinas; (b) ensure that new houses built in agricultural areas outside of the unincorporated towns continue to be served by independent potable water and wastewater treatment facilities and/or septic systems but not in a way that is growth inducing; (c) ensure that new municipal sewage treatment facilities that support development or business outside of the Primary Zone are not located within the Primary Zone while recognizing specific historic exemptions; (d) encourage recycling programs in order to minimize waste generation and that recycling facilities are suitably located to serve Delta residents, visitors and businesses; (e) maintain roads to serve existing in-Delta uses and promote maintenance and enhancement of major thoroughfares already used as cross-Delta corridors; (f) allow air transportation to continue to serve in-Delta interests while providing that the Primary Zone is not an appropriate location for new or expanded general aviation airports; and (g) encourage the provision of infrastructure for new water, recreational and scientific research facilities.

Section 20060, Land Use, has been amended to protect the unique character and qualities of the Primary Zone by preserving the cultural heritage, strong agricultural/economic base, unique recreational resources, and biological diversity of the Primary Zone, to direct new non-agriculturally oriented non-farm worker residential development within existing unincorporated towns, and to encourage a critical mass of farms, agriculturally-related businesses and supporting infrastructure to ensure the economic vitality of agriculture within the Delta, based on the factual background information provided in the amended Overview to: (a) preserve and recognize in public/private facilities the cultural heritage, strong agricultural/economic base and unique recreational resources, and biological diversity of the Delta; (b) promote and facilitate agriculture and agriculturally-supporting commercial and industrial uses as the primary land uses in the Primary Zone while recreation and natural resources land uses are supported in ap-

appropriate locations and where conflicts with agricultural land uses or other beneficial uses can be minimized; (c) ensure that appropriate buffer areas, determined in consultation with local Agricultural Commissioners and based on applicable general plan policies and criteria included in Right-to-Farm Ordinances adopted by local jurisdictions, are provided by those proposing new development to prevent conflicts between any proposed use and existing adjacent agricultural uses; (d) direct new non-agriculturally oriented non-farm worker residential development within existing unincorporated towns; (e) address criteria under which general plan amendments in the Primary Zone will be evaluated under Public Resources Code Section 29763.5; (f) encourage practices that minimize subsidence of peat soils; (g) recognize that new structures shall be set back from levees and areas that may be needed for future levee expansion consistent with local reclamation district regulations and upon adoption be identified in the California Department of Water Resources Central Valley Flood Control Plan; (h) provide for the allowance of mitigation beyond county boundaries pursuant to Government Code Section 51256.3; (i) reiterate that the policies of the Resource Management Plan shall not be achieved through the exercise of the power of eminent domain unless requested by the landowner; (j) maintain sites for the storage of dredged material and discourage the conversion of existing sites to other uses while assuring that soil suitable for levee rehabilitation and raising Delta lowlands remain within the Delta; (k) provide for the development of programs to cluster residential units that allow property owners to engage in limited property development in order to ensure the efficient use and conservation of agricultural lands, support open space values, and protect sensitive environmental areas in the Primary Zone; (l) provide for local governments to develop transfer of development rights programs that allow land owners to transfer the development right from one parcel of land to another; (m) support the implementation of appropriately-located agricultural labor camps and housing that serve agricultural operations, which are constructed and sited consistent with Sections 17021.5 and 17021.6 of the California Health and Safety Code and consistent with the requirements of local building codes; and (n) recognize that the conversion of an agricultural land for water impoundment, including reservoirs, water conveyance or wetland development may not result in the seepage of water onto or under adjacent lands.

Section 20070, Agriculture, has been amended to support long-term viability of agriculture and to discourage inappropriate development of agricultural lands; support the continued capability for agricultural operations to diversify and remain flexible to meet changing market demands and crop production

technology, to promote the ability for agriculture operations to change the crops or commodities produced to whatever is most economically viable at the time, support the use of new crop production technologies that keep Delta agricultural operations competitive and economically sustainable. The Goals recognize that the priority land use of areas of the Primary Zone shall be oriented toward agriculture and open space and that if agriculture is no longer appropriate, land uses that protect other beneficial uses of Delta resources and that would not adversely affect agriculture on surrounding lands or the viability or cost of levee maintenance, may be permitted, and that if temporarily taken out of agriculture production due to lack of adequate water supply or water quality, the land shall remain reinstatable to agriculturally-oriented uses for the future. These Goals are based on the factual background information provided in the amended Overview to: (a) support and encourage agriculture as a key element in the State's economy; (b) recognize that conversion of land to non-agriculturally-oriented uses should occur first where productivity and agricultural values are lowest; (c) promote recognition of the Delta as a place through education; (d) support agricultural programs that maintain economic viability; (e) encourage implementation of the necessary plans and ordinances to maximize agricultural parcel size; reduce subdivision of agricultural lands; protect agriculture and related activities; and protect agricultural land from conversion to non-agriculturally oriented uses; (f) encourage acquisition of agricultural conservation easements from willing sellers as mitigation for projects; (g) encourage management of agricultural lands which maximize wildlife habitat; (h) encourage the protection of agricultural areas, recreational resources, and sensitive biological habitats from the destruction caused by inundation; and (i) support agricultural tourism and value-added agricultural production as a means of maintaining the agricultural economy of the Delta.

Section 20080, Water, has been amended to protect and enhance long-term water quality in the Delta for agriculture, municipal, industrial, water-contact recreation, and fish and wildlife habitat uses, as well as all other beneficial uses, based on the factual background information provided in the amended Overview to: (a) strongly encourage preservation and protection of water quality of the Delta both for in-stream purposes and for human use and consumption; and (b) ensure that Delta water rights and water contracts are respected and protected, including area of origin water rights and riparian water rights.

Section 20090, Recreation and Access, Including Marine Patrol, Boater Education and Safety Programs (formerly Section 20110), has been amended to promote continued recreational use of the land and waters

of the Delta; to ensure that needed facilities that support such uses are constructed, maintained, and supervised; to protect landowners from unauthorized recreational uses on private lands; and to maximize public funds for recreation by promoting public-private partnerships and multiple use of Delta lands, based on the factual background information provided in the amended Overview to: (a) ensure appropriate planning, development and funding for expansion and maintenance of existing public recreation and access areas; (b) encourage expansion of existing privately-owned, water-oriented recreation and access facilities consistent with local general plans, and zoning regulations and standards; (c) assess the need for new regional public and private recreation and access facilities to meet increasing public need; (d) encourage new regional recreational opportunities taking into consideration environmental, agricultural, infrastructure, and law enforcement needs, and private property boundaries; (e) encourage provision of publicly funded amenities in or adjacent to private facilities, particularly if the private facility will agree to supervise and manage such amenities thus lowering long-term cost to the public; (f) support multiple uses of agricultural lands; (g) support improved access for bank fishing; (h) ensure, for the sake of the environment and water quality, the provision of appropriate amenity facilities; (i) encourage the development of funding and implementation strategies by appropriate governing bodies for the surrender and/or removal of water-borne debris and abandoned vessels from waterways to minimize navigational and environmental hazards; (j) promote and encourage Delta-wide communication, coordination and collaboration on boating and waterway-related programs; (k) recognize existing laws and encourage Delta-wide law enforcement protocols; (l) support and encourage programs for waterways that provide opportunities for safe boating and recreation, and (m) support the development of a strategic plan, in consultation with all law enforcement agencies having jurisdiction in the Delta to improve law enforcement and the use of available resources to ensure an adequate level of public safety.

Section 20100, Levees, has been amended to support the improvement, emergency repair, and long-term maintenance of Delta levees and channels, and to promote levee maintenance and rehabilitation to preserve the land areas and channel configurations in the Delta consistent with the objectives of the Act, based on background information provided in the amended Overview to: (a) provide that local government shall carry out their responsibilities to regulate new construction within flood hazard areas to protect public health, safety and welfare consistent with applicable regulations and the Act and that increased flood protection shall not result in residential designations or densities beyond those al-

lowed under zoning and general plan designations in place on January 1, 1992 for lands in the Primary Zone; (b) support programs for emergency levee repairs and encourage coordination between levels of government; (c) support efforts to address levee encroachments that are detrimental to levee maintenance; (d) support funding assistance for existing unincorporated towns within the Delta to improve levees up to a 200-year flood protection level; (e) support stockpiling rock in the Delta for levee emergency response; (f) support a multi-year funding commitment to maintain and restore project and non-project levees; (g) encourage beneficial reuse of dredged material, as appropriate, for levee maintenance and rehabilitation, made the maintenance of instream flows, and support and advocate for the LTMS; (h) seek funding for and support programs to make cost-effective levee investments in order to preserve the economy and character of the Delta; and (i) support a minimum Delta-specific levee design standard as established by state and federal regulations.

Section 20110, Glossary, deletes the Appendix and adds a glossary of terms that provides a basis of reference for the Overview, Goals and Policy sections of the Resource Management Plan. The definitions are based on definitions provided in the Act and other reputable and relevant sources of definitions such as the Williamson Act.

DETERMINATIONS REGARDING THE PROPOSED ACTION'S IMPACTS

The Commission has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any federal funding to the state: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Potential cost impact on representative private persons or businesses: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- No impacts on small businesses because the amendments do not create any new rights or obligations. The amendments merely provide updates of the components of the Resource Management Plan adopted pursuant to the Act to assure maintenance of a comprehensive Plan as provided for in said Act.
- Adoption of these regulations will not (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing cost. None.

Linda Fiack, Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776-2292
linda.fiack@delta.ca.gov

Sheila Singleton, AGPA
Delta Protection Commission
P.O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776-2290
Fax: (916) 776-2293
sheila.singleton@delta.ca.gov

Basis of Determinations

The preceding determinations are based upon the fact that the restrictions in the proposed regulations are already restricted in the Resource Management Plan.

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rule-making is based to either:

POLICY STATEMENT OVERVIEW AND TEXT AVAILABILITY

Policy Statement Overview

The text of the proposed regulations is to modify the components of the Resource Management Plan to assure maintenance of a long-term comprehensive management plan for the Sacramento-San Joaquin Delta as provided for in the Act.

Linda Fiack, Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776-2292
Fax: (916) 776-2293
linda.fiack@delta.ca.gov

Availability of Text in Plain English

The text of the proposed regulations is available in plain English from Linda Fiack, Executive Director or Sheila Singleton both of which are listed below as contact staff.

Sheila Singleton, AGPA
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690
Tel: (916) 776-2290
Fax: (916) 776-2293
sheila.singleton@delta.ca.gov

CONSIDERATION OF ALTERNATIVES

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

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at 14215 River Road, Walnut Grove, California 95690. As of the date of this notice published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Linda Fiack, Executive Director or Sheila Singleton, AGPA at the address or phone number listed above.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to either:

Once the Final Statement of Reasons is prepared, copies may be obtained by contacting Linda Fiack, Executive Director or Sheila Singleton, AGPA, at the address or phone number listed above.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Linda Fiack, Executive Director, or Sheila Singleton, AGPA, at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

HOW TO ACCESS MATERIALS
ON THE INTERNET

Copies of this Notice, the proposed text of the regulations, and the Initial Statement of Reasons can be found on the Commission's website: www.delta.ca.gov. Once the Final Statement of Reasons is prepared, a copy of this document may also be found on the Commission's website listed above.

**TITLE 16. BOARD OF VOCATIONAL
NURSING AND PSYCHIATRIC
TECHNICIANS**

NOTICE IS HEREBY GIVEN that the Board of Vocational Nursing and Psychiatric Technicians (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

Date: Wednesday, January 27, 2010

Time: 10:00 a.m.

Board for Professional Engineers & Land Surveyors
2535 Capitol Oaks Drive, 3rd Floor Conference
Room
Sacramento, California 95833

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on **January 25, 2010**, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such pro-

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2854 and 4504 of the Business and Professions (B&P) Code; and to implement, interpret or make specific sections 2867, 2867.5, 2871, 2895, 2895.1, 2895.5, 4512, 4544, and 4548 of the B&P Code, and Section 6157 of the Government Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

B&P Code section 2854 (VN Program) and section 4548 (PT Program) authorize the Board to adopt, amend or repeal, such rules and regulations may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Practice Act and the Psychiatric Technicians Law. The Board is proposing the following changes:

(1) Amend section 2537 (VN Program) and section 4548 (PT Program)

Existing law, B&P Code, section 2537, specifies the current fees and fee ranges for the VN Program.

The Board is proposing to make permanent the fee changes to ensure fiscal solvency in the VN Program. The changes are as follows:

- (a) The fee to be paid upon the filing of an application shall be in an amount not less than ~~seventy five dollars (\$75)~~ one hundred fifty dollars (\$150), which is the statutory limit.
- (c) The fee to be paid for any examination after the first shall be in an amount not less than ~~seventy five dollars (\$75)~~ one hundred fifty dollars (\$150), which is the statutory limit.
- (i) The penalty fee for submitting insufficient funds or fictitious check, draft, or money order on any bank or depository for payment of any fee to the Board is ~~ten twenty five dollars (\$1025)~~.

(2) PT Program — Section 4548

Existing law, B & P Code, section 4548, specifies the current fees and fee ranges for the PT Program.

The Board is proposing to make permanent the fee changes to ensure fiscal solvency in the PT Program. The changes are as follows:

- (a) The fee to be paid upon the filing of an application shall be in an amount not less than ~~one hundred dollars (\$100)~~ one hundred fifty dollars (\$150), which is the statutory amount.
- (c) The fee to be paid for any examination after the first shall be in the amount not less than ~~one hundred dollars (\$100)~~ one hundred fifty dollars (\$150), which is the statutory amount.
- (k) The penalty fee for submitting insufficient funds or fictitious check, draft, or money order on any bank or depository for payment of any fee to the Board is ~~ten twenty five dollars (\$1025)~~.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Assuming a lifetime of 10 years, the fiscal impact to the Board would be: (1) for the \$75 increase in the vocational nurse application fee, \$8,248,500 (\$75 for approximately 10,998 applicants each year for 10 years); (2) for the \$75 increase in the vocational nurse reexamination fee, \$4,543,500 (\$75 for approximately 6058 applicants who retake the examination each year for 10 years); (3) for the \$50 increase in the psychiatric technician application fee, \$342,000 (\$50 for approximately 684 psychiatric technician applicants each year for ten years); and (4) for the \$50 increase in the psychiatric technician re-examination fee, \$274,000 (\$50 for approximately 548 applicants who retake the psychiatric technician examination each year for 10 years.) Therefore, total statewide costs for all proposed fee changes over the 10-year lifetime of the regulations would be \$12,792,000 for the VN program and \$616,000 for the PT program.

The increase in the dishonored check fee will help offset administrative costs of processing and collecting on dishonored checks. Total statewide costs relative to the \$15 increase in the dishonored check fee over the 10-year lifetime of the regulations would be about \$60,000 for the VN program and \$7,500 for the PT program (i.e., 400 VN and 50 PT dishonored checks received annually.)

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would

have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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

Cost Impact on Representative Private Person or Business: Fees will be raised \$75 per LVN applicant per examination attempt, and \$50 per PT applicant per examination attempt, under the new fee level, if the individual applicant pays his/her own fees. The dishonored check fee will be raised \$15 per incident for a dishonored check.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not have a significant effect on small businesses. It is assumed that less than 3% of the employers pay the application fees for their employees. The types of businesses included are Home Health Agencies; Long Term Care Facilities; Hospitals; and Physicians' Offices.

CONSIDERATION OF ALTERNATIVES

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Sophia Cornejo, Administrative Analyst
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No: (916) 263-7845
Fax No: (916) 263-7859
E-Mail Address: sophia_cornejo@dca.ca.gov

The backup contact person is:

Name: Marina Okimoto, Assistant Executive Officer
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No: (916) 263-7845
Fax No: (916) 263-7859
E-mail Address: marina_okimoto@dca.ca.gov

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

GENERAL PUBLIC INTEREST

**CALIFORNIA DEPARTMENT OF FISH
AND GAME**

**CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
CESA No. 2080-2009-018-03**

PROJECT: South Bay Aqueduct Improvement and Enlargement Project

LOCATION: Alameda County

NOTIFIER: Jim O'Toole, ESA Associates
APPLICANT: California Department of Water Resources

BACKGROUND

The California Department of Water Resources (DWR) proposes to improve and enlarge the conveyance capacity of the South Bay Aqueduct in Alameda County, California (hereafter, the Project or SBA System). The Project area extends approximately 16.28 miles from the South Bay Pumping Plant at Bethany Reservoir east of the Altamont Hills, to the end of the Alameda Canal south of Livermore.

DWR's improvement and enlargement of the SBA System includes the following elements:

- Bethany Reservoir facility improvements including expansion of an existing building, the installation of additional pumps, a new service bay and a new electrical switchyard at the South Bay Pumping Plant (SBPP) on Bethany Reservoir, and SBPP inlet dredging;
- Construction of a third parallel Brushy Creek pipeline and surge tank parallel to the existing dual pipeline system;
- Construction of the 27-acre Dyer Reservoir, a 500 acre-foot capacity reservoir to be served by the Stage 3 Brushy Creek Pipeline;
- Development of the first phase of a water pipeline from Dyer Reservoir to the proposed Altamont Water Treatment Plant (WTP) west of Dyer Road;
- Raising the height of canal embankments, canal lining and canal overcrossing structures and bridges for the Dyer, Livermore, and Alameda Canals, including Patterson Reservoir, which includes use of the 17-acre Patterson embankment materials borrow area;
- Modification of check structures and siphons along the Dyer, Livermore, and Alameda Canals; and
- Construction of new drainage overcrossing structures to eliminate drainage into canals.

Implementation of the Project will result in temporary and permanent impacts to grasslands that provide habitat for the San Joaquin kit fox (*Vulpes macrotis mutica*)(SJKF), a species listed as threatened under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*) and endangered under the Federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*). (See also Cal. Code Regs., tit. 14, § 670.5, subd. (b)(6)(E).) These impacts are expected to result in the incidental take of SJKF. Because of the Project's potential for incidental take of SJKF, the U.S. Army Corps of Engineers (Corps) consulted with the U.S. Fish and

Wildlife Service (Service) as required by the ESA. On June 28, 2006, the Service issued the Corps a “no jeopardy” biological opinion (1-1-06-F-0129) (BO) for the Project. The BO describes the Project and sets forth measures to mitigate Project impacts to SJKF. Because SJKF is also listed under CESA, on June 30, 2006, Jim O’Toole notified the Director of the Department of Fish and Game (DFG) on behalf of DWR, requesting a determination, pursuant to Fish and Game Code section 2080.1, that the BO, including its incidental take statement (ITS) is consistent with CESA. On July 28, 2006, DFG determined that the BO, including the ITS, is consistent with CESA (DFG Ref. # 2080-2006-015-03).

Construction activities for the Project were started in 2006 and are scheduled to be completed by 2011. On October 15, 2009 the Service issued an amendment (81420-2008-F-1422-2) to the BO (Amended BO) which includes the following changes to the Project:

- The existing Harvey O. Banks (HOB) Switchyard will be expanded approximately 180 feet to the west. The new facility will consist of transformers, switchgear and powerline connections within the extended fenceline.
- Approximately 4,200 feet of new 13 kV powerline will be installed at the existing Delta Operations and Maintenance facility to provide reliable permanent power supply to the Skinner Fish Facility. Powerline support will be provided by single metal poles installed every 200 feet along existing access roads and fence lines. The existing 13 kV powerline to the Skinner fish facility will be restrung along Burns Road on the existing wooden power poles.
- 69 KV Powerline to South Bay Pumping Plant (SBPP): A 69-kilovolt powerline between the HOB switchyard and the South Bay Pumping Plant will be installed to upgrade existing power service to the pumping plant. Implementation will include removal of an existing 13.8 kV powerline and poles located approximately 100 feet east of the proposed 69 kV powerline corridor. Installation of new poles will consist of pole layout, rotary drilling with an auger, pole installation, backfill and powerline stringing.
- Temporary cofferdam at the SBPP: A coffer dam will be installed across the Bethany Reservoir Inlet Channel to dewater the area prior to and during installation of the SBPP intakes, as well as provide access for excavation of sediments that have accumulated in the channel. An estimated 6,000 cubic yards of material will be excavated and integrated into existing SBPP spoils piles. Installation of the coffer dam will include driving of sheet piles and placing approximately 12,000

cubic yards of material to a height of approximately 25 feet.

- Conservation Easement Funding: On an annual basis, DWR will classify the management of the conservation areas as an integral component of the SWP and on that basis shall obligate funds from its Operations and Maintenance budget sufficient to adequately manage the conservation areas and to meet the obligations of the Conservation Easement Management Plan for the Egan and Bethany properties (CEMP) (draft dated June 6, 2009 or the most recent version). It is anticipated that implementation of the CEMP for the 503 acres of listed species habitat to be preserved and managed will cost approximately \$82,995 annually in 2009 dollars (un-escalated). This amount consists of the annual costs for DWR staff and senior compliance biologists who will be responsible for surveys, annual and five-year reports, meetings, training sessions, mitigation activities and other day to day activities associated with implementation the CEMP. These are rough estimates; actual expenditures could be different once the CEMP has been implemented. DWR will review all program budgets on an annual basis and make adjustments as needed to meet CEMP requirements.
- Increase in Created Wetlands: This represents a clarification in the original BO. The Corps did not accept 1.26 acres of wetland creation at the Dyer Reservoir drainage. Therefore, the Corps is requiring DWR to meet its full wetland creation obligation of 3.0 acres at the Egan Property. The Dyer Drainage has been constructed and wetlands are becoming established at this location; however, DWR will not receive credit from the Corps for these created wetlands.
- Revised Estimated Habitat Effects and Proposed Habitat Compensation: The habitat area temporarily affected by the construction of the Brushy Creek Pipeline, SBPP, and Dyer Reservoir was approximately 42.5 acres greater than estimated in the original BO. Additionally impacts related to the new facilities identified above will result in 2.6 acres of new permanent and 1.75 acres of new temporary impacts to upland grassland.

In addition to the changes to the Project described in the Amended BO, DFG has approved a Memorandum of Understanding with DWR for the Funding Management of the Bethany and Egan Conservation Areas (MOU) to provide assurances that funding for the management of the compensatory habitat areas will be provided from the revenues derived from State Water Project (SWP) charges to the State Water Contractors under

the long-term water supply contracts and any subsequent agreements.

As revised by the November 15, 2009 Amended BO, implementation of the Project will result in the temporary loss of 159.25 acres and the permanent loss of 42.6 acres of SJKF habitat, and is expected to result in incidental take of individuals of the species. The Amended BO includes measures to avoid, minimize, and mitigate for Project-caused incidental take and related adverse effects on SJKF, as required by the federal ESA. These measures include acquisition, perpetual management and monitoring of at least 503 acres of suitable SJKF habitat, and funding the planning for and implementation of various projects to improve opportunities for SJKF to cross over the California Aqueduct.

On October 26, 2009, Jim O'Toole, on behalf of DWR, notified the Director of DFG that DWR was requesting a determination, pursuant to Fish and Game Code section 2080.1, that the Amended BO, including its ITS is consistent with CESA.

DETERMINATION

DFG has determined the Amended BO, including its ITS, is consistent with CESA because the mitigation measures contained therein meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. This determination supersedes and replaces the prior determination (DFG Ref. #2080-2006-015-03) issued on July 28, 2006. Specifically, DFG finds that the take of SJKF will be incidental to an otherwise lawful activity, the mitigation measures identified in the Amended BO will minimize and fully mitigate the impacts of the authorized take, and implementation of the Project will not jeopardize the continued existence of SJKF. The mitigation measures in the Amended BO include, but are not limited to, the following:

1. DWR shall mitigate for temporary impacts to 157.5 acres and permanent impacts to 42.5 acres of grasslands that provide suitable habitat for SJKF through the conservation and management of at least 503 acres of suitable SJKF habitat at two locations: 168 acres at the Bethany Reservoir and 288 acres at the Egan Property on Dyer Road. DWR shall identify an additional 47 acres to be

managed under the existing conservation easement on the Bethany properties; the habitat areas identified by DWR shall be subject to approval by the Service and DFG. DWR will maintain fee title and shall place a DFG- and Service-approved conservation easement over the properties.

2. Not later than 120 days following issuance of the Amended BO (by February 4, 2010), DWR shall submit property documentation to the Service and DFG for the additional 47 acres. DWR shall record the conservation easement for the property within 180 days after issuance of the Amended BO.
3. DWR shall provide funds in the amount of \$200,000 for the planning and implementation of projects to improve dispersal opportunities for SJKF in the northern range including improvements to crossings over the California Aqueduct and DWR system.
4. DWR shall fully implement and adhere to all conservation measures identified in the Service's *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance*.

Pursuant to Fish and Game Code section 2080.1, incidental take authorization under CESA will not be required for incidental take of SJKF for the Project, provided DWR implements the Project as described in the Amended BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the Amended BO and ITS, as well as the additional commitments DWR proposed through the MOU. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the Amended BO and ITS, DWR will be required to obtain a new consistency determination or a CESA incidental take permit from DFG. This determination replaces DFG's prior determination (Ref. #2080-2006-015-03) issued on July 28, 2006.

Although not a condition of the Biological Opinion or this determination, DFG requests that copies of the annual or periodic monitoring reports, or other circulated materials relevant to the Project's effects on SJKF, be submitted to DFG's Bay-Delta Regional Office.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986

CHEMICALS KNOWN TO THE
STATE TO CAUSE CANCER OR
REPRODUCTIVE TOXICITY

December 11, 2009

The Safe Drinking Water and Toxic Enforcement Act

CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER

of 1986 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals which are shown with a strikethrough were placed on the list with the date noted, and have subsequently been removed.

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
A-alpha-C (2-Amino-9H-pyrido[2,3-b]indole)	26148-68-5	January 1, 1990
Acetaldehyde	75-07-0	April 1, 1988
Acetamide	60-35-5	January 1, 1990
Acetochlor	34256-82-1	January 1, 1989
2-Acetylaminofluorene	53-96-3	July 1, 1987
Acifluorfen sodium	62476-59-9	January 1, 1990
Acrylamide	79-06-1	January 1, 1990
Acrylonitrile	107-13-1	July 1, 1987
Actinomycin D	50-76-0	October 1, 1989
AF-2;[2-(2-furyl)-3-(5-nitro-2-furyl)]acrylamide	3688-53-7	July 1, 1987
Aflatoxins	—	January 1, 1988
Alachlor	15972-60-8	January 1, 1989
Alcoholic beverages, when associated with alcohol abuse	—	July 1, 1988
Aldrin	309-00-2	July 1, 1988
<u>Allyl chloride</u> <u>Delisted October 29, 1999</u>	107-05-1	January 1, 1990
2-Aminoanthraquinone	117-79-3	October 1, 1989
p-Aminoazobenzene	60-09-3	January 1, 1990
ortho-Aminoazotoluene	97-56-3	July 1, 1987
4-Aminobiphenyl (4-aminodiphenyl)	92-67-1	February 27, 1987
1-Amino-2,4-dibromoanthraquinone	81-49-2	August 26, 1997
3-Amino-9-ethylcarbazole hydrochloride	6109-97-3	July 1, 1989
2-Aminofluorene	153-78-6	January 29, 1999
1-Amino-2-methylantraquinone	82-28-0	October 1, 1989
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	712-68-5	July 1, 1987
4-Amino-2-nitrophenol	119-34-6	January 29, 1999
Amitrole	61-82-5	July 1, 1987
Amsacrine	51264-14-3	August 7, 2009
Analgesic mixtures containing phenacetin	—	February 27, 1987
Aniline	62-53-3	January 1, 1990
Aniline hydrochloride	142-04-1	May 15, 1998
ortho-Anisidine	90-04-0	July 1, 1987
ortho-Anisidine hydrochloride	134-29-2	July 1, 1987
Antimony oxide (Antimony trioxide)	1309-64-4	October 1, 1990
Anthraquinone	84-65-1	September 28, 2007
Aramite	140-57-8	July 1, 1987

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 50-Z

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Areca nut	—	February 3, 2006
Aristolochic acids	—	July 9, 2004
Arsenic (inorganic arsenic compounds)	—	February 27, 1987
Asbestos	1332-21-4	February 27, 1987
Auramine	492-80-8	July 1, 1987
Azacitidine	320-67-2	January 1, 1992
Azaserine	115-02-6	July 1, 1987
Azathioprine	446-86-6	February 27, 1987
Azobenzene	103-33-3	January 1, 1990
Benthiavalicarb-isopropyl	177406-68-7	July 1, 2008
Benz[a]anthracene	56-55-3	July 1, 1987
Benzene	71-43-2	February 27, 1987
Benzidine [and its salts]	92-87-5	February 27, 1987
Benzidine-based dyes	—	October 1, 1992
Benzo[b]fluoranthene	205-99-2	July 1, 1987
Benzo[j]fluoranthene	205-82-3	July 1, 1987
Benzo[k]fluoranthene	207-08-9	July 1, 1987
Benzofuran	271-89-6	October 1, 1990
Benzo[a]pyrene	50-32-8	July 1, 1987
Benzotrichloride	98-07-7	July 1, 1987
Benzyl chloride	100-44-7	January 1, 1990
Benzyl violet 4B	1694-09-3	July 1, 1987
Beryllium and beryllium compounds	—	October 1, 1987
Betel quid with tobacco	—	January 1, 1990
Betel quid without tobacco	—	February 3, 2006
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	May 1, 1996
Bis(2-chloroethyl)ether	111-44-4	April 1, 1988
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornapazine)	494-03-1	February 27, 1987
Bischloroethyl nitrosourea (BCNU) (Carmustine)	154-93-8	July 1, 1987
Bis(chloromethyl)ether	542-88-1	February 27, 1987
Bis(2-chloro-1-methylethyl) ether, technical grade	—	October 29, 1999
Bitumens, extracts of steam-refined and air refined	—	January 1, 1990
Bracken fern	—	January 1, 1990
Bromate	15541-45-4	May 31, 2002
Bromodichloromethane	75-27-4	January 1, 1990
Bromoethane	74-96-4	December 22, 2000
Bromoform	75-25-2	April 1, 1991
1,3-Butadiene	106-99-0	April 1, 1988
1,4-Butanediol dimethanesulfonate (Busulfan)	55-98-1	February 27, 1987
Butylated hydroxyanisole	25013-16-5	January 1, 1990
beta-Butyrolactone	3068-88-0	July 1, 1987
Cacodylic acid	75-60-5	May 1, 1996
Cadmium and cadmium compounds	—	October 1, 1987
Caffeic acid	331-39-5	October 1, 1994
Captafol	2425-06-1	October 1, 1988
Captan	133-06-2	January 1, 1990
Carbazole	86-74-8	May 1, 1996
Carbon black (airborne, unbound particles of respirable size)	1333-86-4	February 21, 2003
Carbon tetrachloride	56-23-5	October 1, 1987
Carbon-black extracts	—	January 1, 1990
N-Carboxymethyl-N-nitrosourea	60391-92-6	January 25, 2002
Catechol	120-80-9	July 15, 2003
Ceramic fibers (airborne particles of respirable size)	—	July 1, 1990

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Certain combined chemotherapy for lymphomas	—	February 27, 1987
Chlorambucil	305-03-3	February 27, 1987
Chloramphenicol	56-75-7	October 1, 1989
Chlordane	57-74-9	July 1, 1988
Chlordecone (Kepone)	143-50-0	January 1, 1988
Chlordimeform	6164-98-3	January 1, 1989
Chlorendic acid	115-28-6	July 1, 1989
Chlorinated paraffins (Average chain length, C12; approximately 60 percent chlorine by weight)	108171-26-2	July 1, 1989
p-Chloroaniline	106-47-8	October 1, 1994
p-Chloroaniline hydrochloride	20265-96-7	May 15, 1998
Chlorodibromomethane <u>Delisted October 29, 1999</u>	124-48-1	January 1, 1990
Chloroethane (Ethyl chloride)	75-00-3	July 1, 1990
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	13010-47-4	January 1, 1988
1-(2-Chloroethyl)-3-(4-methylcyclohexyl)-1-nitrosourea (Methyl-CCNU)	13909-09-6	October 1, 1988
Chloroform	67-66-3	October 1, 1987
Chloromethyl methyl ether (technical grade)	107-30-2	February 27, 1987
3-Chloro-2-methylpropene	563-47-3	July 1, 1989
1-Chloro-4-nitrobenzene	100-00-5	October 29, 1999
4-Chloro-ortho-phenylenediamine	95-83-0	January 1, 1988
p-Chloro-o-toluidine	95-69-2	January 1, 1990
p-Chloro-o-toluidine, strong acid salts of	—	May 15, 1998
5-Chloro-o-toluidine and its strong acid salts	—	October 24, 1997
Chloroprene	126-99-8	June 2, 2000
Chlorothalonil	1897-45-6	January 1, 1989
Chlorotrianisene	569-57-3	September 1, 1996
Chlorozotocin	54749-90-5	January 1, 1992
Chromium (hexavalent compounds)	—	February 27, 1987
Chrysene	218-01-9	January 1, 1990
C.I. Acid Red 114	6459-94-5	July 1, 1992
C.I. Basic Red 9 monohydrochloride	569-61-9	July 1, 1989
C.I. Direct Blue 15	2429-74-5	August 26, 1997
C.I. Direct Blue 218	28407-37-6	August 26, 1997
C.I. Solvent Yellow 14	842-07-9	May 15, 1998
Ciclosporin (Cyclosporin A; Cyclosporine)	59865-13-3	January 1, 1992
	79217-60-0	
Cidofovir	113852-37-2	January 29, 1999
Cinnamyl anthranilate	87-29-6	July 1, 1989
Cisplatin	15663-27-1	October 1, 1988
Citrus Red No. 2	6358-53-8	October 1, 1989
Clofibrate	637-07-0	September 1, 1996
Cobalt metal powder	7440-48-4	July 1, 1992
Cobalt [II] oxide	1307-96-6	July 1, 1992
Cobalt sulfate	10124-43-3	May 20, 2005
Cobalt sulfate heptahydrate	10026-24-1	June 2, 2000
Coke oven emissions	—	February 27, 1987
Conjugated estrogens	—	February 27, 1987
Creosotes	—	October 1, 1988
para-Cresidine	120-71-8	January 1, 1988
Cupferron	135-20-6	January 1, 1988
Cycasin	14901-08-7	January 1, 1988

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 50-Z

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Cyclophosphamide (anhydrous)	50-18-0	February 27, 1987
Cyclophosphamide (hydrated)	6055-19-2	February 27, 1987
Cytembena	21739-91-3	May 15, 1998
D&C Orange No. 17	3468-63-1	July 1, 1990
D&C Red No. 8	2092-56-0	October 1, 1990
D&C Red No. 9	5160-02-1	July 1, 1990
D&C Red No. 19	81-88-9	July 1, 1990
Dacarbazine	4342-03-4	January 1, 1988
Daminozide	1596-84-5	January 1, 1990
Dantron (Chrysazin; 1,8-Dihydroxyanthraquinone)	117-10-2	January 1, 1992
Daunomycin	20830-81-3	January 1, 1988
DDD (Dichlorodiphenyldichloroethane)	72-54-8	January 1, 1989
DDE (Dichlorodiphenyldichloroethylene)	72-55-9	January 1, 1989
DDT (Dichlorodiphenyltrichloroethane)	50-29-3	October 1, 1987
DDVP (Dichlorvos)	62-73-7	January 1, 1989
N,N' -Diacetylbenzidine	613-35-4	October 1, 1989
2,4-Diaminoanisole	615-05-4	October 1, 1990
2,4-Diaminoanisole sulfate	39156-41-7	January 1, 1988
4,4' -Diaminodiphenyl ether (4,4' -Oxydianiline)	101-80-4	January 1, 1988
2,4-Diaminotoluene	95-80-7	January 1, 1988
Diaminotoluene (mixed)	—	January 1, 1990
Diazoaminobenzene	136-35-6	May 20, 2005
Dibenz[a,h]acridine	226-36-8	January 1, 1988
Dibenz[a,j]acridine	224-42-0	January 1, 1988
Dibenz[a,h]anthracene	53-70-3	January 1, 1988
7H-Dibenzo[c,g]carbazole	194-59-2	January 1, 1988
Dibenzo[a,e]pyrene	192-65-4	January 1, 1988
Dibenzo[a,h]pyrene	189-64-0	January 1, 1988
Dibenzo[a,i]pyrene	189-55-9	January 1, 1988
Dibenzo[a,l]pyrene	191-30-0	January 1, 1988
Dibromoacetic acid	631-64-1	June 17, 2008
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	July 1, 1987
2,3-Dibromo-1-propanol	96-13-9	October 1, 1994
Dichloroacetic acid	79-43-6	May 1, 1996
p-Dichlorobenzene	106-46-7	January 1, 1989
3,3' -Dichlorobenzidine	91-94-1	October 1, 1987
3,3' -Dichlorobenzidine dihydrochloride	612-83-9	May 15, 1998
1,4-Dichloro-2-butene	764-41-0	January 1, 1990
3,3' -Dichloro-4,4' -diaminodiphenyl ether	28434-86-8	January 1, 1988
1,1-Dichloroethane	75-34-3	January 1, 1990
Dichloromethane (Methylene chloride)	75-09-2	April 1, 1988
1,2-Dichloropropane	78-87-5	January 1, 1990
1,3-Dichloropropene	542-75-6	January 1, 1989
Dieldrin	60-57-1	July 1, 1988
Dienestrol	84-17-3	January 1, 1990
Diepoxybutane	1464-53-5	January 1, 1988
Diesel engine exhaust	—	October 1, 1990
Di(2-ethylhexyl)phthalate	117-81-7	January 1, 1988
1,2-Diethylhydrazine	1615-80-1	January 1, 1988
Diethyl sulfate	64-67-5	January 1, 1988
Diethylstilbestrol (DES)	56-53-1	February 27, 1987
Diglycidyl resorcinol ether (DGRE)	101-90-6	July 1, 1989
Dihydrosafrole	94-58-6	January 1, 1988

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Diisopropyl sulfate	2973-10-6	April 1, 1993
3,3' -Dimethoxybenzidine (ortho-Dianisidine)	119-90-4	January 1, 1988
3,3' -Dimethoxybenzidine dihydrochloride (ortho-Dianisidine dihydrochloride)	20325-40-0	October 1, 1990
3,3' -Dimethoxybenzidine-based dyes metabolized to 3,3' -dimethoxybenzidine	—	June 11, 2004
3,3' -Dimethylbenzidine-based dyes metabolized to 3,3' -dimethylbenzidine	—	June 11, 2004
Dimethyl sulfate	77-78-1	January 1, 1988
4-Dimethylaminoazobenzene	60-11-7	January 1, 1988
trans-2-[(Dimethylamino)methylimino]-5-[2-(5-nitro-2-furyl)vinyl]-1,3,4-oxadiazole	55738-54-0	January 1, 1988
7,12-Dimethylbenz(a)anthracene	57-97-6	January 1, 1990
3,3' -Dimethylbenzidine (ortho-Tolidine)	119-93-7	January 1, 1988
3,3' -Dimethylbenzidine dihydrochloride	612-82-8	April 1, 1992
Dimethylcarbamoyl chloride	79-44-7	January 1, 1988
1,1-Dimethylhydrazine (UDMH)	57-14-7	October 1, 1989
1,2-Dimethylhydrazine	540-73-8	January 1, 1988
Dimethylvinylchloride	513-37-1	July 1, 1989
3,7-Dinitrofluoranthene	105735-71-5	August 26, 1997
3,9-Dinitrofluoranthene	22506-53-2	August 26, 1997
1,6-Dinitropyrene	42397-64-8	October 1, 1990
1,8-Dinitropyrene	42397-65-9	October 1, 1990
Dinitrotoluene mixture, 2,4-/2,6-	—	May 1, 1996
2,4-Dinitrotoluene	121-14-2	July 1, 1988
2,6-Dinitrotoluene	606-20-2	July 1, 1995
Di-n-propyl isocinchomeronate (MGK Repellent 326)	136-45-8	May 1, 1996
1,4-Dioxane	123-91-1	January 1, 1988
Diphenylhydantoin (Phenytoin)	57-41-0	January 1, 1988
Diphenylhydantoin (Phenytoin), sodium salt	630-93-3	January 1, 1988
Direct Black 38 (technical grade)	1937-37-7	January 1, 1988
Direct Blue 6 (technical grade)	2602-46-2	January 1, 1988
Direct Brown 95 (technical grade)	16071-86-6	October 1, 1988
Disperse Blue 1	2475-45-8	October 1, 1990
Diuron	330-54-1	May 31, 2002
Doxorubicin hydrochloride (Adriamycin)	25316-40-9	July 1, 1987
Epichlorohydrin	106-89-8	October 1, 1987
Erionite	12510-42-8/ 66733-21-9	October 1, 1988
Estradiol 17B	50-28-2	January 1, 1988
Estragole	140-67-0	October 29, 1999
Estrogens, steroidal	—	August 19, 2005
Estrone	53-16-7	January 1, 1988
Estropipate	7280-37-7	August 26, 1997
Ethinylestradiol	57-63-6	January 1, 1988
Ethoprop	13194-48-4	February 27, 2001
Ethyl acrylate	140-88-5	July 1, 1989
Ethylbenzene	100-41-4	June 11, 2004
Ethyl methanesulfonate	62-50-0	January 1, 1988
Ethyl-4,4' -dichlorobenzilate	510-15-6	January 1, 1990
Ethylene dibromide	106-93-4	July 1, 1987
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	October 1, 1987
Ethylene oxide	75-21-8	July 1, 1987

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 50-Z

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Ethylene thiourea	96-45-7	January 1, 1988
Ethyleneimine	151-56-4	January 1, 1988
Fenoxycarb	72490-01-8	June 2, 2000
Folpet	133-07-3	January 1, 1989
Formaldehyde (gas)	50-00-0	January 1, 1988
2-(2-Formylhydrazino)-4-(5-nitro-2-furyl)thiazole	3570-75-0	January 1, 1988
FumonisinB ₁	116355-83-0	November 14, 2003
Furan	110-00-9	October 1, 1993
Furazolidone	67-45-8	January 1, 1990
Furmecyclox	60568-05-0	January 1, 1990
Fusarin C	79748-81-5	July 1, 1995
Gallium arsenide	1303-00-0	August 1, 2008
Ganciclovir	82410-32-0	August 26, 1997
Gasoline engine exhaust (condensates/extracts)	—	October 1, 1990
Gemfibrozil	25812-30-0	December 22, 2000
Glasswool fibers (airborne particles of respirable size)	—	July 1, 1990
Glu-P-1 (2-Amino-6-methyldipyrido[1,2-a:3',2'-d]imidazole)	67730-11-4	January 1, 1990
Glu-P-2 (2-Aminodipyrido[1,2-a:3',2'-d]imidazole)	67730-10-3	January 1, 1990
Glycidaldehyde	765-34-4	January 1, 1988
Glycidol	556-52-5	July 1, 1990
Griseofulvin	126-07-8	January 1, 1990
Gyromitrin (Acetaldehyde methylformylhydrazone)	16568-02-8	January 1, 1988
HC Blue 1	2784-94-3	July 1, 1989
Heptachlor	76-44-8	July 1, 1988
Heptachlor epoxide	1024-57-3	July 1, 1988
Herbal remedies containing plant species of the genus Aristolochia	—	July 9, 2004
Hexachlorobenzene	118-74-1	October 1, 1987
Hexachlorocyclohexane (technical grade)	—	October 1, 1987
Hexachlorodibenzodioxin	34465-46-8	April 1, 1988
Hexachloroethane	67-72-1	July 1, 1990
2,4-Hexadienal (89% trans, trans isomer; 11% cis, trans isomer)	—	March 4, 2005
Hexamethylphosphoramide	680-31-9	January 1, 1988
Hydrazine	302-01-2	January 1, 1988
Hydrazine sulfate	10034-93-2	January 1, 1988
Hydrazobenzene (1,2-Diphenylhydrazine)	122-66-7	January 1, 1988
1-Hydroxyanthraquinone	129-43-1	May 27, 2005
Indeno [1,2,3-cd]pyrene	193-39-5	January 1, 1988
Indium phosphide	22398-80-7	February 27, 2001
IQ (2-Amino-3-methylimidazo[4,5-f]quinoline)	76180-96-6	April 1, 1990
Iprodione	36734-19-7	May 1, 1996
Iprovalicarb	140923-17-7 140923-25-7	June 1, 2007
Iron dextran complex	9004-66-4	January 1, 1988
Isobutyl nitrite	542-56-3	May 1, 1996
Isoprene	78-79-5	May 1, 1996
Isosafrole <u>Delisted December 8, 2006</u>	120-58-1	October 1, 1989
Isoxaflutole	141112-29-0	December 22, 2000
Lactofen	77501-63-4	January 1, 1989
Lasiocarpine	303-34-4	April 1, 1988
Lead acetate	301-04-2	January 1, 1988

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
Lead and lead compounds	—	October 1, 1992
Lead phosphate	7446-27-7	April 1, 1988
Lead subacetate	1335-32-6	October 1, 1989
Lindane and other hexachlorocyclohexane isomers	—	October 1, 1989
Lynestrenol	52-76-6	February 27, 2001
Mancozeb	8018-01-7	January 1, 1990
Maneb	12427-38-2	January 1, 1990
Marijuana smoke	—	June 19, 2009
Me-A-alpha-C (2-Amino-3-methyl-9H-pyrido[2,3-b]indole)	68006-83-7	January 1, 1990
Medroxyprogesterone acetate	71-58-9	January 1, 1990
MeIQ(2-Amino-3,4-dimethylimidazo[4,5-f]quinoline)	77094-11-2	October 1, 1994
MeIQx(2-Amino-3,8-dimethylimidazo[4,5-f]quinoxaline)	77500-04-0	October 1, 1994
Melphalan	148-82-3	February 27, 1987
Mepanipyridin	110235-47-7	July 1, 2008
Merphalan	531-76-0	April 1, 1988
Mestranol	72-33-3	April 1, 1988
Metham sodium	137-42-8	November 6, 1998
8-Methoxypsoralen with ultraviolet A therapy	298-81-7	February 27, 1987
5-Methoxypsoralen with ultraviolet A therapy	484-20-8	October 1, 1988
2-Methylaziridine (Propyleneimine)	75-55-8	January 1, 1988
Methylazoxymethanol	590-96-5	April 1, 1988
Methylazoxymethanol acetate	592-62-1	April 1, 1988
Methyl carbamate	598-55-0	May 15, 1998
3-Methylcholanthrene	56-49-5	January 1, 1990
5-Methylchrysene	3697-24-3	April 1, 1988
4,4' -Methylene bis(2-chloroaniline)	101-14-4	July 1, 1987
4,4' -Methylene bis(N,N-dimethyl)benzenamine	101-61-1	October 1, 1989
4,4' -Methylene bis(2-methylaniline)	838-88-0	April 1, 1988
4,4' -Methylenedianiline	101-77-9	January 1, 1988
4,4' -Methylenedianiline dihydrochloride	13552-44-8	January 1, 1988
Methyleugenol	93-15-2	November 16, 2001
Methylhydrazine and its salts	—	July 1, 1992
Methyl iodide	74-88-4	April 1, 1988
Methylmercury compounds	—	May 1, 1996
Methyl methanesulfonate	66-27-3	April 1, 1988
2-Methyl-1-nitroanthraquinone (of uncertain purity)	129-15-7	April 1, 1988
N-Methyl-N' -nitro-N-nitrosoguanidine	70-25-7	April 1, 1988
N-Methylolacrylamide	924-42-5	July 1, 1990
Methylthiouracil	56-04-2	October 1, 1989
Metiram	9006-42-2	January 1, 1990
Metronidazole	443-48-1	January 1, 1988
Michler's ketone	90-94-8	January 1, 1988
Mirex	2385-85-5	January 1, 1988
Mitomycin C	50-07-7	April 1, 1988
Monocrotaline	315-22-0	April 1, 1988
5-(Morpholinomethyl)-3-[(5-nitro-furfurylidene)-amino]-2-oxazolidinone	139-91-3	April 1, 1988
Mustard Gas	505-60-2	February 27, 1987
MX (3-chloro-4-(dichloromethyl)-5-hydroxy-2(5H)-furanone)	77439-76-0	December 22, 2000
Nafenopin	3771-19-5	April 1, 1988
Nalidixic acid	389-08-2	May 15, 1998
Naphthalene	91-20-3	April 19, 2002
1-Naphthylamine	134-32-7	October 1, 1989

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
2-Naphthylamine	91-59-8	February 27, 1987
Nickel (Metallic)	7440-02-0	October 1, 1989
Nickel acetate	373-02-4	October 1, 1989
Nickel carbonate	3333-67-3	October 1, 1989
Nickel carbonyl	13463-39-3	October 1, 1987
Nickel compounds	—	May 7, 2004
Nickel hydroxide	12054-48-7; 12125-56-3	October 1, 1989
Nickelocene	1271-28-9	October 1, 1989
Nickel oxide	1313-99-1	October 1, 1989
Nickel refinery dust from the pyrometallurgical process	—	October 1, 1987
Nickel subsulfide	12035-72-2	October 1, 1987
Niridazole	61-57-4	April 1, 1988
Nitrapyrin	1929-82-4	October 5, 2005
Nitrioltriacetic acid	139-13-9	January 1, 1988
Nitrioltriacetic acid, trisodium salt monohydrate	18662-53-8	April 1, 1989
5-Nitroacenaphthene	602-87-9	April 1, 1988
5-Nitro-o-anisidine <u>Delisted December 8, 2006</u>	99-59-2	October 1, 1989
o-Nitroanisoie	91-23-6	October 1, 1992
Nitrobenzene	98-95-3	August 26, 1997
4-Nitrobiphenyl	92-93-3	April 1, 1988
6-Nitrochrysene	7496-02-8	October 1, 1990
Nitrofen (technical grade)	1836-75-5	January 1, 1988
2-Nitrofluorene	607-57-8	October 1, 1990
Nitrofurazone	59-87-0	January 1, 1990
1-[(5-Nitrofurfurylidene)-amino]-2-imidazolidinone	555-84-0	April 1, 1988
N-[4-(5-Nitro-2-furyl)-2-thiazolyl]acetamide	531-82-8	April 1, 1988
Nitrogen mustard (Mechlorethamine)	51-75-2	January 1, 1988
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	55-86-7	April 1, 1988
Nitrogen mustard N-oxide	126-85-2	April 1, 1988
Nitrogen mustard N-oxide hydrochloride	302-70-5	April 1, 1988
Nitromethane	75-52-5	May 1, 1997
2-Nitropropane	79-46-9	January 1, 1988
1-Nitropyrene	5522-43-0	October 1, 1990
4-Nitropyrene	57835-92-4	October 1, 1990
N-Nitrosodi-n-butylamine	924-16-3	October 1, 1987
N-Nitrosodiethanolamine	1116-54-7	January 1, 1988
N-Nitrosodiethylamine	55-18-5	October 1, 1987
N-Nitrosodimethylamine	62-75-9	October 1, 1987
p-Nitrosodiphenylamine	156-10-5	January 1, 1988
N-Nitrosodiphenylamine	86-30-6	April 1, 1988
N-Nitrosodi-n-propylamine	621-64-7	January 1, 1988
N-Nitroso-N-ethylurea	759-73-9	October 1, 1987
3-(N-Nitrosomethylamino)propionitrile	60153-49-3	April 1, 1990
4-(N-Nitrosomethylamino)-1-(3-pyridyl)1-butanone	64091-91-4	April 1, 1990
N-Nitrosomethylethylamine	10595-95-6	October 1, 1989
N-Nitroso-N-methylurea	684-93-5	October 1, 1987
N-Nitroso-N-methylurethane	615-53-2	April 1, 1988
N-Nitrosomethylvinylamine	4549-40-0	January 1, 1988
N-Nitrosomorpholine	59-89-2	January 1, 1988
N-Nitrosornicotine	16543-55-8	January 1, 1988
N-Nitrosopiperidine	100-75-4	January 1, 1988
N-Nitrosopyrrolidine	930-55-2	October 1, 1987

<i>Chemical</i>	<i>CASNumber</i>	<i>Date</i>
N-Nitrososarcosine	13256-22-9	January 1, 1988
o-Nitrotoluene	88-72-2	May 15, 1998
Norethisterone (Norethindrone)	68-22-4	October 1, 1989
Norethynodrel	68-23-5	February 27, 2001
Ochratoxin A	303-47-9	July 1, 1990
Oil Orange SS	2646-17-5	April 1, 1988
Oral contraceptives, combined	—	October 1, 1989
Oral contraceptives, sequential	—	October 1, 1989
Oryzalin	19044-88-3	September 12, 2008
Oxadiazon	19666-30-9	July 1, 1991
Oxazepam	604-75-1	October 1, 1994
Oxymetholone	434-07-1	January 1, 1988
Oxythioquinox (Chinomethionat)	2439-01-2	August 20, 1999
Palygorskite fibers (> 5µm in length)	12174-11-7	December 28, 1999
Panfuran S	794-93-4	January 1, 1988
Pentachlorophenol	87-86-5	January 1, 1990
Phenacetin	62-44-2	October 1, 1989
Phenazopyridine	94-78-0	January 1, 1988
Phenazopyridine hydrochloride	136-40-3	January 1, 1988
Phenesterin	3546-10-9	July 1, 1989
Phenobarbital	50-06-6	January 1, 1990
Phenolphthalein	77-09-8	May 15, 1998
Phenoxybenzamine	59-96-1	April 1, 1988
Phenoxybenzamine hydrochloride	63-92-3	April 1, 1988
o-Phenylenediamine and its salts	95-54-5	May 15, 1998
Phenyl glycidyl ether	122-60-1	October 1, 1990
Phenylhydrazine and its salts	—	July 1, 1992
o-Phenylphenate, sodium	132-27-4	January 1, 1990
o-Phenylphenol	90-43-7	August 4, 2000
PhiP(2-Amino-1-methyl-6-phenylimidazol[4,5-b]pyridine)	105650-23-5	October 1, 1994
Polybrominated biphenyls	—	January 1, 1988
Polychlorinated biphenyls	—	October 1, 1989
Polychlorinated biphenyls (containing 60 or more percent chlorine by molecular weight)	—	January 1, 1988
Polychlorinated dibenzo-p-dioxins	—	October 1, 1992
Polychlorinated dibenzofurans	—	October 1, 1992
Polygeenan	53973-98-1	January 1, 1988
Ponceau MX	3761-53-3	April 1, 1988
Ponceau 3R	3564-09-8	April 1, 1988
Potassium bromate	7758-01-2	January 1, 1990
Pirimicarb	23103-98-2	July 1, 2008
Primidone	125-33-7	August 20, 1999
Procarbazine	671-16-9	January 1, 1988
Procarbazine hydrochloride	366-70-1	January 1, 1988
Procymidone	32809-16-8	October 1, 1994
Progesterone	57-83-0	January 1, 1988
Pronamide	23950-58-5	May 1, 1996
Propachlor	1918-16-7	February 27, 2001
1,3-Propane sultone	1120-71-4	January 1, 1988
Propargite	2312-35-8	October 1, 1994
beta-Propiolactone	57-57-8	January 1, 1988
Propoxur	114-26-1	August 11, 2006
Propylene glycol mono-t-butyl ether	57018-52-7	June 11, 2004

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 50-Z

<u>Chemical</u>	<u>CAS Number</u>	<u>Date</u>
Propylene oxide	75-56-9	October 1, 1988
Propylthiouracil	51-52-5	January 1, 1988
Pyridine	110-86-1	May 17, 2002
Quinoline and its strong acid salts	—	October 24, 1997
Radionuclides	—	July 1, 1989
Reserpine	50-55-5	October 1, 1989
Residual (heavy) fuel oils	—	October 1, 1990
Resmethrin	10453-86-8	July 1, 2008
Riddelliine	23246-96-0	December 3, 2004
Saccharin <u>Delisted April 6, 2001</u>	81-07-2	October 1, 1989
Saccharin, sodium <u>Delisted January 17, 2003</u>	128-44-9	January 1, 1988
Safrole	94-59-7	January 1, 1988
Selenium sulfide	7446-34-6	October 1, 1989
Shale-oils	68308-34-9	April 1, 1990
Silica, crystalline (airborne particles of respirable size)	—	October 1, 1988
Soots, tars, and mineral oils (untreated and mildly treated oils and used engine oils)	—	February 27, 1987
Spironolactone	52-01-7	May 1, 1997
Stanozolol	10418-03-8	May 1, 1997
Sterigmatocystin	10048-13-2	April 1, 1988
Streptozotocin (streptozocin)	18883-66-4	January 1, 1988
Strong inorganic acid mists containing sulfuric acid	—	March 14, 2003
Styrene oxide	96-09-3	October 1, 1988
Sulfallate	95-06-7	January 1, 1988
Sulfasalazine (Salicylazosulfapyridine)	599-79-1	May 15, 1998
Talc containing asbestiform fibers	—	April 1, 1990
Tamoxifen and its salts	10540-29-1	September 1, 1996
Terrazole	2593-15-9	October 1, 1994
Testosterone and its esters	58-22-0	April 1, 1988
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	1746-01-6	January 1, 1988
1,1,2,2-Tetrachloroethane	79-34-5	July 1, 1990
Tetrachloroethylene (Perchloroethylene)	127-18-4	April 1, 1988
p-a,a,a-Tetrachlorotoluene	5216-25-1	January 1, 1990
Tetrafluoroethylene	116-14-3	May 1, 1997
Tetranitromethane	509-14-8	July 1, 1990
Thioacetamide	62-55-5	January 1, 1988
4,4'-Thiodianiline	139-65-1	April 1, 1988
Thiodicarb	59669-26-0	August 20, 1999
Thiouracil	141-90-2	June 11, 2004
Thiourea	62-56-6	January 1, 1988
Thorium dioxide	1314-20-1	February 27, 1987
Tobacco, oral use of smokeless products	—	April 1, 1988
Tobacco smoke	—	April 1, 1988
Toluene diisocyanate	26471-62-5	October 1, 1989
ortho-Toluidine	95-53-4	January 1, 1988
ortho-Toluidine hydrochloride	636-21-5	January 1, 1988
para-Toluidine <u>Delisted October 29, 1999</u>	106-49-0	January 1, 1990
Toxaphene (Polychlorinated camphenes)	8001-35-2	January 1, 1988
Toxins derived from <i>Fusarium moniliforme</i> (<i>Fusarium verticillioides</i>)	—	August 7, 2009
Treosulfan	299-75-2	February 27, 1987
Trichlormethine (Trimustine hydrochloride)	817-09-4	January 1, 1992
Trichloroethylene	79-01-6	April 1, 1988

<u>Chemical</u>	<u>CASNumber</u>	<u>Date</u>
2,4,6-Trichlorophenol	88-06-2	January 1, 1988
1,2,3-Trichloropropane	96-18-4	October 1, 1992
Trimethyl phosphate	512-56-1	May 1, 1996
2,4,5-Trimethylaniline and its strong acid salts	—	October 24, 1997
2,4,6-Trinitrotoluene (TNT)	118-96-7	December 19, 2008
Triphenyltin hydroxide	76-87-9	July 1, 1992
Tris(aziridinyl)-para-benzoquinone (Triaziuone)		
<u>Delisted December 8, 2006</u>	68-76-8	October 1, 1989
Tris(1-aziridinyl)phosphine sulfide (Thiotepa)	52-24-4	January 1, 1988
Tris(2-chloroethyl) phosphate	115-96-8	April 1, 1992
Tris(2,3-dibromopropyl)phosphate	126-72-7	January 1, 1988
Trp-P-1 (Tryptophan-P-1)	62450-06-0	April 1, 1988
Trp-P-2 (Tryptophan-P-2)	62450-07-1	April 1, 1988
Trypan blue (commercial grade)	72-57-1	October 1, 1989
Unleaded gasoline (wholly vaporized)	—	April 1, 1988
Uracil mustard	66-75-1	April 1, 1988
Urethane (Ethyl carbamate)	51-79-6	January 1, 1988
Vanadium pentoxide (orthorhombic crystalline form)	1314-62-1	February 11, 2005
Vinclozolin	50471-44-8	August 20, 1999
Vinyl bromide	593-60-2	October 1, 1988
Vinyl chloride	75-01-4	February 27, 1987
4-Vinylcyclohexene	100-40-3	May 1, 1996
4-Vinyl-1-cyclohexene diepoxide (Vinyl cyclohexene dioxide)	106-87-6	July 1, 1990
Vinyl fluoride	75-02-5	May 1, 1997
Vinyl trichloride (1,1,2-Trichloroethane)	79-00-5	October 1, 1990
2,6-Xylidine (2,6-Dimethylaniline)	87-62-7	January 1, 1991
Zalcitabine	7481-89-2	August 7, 2009
Zileuton	111406-87-2	December 22, 2000
Zineb <u>Delisted October 29, 1999</u>	12122-67-7	January 1, 1990

CHEMICALS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CASNo.</u>	<u>Date Listed</u>
Acetazolamide	developmental	59-66-5	August 20, 1999
Acetohydroxamic acid	developmental	546-88-3	April 1, 1990
Actinomycin D	developmental	50-76-0	October 1, 1992
All-trans retinoic acid	developmental	302-79-4	January 1, 1989
Alprazolam	developmental	28981-97-7	July 1, 1990
Altretamine	developmental, male	645-05-6	August 20, 1999
Amantadine hydrochloride	developmental	665-66-7	February 27, 2001
Amikacin sulfate	developmental	39831-55-5	July 1, 1990
Aminoglutethimide	developmental	125-84-8	July 1, 1990
Aminoglycosides	developmental	—	October 1, 1992
Aminopterin	developmental, female	54-62-6	July 1, 1987
Amiodarone hydrochloride	developmental, female, male	19774-82-4	August 26, 1997
Amitraz	developmental	33089-61-1	March 30, 1999
Amoxapine	developmental	14028-44-5	May 15, 1998
Anabolic steroids	female, male	—	April 1, 1990
Angiotensin converting enzyme (ACE) inhibitors	developmental	—	October 1, 1992
Anisindione	developmental	117-37-3	October 1, 1992

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Arsenic (inorganic oxides)	developmental	—	May 1, 1997
Aspirin (NOTE: It is especially important not to use aspirin during the last three months of pregnancy, unless specifically directed to do so by a physician because it may cause problems in the unborn child or complications during delivery.)	developmental, female	50-78-2	July 1, 1990
Atenolol	developmental	29122-68-7	August 26, 1997
Auranofin	developmental	34031-32-8	January 29, 1999
Azathioprine	developmental	446-86-6	September 1, 1996
Barbiturates	developmental	—	October 1, 1992
Beclomethasone dipropionate	developmental	5534-09-8	May 15, 1998
Benomyl	developmental, male	17804-35-2	July 1, 1991
Benzene	developmental, male	71-43-2	December 26, 1997
Benzodiazepines	developmental	—	October 1, 1992
Benzphetamine hydrochloride	developmental	5411-22-3	April 1, 1990
Bischloroethyl nitrosourea (BCNU) (Carmustine)	developmental	154-93-8	July 1, 1990
Bromacil lithium salt	developmental male	53404-19-6	May 18, 1999 January 17, 2003
1-Bromopropane	developmental, female, male	106-94-5	December 7, 2004
2-Bromopropane	female, male	75-26-3	May 31, 2005
Bromoxynil	developmental	1689-84-5	October 1, 1990
Bromoxynil octanoate	developmental	1689-99-2	May 18, 1999
Butabarbital sodium	developmental	143-81-7	October 1, 1992
1,3-Butadiene	developmental, female, male	106-99-0	April 16, 2004
1,4-Butanediol dimethane-sulfonate (Busulfan)	developmental	55-98-1	January 1, 1989
Butyl benzyl phthalate (BBP)	developmental	85-68-7	December 2, 2005
n-Butyl glycidyl ether	male	2426-08-6	August 7, 2009
Cadmium	developmental, male	—	May 1, 1997
Carbamazepine	developmental	298-46-4	January 29, 1999
Carbaryl	developmental, male	63-25-2	August 7, 2009
Carbon disulfide	developmental, female, male	75-15-0	July 1, 1989
Carbon monoxide	developmental	630-08-0	July 1, 1989
Carboplatin	developmental	41575-94-4	July 1, 1990
Chenodiol	developmental	474-25-9	April 1, 1990
Chlorambucil	developmental	305-03-3	January 1, 1989
Chlorcyclizine hydrochloride	developmental	1620-21-9	July 1, 1987
Chlordecone (Kepone)	developmental	143-50-0	January 1, 1989
Chlordiazepoxide	developmental	58-25-3	January 1, 1992
Chlordiazepoxide hydrochloride	developmental	438-41-5	January 1, 1992
1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU) (Lomustine)	developmental	13010-47-4	July 1, 1990
Chloroform	developmental	67-66-3	August 7, 2009
2-Chloropropionic acid	male	598-78-7	August 7, 2009
Chlorsulfuron	developmental, female, male	64902-72-3	May 14, 1999
Chromium (hexavalent compounds)	developmental, female, male	—	December 19, 2008
Cidofovir	developmental, female, male	113852-37-2	January 29, 1999
Cladribine	developmental	4291-63-8	September 1, 1996

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Clarithromycin	developmental	81103-11-9	May 1, 1997
Clobetasol propionate	developmental, female	25122-46-7	May 15, 1998
Clomiphene citrate	developmental	50-41-9	April 1, 1990
Clorazepate dipotassium	developmental	57109-90-7	October 1, 1992
Cocaine	developmental, female	50-36-2	July 1, 1989
Codeine phosphate	developmental	52-28-8	May 15, 1998
Colchicine	developmental, male	64-86-8	October 1, 1992
Conjugated estrogens	developmental	—	April 1, 1990
Cyanazine	developmental	21725-46-2	April 1, 1990
Cycloate	developmental	1134-23-2	March 19, 1999
Cyclohexanol	male	108-93-0	November 6, 1998
<u>Delisted January 25, 2002</u>			
Cycloheximide	developmental	66-81-9	January 1, 1989
Cyclophosphamide (anhydrous)	developmental, female, male	50-18-0	January 1, 1989
Cyclophosphamide (hydrated)	developmental, female, male	6055-19-2	January 1, 1989
Cyhexatin	developmental	13121-70-5	January 1, 1989
Cytarabine	developmental	147-94-4	January 1, 1989
Dacarbazine	developmental	4342-03-4	January 29, 1989
Danazol	developmental	17230-88-5	April 1, 1990
Daunorubicin hydrochloride	developmental	23541-50-6	July 1, 1990
2,4-D butyric acid	developmental, male	94-82-6	June 18, 1999
o,p' -DDT	developmental, female, male	789-02-6	May 15, 1998
p,p' -DDT	developmental, female, male	50-29-3	May 15, 1998
2,4 DP (dichloroprop)	developmental	120-36-5	April 27, 1999
<u>Delisted January 25, 2002</u>			
Demeclocycline hydrochloride (internal use)	developmental	64-73-3	January 1, 1992
Diazepam	developmental	439-14-5	January 1, 1992
Diazoxide	developmental	364-98-7	February 27, 2001
1,2-Dibromo-3-chloropropane (DBCP)	male	96-12-8	February 27, 1987
Di-n-butyl phthalate (DBP)	developmental, female, male	84-74-2	December 2, 2005
Dichloroacetic acid	male	79-43-6	August 7, 2009
Dichlorophene	developmental	97-23-4	April 27, 1999
Dichlorophenamide	developmental	120-97-8	February 27, 2001
Diclofop methyl	developmental	51338-27-3	March 5, 1999
Dicumarol	developmental	66-76-2	October 1, 1992
Di(2-ethylhexyl)phthalate (DEHP)	developmental, male	117-81-7	October 24, 2003
Diethylstilbestrol (DES)	developmental	56-53-1	July 1, 1987
Diflunisal	developmental, female	22494-42-4	January 29, 1999
Diglycidyl ether	male	2238-07-5	August 7, 2009
Di-n-hexyl phthalate (DnHP)	female, male	84-75-3	December 2, 2005
Dihydroergotamine mesylate	developmental	6190-39-2	May 1, 1997
Di-isodecyl phthalate (DIDP)	developmental	68515-49-1/ 26761-40-0	April 20, 2007
Diltiazem hydrochloride	developmental	33286-22-5	February 27, 2001
m-Dinitrobenzene	male	99-65-0	July 1, 1990
o-Dinitrobenzene	male	528-29-0	July 1, 1990
p-Dinitrobenzene	male	100-25-4	July 1, 1990
2,4-Dinitrotoluene	male	121-14-2	August 20, 1999
2,6-Dinitrotoluene	male	606-20-2	August 20, 1999
Dinitrotoluene (technical grade)	female, male	—	August 20, 1999

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Dinocap	developmental	39300-45-3	April 1, 1990
Dinoseb	developmental, male	88-85-7	January 1, 1989
Diphenylhydantoin (Phenytoin)	developmental	57-41-0	July 1, 1987
Disodium cyanodithioimidocarbonate	developmental	138-93-2	March 30, 1999
Doxorubicin hydrochloride (Adriamycin)	developmental, male	25316-40-9	January 29, 1999
Doxycycline (internal use)	developmental	564-25-0	July 1, 1990
Doxycycline calcium (internal use)	developmental	94088-85-4	January 1, 1992
Doxycycline hyclate (internal use)	developmental	24390-14-5	October 1, 1991
Doxycycline monohydrate (internal use)	developmental	17086-28-1	October 1, 1991
Endrin	developmental	72-20-8	May 15, 1998
Environmental tobacco smoke (ETS)	developmental	—	June 9, 2006
Epichlorohydrin	male	106-89-8	September 1, 1996
Ergotamine tartrate	developmental	379-79-3	April 1, 1990
Estropipate	developmental	7280-37-7	August 26, 1997
Ethionamide	developmental	536-33-4	August 26, 1997
Ethyl alcohol in alcoholic beverages	developmental	—	October 1, 1987
Ethyl dipropylthiocarbamate	developmental	759-94-4	April 27, 1999
Ethylene dibromide	developmental, male	106-93-4	May 15, 1998
Ethylene glycol monoethyl ether	developmental, male	110-80-5	January 1, 1989
Ethylene glycol monomethyl ether	developmental, male	109-86-4	January 1, 1989
Ethylene glycol monoethyl ether acetate	developmental, male	111-15-9	January 1, 1993
Ethylene glycol monomethyl ether acetate	developmental, male	110-49-6	January 1, 1993
Ethylene oxide	female	75-21-8	February 27, 1987
	developmental, male		August 7, 2009
Ethylene thiourea	developmental	96-45-7	January 1, 1993
2-Ethylhexanoic acid	developmental	149-57-5	August 7, 2009
Etodolac	developmental, female	41340-25-4	August 20, 1999
Etoposide	developmental	33419-42-0	July 1, 1990
Etretinate	developmental	54350-48-0	July 1, 1987
Fenoxaprop ethyl	developmental	66441-23-4	March 26, 1999
Filgrastim	developmental	121181-53-1	February 27, 2001
Fluazifop butyl	developmental	69806-50-4	November 6, 1998
Flunisolide	developmental, female	3385-03-3	May 15, 1998
Fluorouracil	developmental	51-21-8	January 1, 1989
Fluoxymesterone	developmental	76-43-7	April 1, 1998
Flurazepam hydrochloride	developmental	1172-18-5	October 1, 1992
Flurbiprofen	developmental, female	5104-49-4	August 20, 1999
Flutamide	developmental	13311-84-7	July 1, 1990
Fluticasone propionate	developmental	80474-14-2	May 15, 1998
Fluvalinate	developmental	69409-94-5	November 6, 1998
Ganciclovir	developmental, male	82410-32-0	August 26, 1997
Ganciclovir sodium	developmental, male	107910-75-8	August 26, 1997
Gemfibrozil	female, male	25812-30-0	August 20, 1999
Goserelin acetate	developmental, female, male	65807-02-5	August 26, 1997
Halazepam	developmental	23092-17-3	July 1, 1990
Halobetasol propionate	developmental	66852-54-8	August 20, 1999
Haloperidol	developmental, female	52-86-8	January 29, 1999
Halothane	developmental	151-67-7	September 1, 1996
Heptachlor	developmental	76-44-8	August 20, 1999

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Hexachlorobenzene	developmental	118-74-1	January 1, 1989
Hexafluoroacetone	male	684-16-2	August 1, 2008
Hexamethylphosphoramide	male	680-31-9	October 1, 1994
Histrelin acetate	developmental	—	May 15, 1998
Hydramethylnon	developmental, male	67485-29-4	March 5, 1999
Hydroxyurea	developmental	127-07-1	May 1, 1997
Idarubicin hydrochloride	developmental, male	57852-57-0	August 20, 1999
Ifosfamide	developmental	3778-73-2	July 1, 1990
Iodine-131	developmental	10043-66-0	January 1, 1989
Isotretinoin	developmental	4759-48-2	July 1, 1987
Lead	developmental, female, male	—	February 27, 1987
Leuprolide acetate	developmental, female, male	74381-53-6	August 26, 1997
Levodopa	developmental	59-92-7	January 29, 1999
Levonorgestrel implants	female	797-63-7	May 15, 1998
Linuron	developmental	330-55-2	March 19, 1999
Lithium carbonate	developmental	554-13-2	January 1, 1991
Lithium citrate	developmental	919-16-4	January 1, 1991
Lorazepam	developmental	846-49-1	July 1, 1990
Lovastatin	developmental	75330-75-5	October 1, 1992
Mebendazole	developmental	31431-39-7	August 20, 1999
Medroxyprogesterone acetate	developmental	71-58-9	April 1, 1990
Megestrol acetate	developmental	595-33-5	January 1, 1991
Melphalan	developmental	148-82-3	July 1, 1990
Menotropins	developmental	9002-68-0	April 1, 1990
Meprobamate	developmental	57-53-4	January 1, 1992
Mercaptopurine	developmental	6112-76-1	July 1, 1990
Mercury and mercury compounds	developmental	—	July 1, 1990
Methacycline hydrochloride	developmental	3963-95-9	January 1, 1991
Metham sodium	developmental	137-42-8	May 15, 1998
Methazole	developmental	20354-26-1	December 1, 1999
Methimazole	developmental	60-56-0	July 1, 1990
Methotrexate	developmental	59-05-2	January 1, 1989
Methotrexate sodium	developmental	15475-56-6	April 1, 1990
Methyl bromide as a structural fumigant	developmental	74-83-9	January 1, 1993
Methyl chloride	developmental	74-87-3	March 10, 2000
Methyl n-butyl ketone	male	591-78-6	August 7, 2009
Methyl mercury	developmental	—	July 1, 1987
N-Methylpyrrolidone	developmental	872-50-4	June 15, 2001
Methyltestosterone	developmental	58-18-4	April 1, 1990
Metiram	developmental	9006-42-2	March 30, 1999
Midazolam hydrochloride	developmental	59467-96-8	July 1, 1990
Minocycline hydrochloride (internal use)	developmental	13614-98-7	January 1, 1992
Misoprostol	developmental	59122-46-2	April 1, 1990
Mitoxantrone hydrochloride	developmental	70476-82-3	July 1, 1990
<u>Molinate</u>	<u>developmental, female, male</u>	<u>2212-67-1</u>	<u>December 11, 2009</u>
Myclobutanol	developmental, male	88671-89-0	April 16, 1999
Nabam	developmental	142-59-6	March 30, 1999
Nafarelin acetate	developmental	86220-42-0	April 1, 1990
Neomycin sulfate (internal use)	developmental	1405-10-3	October 1, 1992

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Netilmicin sulfate	developmental	56391-57-2	July 1, 1990
Nickel carbonyl	developmental	13463-39-3	September 1, 1996
Nicotine	developmental	54-11-5	April 1, 1990
Nifedipine	developmental, female, male	21829-25-4	January 29, 1999
Nimodipine	developmental	66085-59-4	April 24, 2001
Nitrapyrin	developmental	1929-82-4	March 30, 1999
Nitrofurantoin	male	67-20-9	April 1, 1991
Nitrogen mustard (Mechlorethamine)	developmental	51-75-2	January 1, 1989
Nitrogen mustard hydrochloride (Mechlorethamine hydrochloride)	developmental	55-86-7	July 1, 1990
Nitrous oxide	developmental	10024-97-2	August 1, 2008
Norethisterone (Norethindrone)	developmental	68-22-4	April 1, 1990
Norethisterone acetate (Norethindrone acetate)	developmental	51-98-9	October 1, 1991
Norethisterone (Norethindrone) /Ethinyl estradiol	developmental	68-22-4/ 57-63-6	April 1, 1990
Norethisterone (Norethindrone)/Mestranol	developmental	68-22-4/ 72-33-3	April 1, 1990
Norgestrel	developmental	6533-00-2	April 1, 1990
Oxadiazon	developmental	19666-30-9	May 15, 1998
Oxazepam	developmental	604-75-1	October 1, 1992
p,p'-Oxybis(benzenesulfonyl hydrazide)	developmental	80-51-3	August 7, 2009
Oxydemeton methyl	female, male	301-12-2	November 6, 1998
Oxymetholone	developmental	434-07-1	May 1, 1997
Oxytetracycline (internal use)	developmental	79-57-2	January 1, 1991
Oxytetracycline hydrochloride (internal use)	developmental	2058-46-0	October 1, 1991
Oxythioquinox (Chinomethionat)	developmental	2439-01-2	November 6, 1998
Paclitaxel	developmental, female, male	33069-62-4	August 26, 1997
Paramethadione	developmental	115-67-3	July 1, 1990
Penicillamine	developmental	52-67-5	January 1, 1991
Pentobarbital sodium	developmental	57-33-0	July 1, 1990
Pentostatin	developmental	53910-25-1	September 1, 1996
Phenacemide	developmental	63-98-9	July 1, 1990
Phenprocoumon	developmental	435-97-2	October 1, 1992
Phenyl glycidyl ether	male	122-60-1	August 7, 2009
Phenylphosphine	developmental	638-21-1	August 7, 2009
Pimozide	developmental, female	2062-78-4	August 20, 1999
Pipobroman	developmental	54-91-1	July 1, 1990
Plicamycin	developmental	18378-89-7	April 1, 1990
Polybrominated biphenyls	developmental	—	October 1, 1994
Polychlorinated biphenyls	developmental	—	January 1, 1991
Potassium dimethyldithiocarbamate	developmental	128-03-0	March 30 1999
Pravastatin sodium	developmental	81131-70-6	March 3, 2000
Prednisolone sodium phosphate	developmental	125-02-0	August 20, 1999
Procarbazine hydrochloride	developmental	366-70-1	July 1, 1990
Propargite	developmental	2312-35-8	June 15, 1999
Propylthiouracil	developmental	51-52-5	July 1, 1990
Pyrimethamine	developmental	58-14-0	January 29, 1999
Quazepam	developmental	36735-22-5	August 26, 1997
Quizalofop-ethyl	male	76578-14-8	December 24, 1999

<u>Chemical</u>	<u>Type of Reproductive Toxicity</u>	<u>CAS No.</u>	<u>Date Listed</u>
Resmethrin	developmental	10453-86-8	November 6, 1998
Retinol/retinyl esters, when in daily dosages in excess of 10,000 IU, or 3,000 retinol equivalents. (NOTE: Retinol/retinyl esters are required and essential for maintenance of normal reproductive function. The recommended daily level during pregnancy is 8,000 IU.)	developmental	—	July 1, 1989
Ribavirin	developmental male	36791-04-5 36791-04-5	April 1, 1990 February 27, 2001
Rifampin	developmental, female	13292-46-1	February 27, 2001
Secobarbital sodium	developmental	309-43-3	October 1, 1992
Sermorelin acetate	developmental	—	August 20, 1999
Sodium dimethyldithiocarbamate	developmental	128-04-1	March 30 1999
Sodium fluoroacetate	male	62-74-8	November 6, 1998
Streptomycin sulfate	developmental	3810-74-0	January 1, 1991
Streptozocin (streptozotocin)	developmental, female, male	18883-66-4	August 20, 1999
Sulfasalazine (Salicylazosulfapyridine)	male	599-79-1	January 29, 1999
Sulindac	developmental, female	38194-50-2	January 29, 1999
Tamoxifen citrate	developmental	54965-24-1	July 1, 1990
Temazepam	developmental	846-50-4	April 1, 1990
Teniposide	developmental	29767-20-2	September 1, 1996
Terbacil	developmental	5902-51-2	May 18, 1999
Testosterone cypionate	developmental	58-20-8	October 1, 1991
Testosterone enanthate	developmental	315-37-7	April 1, 1990
2,3,7,8-Tetrachlorodibenzo-para-dioxin (TCDD)	developmental	1746-01-6	April 1, 1991
Tetracycline (internal use)	developmental	60-54-8	October 1, 1991
Tetracyclines (internal use)	developmental	—	October 1, 1992
Tetracycline hydrochloride (internal use)	developmental	64-75-5	January 1, 1991
Thalidomide	developmental	50-35-1	July 1, 1987
Thioguanine	developmental	154-42-7	July 1, 1990
Thiophanate methyl	female, male	23564-05-8	May 18, 1999
Tobacco smoke (primary)	developmental, female, male	—	April 1, 1988
Tobramycin sulfate	developmental	49842-07-1	July 1, 1990
Toluene	developmental female	108-88-3	January 1, 1991 August 7, 2009
Triadimefon	developmental, female, male	43121-43-3	March 30, 1999
Triazolam	developmental	28911-01-5	April 1, 1990
Tributyltin methacrylate	developmental	2155-70-6	December 1, 1999
Trientine hydrochloride	developmental	38260-01-4	February 27, 2001
Triforine	developmental	26644-46-2	June 18, 1999
1,3,5-Triglycidyl-s-triazinetriene	male	2451-62-9	August 7, 2009
Trilostane	developmental	13647-35-3	April 1, 1990
Trimethadione	developmental	127-48-0	January 1, 1991
Trimetrexate glucuronate	developmental	82952-64-5	August 26, 1997
Triphenyltin hydroxide	developmental	76-87-9	March 18, 2002

<i>Chemical</i>	<i>Type of Reproductive Toxicity</i>	<i>CAS No.</i>	<i>Date Listed</i>
Uracil mustard	developmental, female, male	66-75-1	January 1, 1999
Urethane	developmental	51-79-6	October 1, 1994
Urofollitropin	developmental	97048-13-0	April 1, 1990
Valproate (Valproic acid)	developmental	99-66-1	July 1, 1987
Vinblastine sulfate	developmental	143-67-9	July 1, 1990
Vinclozolin	developmental	50471-44-8	May 15, 1998
Vincristine sulfate	developmental	2068-78-2	July 1, 1990
4-Vinylcyclohexene	female, male	100-40-03	August 7, 2009
Vinyl cyclohexene dioxide (4-Vinyl-1-cyclohexene diepoxide)	female, male	106-87-6	August 1, 2008
Warfarin	developmental	81-81-2	July 1, 1987
Zileuton	developmental, female	111406-87-2	December 22, 2000

Date: December 11, 2009

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**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
December 11, 2009**

**CHEMICAL LISTED EFFECTIVE
December 11, 2009
AS KNOWN TO THE STATE OF CALIFORNIA
TO CAUSE REPRODUCTIVE TOXICITY**

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is adding *molinate* (CAS No. 2212-67-1) to the list of chemicals known to the state to cause reproductive toxicity for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65¹). The listing of *molinate* is effective **December 11, 2009**.

¹ Health and Safety Code, section 25249.5 et seq.

Molinate (CAS No. 2212-67-1) is being listed as a chemical known to the State of California to cause developmental, male reproductive, and female reproductive toxicity. The listing of this chemical is based on formal identification by an authoritative body² (the U.S. Environmental Protection Agency (U.S. EPA)), that the chemical causes developmental, male reproductive, and female reproductive toxicity. The criteria used by OEHHA for the listing of chemicals under the “authoritative bodies” mechanism can be found in Title 27, Cal. Code of Regs., section 25306³.

The reader is directed to the Notice of Intent to List *Molinate* (CAS No. 2212-67-1) published in the June 27, 2008 issue of the *California Regulatory Notice Register* (Register 2008, No. 26-Z) for the documentation supporting OEHHA’s determination that the criteria for administrative listing have been satisfied for this chemical.

OEHHA analysis of dose-response data to establish the maximum allowable dose level (MADL) for *molinate* (CAS No. 2212-67-1) under Proposition 65 has not yet been conducted. The priority status for the development of such analysis will be announced in a future OEHHA *Proposition 65 Status Report for Safe Harbor Levels*, available at <http://www.oehha.ca.gov/prop65.html>.

A complete, updated Proposition 65 list is published elsewhere in this issue of the *California Regulatory Notice Register*.

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., Section 25306.

³ All further referenced sections are from Title 27 of the Cal. Code of Regulations.

Chemical	CAS No.	Toxicological Endpoint	Listing Mechanism ⁴
Molinate	2212-67-1	developmental female reproductive male reproductive	AB

⁴ Listing mechanism: AB — “authoritative bodies” mechanism (Title 27, Cal. Code of Regs. Section 25306).

<p>OAL REGULATORY DETERMINATIONS</p>

OFFICE OF ADMINISTRATIVE LAW

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

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

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

Date: December 1, 2009
 To: Eddie Williams
 From: Chapter Two Compliance Unit
 Subject: **2009 OAL DETERMINATION NO. 29(S)
(CTU2009-1102-01)**
 (Summary Disposition issued pursuant to
 Gov. Code, sec. 11340.5; Cal. Code Regs., tit.
 1, sec. 270(f))

Petition challenging as an underground regulation California Code of Regulations, title 15, section 3106

On November 2, 2009, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether California Code of Regulations, title 15, section 3106 constitutes an underground regulation. Section 3106 states:

Inmates must use only materials purchased from their own funds or approved for their use by the institution’s designated supervisor of the

handicraft program in the manufacture of handicraft articles.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted pursuant to the APA, it may be an “underground regulation” as defined in California Code of Regulations, title 1, section 250:

The following definitions shall apply to the regulations contained in this chapter:

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

¹ “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure,

² Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

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

The section you challenge as an underground regulation, California Code of Regulations, title 15, section 3106, was duly adopted as a regulation pursuant to the APA and filed with the Secretary of State on October 7, 1982, in compliance with the APA. It has not been amended. The challenged rule is not, therefore, an underground regulation.

For the reasons discussed above, we find that the rule challenged by your petition is not an underground regulation.³

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

/s/
SUSAN LAPSLEY
Director

/s/
Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood
John McClure

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS

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

The attachments are not being printed for practical reasons or space considerations. However, if you would

³ A rule which is contained in a properly adopted regulation is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

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

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

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

like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

**2009 OAL DETERMINATION NO. 27
(OAL FILE NO. CTU2009-0529-01)**

REQUESTED BY: JOHN ROGERS
CONCERNING: California Department of Corrections and Rehabilitation Memorandum Titled "Violent Felonies and Minimum Custody Eligibility"

DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether or not an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. Our review is limited to the sole issue of whether the challenged rule meets the definition of "regulation" as defined in Government Code section 11342.600¹ and is subject to the Administrative Procedure Act (APA). If a rule meets the definition of "regulation," but was not adopted pursuant to the APA and should have been, it is an "underground regulation" as defined in California Code of Regulations, title 1, section 250.² OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

CHALLENGED RULE

The rule challenged as an underground regulation is found in a memorandum titled "Violent Felonies and

¹ Unless otherwise specified, all references are to the Government Code.

² As defined by title 1, section 250(a), an "Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

Minimum Custody Eligibility,” dated January 6, 2006 (Memorandum). The Memorandum is addressed to associate directors of the Division of Adult Institutions, wardens, classification and parole representatives, correctional counselors III at reception centers and classification staff representatives. The Memorandum states that it is intended to be used in the training of correctional counselor staff, and it contains summaries, clarifications and changes from current rules enforced by the California Department of Corrections and Rehabilitation (CDCR) in the classification of inmates. The specific rule summarized in the Memorandum and challenged as an underground regulation is in the bullet heading that states:

“Rules Violation Reports” would now allow inmates found guilty of Division A-1 or A-2 offenses, equivalent to a PC Section 667.5(c) offense, in a disciplinary hearing to have a case-by-case review for violence without having a court conviction.³

The Memorandum was signed by D.L. Runnels, Acting Deputy Director of the Division of Adult Institutions of CDCR. A copy of the Memorandum is attached to this determination as Exhibit A.

DETERMINATION

OAL determines that the challenged rule in the Memorandum meets the definition of “regulation” that should have been adopted pursuant to the APA.

FACTUAL BACKGROUND

On May 29, 2009, John Rogers (Petitioner) submitted a petition to OAL challenging the rule noted above in the Memorandum as an underground regulation. As described in the Memorandum, the purpose of the Memorandum is “. . .to assist staff in determining when to apply the Violent (“VIO”) Felony Administration Determinant when classifying inmates.”

OAL accepted the petition for consideration on July 27, 2009. Comments from the public were solicited until September 14, 2009. No comments were received. CDCR declined to submit a response to the petition. On October 13, 2009, Petitioner submitted a letter to

³ California Code of Regulations, title 15, section 3312 discusses a “Rules Violation Report.” The report is a disciplinary method used “[w]hen misconduct is believed to be a violation of law or is not minor in nature....” Division A-1 and A-2 offenses are listed in California Code of Regulations, title 15, section 3323 and include offenses such as murder, battery causing serious injury, arson involving damage to a structure or causing serious bodily injury, etc.

Penal Code section 667.5(c) defines “violent felony” for purposes of the enhancement of prison terms. It includes offenses such as murder, mayhem, rape, robbery, kidnapping and arson.

CDCR titled “Re: Rebuttal; Petition of an underground CDCR regulation specifically ‘Memorandum—Violent Felonies and Minimum Custody Eligibility.’ ”

When an inmate enters into the prison system, the inmate is given a classification score based on factors such as length of sentence, stability, education, employment, and behavior during a prior incarceration. The classification score determines the type of facility in which the inmate will be housed. The score may change over time based on the inmate’s behavior and other specific case factors. The change in the inmate’s classification score may result in the transfer of the inmate to a different institution.⁴

CDCR has adopted regulations governing the classification process. California Code of Regulations, title 15 sections 3375 through 3379 establish the process for classifying inmates and the various factors and numerical weights used to determine an inmate’s classification score.⁵ The classification score is then used to determine the appropriate housing placement of the inmate based upon the level of security of the institution.

An inmate may be housed in a facility with a security level which is not consistent with the classification score if an inmate meets one of the administrative or irregular placement conditions, known as administrative determinants, as described in California Code of Regulations, title 15, section 3375.2. Section 3375.2 includes a series of three-letter codes that are used to indicate the administrative determinants that may be imposed by CDCR officials to override the placement of an inmate according to the classification score. The “VIO” designation referred to in the challenged rule is the Violent Felonies Administrative Determinant. It is used when an inmate:

. . .has a current or prior conviction for a violent felony, or a sustained juvenile adjudication including, but not limited to, those listed under Penal Code section 667.5(c), which, as determined by the [Classification Staff Representative], requires placement in a facility with a higher security level than that indicated by his/her placement score.⁶

. . . .

⁴ This description of the classification process is found on CDCR’s website: http://www.cdcr.ca.gov/Victim_Services/sentencing.html [Last viewed November 19, 2009]

⁵ For example, California Code of Regulations, title 15, section 3375.5 requires that if an inmate had no serious disciplinary action in the last 12 months of incarceration, four points are entered into Box 50 of the classification score sheet and subtracted from the score. For each serious disciplinary action in the last 12 months, four points are entered into Boxes 51–52 of the classification score sheet and added to the score.

⁶ California Code of Regulation, title 15, section 3375.2(b)(25).

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides that:

(a) No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of section 11340.5 it creates an underground regulation as defined in title 1, California Code of Regulations, section 250.

OAL may issue a determination as to whether or not an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of “regulation” as defined in section 11342.600 and should have been adopted pursuant to the APA. An OAL determination that an agency has issued, utilized, enforced, or attempted to enforce an underground regulation is not enforceable against the agency through any formal administrative means, but it is entitled to “due deference” in any subsequent litigation of the issue pursuant to *Grier v. Kizer* (1990) 219 Cal.App.3d 422 [268 Cal.Rptr. 244].

ANALYSIS

OAL’s authority to issue a determination extends only to the limited question of whether the challenged rule is a “regulation” subject to the APA. This analysis will determine (1) Whether the challenged rule is a “regulation” within the meaning of section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

A regulation is defined in section 11342.600 as:

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

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186], the California Supreme Court found that:

A regulation subject to the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.) has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency’s procedure (Gov. Code, § 11342, subd. (g)).⁷

As stated in *Tidewater*, the first element used to identify a “regulation” is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the state of California. It is sufficient if the rule applies to a clearly defined class of persons or situations.

The challenged rule is found in the Memorandum that was sent to various CDCR staff from the Acting Director of the Division of Adult Institutions of CDCR. The stated purpose of the Memorandum is to “assist staff in determining when to apply the Violent (“VIO”) Felony Administrative Determinant when classifying inmates. Please ensure a copy of this memorandum is provided to all Correctional Counselor (CC) staff.”

The challenged rule in the Memorandum requires that CDCR staff who participate in the classification process implement the Violent Felony Administrative Determinant by including the administrative determinant for specified offenses with which the inmate was found guilty in a disciplinary proceeding without a court conviction. The challenged rule, therefore, applies directly to the classification staff of CDCR.

In addition, use of the Violent Felony Administrative Determinant is required to be applied to the classification score of every inmate who meets the criteria established in the Memorandum. The placement of the inmate may possibly change if the Violent Felony Administrative Determinant is applied to the classification score causing the inmate to be transferred to a prison with a higher level of security. The challenged rule in the Memorandum applies to inmates, then, as well as CDCR staff. Both of these groups are clearly defined classes of persons.

The rule, therefore, applies generally, and the first element of *Tidewater* is met.

The second element used to identify a “regulation” as stated in *Tidewater* is that the rule must implement, interpret or make specific the law enforced or adminis-

⁷ Section 11342(g) was re-numbered in 2000 to section 11342.600 without substantive change.

tered by the agency, or govern the agency's procedure. On July 1, 2005, the Department of Corrections was re-organized into the Department of Corrections and Rehabilitation.⁸ Penal Code section 5054 provides that:

Commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation.

Penal Code section 5058, subdivision (a), states:

The director may prescribe and amend rules and regulations for the administration of the prisons and for the administration of the parole of persons sentenced under Section 1170 except those persons who meet the criteria set forth in Section 2962. The rules and regulations shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this section and Sections 5058.1 to 5058.3, inclusive. All rules and regulations shall, to the extent practical, be stated in language that is easily understood by the general public.

Penal Code section 5068 states:

The Director of Corrections shall cause each person who is newly committed to a state prison to be examined and studied. This includes the investigation of all pertinent circumstances of the person's life such as the existence of any strong community and family ties, the maintenance of which may aid in the person's rehabilitation, and the antecedents of the violation of law because of which he or she has been committed to prison. Any person may be reexamined to determine whether existing orders and dispositions should be modified or continued in force. Upon the basis of the examination and study, the Director of Corrections shall classify prisoners; and when reasonable, the director shall assign a prisoner to the institution of the appropriate security level and gender population nearest the prisoner's home,

unless other classification factors make such a placement unreasonable.

These Penal Code sections give CDCR broad powers to adopt regulations dealing with the care, custody, treatment, training, discipline and employment of inmates, including the placement of inmates in an institution of an appropriate security level. The challenged rule in the Memorandum requires that the Violent Felonies Administrative Determinant be used in specified circumstances when classifying an inmate. The use of the Violent Felonies Administrative Determinant could change the inmate's classification score, resulting in placement of the inmate in an institution with a higher level of security. The use of the Violent Felonies Administrative Determinant is part of the classification process required by Penal Code section 5068. The challenged rule in the Memorandum, therefore, interprets, implements and makes specific Penal Code sections 5058 and 5068.

California Code of Regulations, title 15, section 3375.2, quoted above, permits the use of the Violent Felonies Administrative Determinant only if the inmate ". . .has a current or prior conviction for a violent felony, or a sustained juvenile adjudication. . . ." The challenged rule attempts to amend CDCR's own existing regulation by adding the ability to apply the Violent Felonies Administrative Determinant to an inmate's classification score ". . .without having a court conviction." The challenged rule in the Memorandum, therefore, further interprets, implements and makes specific California Code of Regulations, title 15, section 3375.2.

The final issue to examine is whether the challenged rule falls within an express statutory exemption from the APA. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. Pursuant to section 11346, the procedural requirements established in the APA "shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly.*" (Emphasis added.)

CDCR has not identified an express statutory exemption from the APA that would apply to the challenged rule in the Memorandum, nor did OAL find such an exemption.

OAL determines, therefore, that the challenged rule meets the definition of "regulation," there is no applicable statutory exemption from the APA, and the Memorandum should have been adopted pursuant to the APA.

PUBLIC COMMENTS

OAL did not receive any public comments.

⁸ Penal Code section 5055:

Commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the Department of Corrections and Rehabilitation, except where those powers and duties are expressly vested by law in the Board of Parole Hearings. Whenever a power is granted to the secretary or a duty is imposed upon the secretary, the power may be exercised or the duty performed by a subordinate officer to the secretary or by a person authorized pursuant to law by the secretary.

AGENCY RESPONSE

CDCR declined to respond to the petition.

PETITIONER'S REBUTTAL

On October 13, 2009, Petitioner submitted a letter to CDCR titled "Re: Rebuttal; Petition of an underground CDCR regulation specifically 'Memorandum—Violent Felonies and Minimum Custody Eligibility.'" The letter did not contain any new information or arguments relevant to the issue of whether the challenged rule is an underground regulation.

CONCLUSION

In accordance with the above analysis, OAL determines that the challenged rule in the Memorandum meets the definition of "regulation" that should have been adopted pursuant to the APA.

November 23, 2009

/s/
SUSAN LAPSLEY
Director

/s/
Kathleen Eddy
Senior Counsel

Cc: Matthew Cate
Timothy Lockwood
John McClure

OFFICE OF ADMINISTRATIVE LAW

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

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

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

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

Date: November 30, 2009
To: Jesse Galindo
From: Chapter Two Compliance Unit
Subject: **2009 OAL DETERMINATION NO. 28(S)
(CTU 2009-0727-01)**
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f)).

Petition challenging two forms, CDC 812-A: Notice of Critical Information—Prison Gang Identification and CDC 812-B: Notice of Critical Information—Disruptive Group Affiliation, and California Code of Regulations, title 15, subsection 3341.5(c)(2)(A)2 as underground regulations.

On July 27, 2009, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether two forms are underground regulations. The forms you challenge are CDC 812-A: Notice of Critical Information—Prison Gang Identification and CDC 812-B: Notice of Critical Information—Disruptive Group Affiliation. These forms include descriptions and classifications of an inmate's status regarding gang affiliation. Neither of these forms were included with your petition. On September 21, 2009, OAL sent you a letter describing this oversight and informing you that your petition was incomplete.

In order to comply with the petition filing requirements¹, on October 1, 2009, you submitted a revised petition which included a copy of CDC 812-A (9/92). However, no version of CDC 812-B was included with the petition. The current version date for both of these forms is 9/92. The 9/92 version of the forms are attached hereto as Exhibit A. In the revised petition you also challenged California Code of Regulations, title 15, subsection 3341.5(c)(2)(A)2 as an underground regulation.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600², which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither

¹ California Code of Regulations, title 1, section 260(b)(3).

²A regulation is defined in section 11342.600 as:
... every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted pursuant to the APA, it may be an “underground regulation” as defined in California Code of Regulations, title 1, section 250:

The following definitions shall apply to the regulations contained in this chapter:

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

The two forms you challenge as underground regulations are printed in the California Code of Regulations, title 15, as part of section 3378. Form CDC 812–A: Notice of Critical Information—Prison Gang Identification was adopted as a regulation in compliance with the APA and filed with the Secretary of State on October 26, 1988. It was amended in compliance with the APA and the amended form (version 9/92) was filed with the Secretary of State on June 17, 1994. Because you did not provide a copy of CDC 812–B: Notice of Critical Information—Disruptive Group Affiliation, OAL is unable to determine the version that you are challenging for this form. If the version is CDC 812–B (9/92), this version of the form was adopted as a regulation in compliance with the APA and filed with the Secretary of State on June 17, 1994. No further amendments to the forms have been made since that date.

In addition to the two forms, you also challenge California Code of Regulations, title 15, subsection 3341.5(c)(2)(A)2 as an underground regulation. California Code of Regulations, title 15, subsection 3341.5(c)(2)(A)2 was adopted as a regulation in compliance with the APA and filed with the Secretary of State on January 21, 1999. It was amended in compliance with the APA and filed with the Secretary of State on August 30, 1999.

Government Code section 11344.6 states:

The publication of a regulation in the California Code of Regulations or California Code of Regulations Supplement raises a rebuttable presumption that the text of the regulation as so published is the text of the regulation adopted.

No evidence had been presented to rebut this presumption. Since section 3378, which includes both

challenged forms, and subsection 3341.5(c)(2)(A)2 were adopted in compliance with the APA, the challenged rules are not underground regulations.³

The issuance of this summary disposition letter does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code or to seek declaratory relief pursuant to section 11350 of the Government Code.

/s/
Susan Lapsley
Director

/s/
George Shaw
Staff Counsel

Copy: Matthew Cate
John McClure
Tim Lockwood

**ACCEPTANCE OF PETITION
TO REVIEW ALLEGED
UNDERGROUND REGULATIONS**

OFFICE OF ADMINISTRATIVE LAW

**(Pursuant to title 1, section 270, of the
California Code of Regulations)**

**PUBLIC EMPLOYEES RETIREMENT
SYSTEM**

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

³ A rule which is contained in a properly adopted regulation is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

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

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

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) *The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.*

(D) The challenged rule has expired by its own terms [Emphasis added.]

Kathleen Eddy, Senior Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Keith Bishop
23311 Via Dorado
Trabuco Canyon, CA 92679

Agency contact:

Ann Stausboll, Chief Executive Officer
Public Employees Retirement System
400 Q Street
Sacramento, CA 95811

Please note the following timelines:

Publication of Petition in Notice Register: December 11, 2009
Deadline for Public Comments: January 11, 2010
Deadline for Agency Response: January 25, 2010
Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response
Deadline for OAL Decision: April 12, 2010

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

Keith Paul Bishop
23311 Via Dorado
Trabuco Canyon, CA 92679
(949) 338-1729
KBISHOP@POST.HARVARD.EDU

September 23, 2009

VIA FACSIMILE 916-323-6826

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Attention: Chapter 2 Compliance Unit

Re: Request for Determination re California Public Employees Retirement System Statement of Policy For Disclosure of Placement Agent Fees

Dear Sirs/Mesdames:

I am writing to notify you that the California Public Employees Retirement System has issued, used, enforced, or attempted to enforce an underground regulation in the form of its Statement of Policy for Disclosure

of Placement Agent Fees adopted May 11, 2009 (the "**Policy**"). This letter constitutes my request for a determination pursuant to California Government Code Section 11340.5¹ and 1 CCR § 260.

1. My contact information is set forth.
2. The name of the agency that has issued, used, enforced, or attempted to enforce an underground regulation is the California Public Employees Retirement System ("**CalPERS**").
3. A copy of the Policy is enclosed. It is also available on the CalPERS' website at:
<http://www.calpers.ca.gov/index.jsp?bc=/investments/policies/ethics/home.xml>
4. CalPERS has published the Policy on its website and issued a press release dated May 11, 2009 stating that it has adopted the Policy. A copy of the press release is enclosed. The Policy states that it is effective immediately.
5. A determination of whether the Policy constitutes a "regulation" subject to the California Administrative Procedure Act ("APA") depends on the following:
 - Whether the Policy constitutes a "regulation" as defined in Section 11342.600; and
 - Whether the Policy is exempt from the APA.

Section 11342.600, defines a "regulation" as [E]very rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

The California Supreme Court has found that a regulation has two characteristics. First, it must apply generally rather than to the specific case. Second, it must "implement, interpret, or make specific the law enforced or administered by the agency, *or govern the agency's procedure.*"²

The Policy by its terms applies "to all agreements with External Managers and CalPERS Vehicle Managers" that are entered into after the adoption of the Policy. The Policy further states that it "is intended to apply broadly to all types of investment partners with whom CalPERS does business, including general partners, managers, investment managers and sponsors of hedge funds, private equity funds, real estate funds and infrastructure funds as well [sic] investment managers retained pursuant to contract." Because the Policy applies

¹ Unless otherwise indicated, all section references in this letter are to the California Government Code.

² *Tidewater Marine Western, Inc. v. Victoria Bradshaw*, 14 Cal. 4th 557, 571 (1996) (emphasis added).

to a clearly defined class of persons, the first element of the Supreme Court's criteria is met.

The Policy states that it sets forth the circumstances under which CalPERS requires specified disclosures and actions. The Policy further defines the responsibilities of both CalPERS' staff and third parties. Because the Policy governs CalPERS' procedures, the second of the Supreme Court's criteria is met. Please note that the Policy is mandatory in its expression. In Section IV, the Policy defines the "responsibilities" of managers and CalPERS staff. In particular, Section IV(C) states that External Managers "shall comply" with the Policy.

I am not aware of any exception under the APA with respect to the Policy.

6. This petition raises an issue of considerable public importance requiring prompt resolution. The Policy was recently issued. The fact that CalPERS issued a press release announcing the adoption of the Policy evidences CalPERS awareness of the public interest in its subject matter.
7. I certify that concurrently with submitting this Petition, I am faxing a copy of this petition to the following person at CalPERS:

Peter Mixon, General Counsel
 California Public Employees System Legal Office
 (916) 326-3659

If you should have any questions regarding the foregoing, please do not hesitate to contact me.

Very Truly Yours,

/s/

Keith Paul Bishop

**CALIFORNIA PUBLIC EMPLOYEES'
 RETIREMENT SYSTEM
 STATEMENT OF POLICY**

**FOR
 DISCLOSURE OF PLACEMENT AGENT FEES**

May 11, 2009

This policy is effective immediately upon adoption. This policy is intended to supplement any applicable provisions of state or federal law.

I. PURPOSE

The CalPERS Total Fund Statement of Investment Policy, adopted by the CalPERS Investment Committee ("Committee"), sets forth CalPERS overarching investment purposes and objectives with respect to all its investment programs.

This Policy sets forth the circumstances under which the California Public Employees' Retirement System ("CalPERS") shall require the disclosure of payments to Placement agents in connection with CalPERS' investments in or through External Managers. This Policy is intended to apply broadly to all of the types of investment partners with whom CalPERS does business, including the general partners, managers, investment managers and sponsors of hedge funds, private equity funds, real estate funds and infrastructure funds, as well investment managers retained pursuant to a contract. CalPERS adopts this Policy to require broad, timely, and updated disclosure of all Placement Agent relationships, compensation and fees. The goal of this Policy is to help ensure that CalPERS investment decisions are made solely on the merits of the investment opportunity by individuals who owe a fiduciary duty to CalPERS.

II. STRATEGIC OBJECTIVES

- A. Ensure that CalPERS investment decisions are consistent with The CalPERS Total Fund Statement of Investment Policy.
- B. Supplement the pool of information available to CalPERS Board Members, staff and Consultants when evaluating an investment opportunity.
- C. Prevent Impropriety and the appearance of impropriety and provide transparency and confidence in CalPERS investment decision-making.

III. APPLICATION

This Policy applies to all agreements with External Managers and CalPERS Vehicle Managers that are entered into after the date this Policy is adopted. This Policy also applies to existing agreements with External Managers and CalPERS Vehicle Managers if, after the date this Policy is adopted, the agreement is amended to extend the term of the agreement, increase the commitment of funds by CalPERS or change the substantive terms of the agreement (including the fees or compensation payable to the External Manager or CalPERS Vehicle Manager). In the case of such an amendment, the disclosure provisions of Section IV.A. of this Policy shall apply to the amendment and not to the original agreement.

IV. RESPONSIBILITIES

- A. Each External Manager and CalPERS Vehicle Manager is responsible for:
 1. Providing the following information (collectively, the "Placement Agent Information Disclosure") to Staff and, if

applicable, to the general partner, managing member, or investment manager of the CalPERS Vehicle (the "CalPERS Vehicle Manager") at the time investment discussions are initiated by the External Manager or the CalPERS Vehicle Manager:

- a. A statement whether the External Manager or the CalPERS Vehicle Manager, or any of their principals, employees, agents or affiliates has compensated or agreed to compensate, directly or indirectly, any person (whether or not employed by the External Manager or the CalPERS Vehicle Manager) or entity to act as a Placement Agent in connection with the investment by CalPERS or a CalPERS Vehicle.
- b. A resume for each officer, partner principal of the Placement Agent (and any employee providing similar services) detailing the person's education, professional designations, regulatory licenses and investment and work experience. If any such person is a current or former CalPERS Board member, employee or Consultant or a member of the immediate family of any such person, this fact shall be specifically noted.
- c. A description of any and all compensation of any kind provided or agreed to be provided to a Placement Agent, including the nature, timing and value thereof. Compensation to Placement Agents shall include compensation to third parties as well as employees of the External Manager or the CalPERS Vehicle Manager who are retained in order to solicit, or who are paid based in whole or in part upon, an investment from CalPERS or a CalPERS Vehicle.
- d. A description of the services to be performed by the Placement Agent and a statement as to whether the Placement Agent is utilized by the External Manager or the CalPERS Vehicle Manager with all

prospective clients or only with a subset of the External Manager's or the CalPERS Vehicle Manager's prospective clients.

- e. A copy of any and all agreements between the External Manager or the CalPERS Vehicle Manager and the Placement Agent.
 - f. The names of any current or former CalPERS Board members, employees, or Consultants who suggested the retention of the Placement Agent.
 - g. A statement that the Placement Agent (or any of its affiliates, as applicable) is registered with the Securities and Exchange Commission or the Financial Industry Regulatory Association and the details of such registration.
 - h. A statement whether the Placement Agent, or any of its affiliates, is registered as a lobbyist with any state or national government.
2. Providing an update of any changes to any of the information included in the Placement Agent Information Disclosure within 14 calendar days of the date that the External Manager or CalPERS Vehicle Manager knew or should have known of the change in information.
 3. Representing and warranting the accuracy of the information included in the Placement Agent Information Disclosure in any final written agreement with a continuing obligation to update any such information within 14 calendar days of the date that the External Manager or CalPERS Vehicle Manager knew or should have known of any change in the information.
- B. CalPERS Investment Staff ("Staff") and CalPERS Vehicle Managers are responsible for all of the following:
1. Providing External Managers with a copy of this Policy at the time that discussions are initiated with respect to a prospective investment or engagement.
 2. Confirming that the Placement Agent Information Disclosure has been received prior to the completion of due

- diligence and any recommendation to proceed with the engagement of the External Manager or the decision to make any investment
3. For new contracts and amendments to contracts existing as of the date of this Policy, declining the opportunity to retain or invest with the External Manager or CalPERS Vehicle if the Placement Agent information Disclosure reveals that the External Manager or CalPERS Vehicle Manager has used a Placement Agent that is not registered with the Securities and Exchange Commission or the Financial Industry Regulatory Association.
 4. For new contracts and amendments to contracts existing as of the date of this Policy, securing the agreement of the External Manager in the final written agreement between CalPERS or the CalPERS Vehicle and the External Manager to provide CalPERS or the CalPERS Vehicle the following remedies in the event that the External Manager or CalPERS Vehicle Manager knew or should have known of any material omission or inaccuracy in the Placement Agent Information Disclosure or any other violation of this Policy:
 - a. Whichever is greater, the reimbursement of any management or advisory fees for two years or an amount equal to the amounts paid or promised to be paid to the Placement Agent; and
 - b. The authority to terminate immediately the investment management contract or other agreement with the External Manager without penalty, to withdraw without penalty from the limited partnership, limited liability company or other investment vehicle, or to cease making further capital contributions (and paying any fees on these recalled commitments) to the limited partnership, limited liability company or other investment vehicle.
 5. For new contracts and amendments to contracts existing as of the date of this Policy, confirming that the final written agreement between CalPERS or the CalPERS Vehicle and the External Manager provides that the External Manager shall be solely responsible for, and CalPERS or a CalPERS Vehicle shall not pay (directly or indirectly), any fees, compensation or expenses for any Placement Agent used by the External Manager. A provision that allows the External Manager to pay Placement Agent fees or compensation from capital contributed by CalPERS or a CalPERS Vehicle with a corresponding reduction in the management fee payable with respect to CalPERS or the CalPERS Vehicle's investment shall not be regarded as a payment of the Placement Agent fee or compensation by CalPERS or the CalPERS Vehicle for purposes of this Policy.
 6. Prohibiting any External Manager or Placement Agent from soliciting new investments from CalPERS for twenty-four months after they have committed a material violation of this Policy,
 7. Providing copies of the Placement Agent Information Disclosure to the Senior Investment Officer for the asset class for which the External Manager performs investment services, the Chief Investment Officer, the Chief Executive Officer, the Chief of the Office of Enterprise Compliance and the General Counsel.
 8. Providing the Committee with a copy of the Placement Agent information Disclosure whenever the Committee makes or approves the decision to invest with the External Manager.
 9. Compiling a monthly report containing the names and amount of compensation agreed to be provided to each Placement Agent by each External Manager as reported in the Placement Agent Information Disclosures, providing the report to the Board, and disclosing the report to the public by posting to the CalPERS' website.

- 10. Reporting to the Board at least quarterly any material violations of this Policy
- C. External Manager shall comply with this Policy and cooperate with Staff in meeting Staff's obligations under this Policy.
- D. Staff is responsible for implementing this Policy for CalPERS Vehicles existing on the date this Policy is adopted by seeking the written agreement of CalPERS Vehicle Managers to comply with this Policy. If any such CalPERS Vehicle does not agree in writing to comply with this Policy, Staff shall report to the Committee the refusal.
- E. All parties responsible for implementing, monitoring and complying with this Policy should consider the spirit as well as the literal expression of this Policy. In cases where there is uncertainty whether a disclosure should be made pursuant to this Policy, this Policy shall be interpreted to require disclosure.
- F. Only the Committee can provide exceptions to this Policy and any such exceptions granted shall be reported to the public within 30 days.

V. GLOSSARY OF TERMS

Key words used in this Policy are defined in CalPERS' Master Glossary of Terms.

Approved by the Policy Subcommittee:	May 8, 2009
Adopted by the Investment Committee:	May 11, 2009

DISAPPROVAL DECISIONS

DEPARTMENT OF INSURANCE

State of California
Office of Administrative Law

In re:
Department of Insurance

Regulatory Action: Title 10
California Code of Regulations

Adopt sections:
Amend sections: 2498.4.9
Repeal sections:

DECISION OF DISAPPROVAL OF
REGULATORY ACTION

Government Code Section 11349.3

OAL File No. 2009-1007-01S

SUMMARY OF REGULATORY ACTION

The Department of Insurance (Department) proposed this regular rulemaking action to amend 22 forms, repeal one form, and adopt one form (24 forms total) that pertain to the Commercial Auto Part of the California Automobile Assigned Risk Plan (CAARP) Plan of Operations. The CAARP Plan of Operations is incorporated by reference in title 10, California Code of Regulations, section 2498.4.9.

DECISION

On November 9, 2009, the Office of Administrative Law (OAL) notified the Department that the proposed regulatory action was disapproved due to noncompliance with the California Administrative Procedure Act (APA) because the proposed regulations failed to meet the APA "necessity" standard and failed to comply with APA procedural requirements.

Date: November 25, 2009 /s/
 Richard L. Smith
 Staff Counsel
 FOR: SUSAN LAPSLEY
 Director

Original: Steve Poizner
Copy: Mike Riordan

DEPARTMENT OF INSURANCE

State of California
Office of Administrative Law

In re:
Department of Insurance

Regulatory Action: Title 10
California Code of Regulations

Adopt sections:
Amend sections: 2498.4.9
Repeal sections:

DECISION OF DISAPPROVAL OF
REGULATORY ACTION

Government Code Section 11349.3

OAL File No. 2009-1007-04S

SUMMARY OF REGULATORY ACTION

The Department of Insurance (Department) proposed this regular rulemaking action to amend Sections 23

and 41 of the California Automobile Assigned Risk Plan (CAARP) Plan of Operations. The CAARP Plan of Operations is incorporated by reference in title 10, California Code of Regulations, section 2498.4.9.

DECISION

On November 9, 2009, the Office of Administrative Law (OAL) notified the Department that the proposed regulatory action was disapproved due to noncompliance with the California Administrative Procedure Act (APA) because the proposed regulations failed to meet the APA “necessity” standard and failed to comply with APA procedural requirements.

Date: November 25, 2009 /s/
 Richard L. Smith
 Staff Counsel
 FOR: SUSANLAPSLEY
 Director

Original: Steve Poizner
 Copy: Mike Riordan

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2009-1014-01
BOARD OF FORESTRY AND FIRE PROTECTION
 Evaluation for “Take” Avoidance of Northern Spotted Owl, 2009

This rulemaking action amends sections of Title 14 of the California Code of Regulations for the purpose of ensuring that timber harvests do not cause an incidental taking of Northern Spotted Owls and that timber harvest plans are approved in an efficient and timely manner. Specifically, the rulemaking deletes references to state-employed biologists and replaces them with spotted owl expert. It requires that during breeding season a 500 to 1,000 foot operating restriction area be maintained around an active nest site or owl pair activity center and defines terms stated in that requirement. It also deletes reference to designated biologists and re-

places them with “Director” to clarify that take-avoidance determinations are made by the lead agency, the California Department of Forestry and Fire Protection.

Title 14
 California Code of Regulations
 AMEND: 895, 895.1, 919.9, 919.10, 939.9, 939.10
 Filed 11/25/2009
 Effective 01/01/2010
 Agency Contact:
 Christopher Zimny (916) 653-6631

File# 2009-1014-02
BOARD OF FORESTRY AND FIRE PROTECTION
 Emergency Notice Effective Period Extension, 2009
 The Board of Forestry and Fire Protection (Board) amends Title 14 of the California Code of Regulations, sections 1052, 1052.1 and 1052.4 relating to emergency notice rules. Specifically, the amendments extend the effective period of an emergency notice from 120 days to one year.

Title 14
 California Code of Regulations
 AMEND: 1052, 1052.1, 1052.4
 Filed 11/30/2009
 Effective 01/01/2010
 Agency Contact:
 Christopher Zimny (916) 653-6631

File# 2009-1015-03
BOARD OF FORESTRY AND FIRE PROTECTION
 Anadromous Salmonid Protection Rules, 2009

This regulatory action of the Board of Forestry and Fire Protection proposes changes to the Forest Practices Rules on planning and operational requirements for timber harvesting in planning watersheds where state or federally listed threatened, endangered, or candidate populations of anadromous salmonids are present or where they can be restored.

Title 14
 California Code of Regulations
 AMEND: 895, 895.1, 898, 914.8, 916, 916.2, 916.5, 916.9, 916.11, 916.12, 923.3, 923.9, 916.9.1, 923.9.1, 934.8, 936.5, 936, 936.2, 936.9, 936.9.1, 936.11, 936.12, 943.3, 943.9, 943.9.1, 954.8, 956.5, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963.9
 Filed 12/01/2009
 Effective 01/01/2010
 Agency Contact:
 Christopher Zimny (916) 653-6631

File# 2009-1014-03
BOARD OF FORESTRY AND FIRE PROTECTION
 Definition of Employees, 2009

This regulatory action adopts a definition for “employee” with respect to Licensed Timber Operators

(LTOs) and also articulates into regulation when sub-contractors need to be licensed. The Public Resources Code sections 4526.5 and 4571 provide that a LTO is a timber operator who is licensed and conducts timber operations. Public Resources Code sections except a person who is engaged in timber operations as an employee with wages as their sole compensation from the need for a timber operator's license. These amendments provide for further definition and clarify the "employment characteristics that define an employee." They further amend the responsibilities of LTOs and delete redundant Forest Practices Rules that describe the responsibilities of the LTO.

Title 14
California Code of Regulations
ADOPT: 1022.4, 1022.5, 1024.6 AMEND: 1035.3,
1090.12, 1092.14
Filed 11/30/2009
Effective 01/01/2010
Agency Contact:
Christopher Zimny (916) 653-6631

File# 2009-1014-04
BOARD OF GUIDE DOGS FOR THE BLIND
Continuing Education

The Board of Guide Dogs for the Blind amends section 2286 of Title 16 of the California Code of Regulations relating to the continuing education requirements for instructors at schools furnishing guide dogs and training blind persons to use guide dogs.

Title 16
California Code of Regulations
AMEND: 2286
Filed 11/30/2009
Effective 12/30/2009
Agency Contact:
Antonette Sorrick (916) 574-7825

File# 2009-1109-01
BUILDING STANDARDS COMMISSION
Conflict of Interest Code, CCR, Title 24, Part 1, Chapter 7

The California Building Standards Commission is amending its conflict of interest code found at title 24, section 701, California Code of Regulations. The amendment was approved for filing by the Fair Political Practices Commission on October 13, 2009.

Title 24
California Code of Regulations
ADOPT: 1-702 AMEND: 1-701
Filed 12/02/2009
Effective 01/01/2010
Agency Contact: Erika Keeler (916) 263-0916

File# 2009-1026-01
CENTRAL VALLEY FLOOD PROTECTION
BOARD
Amendments Related to AB 5 & Technical Updates

This rulemaking adds and amends regulations in Title 23 of the California Code of Regulations to require the Central Valley Flood Protection Board to hold evidentiary hearings on matters requiring the issuance of permits. The rulemaking adds and amends regulations regarding permit applications, bases for denials, conduct of board evidentiary hearings, ex parte contacts with board members, and consent calendars. It also updates regulations to change the name of the agency from the Reclamation Board to the Central Valley Flood Protection Board and to update the list of Central Valley streams within the jurisdiction of the Board and to update the sample permit application form and supporting materials.

Title 23
California Code of Regulations
ADOPT: 5.1, 13.1, 13.2, 138 AMEND: 1, 3, 4, 5, 6,
7, 8, 13, 15, 109, 112 Table 8.1, 120, 193 Appendix A
Filed 12/01/2009
Effective 12/31/2009
Agency Contact: Dan Fua (916) 574-0698

File# 2009-1015-05
CONTRACTORS STATE LICENSE BOARD
Sign and Solar Contractors, Re-Exams, & Advertising

This regulatory action is to clarify the definition of a C-45 Sign Contractor to cover all types of signs, not just electrical signs; it updates the definition of a C-46 Solar Contractor and the term "advertising;" and it repeals one section for consistency with Business and Professions Code section 7074.

Title 16
California Code of Regulations
AMEND: 832.45, 832.46, 861 REPEAL: 842
Filed 11/30/2009
Effective 12/30/2009
Agency Contact: Betsy Figueria (916) 255-3369

File# 2009-1124-02
DEPARTMENT OF CORPORATIONS
California Foreclosure Prevention Act

This emergency regulatory action implements new Civil Code sections 2923.52 and 2923.53 in the California Foreclosure Prevention Act. This is a readoption of a previous emergency, OAL file number 2009-0521-05E.

Title 10
 California Code of Regulations
 ADOPT: 2031.1, 2031.2, 2031.3, 2031.4, 2031.5,
 2031.6, 2031.7, 2031.8 AMEND: 2031.9, 2031.10
 Filed 12/01/2009
 Effective 12/01/2009
 Agency Contact: Karen Fong (916) 322-3553

Title 3
 California Code of Regulations
 AMEND: 3435(b)
 Filed 11/25/2009
 Effective 11/25/2009
 Agency Contact:
 Susan McCarthy (916) 654-1017

File# 2009-1125-01
 DEPARTMENT OF FINANCIAL INSTITUTIONS
 California Foreclosure Prevention Act

This emergency regulatory action implements new Civil Code sections 2923.52 and 2923.53 in the California Foreclosure Prevention Act. This is a readoption of OAL file number 2009-0522-04E.

File# 2009-1124-01
 DEPARTMENT OF REAL ESTATE
 California Foreclosure Prevention Act

This emergency regulatory action implements new Civil Code sections 2923.52 and 2923.53 in the California Foreclosure Prevention Act. This is a readoption of a previous emergency, OAL file number 2009-0522-01E.

Title 10
 California Code of Regulations
 ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10
 Filed 12/01/2009
 Effective 12/01/2009
 Agency Contact: Paul Crayton (415) 263-8541

Title 10
 California Code of Regulations
 ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5,
 2850.6, 2850.7, 2850.8, 2850.9, 2850.10
 Filed 12/01/2009
 Effective 12/01/2009
 Agency Contact:
 Daniel E. Kehew (916) 227-0425

File# 2009-1020-01
 DEPARTMENT OF FISH AND GAME
 Fees for Lake or Streambed Alteration Agreements

This rulemaking action adjusts the fees charged by the California Department of Fish and Game for processing applications for lake and streambed alteration agreements, pursuant to the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, for the years 2007, 2008, and 2009.

File# 2009-1123-08
 MANAGED RISK MEDICAL INSURANCE BOARD
 AIM Elimination of Duration al Residency Requirement

This regulatory action amends two sections and an incorporated by reference form to remove a provision requiring six continuous months of residency in California in order for low-income pregnant women to receive comprehensive health insurance during the pregnancy and for 60 days thereafter through the Access for Infants and Mothers (AIM) program.

Title 14
 California Code of Regulations
 AMEND: 699.5
 Filed 12/02/2009
 Effective 01/01/2010
 Agency Contact: Gina Ford (916) 651-7821

Title 10
 California Code of Regulations
 AMEND: 2699.200, 2699.201
 Filed 12/01/2009
 Effective 12/01/2009
 Agency Contact: Dianne Knox (916) 234-0592

File# 2009-1123-10
 DEPARTMENT OF FOOD AND AGRICULTURE
 Asian Citrus Psyllid Interior Quarantine

This regulatory amendment adds the entire Imperial County to the quarantine area with respect to the Asian Citrus Psyllid (ACP), pursuant to the Imperial County Agricultural Commissioner's request. The potential for damage is measured in many millions of dollars with respect to this pest. There is a federal quarantine requirement. This amendment also expands the existing regulated areas by approximately 1,728 square miles in Imperial County, approximately 8 miles in Riverside County and adjusts the boundary line in San Diego County according to the established protocol due to an error in establishing the boundary.

File# 2009-1020-06
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 Momentary Contact Devices for Portable Power Driven Augers

This proposed regulatory action requires portable power drive augers to be equipped with a momentary contact device (a switch that turns power equipment off when the operator lets go of the equipment).

Title 8
 California Code of Regulations
 AMEND: 4086
 Filed 12/02/2009
 Effective 01/01/2010
 Agency Contact: Marley Hart (916)274-5721

11/09/09 ADOPT: 604 REPEAL: 604
 11/05/09 ADOPT: 60800, 60801, 60802, 60803, 60804, 60805, 60806, 60807, 60808, 60809, 60810, 60811, 60812, 60813, 60814, 60815, 60816, 60817, 60818, 60819, 60820, 60821, 60822, 60823, 60824, 60825, 60826, 60827, 60828, 60829, 60830, 60831, 60832, 60833, 60834, 60835, 60836, 60837, 60840, 60841, 60842, 60843, 60844, 60845, 60846, 60847, 60848, 60849, 60850, 60851, 60852, 60853, 60854, 60855

File# 2009-1103-05
 OFFICE OF ENVIRONMENTAL HEALTH
 HAZARD ASSESSMENT
 Chemicals Known to the State to Cause Cancer or Reproductive Toxicity

This is an update to the list of Chemicals Known to the State to Cause Cancer or Reproductive Toxicity. The amendment to this list is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 25249.8.

11/03/09 ADOPT: 1859.96 AMEND: 1859.2, 1859.90
 10/01/09 AMEND: 2291, 2292, 2294 ADOPT: 2297

Title 27
 California Code of Regulations
 AMEND: 27001
 Filed 12/02/2009
 Effective 09/11/2009
 Agency Contact: Cynthia Oshita (916)322-2068

10/01/09 AMEND: 1898.2, 1898.7
 09/22/09 ADOPT: 18603, 18603.1
 09/22/09 ADOPT: 18901.1 AMEND: 18420.1
 09/18/09 AMEND: 1859.76
 09/17/09 AMEND: 2270, 2271
 09/14/09 AMEND: 588.1, 588.2
 08/31/09 ADOPT: 1859.324.2 AMEND: 1859.302, 1859.324.1, 1859.330
 08/03/09 ADOPT: 647.5, 647.25, 647.36, 647.37.1 AMEND: 647.1, 647.2, 647.3, 647.4, 647.20, 647.20.1, 647.22, 647.23, 647.24, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.38 REPEAL: 647.25, 647.34

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN July 1, 2009 TO December 2, 2009

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

Title 2

11/24/09 AMEND: 1859.2
 11/24/09 AMEND: 1859.2, 1859.35, 1859.51, Form SAB 50-02, SAB Form 50-03, SAB Form 50-04
 11/17/09 ADOPT: 20810, 20811, 20812, 20813, 20814, 20815, 20816, 20817, 20818, 20819, 20820, 20821, 20822, 20823, 20830, 20831, 20832, 20833, 20840, 20841, 20842
 11/16/09 AMEND: 1859.129, 1859.197
 11/12/09 ADOPT: 18944.4 AMEND: 18944.3
 11/12/09 ADOPT: 18219, 18734
 11/09/09 ADOPT: 1859.148.2, 1859.166.2 AMEND: 1859.2, 1859.121, 1859.164.2, 1859.197

07/30/09 ADOPT: 1899.570, 1899.575, 1899.580, 1899.585
 07/20/09 ADOPT: 721
 07/07/09 AMEND: 18450.4
 07/06/09 AMEND: 18940.2

Title 3

11/25/09 AMEND: 3435(b)
 11/24/09 AMEND: 3430(b)
 11/16/09 AMEND: 3435(b)
 11/16/09 AMEND: 3406(b)(c)
 11/10/09 AMEND: 3434(b)
 10/30/09 AMEND: 3435(b), (c) and (d)
 10/15/09 AMEND: 3434(b)
 10/08/09 AMEND: 3434(b)
 10/08/09 AMEND: 3591.20(a)
 09/24/09 AMEND: 3406(b)
 09/24/09 AMEND: 3434(b)
 09/22/09 AMEND: 6562
 09/15/09 AMEND: 3434(b)
 09/14/09 AMEND: 3435(b)
 09/10/09 ADOPT: 2300.1, 2300.2, 2300.3 AMEND: 2300
 09/09/09 AMEND: 3434(b)
 09/03/09 AMEND: 3434(b)

09/01/09 AMEND: 3435(b)
 08/28/09 AMEND: 3434(b)
 08/27/09 AMEND: 3435(b)
 08/27/09 AMEND: 3588
 08/26/09 AMEND: 6400, 6502, 6620,
 6626(a)-(b), 6626(c), 6627, 6670, 6672,
 6736, and incorporated by reference
 forms
 08/20/09 AMEND: 3406(b)
 08/20/09 AMEND: 3591.13(a)
 08/13/09 AMEND: 3434(b)
 08/13/09 AMEND: 6618, 6619, 6761.1, 6770,
 6771
 08/12/09 ADOPT: 902.15
 08/07/09 AMEND: 3406(b)
 08/05/09 AMEND: 3434(b), 3434(c)
 08/04/09 AMEND: 3423(b)
 07/31/09 ADOPT: 3436
 07/24/09 AMEND: 3434(b)
 07/22/09 ADOPT: 3591.23
 07/22/09 AMEND: 3406(b)
 07/21/09 AMEND: 3591.2(a)
 07/20/09 AMEND: 3591.20(a)
 07/13/09 AMEND: 625
 07/07/09 AMEND: 3435
 07/02/09 AMEND: 3423(b)

Title 4

10/27/09 AMEND: 8034, 8035, 8042, 8043
 10/20/09 AMEND: 1606
 10/07/09 AMEND: 7030, 7034, 7035, 7037, 7038,
 7042, 7044, 7045, 7046, 7048, 7049,
 7050
 08/25/09 ADOPT: 12380, 12381, 12384, 12385,
 12386 AMEND: 12360
 08/04/09 AMEND: 1853
 07/31/09 AMEND: 10020
 07/31/09 ADOPT: 7051, 7052, 7053, 7054, 7055,
 7056, 7057, 7058, 7059, 7060, 7061,
 7062, 7063, 7064, 7065, 7066, 7067,
 7068, 7069, 7070, 7071
 07/21/09 AMEND: 1979, 1979.1
 07/21/09 REPEAL: 1950.1

Title 5

11/03/09 AMEND: 1200, 1204.5, 1207, 1207.5,
 1210, 1211.5, 1215, 1215.5, 1216
 REPEAL: 1207.2
 08/20/09 ADOPT: 19825.1 AMEND: 19816,
 19816.1, 19825, 19825.1 (renumber to
 19825.2)
 07/21/09 ADOPT: 43200
 07/21/09 ADOPT: 43220
 07/21/09 AMEND: 42920
 07/21/09 ADOPT: 40411
 07/09/09 AMEND: 18100

07/03/09 ADOPT: 80027.1, 80048.7 AMEND:
 80027

Title 8

12/02/09 AMEND: 4086
 11/19/09 AMEND: 15600, 15601, 15602, 15603,
 15604, 15605, 15606, 15607, 15611
 11/04/09 AMEND: 9771, 9778, 9779, 9779.5
 REPEAL: 9779.9
 10/28/09 AMEND: 3333, 3650
 10/26/09 AMEND: 5306
 10/22/09 AMEND: 3277
 10/07/09 AMEND: 2395.6
 08/31/09 AMEND: 3385
 08/27/09 AMEND: 3400
 07/31/09 AMEND: 1637, 1646
 07/27/09 AMEND: 5006.1
 07/24/09 AMEND: 3466
 07/23/09 AMEND: 1598, 1599
 07/06/09 ADOPT: 5199
 07/06/09 ADOPT: 5199.1

Title 9

11/04/09 ADOPT: 3200.125, 3200.215, 3200.217,
 3200.253, 3200.254, 3200.255,
 3200.256, 3200.275, 3200.276,
 3200.320, 3200.325, 3550, 3810, 3820,
 3830, 3840, 3841, 3842, 3843, 3844,
 3844.1, 3845, 3850, 3851, 3851.1, 3852,
 3853, 3854, 3854.1, 3854.2, 3856
 AMEND: 3310, 3510
 10/26/09 ADOPT: 4350
 09/22/09 ADOPT: 7213.4, 7213.5, 7213.6, 7214.1,
 7214.2, 7214.3, 7214.4, 7214.6, 7214.8,
 7215.1, 7216.1, 7216.2, 7220.3, 7220.5,
 7220.7 AMEND: 7213, 7213.1, 7213.2,
 7213.3, 7214, 7215, 7216, 7218, 7220,
 7221, 7224, 7225, 7226, 7226.1, 7226.2,
 7227, 7227.1, 7227.2 REPEAL: 7219
 09/14/09 ADOPT: 4000, 4005
 08/04/09 AMEND: 7331

Title 10

12/01/09 ADOPT: 2031.1, 2031.2, 2031.3, 2031.4,
 2031.5, 2031.6, 2031.7, 2031.8
 AMEND: 2031.9, 2031.10
 12/01/09 ADOPT: 2850.1, 2850.2, 2850.3, 2850.4,
 2850.5, 2850.6, 2850.7, 2850.8, 2850.9,
 2850.10
 12/01/09 ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7,
 4.8, 4.9, 4.10
 12/01/09 AMEND: 2699.200, 2699.201
 11/19/09 AMEND: 5500, 5501, 5502, 5503, 5504,
 5505, 5506, 5507
 11/19/09 AMEND: 2498.5
 11/19/09 AMEND: 2498.5
 11/19/09 AMEND: 2498.4.9

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 50-Z

11/19/09 AMEND: 2498.4.9
 11/10/09 AMEND: 260.101.2, 260.103.4, 260.105.7, 260.105.17, 260.105.33, 260.105.34, 260.211.1, 260.217, 260.230, 260.241.4, 260.242 REPEAL: 260.105.37, 260.204.11
 10/29/09 AMEND: 2699.6809
 10/29/09 AMEND: 2699.6600, 2699.6607, 2699.6619, 2699.6621, 2699.6705, 2699.6715, 2699.6725
 10/26/09 AMEND: 2632.9
 10/26/09 AMEND: 2695.85
 10/15/09 AMEND: 2632.5
 10/06/09 ADOPT: 2728, 2773, 2903 AMEND: 2731, 2848, 2930 REPEAL: 2728, 2755
 09/29/09 AMEND: 2699.6625
 09/24/09 AMEND: 260.004, 260.017.1, 260.102.14, 260.165, 260.210, 260.211, 260.230.1, 260.236, 260.236.1, 260.237.2, 260.240, 260.241.3 REPEAL: 260.101, 260.103.3, 260.237.1
 09/23/09 AMEND: 260.102.8(b), 260.103.6, 260.105.15, 260.113, 260.140.8(b)(4), 260.140.42(e), 260.140.71.2, 260.140.114.1(c), 260.151(a), 260.236(c)(3)(C), 260.608, 1457(d), 1950.122.1, 2020(c), 2030, Note after Subchapter 6 REPEAL: 250.50, 250.51
 09/17/09 AMEND: 2699.6805
 08/19/09 AMEND: 2699.6707, 2699.6711, 2699.6721, 2699.6723, 2699.6725, 2699.6809
 08/04/09 ADOPT: 2355.1, 2355.2 AMEND: 2359.4 amended and renumbered to 2355.3, 2359.7 renumbered to 2355.4, 2359.8 renumbered to 2355.5 REPEAL: 2355.1, 2355.2, 2355.3, 2355.4, 2355.5, 2355.6, 2355.7, 2355.8, 2356.1, 2356.2, 2356.3, 2356.4, 2356.5, 2356.6, 2356.7, 2356.8, 2356.9, 2357.1, 2357.2, 2357.3, 2357.4, 2357.5, 2357.6, 2357.7, 2357.8, 2357.9, 2357.10, 2357.11, 2357.12, 2357.13, 2357.14, 2357.15, 2357.16, 2357.17, 2357.18, 2357.19, 2358.1, 2358.2, 2358.3, 2358.4, 2358.5, 2358.6, 2358.7, 2358.8, 2358.9, 2359.1, 2359.2, 2359.3, 2359.5, 2359.6
 07/29/09 ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55
 07/14/09 ADOPT: 2359.8
 07/09/09 AMEND: 2797
 07/06/09 AMEND: 250.30

Title 11

11/09/09 AMEND: 1005, 1007, 1008
 10/14/09 AMEND: 9052(c), 9053(b), 9053(c), 9053(e)(5)(A)4, 9053(e)(10)(A), 9053(e)(10)(B), 9054(e)(4), 9057(b), 9059(b), 9059(c), 9059(e)(9)(A), 9059(e)(9)(B), 9060(e)(4)

Title 12

10/13/09 ADOPT: 600 REPEAL: 600
 09/17/09 ADOPT: 508

Title 13

10/20/09 AMEND: 2433
 10/13/09 ADOPT: 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359
 09/16/09 ADOPT: 2468, 2468.1, 2486.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9, 2468.10
 09/01/09 AMEND: 2222
 08/24/09 AMEND: 2193
 08/12/09 AMEND: 2020(b)
 07/29/09 AMEND: 599
 07/17/09 AMEND: 2111, 2112, Appendix A, 2139, 2147, 2440, 2441, 2442, 2443.1, 2443.2, 2443.3, 2444.1, 2444.2, 2445.1, 2445.2, 2446, 2447, 2474, Documents Incorporated by Reference REPEAL: 2448

Title 14

12/02/09 AMEND: 699.5
 12/01/09 AMEND: 895, 895.1, 898, 914.8, 916, 916.2, 916.5, 916.9, 916.11, 916.12, 923.3, 923.9, 916.9.1, 923.9.1, 934.8, 936.5, 936, 936.2, 936.9, 936.9.1, 936.11, 936.12, 943.3, 943.9, 943.9.1, 954.8, 956.5, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963.9
 11/30/09 ADOPT: 1022.4, 1022.5, 1024.6 AMEND: 1035.3, 1090.12, 1092.14
 11/30/09 AMEND: 1052, 1052.1, 1052.4
 11/25/09 AMEND: 895, 895.1, 919.9, 919.10, 939.9, 939.10
 11/23/09 ADOPT: 749.4
 11/18/09 AMEND: 163, 164
 10/29/09 AMEND: 551
 10/27/09 AMEND: 938.8
 10/27/09 ADOPT: 1530.05 AMEND: 1553, 1554, 1561.1, 1562, 1564, 1567
 10/26/09 ADOPT: 1091.15 AMEND: 1091.9
 10/22/09 ADOPT: 749.5
 10/20/09 ADOPT: 6594, 6594.1, 6594.2, 6594.3, 6594.4, 6594.5, 6594.6, 6594.7, 6594.8, 6594.9, 6594.20, 659.21, 6594.22,

6594.23, 6594.24, 6594.25, 6594.26, 6594.27, 6594.40, 6594.41, 6594.42, 6594.43, 6594.44, 6594.45, 6594.46, 6594.47	08/04/09 ADOPT: 1773.5 AMEND: 1773 07/28/09 AMEND: 4110 07/27/09 AMEND: 4130 07/24/09 AMEND: 1391.10, 1391.12 07/24/09 AMEND: 1387, 1387.6 07/17/09 AMEND: 1999.5 06/26/09 ADOPT: 2611 AMEND: 2606, 2614, 2615, 2616, 2621, 2649 REPEAL: 2612, 2613, 2623 06/26/09 AMEND: 426.51
10/20/09 AMEND: 300 10/07/09 AMEND: 122 10/05/09 AMEND: 670.5 09/15/09 AMEND: 502 08/25/09 AMEND: 257, 300, 311, 313 08/24/09 ADOPT: 749.4 07/14/09 AMEND: 124 07/13/09 AMEND: 163	
Title 15	Title 17
11/24/09 ADOPT: 3123, 3124 AMEND: 3041.3, 3122, 3162, 3164, 3165 10/23/09 ADOPT: 3999.8 10/14/09 AMEND: 3045.2 10/06/09 AMEND: 3000, 3173.1, 3176, 3176.3, 3315, 3323 09/29/09 AMEND: 3341.5 08/18/09 ADOPT: 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1856, 1857, 1860, 1866, 1867, 1868, 1870, 1872, 1876, 1878, 1888, 1890, 1892 08/11/09 AMEND: 2253 08/11/09 ADOPT: 3650, 3651, 3652, 3653, 3654 REPEAL: 3652.1 07/28/09 ADOPT: 3077, 3077.1, 3077.2, 3077.3, 3077.4 AMEND: 3000, 3043.6, 3375	11/12/09 AMEND: 30305 11/10/09 ADOPT: 100502 10/15/09 ADOPT: 1230 REPEAL: 1230 09/22/09 AMEND: 2500, 2502, 2505 09/18/09 AMEND: 100500 09/01/09 ADOPT: 95360, 95361, 95362, 95363, 95364, 95365, 95366, 95367, 95368, 95369, 95370 08/19/09 ADOPT: 100081 08/13/09 AMEND: 6500.74, 6500.77
Title 16	Title 18
11/30/09 AMEND: 832.45, 832.46, 861 REPEAL: 842 11/30/09 AMEND: 2286 11/12/09 ADOPT: 645 11/05/09 ADOPT: 3340.42.2 AMEND: 3340.17, 3340.42 10/08/09 AMEND: 1888 10/07/09 ADOPT: 1399.90, 1399.91, 1399.92, 1399.93, 1399.94, 1399.95, 1399.96, 1399.97, 1399.98, 1399.99 REPEAL: 1399.50, 1399.52 10/05/09 ADOPT: 1399.514 09/16/09 ADOPT: 1950.1 AMEND: 1984 09/16/09 ADOPT: 1399.720, 1399.721, 1399.722, 1399.723, 1399.724, 1399.725 09/08/09 AMEND: 2310 08/24/09 AMEND: 4161 08/11/09 AMEND: 2504.1, 2517.5, 2537, 2540.6, 2564.1, 2575.5, 2590, 2592.6 08/05/09 AMEND: 995 08/05/09 AMEND: 1399.15	09/29/09 AMEND: 1620 07/30/09 AMEND: 1668
	Title 19
	11/19/09 AMEND: 200, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217 11/06/09 AMEND: 901, 905, 905.2, 906.3
	Title 20
	08/03/09 AMEND: 1670, 1671, 1672, 1673, 1674, 1675 07/10/09 AMEND: 1601, 1602, 1604, 1605.3, 1606 07/10/09 AMEND: 1601, 1602, 1603, 1604, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608
	Title 21
	10/06/09 ADOPT: 1412.1, 1412.2, 1412.3, 1412.4, 1412.5, 1412.6, 1412.7, 1412.8, 1412.9 09/16/09 ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711
	Title 22
	11/24/09 ADOPT: 65800, 65801, 65802, 65803, 65804, 65805, 65806, 65807, 65808 08/31/09 ADOPT: 2706-7 07/31/09 AMEND: 80001, 85002 and 85068.4 07/23/09 AMEND: 120201 07/22/09 AMEND: 51529 07/20/09 AMEND: 68201, 68202, 68205, 68206, 68207, 68208, 68209, 68210, 68211, and Appendix 1 to Article 1 of Chapter 47

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 50-Z

07/13/09 AMEND: 66273.3, 66273.39

Title 23

12/01/09 ADOPT: 5.1, 13.1, 13.2, 138 AMEND: 1, 3, 4, 5, 6, 7, 8, 13, 15, 109, 112 Table 8.1, 120, 193 Appendix A
11/04/09 ADOPT: 2631.2
11/02/09 ADOPT: 3919.5
10/21/09 AMEND: 1062, 1064, 1066, 1070
10/06/09 AMEND: 3939.2
09/30/09 ADOPT: 570, 571, 572, 573, 574, 575, 576
09/30/09 AMEND: 3939.2
09/16/09 ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 REPEAL: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37
09/15/09 ADOPT: 2910.1
09/15/09 ADOPT: 3989.9
09/10/09 ADOPT: 490.1, 492.1, 492.2, 492.3, 492.4, 492.5, 492.6, 492.7, 492.8, 492.9, 492.10, 492.11, 492.12, 492.13, 492.14, 492.15, 492.16, 492.17, 493.1, 493.2

AMEND: 490, 491, 492, 493, 494
REPEAL: 495

08/05/09 ADOPT: 3959.2
07/09/09 ADOPT: 3959.3

Title 24

12/02/09 ADOPT: 1-702 AMEND: 1-701

Title 25

10/29/09 AMEND: 1008
10/15/09 ADOPT: 4100, 4102, 4104
09/17/09 AMEND: 637
09/17/09 AMEND: 1008
09/08/09 ADOPT: 7980, 7980.1, 7982, 7982.1, 7982.2, 7982.3, 7982.4, 7983, 7983.1, 7983.2, 7983.3, 7983.4, 7983.5, 7984, 7984.1, 7984.2
08/19/09 ADOPT: 4200, 4202, 4204, 4205, 4206, 4208, 4210, 4212, 4214, 4216

Title 27

12/02/09 AMEND: 27001
10/26/09 AMEND: 25102(d)
07/23/09 AMEND: 25204

Title MPP

11/10/09 AMEND: 31-002, 31-003 and 31-502
09/22/09 AMEND: 40-107, 42-213, 89-130
08/31/09 ADOPT: 31-021 AMEND: 31-003, 31-410, 31-501
07/06/09 ADOPT: 31-003, 31-502 AMEND: 31-002