



California Regulatory Notice Register

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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Codes — Notice File No. Z2009-0217-01 299

- MULTI-COUNTY: Rural Counties’ Environmental Services Joint Powers Authority
- Rural Health Joint Powers Authority
- Truckee Donner Public Utilities District
- California Rural Home Mortgage Finance Authority Homebuyers Fund
- California Local Government Finance Authority

TITLE 2. STATE PERSONNEL BOARD

Skills-Based Certification — Notice File No. Z2009-0217-09 300

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Seedless Mandarin and Honeybee Coexistence — Notice File No. Z2009-0217-05 302

TITLE 10. DEPARTMENT OF REAL ESTATE

Miscellaneous Regulations — Notice File No. Z2009-0217-04 303

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Special Weapons and Tactics (SWAT) Operations and Training Course Requirements — Notice File No. Z2009-0217-02 309

TITLE 14. FISH AND GAME COMMISSION

Central Valley Salmon Sport Fishing — Notice File No. Z2009-0217-14 310

TITLE 14. FISH AND GAME COMMISSION

Klamath River Sport Fishing — Notice File No. Z2009-0217-13 313

TITLE 14. FISH AND GAME COMMISSION

Mammal Hunting — 2009/2010 — Notice File No. Z2009-0217-15 317

TITLE 14. FISH AND GAME COMMISSION

Ocean Salmon Sport Fishing — Notice File No. Z2009-1217-12 329

(Continued on next page)

Time-Dated Material

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION	
<i>Senate Bill 618 Regulation Revision — Notice File No. Z2009–0211–01</i>	332
TITLE 22. DEPARTMENT OF SOCIAL SERVICES	
<i>Adult Residential Facility Age Regulations — Notice File No. Z2009–0217–10</i>	335
TITLE 27. INTEGRATED WASTE MANAGEMENT BOARD	
<i>Long–Term Landfill Care — Notice File No. Z2009–0217–03</i>	337
GENERAL PUBLIC INTEREST	
BUREAU OF STATE AUDITS	
<i>Voters First Act Interested Persons Meetings, Second Notice</i>	341
DEPARTMENT OF HEALTH CARE SERVICES	
<i>Implementation of Provider Payment Reduction</i>	341
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD	
<i>Notice of Public/Business Meeting</i>	342
PROPOSITION 65	
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	
<i>Methamphetamine Health Risk Assessment</i>	343
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with the Secretary of State	343
Sections Filed, September 17, 2008 to February 18, 2009	345

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT OF INTEREST CODES

ADOPTION

MULTI-COUNTY: RURAL COUNTIES' ENVIRONMENTAL SERVICES JOINT POWERS AUTHORITY

RURAL HEALTH JOINT POWERS AUTHORITY

AMENDMENT

MULTI-COUNTY: TRUCKEE DONNER PUBLIC UTILITIES DISTRICT

CALIFORNIA RURAL HOME MORTGAGE FINANCE AUTHORITY HOMEBUYERS FUND

CALIFORNIA LOCAL GOVERNMENT FINANCE AUTHORITY

A written comment period has been established commencing on **February 27, 2009**, and closing on **April 13, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branaman, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **April 13, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED
CONFLICT OF INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE PERSONNEL BOARD

**NOTICE OF PROPOSED REVISION
OF REGULATIONS AND STATEMENT
OF REASONS**

**California Code of Regulations
Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Article 10. Appointments**

DATE: February 17, 2009
TO: ALL INTERESTED PARTIES
FROM: SUZANNE M. AMBROSE
Executive Officer
SUBJECT: PROPOSED AMENDMENT TO
TITLE 2, CALIFORNIA CODE OF
REGULATIONS § 250.1 — SKILLS-
BASED CERTIFICATION

AUTHORITY

Under the authority established in Government Code (GC) §§ 18701 and 18900.6, the State Personnel Board

(SPB or Board) proposes to add § 250.1 to Title 2 of the California Code of Regulations (2CCR) relating to skills-based certification lists. Pursuant to GC §§ 18211 and 18213, the proposed regulation is exempt from the Administrative Procedures Act (Chapter 3.5, commencing with § 11340, of Part 1 of Division 3).

REFERENCE

The regulation implements, interprets, and/or makes specific GC § 18900.6.

PUBLIC HEARING

Date and Time: May 14, 2009, Tuesday
9:15 a.m.
Place: 801 Capitol Mall, Auditorium
Sacramento, CA 95814
Purpose: To receive written and/or oral comments about this action.

WRITTEN PUBLIC COMMENT PERIOD

The written public comment period will close Monday, April 13, 2009, at 5:00 p.m. Any person may submit written comments about the proposed amendments. To be considered by the Board, the appropriate person identified below must receive written comments before the close of the written public comment period.

Written comments may be submitted to:

Dorothy Egel, Staff Counsel IV
State Personnel Board
801 Capitol Mall, MS 53
Sacramento, CA 95814

or to: degel@spb.ca.gov or fax comments to her attention at (916) 653-6117.

**AVAILABILITY OF PROPOSED TEXT AND
STATEMENT OF REASONS/CONTACT PERSONS**

Copies of the express terms of the proposed action, Statement of Reasons, and all of the information upon which the proposal is based are available for review upon request to Dorothy Egel. The rulemaking file is available for review during normal business hours at SPB, 801 Capitol Mall, Sacramento, CA 95814. Additional information or questions regarding the substance of the proposed action should be directed to Dorothy Egel, as specified above.

Questions regarding the regulatory process in conjunction with this regulation should be directed to Dorothy Egel or, in the alternative, Bruce Monfross at SPB, 801 Capitol Mall, MS 53, Sacramento, CA 95814, or by telephone at (916) 653-1403 or TDD (916) 653-1498.

AVAILABILITY OF CHANGES
TO PROPOSED TEXT

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, SPB will make the full text of the changed regulation available for at least 15 days before the date the regulation is permanently amended.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

GC § 18211 specifies that regulations promulgated by the SPB are exempt from the Administrative Procedures Act (GC § 11340 et seq.), except as provided in GC §§ 18215 and 18216. The exceptions in GC §§ 18215 and 18216 do not apply to civil service selection, examination, or classification procedures.

GC § 18213 specifies that regulations concerning civil service selection, examination and classification procedures may be adopted by the SPB without public notice or comment.

GC § 18701 authorizes the Board to prescribe, amend, and repeal regulations for the administration and enforcement of the Civil Service Act (GC §§ 18500 et seq.).

GC § 18900.6 requires the Board to provide by rule how skills-based certification shall be implemented.

The purpose of the proposed regulation is to clarify the manner in which skills-based certification shall be implemented for Information Technology classifications.

IMPACT ON SMALL BUSINESSES

It is anticipated that the proposed amendments will have no impact on small businesses.

LOCAL MANDATE

SPB has determined that the proposed action imposes no additional mandate on local agencies or school districts and, therefore, requires no reimbursement pursuant to GC § 17561.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies:

The proposed regulation will involve no additional costs to any state agency.

Impact on Housing Costs:

No impact.

Costs or Savings in Federal Funding to the State:

No impact.

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

No impact.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies:

No impact.

Cost Impact on Private Persons or Businesses:

No impact.

ASSESSMENT OF POTENTIAL ADVERSE
ECONOMIC IMPACT ON BUSINESSES

No impact.

ASSESSMENT REGARDING THE EFFECT
ON JOBS/BUSINESSES

The adoption of the proposed action should neither create nor eliminate jobs in the state, nor result in the elimination of expansion of existing businesses in the state, nor create or expand businesses in the state.

ALTERNATIVES STATEMENT

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

FINAL STATEMENT OF REASONS

It is anticipated that the proposed regulation will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons for the amendments. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

ACCESSING INFORMATION REGARDING THIS
RULEMAKING FILE ON THE STATE
PERSONNEL BOARD WEBSITE

The text of the proposed amendments, the Notice of Proposed Amendment of Regulations and Statement of Reasons can be viewed at www.spb.ca.gov.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Notice of Proposed Rulemaking

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture intends to adopt Sections 1430.54–1430.57 of the regulations in Title 3 of the California Code of Regulations pertaining to Seedless Mandarin and Honeybee Coexistence.

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

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before April 13, 2009.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These regulations are intended to address the obligation of the Department of Food and Agriculture to address coexistence issues related to production of seedless mandarin varieties in close proximity to the apiaries of beekeepers. Seedless mandarin growers mitigate that some apiaries increase the risk of crop cross-pollination resulting in the presence of seeds in their fruit. The regulations adopted herein shall be limited to Fresno, Kern, Madera, and Tulare counties and may include the establishment of fees, not to exceed the cost of the program, to be paid by seedless mandarin growers.

The Department of Food and Agriculture proposes to adopt Sections 1430.54–1430.57 pertaining to Seedless Mandarin and Honeybee Coexistence. By doing so, the Department seeks to facilitate the coexistence of seedless mandarin acreage and beekeeper apiaries on a case by case basis by county agricultural commissioners in the counties of Fresno, Kern, Madera and Tulare.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has determined that the proposed regulations do not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Govern-

ment Code to local agencies or school districts, no non-discretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

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

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The Department is not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed program is voluntary for seedless mandarin growers and beekeepers. The program is paid for by those seedless mandarin growers electing to participate in the program.

ASSESSMENT

The Department has made an assessment that the proposed adoption of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department must determine that no alternative 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.

AUTHORITY

The Department proposes to adopt Sections 1430.54–1430.57 pursuant to the authority vested by Sections 407, 29002, 29004, 29006, 29008, 29011, 29040, 29041, 29042, 29043, 29045, 29070, 29070.5, and 29812 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 29810 and 29811 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed adoption of these regulations will not have an impact to small businesses. The proposed program is voluntary for seedless mandarin growers and beekeepers. The program is paid for by those seedless mandarin growers electing to participate in the program.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Steve Lyle, Office of Public Affairs, Department of Food and Agriculture, 1220 N Street, Room 400, Sacramento, CA 95814, (916) 654-0462, FAX (916) 651-7417, Email: LegislativeOffice@cdfa.ca.gov. In his absence, you may contact Carla Sanchez, Legislative Office at (916) 654-0321 or Email: LegislativeOffice@cdfa.ca.gov. Questions regarding the substance of the proposed regulation should be directed to Carla Sanchez.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/Regulations/General/Mandarin_Bees.pdf).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact), named herein.

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Jeff Davi, Real Estate Commissioner, proposes to adopt, amend and/or repeal the proposed regulations described below in Title 10, California Code of Regulations, after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commissioner proposes to adopt, amend and/or repeal sections 2728, 2731, 2755, 2773, 2848, 2903, 2930, 2971, 3005, 3006, 3007, 3007.05, 3007.2, 3007.3, 3007.6, 3008, 3010, 3011.1, 3011.2, 3011.4 and 3012.2 in Title 10 of the California Code of Regulations (CCR).

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing starting at 10:00 a.m., on April 13, 2009, at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commissioner. The written comment period closes on April 13, 2009. All written comments must be received by 5:00 p.m. on that date at the Department's Sacramento Office as follows:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P.O. Box 187007

Sacramento, CA 95818–7007

Telephone: (916) 227–0791

Comments may be sent via electronic mail to regulations@dre.ca.gov or via fax to David B. Seals at (916) 227–9458.

AUTHORITY AND REFERENCE

The changes to the regulations are authorized by Business and Professions Code sections 10080, 10170.4, 10226, 10232.1, 11001, and 11011.8 to implement, interpret or make specific Business and Professions Code sections 10026, 10027, 10085, 10085.5, 10131.2, 10132, 10137.1, 10140.6, 10146, 10148, 10153.4, 10159.5, 10170.4, 10170.5, 10177, 10177.6, 10232.1, and 10235, Government Code section 11425.50, and Public Resources section 21082.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

SUMMARY OF EXISTING LAWS AND REGULATIONS

Business and Professions Code Section 10137.1 provides that real estate brokers may form partnerships that can perform acts requiring a real estate broker license provided that every partner through whom the partnership performs such acts is a licensed real estate broker. Regulation Sections 2728 and 2755 were adopted as a complement to Section 10137.1 to facilitate the operation of partnerships established pursuant to Section 10137.1. These regulations as they exist today are confusing to licensees and the public because the Department does not license partnerships. The repeal of Regulation Sections 2728 and 2755 and the re-adoption of Section 2728 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

A licensed real estate broker is allowed to conduct an escrow in the course of, or incidental to, a real estate transaction in which the broker is an agent or a party to the transaction and in which the broker is performing an act for which a real estate license is required under the authority of Section 17006(a)(4) of the Financial Code. Brokers who choose to perform escrow services under this condition are exempt from obtaining a license as an escrow company issued by the Department of Corporations (DOC). Some brokers have requested that the Department allow them to add a fictitious business name to their license which contains the term escrow to call attention to potential clients that they provide in-house escrow services. Prior to the Department approving a

fictitious business name with the word “escrow” in it, the Department asks the DOC whether they have any objection to the use of the proposed name. Historically, the DOC has no objection. Recently, however, DOC has informed the Department they will no longer provide letters of no objection for brokers who use or intend to use the word “escrow” in fictitious business names of real estate brokers. Further, DOC has expressed concerns about the names that real estate brokers are using to identify in-house escrow operations because of the problem of distinguishing those business entities from independent escrow operations licensed by DOC. The changes proposed herein in Regulation Section 2731 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Effective July 1, 2009, Section 10140.6 subsection (b)(1) of the California Business and Professions Code provides that a real estate licensee shall disclose his or her license identification number on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting as an agent in those transactions. The name of the licensee alone does not provide this protection due the commonality of names and the use of nicknames or team names in the course of doing business. Further, this section provides that the commissioner may adopt regulations identifying the materials in which a licensee must disclose a license identification number. The proposed adoption of Regulation Section 2773 is intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Sections 10232.1 and 10235 of the Business and Professions Code provide the statutory basis for the Department’s obligation to assure that the advertising of real estate brokers who solicit borrowers or lenders for or negotiate loans or collect payments or perform services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity, are not doing so in a false, misleading or deceptive manner. Regulation Section 2848, Title 10, California Code of Regulations was promulgated in 1965 to implement, interpret, and make specific the provisions of Sections 10232.1 and 10235. As a result of the changing conditions of the real estate market, the need to protect consumers and the concerns as raised by the Legislature, Section 2848 was amended in 2007 to require additional disclosures in advertising by licensees regarding various “higher risk” loan products to assure that the advertising is not misleading or deceptive. Concerns continue to be raised about investments in trust deeds secured by one or more interests in real property. These high risk investments were not specifically included in the 2007 amendments. The changes proposed in Regulation Section 2848 are intended to implement, interpret or make

specific the applicable laws and regulations cited hereinabove.

Effective January 1, 2009, Section 10177.6 of the Business and Professions Code requires a person or entity that arranges financing in connection with a sale, lease, or exchange of real property and acts as an agent with respect to that property to make a written disclosure of those roles, within 24 hours, to all parties to the sale, lease, or exchange and any related loan transaction. However, the statute fails to require a written acknowledgment from all parties to assure that the disclosure has been received by all parties. The proposed adoption of Regulation Section 2903 is intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Section 2930 was adopted in 1998 to assist Administrative Law Judges in crafting Orders in Proposed Decisions prepared by them as a result of conducting hearings on behalf of the Commissioner based on Accusations and Statements of Issues filed against real estate licensees and license applicants. Over the years Section 2930 has been in effect amendments have been made to the regulation as changes in the law and practice of real estate have dictated. Section 2930 was amended in 2003 to include subsection 17. Trust Fund Violation Course Requirement to assure that licensees who committed trust fund violations would have to complete a specified trust fund accounting continuing education course before they could obtain a restricted real estate license. The changes proposed in Regulation Section 2930 subsection 17 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Section 10132.1 of the California Business and Professions Code (the Code) defines a real estate broker as a person who engages in the business of, among other things, charging or collecting an advance fee. Section 10026 of the Code defines an “advance fee” as a fee charged or collected from a principal in connection with the performance of any acts for which a real estate license is required.

Section 2970 of Title 10, California Code of Regulations, requires persons who propose to collect an advance fee to submit to the Commissioner all materials to be used in advertising or soliciting the payment of an advance fee including the form of advance fee agreement proposed to be used. Advance fee materials proposed to be used by real estate brokers and submitted to the Department are reviewed to determine whether they comply with the requirements of Regulation Section 2970.

As a result of the recent downturn in the real estate sales and loan markets and the increase in real property foreclosures in California, some real estate brokers who formerly derived a substantial portion of their income

from soliciting and negotiating loans for homeowners have now expanded their services to include arranging or attempting to arrange loan modifications for those homeowners whose loans are in default and who face foreclosure. California Civil Code sections 2945 et seq. were passed by the Legislature in an effort to protect the public from “foreclosure consultants” who take unfair advantage of homeowners who have defaulted on their financial obligations which are secured by their homes.

The number of advance fee agreements submitted to the Department pursuant to Regulation Section 2970 has increased substantially over the past twelve months. That increase is expected to continue into the near future. Without the benefit of a streamlined review process made possible by a model advance fee agreement, the ability of Department personnel to respond to the increased volume in a timely manner will, at some point in the near future, be compromised.

Section 10085 of the Code provides that the Commissioner may determine the form of advance fee agreements.

In 1984 the real estate industry and the Department increased the emphasis on continuing education for real estate licensees. In 1996 sweeping changes were made again, with many of the continuing education regulations being repealed and major deletions made to others. With the explosion of real estate licensees to over 500,000 in the state, it became necessary to change focus again. In 2007 a number of the regulations adopted pursuant to the authority of Business and Professions Code section 10170.4 to implement and make specific section 10170.5 of the Code were to require final examinations in all continuing education courses and to make other improvements. Technology has changed the way continuing education courses are presented and the speed with which information is disseminated and manipulated. In addition, due to the current market economy, real estate licensees are looking toward technology as a means of completing their continuing education requirements. Rules must be established to keep pace with technology and to insure the consistency of the continuing education program regardless of the method of presentation. The amendments proposed in Regulation Sections 3006, 3007, 3007.05, 3007.2, 3007.3, 3007.6, 3008, 3010, 3011.1, 3011.2, 3011.4, 3012.2, and repeal of Section 3005 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

SUMMARY OF THE EFFECT OF THE PROPOSED ACTION

REPEAL OF SECTION 2728

The Department proposes to repeal Sections 2728 and 2755 and re-adopt a new Section 2728 to explain and incorporate the repealed regulations into one.

ADOPTION OF SECTION 2728

The Department proposes re-adopting a new Regulation Section 2728 explaining and incorporating both Section 2728 and 2755.

AMENDMENT OF SECTION 2731

This amendment would add a subsection (d) to require that brokers who currently hold a broker license with a fictitious business name which contains the term “escrow”, upon the renewal of their broker license, amend their fictitious business name on their license to include the words “a non-independent broker escrow”.

REPEAL OF SECTION 2755

Repeals this section and combine the language into the newly adopted Section 2728.

ADOPTION OF SECTION 2773

The purpose of this proposed regulation is to implement and make specific the types of solicitation and contact information to which Section 10140.6 subsection (b)(1) of the Code applies and to assist real estate licensees in complying with the disclose requirements.

AMENDMENT OF SECTION 2848

The purpose of this amendment is to require licensees to provide a statement in advertisements of investments in trust deeds secured by one or more interests in real property regarding risk of loss and to require retention of the advertising materials for 3 years.

ADOPTION OF SECTION 2903

The purpose of this proposed change is to make specific that the written disclosure required by Section 10177.6 of the Business and Professions Code must be acknowledged in writing by all of the parties to the sale, lease, or exchange, and any related loan or financing transaction.

AMENDMENT OF SECTION 2930

The purpose of this proposed amendment to subsection 17. is to (1) require that licensees who have had their licenses suspended because of trust fund violations be required to complete a specified trust fund accounting continuing education course before their suspension would be lifted and (2) clarify the time period in which licensees who committed trust fund violations and are seeking to obtain a restricted license would have to complete the trust fund accounting continuing education course.

ADOPTION OF SECTION 2971

The purpose of this proposed regulation is to provide model advance fee agreements acceptable to the Department for use by real estate brokers who engage in loan modification services.

REPEAL OF SECTION 3005

The purpose of this proposed change is to repeal Section 3005 of the regulations because the definitions in

Section 3005 will be incorporated into the proposed changes made to Sections 3006 and 3007.3.

AMENDMENT OF SECTION 3006

The purpose of the proposed changes is to establish and clarify the criteria that the Commissioner will apply when reviewing an application for a continuing education course for approval, that the criteria are consistent throughout the program regardless of the method of presentation, and to insure the integrity of all continuing education offerings.

AMENDMENT OF SECTION 3007

The purpose of the proposed changes are to establish and clarify the supporting documentation that must accompany an application for approval of a continuing education course, to insure all course approvals are consistent throughout the program regardless of the method of presentation, and to insure the integrity of all continuing education offerings.

AMENDMENT OF SECTION 3007.05

The purpose of this proposed change is to make a grammatical correction to subsection (a) to delete the “s” from “drivers” license.

AMENDMENT OF SECTION 3007.2

The purpose of this amendment is to further clarify that course providers are required to obtain approval of material changes to an approved course before the changes are implemented.

AMENDMENT OF SECTION 3007.3

The purpose of the proposed changes is to clarify and establish the procedures a course provider must follow during the administration of a final examination, regardless of the method of delivery, to insure the integrity of the final examination is protected.

AMENDMENT OF SECTION 3007.6

The purpose of this amendment is to provide a means for a real estate licensee to verify that a continuing education course has been approved by the Department prior to their enrollment in the course.

AMENDMENT OF SECTION 3008

The purpose of this proposed change is to make editorial and grammatical corrections to capitalize “Commissioner” and “Section” where appropriate and to rearrange the words in subsection (a) for greater readability.

AMENDMENT OF SECTION 3010

The purpose of this proposed change is to make grammatical corrections to capitalize the word “Commissioner”.

AMENDMENT OF SECTION 3011.1

The purpose of this amendment is to clarify the course materials required to properly evaluate a petition for course instruction as well as when a course provider

can issue a completion certificate to an instructor of an approved continuing education course.

AMENDMENT OF SECTION 3011.2

The purpose of this amendment is to clarify the course materials required to properly evaluate a petition for authorship of an article or book in determining equivalency in meeting continuing education requirements.

AMENDMENT OF SECTION 3011.4

The purpose of this amendment is to clarify the course materials required to properly evaluate a petition for attendance at an unapproved course in determining equivalency in meeting continuing education requirements.

AMENDMENT OF SECTION 3012.2

The purpose of this proposed regulation is to require final examination grades be retained as proof of a participant's successful completion of a continuing education course to issue a duplicate completion certificate upon request.

EFFECT ON SMALL BUSINESS

The proposed regulatory changes will not substantially adversely affect small business. A detailed estimate of the costs is included in the 399 included as a part of this package as well as in Exhibit 1 to the Initial Statement of Reasons.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Plain English drafting: The Commissioner has confirmed that these regulations have been drafted in plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).
2. Mandate on local agencies and school districts: None.
3. Cost or savings to any state agency: None.
4. Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500–17630: None.
5. Other non–discretionary cost or savings imposed upon local agencies: None.
6. Cost or savings in federal funding to the state: None.
7. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

8. The Commissioner has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
9. Impact on jobs and business expansion, elimination or creation: The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs within the State of California nor will it significantly affect the creation of new businesses, the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.
10. Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

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

The Commissioner invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

David B. Seals, Real Estate Counsel
 Department of Real Estate
 2201 Broadway
 P.O. Box 187007
 Sacramento, CA 95818–7007

Telephone: (916) 227–0791

The backup contact person is:

John VanDriel, Assistant Chief Counsel
 Department of Real Estate
 2201 Broadway
 P.O. Box 187007
 Sacramento, CA 95818–7007

Telephone: (916) 227–0791

The name of the person who can respond to questions concerning the substance of the proposed regulatory action is:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0791

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P.O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0791

**AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS
AND INTERNET SITE**

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at his office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The final statement of reasons once it is prepared pursuant to Section 11346.9 of the Government Code will also be a part of the rulemaking file and available for inspection and copying as indicated above. Portions of the rulemaking file and information regarding the Department are available through our website (www.dre.ca.gov). The express terms of the proposed action written in plain English are available from the agency contact person named in this notice. Copies may be obtained by contacting David B. Seals at the address and phone number listed above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

The Real Estate Commissioner may, on his own motion or at the recommendation of any interested person made by written or oral comment, modify the Proposed

Regulation and adopt the Regulation Change as modified if the change is determined to be one that the public could have reasonably anticipated from this Notice, the Informative Digest, and the Initial Statement of Reasons.

If the Commissioner decides to modify the Proposed Regulation change, the Department will make copies of the full text of the regulation, as originally proposed with the proposed modifications clearly indicated, available for not less than 15 days prior to adopting the modified regulation. Copies of the modified regulation will be mailed to all persons who have made written or oral comments concerning the Proposed Regulation and all persons who have requested notification of availability of the modifications.

Requests for modified regulations or other communications concerning the Proposed Regulation change should be addressed to the Department's contact person, David B. Seals, at the address and/or telephone number above.

**COMPLIANCE WITH GOVERNMENT
CODE §11346.4(A)(1) THROUGH (4)**

The Department of Real Estate (the Department) has complied with Government Code §11346.4(a)(1) through (4) and Section 86, Title 10 of the California Code of Regulations, by mailing or delivering a copy of this Notice of Proposed Changes in the Regulations of the Real Estate Commissioner and of the Proposed Regulations with changes indicated in strikeout and underline to the Department's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with the Department.
2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency).
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be, or have been in the past, affected by our Proposed Regulation change. The Department has no way of knowing which are small businesses.
4. The California Association of Realtors, a real estate licensee trade organization and the California Building Industry Association, a homebuilder's trade organization.
5. A substantial number of land developers. Not small businesses by definition, but some of which may be, or have been in the past, affected by our Proposed Regulations.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION

**SWAT Operations Training Course Requirements
Regulation 1081**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Section B of Regulation 1081 of the POST Administrative Manual (PAM) as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by April 13, 2009

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-5271, or by letter to the:

Commission on POST
Attention: Rulemaking
1601 Alhambra Boulevard
Sacramento, CA 95816-7081

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code Section 13506 (POST authority to adopt regulations). This proposal is intended to clarify training and certification requirements related to the SWAT Basic, Update, and Supervision and Management of SWAT Operations training courses for law enforcement agencies and course presenters pursuant to Penal Code Section 13514.1. (reference)

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Penal Code Section 13514.1 required POST to develop and disseminate guidelines and standardized training recommendations for law enforcement officers, supervisors, and administrators, who are assigned to perform, supervise, or manage Special Weapons and Tactics (SWAT) Teams, and make them available for use by law enforcement by July 1, 2005. The standardized training recommendations were required to include initial training requirements for SWAT operations, refresher or advanced training for experienced SWAT

members, and supervision and management of SWAT operations. POST complied with this legislation and created *SWAT Operational Guidelines and Standardized Training Recommendations*.

These guidelines were reviewed by the Commission's Long Range Planning Committee on March 8, 2005, who recommended Commission approval. The Commission subsequently approved these guidelines at its April 21, 2005, meeting.

The approved guidelines were made available in July 2005, for use by law enforcement agencies conducting SWAT operations but the resulting training courses and corresponding topics were not included in PAM "Section B — Regulation 1081." As a result, it is now necessary to modify Regulation 1081 by adding the curriculum requirements for SWAT training pursuant to Penal Code Section 13514.1.

The inclusion of this legislative training mandate information into Regulation 1081 will clarify training and certification requirements related to the SWAT Basic, Update, and Supervision and Management of SWAT Operations training courses for law enforcement agencies and course presenters.

Adoption of Proposed Regulations

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

Estimate of Economic Impact

Fiscal impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-Discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to any Local Agency or School District for which Government Code Sections 17500-17630 Require Reimbursement: None

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards

and Training has made an initial determination that the amended regulations will not have a significant state-wide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Affect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no affect on housing costs.

Assessment

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

Consideration of Alternatives

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

Contact Persons

Please direct inquiries or comments pertaining to the proposed action to Patti Kaida, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by email at Patti.Kaida@post.ca.gov, by telephone at (916) 227-4847, or by FAX at (916) 227-5271. Bryon Gustafson is the contact for inquiries on the substance of the proposed revisions. Mr. Gustafson is available by email at Bryon.Gustafson@post.ca.gov, or by telephone at (916) 227-3902.

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at:

<http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons, once it has been approved, submit a written request to the contact person(s) named above.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 215 and 316.5 of said Code, proposes to amend sections 7.00 and 7.50, Title 14, California Code of Regulations, relating to Central Valley sport fishing.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Pacific Fishery Management Council (PFMC) will develop the annual west coast ocean salmon fisheries regulatory options for public review at their March 13, 2009 meeting and develop the final PFMC regulatory recommendations to the National Marine Fisheries Service at their April 9, 2009 meeting. The PFMC coordinates west coast management of sport and commercial salmon fisheries of Washington, Oregon, California and Idaho aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP)

Although there are no PFMC regulatory options to review at this time, there exists a strong possibility of ocean water closures off California and PFMC recommendations for sport salmon fishery closures in inland waters due to expected low Sacramento River Fall Chinook salmon returns to the Central Valley river system based upon 2008 PFMC projections.

Further Commission actions affecting the Central Valley (CV) salmon sport fishery may be developed after the annual PFMC reports, *Review of 2008 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2009 Ocean Salmon Fisheries*, are available in late February 2009.

Present Regulations

The current regulations in place which have zero bag limits for Chinook salmon in all Central Valley rivers and streams except for a one salmon bag limit in the Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 to December 31.

Proposed Regulations

For public notice purposes to facilitate Commission discussion, the Department is proposing the following three options for changes to current regulations:

Option 1 — No Salmon Fishing in All Anadromous Central Valley Rivers and Streams

This option proposes to close all Central Valley salmon sport fishing and prohibit all methods of targeting salmon including catch and release fishing with the following changes:

- 1) Replace the salmon zero bag limit language within various 7.50 subsections with the following changes:
 - a. Add “Closed to salmon fishing” to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - b. Add “No take or possession of salmon” to give Enforcement the means to cite anglers who attempt to catch and release salmon.
- 2) Replace the one salmon bag limit in Sacramento River from Red Bluff Diversion Dam to Knights Landing from November 1 to December 31 with the same language described above in 1).
- 3) Replace the combined trout and salmon zero bag limit language within subsections 7.00(b)(1) and (d)(2) and various 7.50 subsections with the following changes:
 - a. Add “0 trout or steelhead” and “Closed to salmon fishing” to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - i. There is one exception for this change: subsection 7.50(b)(212)(B) where the trout portion of the bag limit will be “1 hatchery trout or 1 hatchery steelhead” to align it with (b)(212)(A) for native trout protection.
 - b. Add “No take or possession of salmon” as a second sentence to give Enforcement the means to cite anglers who attempt to catch and release salmon.

This option will increase protection for all Central Valley Chinook stocks in all anadromous Central Valley rivers and streams.

Option 2 — Limited Fishing in Sacramento, Feather or American Rivers And No Salmon Fishing In All Other Anadromous Central Valley Waters

This option depends on Chinook salmon being available for Central Valley river sport harvest from PFMC coordination of west coast salmon management. The scope of this option is intentionally broad to allow for flexibility in the development of a final season structure and possibly reduce the length of any additional public notice requirements.

For the lower reaches of Sacramento, Feather and American rivers, the proposed changes are bag limit ranges of 1 or 2 for Chinook salmon for varied season dates and river reaches to be determined from July 16 to December 31 as shown below:

- 1) Sacramento River from 150 feet below the Lower Red Bluff (Sycamore) Boat Ramp to the Carquinez Bridge (includes Suisun Bay, Grizzly Bay and all tributary sloughs).
- 2) Feather River from the Highway 70 Bridge to the river’s mouth
- 3) American River below the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park to the river’s mouth.

For all other anadromous Central Valley waters, the proposed changes are to close the Central Valley salmon sport fishing and prohibit all methods of targeting salmon including catch and release fishing with the following changes:

- 1) Replace the salmon zero bag limit language within various 7.50 subsections with the following changes:
 - a. Add “Closed to salmon fishing” to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - b. Add “No take or possession of salmon” to give Enforcement the means to cite anglers who attempt to catch and release salmon.
- 2) Replace the combined trout and salmon zero bag limit language within subsections 7.00(b)(1) and (d)(2) and various 7.50 subsections with the following changes:
 - a. Add “0 trout or steelhead” and “Closed to salmon fishing” to make it clear to the general public that no fishing or fishing effort for salmon is allowed.
 - i. There is one exception for this change: subsection 7.50(b)(212)(B) where the trout portion of the bag limit will be “1 hatchery trout or 1 hatchery steelhead” to align it with (b)(212)(A) for native trout protection.

- b. Add “No take or possession of salmon” as a second sentence to give Enforcement the means to cite anglers who attempt to catch and release salmon.

This option will increase protection for Central Valley Chinook in all anadromous Central Valley rivers and streams while providing flexibility to develop a possible season, if salmon are available for inland sport harvest.

Option 3 — A possible combination of Option 1 and 2 for the Sacramento, Feather or American rivers may be developed after more information is available from the PFMC.

Additional minor changes to the regulations are proposed to improve clarity, reduce public confusion, and simplify Title 14 structure.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on Wednesday, March 4, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Wine and Roses Country Inn, Garden Ballroom, 2505 West Turner Road, Lodi, California, on Thursday, April 9, 2009 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Fish and Game Commission Conference Room, 1416 Ninth Street, Room 1320, Sacramento, California, on Tuesday, April 21, 2009, at 9:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 15, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. All comments must be received no later than April 21, 2009, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Fonbue-

na at the preceding address or phone number. **Mr. Neil Manji, Chief, Fisheries Branch, Department of Fish and Game, phone (916) 327-8840, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:
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.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would 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.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, 240, 315 and 316.5 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 215 and 316.5 of said Code, proposes to amend subsection (b)(91.1) of Section 7.50, Title 14, California Code of Regulations, relating to Klamath–Trinity rivers sport fishing.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Klamath River System, which consists of the Klamath River and Trinity River basins, is managed

through a cooperative system of State, Federal, and Tribal management agencies. Salmonid regulations are designed to meet natural and hatchery escapement needs for salmonid stocks, while providing equitable harvest opportunities for ocean sport, ocean commercial, river sport, and Tribal fisheries.

The Pacific Fishery Management Council (PFMC) is responsible for adopting recommendations for the management of sport and commercial ocean salmon fisheries in the Exclusive Economic Zone (3 to 200 miles offshore) off the coasts of Washington, Oregon, and California. When approved by the Secretary of Commerce, these recommendations are implemented as ocean salmon fishing regulations by the National Marine Fisheries Service (NMFS).

The California Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport (inside three miles) and the Klamath River System sport fisheries which are consistent with federal fishery management goals.

Two Tribal entities within the Klamath River System, the Hoopa Valley Tribe and the Yurok Tribe, maintain fishing rights for subsistence fishing and commercial fisheries that are managed consistent with federal fishery management goals. Tribal fishing regulations are promulgated by the Hoopa and Yurok Tribes.

Klamath River Fall–Run Chinook

Klamath River fall–run Chinook (KRFC) salmon harvest allocations and spawning escapement goals are established by the PFMC. The KRFC salmon harvest allocation between Tribal and non–Tribal fisheries is based on court decisions and allocation agreements between the various fishery representatives.

The annual KRFC river sport salmon quota is recommended by the PFMC and the 2009 PFMC allocation is currently unknown. All proposed closures for adult Chinook salmon are designed to maximize and equitably distribute harvest of adult KRFC salmon while operating within the annual quota.

Klamath River Spring–Run Chinook

The Klamath River System also supports Klamath River spring–run Chinook salmon (KRSC). KRSC typically enter the estuary in the spring and migrate to thermal refugia in the headwaters of several major tributaries in the basin. They hold in tributary headwaters sexually maturing over the summer and spawn in September prior to KRFC spawning. Naturally produced KRSC are both temporally and spatially separated from KRFC in most cases. In addition to natural stocks, the Department’s Trinity River Hatchery facility produces 1.4 million KRSC annually as mitigation for habitat lost above the Trinity Dam.

Presently, KRSC salmon are managed under the general basin seasons, daily bag limits, and possession limit

regulations and are not under PFMC allocation management.

KRFC Salmon Quota Management

The 2008 quota for the Klamath River System river sport harvest was 22,500 adult KRFC salmon. Preseason stock projections of 2009 adult KRFC abundance will not be available from the PFMC until March 2009. The 2009 basin quota will be recommended by the PFMC in April 2009 and presented to the Commission for adoption at their May 2009 meeting.

For public notice requirements, the Department recommends the Commission consider a range of 0–40,000 adult KRFC salmon quota in the Klamath River basin for the river sport fishery. This recommendation range encompasses the historic range of the Klamath River basin quotas and allows the PFMC and Commission to make adjustments during the 2009 regulatory cycle.

The Commission may modify the KRFC river sport salmon quota which is normally 15% of the non-tribal PFMC harvest allocation. Commission modifications need to meet biological and fishery allocation goals specified in law or established in the PFMC Salmon Fishery Management Plan otherwise harvest opportunities may be reduced in the California ocean fisheries.

The annual KRFC salmon quota is split evenly, with 50% of the quota allocated to the lower Klamath River downstream of the Highway 96 bridge at Weitchpec and 50% to the remainder of the upper Klamath River System upstream of the Highway 96 bridge at Weitchpec and the Trinity River Basin. This division ensures equitable harvest of adult KRFC salmon throughout the Klamath River System.

The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth), is proposed to close to all fishing after 15% of the lower Klamath River System quota (downstream of the Highway 96 bridge at Weitchpec) has been taken downstream of the Highway 101 bridge. This provision only applies if the Department projects that the total Klamath River System quota will be met. This closure is intended to prevent excessive take near the mouth where fish are concentrated and will help provide an equitable distribution of KRFC harvest in the upper river.

The upper Klamath River System is further divided into three sub-quota areas:

1. 17% from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec,
2. 16.5% for the Trinity River downstream from the Denny Road bridge at Hawkins Bar to the confluence with the Klamath River, and
3. 16.5% for the Trinity River downstream from Old Lewiston Bridge to the Highway 299 west bridge at Cedar Flat.

These sub-quota areas are based upon historical angler effort distribution and ensure equitable harvest of adult KRFC salmon in the upper Klamath River and Trinity River. The quota system requires the Department monitor angler harvest of adult KRFC in each sub-quota area. All sub-quota areas will be monitored on a real-time basis except for the following areas:

Klamath River upstream of Weitchpec and the Trinity River: Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the Klamath River upstream of Weitchpec and in the Trinity River for the 2009 season. The Department has reviewed salmon harvest and run-timing data for these areas. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates historic creel data from the Klamath River downstream of Iron Gate Dam to the confluence with the Pacific Ocean and the Trinity River downstream of Lewiston Dam to the confluence with the Klamath River. The HPM is driven by the positive relationship between KRFC harvested in the Klamath River and Trinity River. The HPM will be used by the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

Current Sport Fishery Management

The KRFC annual quota is divided into sub areas and the harvest conducted under real-time quota management. KRSC harvest is managed under the general basin seasons without real-time monitoring due to lack of adequate funds.

The Department presently differentiates the two stocks by following dates:

Klamath River

1. January 1 through August 14 — General Season (KRSC).
2. August 15 to December 31 — KRFC quota management.

Trinity River

1. January 1 through August 31 — General Season (KRSC).
2. September 1 through December 31 — KRFC quota management.

The daily bag limits and weekly possession limits apply to both stocks within the same sub-area and time period.

Proposed Changes

The Department is proposing the following changes to current regulations:

KRFC Season, Bag Limit, and Possession Limit

For public notice requirements, a range of KRFC bag and possession limits are proposed until the 2009 basin quota is adopted. As in previous years, no retention of

adult KRFC salmon is proposed for the following areas, once the sub quota has been met.

No changes are proposed for the general opening and closing season dates.

The Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth), is proposed to close to all fishing after 15% of the lower Klamath River quota (downstream of the Highway 96 bridge at Weitchpec) has been taken downstream of the Highway 101 bridge. In previous years the closure was enacted after 15% of the total in-river sport fishing allocation was reached. The Department prefers to use a lower, more conservative harvest threshold closure value for the spit area to prevent excessive take near the mouth where fish are concentrated and this will also help to provide an equitable distribution of KRFC harvest in the upper river. This provision only applies if the Department projects that the total Klamath River System quota will be met.

The proposed open seasons and range of bag limits for KRFC salmon stocks are as follows:

1. Klamath River — August 15 to December 31
2. Trinity River — September 1 to December 31
3. Bag Limit — [0–4] Chinook salmon — only [0–3] fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length.

The possession limit is proposed as a range of [0–9] Chinook salmon of which [0–6] over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

KRSC Season, Bag Limit, and Possession Limit

Wild KRSC salmon are primarily limited to two sub-basins of the Klamath River watershed, the Salmon River and the South Fork of the Trinity River (SFTR). Populations of wild spring-run Chinook salmon in these watersheds appear to be at all time lows. This is especially true of Salmon River stocks. The 2005 dive survey recorded the lowest number of KRSC returning to the Salmon River in the historic data set. This is a significant concern to the Department considering these stocks are genetically the most appropriate candidate to repopulate the upper Klamath River basin, once historical access is restored. SFTR stocks, although somewhat more abundant, appear to be in decline and warrant protection measures.

The Department continues to propose more restrictive measures to protect wild KRSC salmon outside of the KRFC quota period.

Extension of Wild Trout Waters Season

The Trinity River from 250 feet downstream of Lewiston Dam to the Old Lewiston Bridge is designated as wild trout waters. Only artificial flies with barbless hooks may be used, the bag and possession limit is 0.

The 2008 season was April 1 to August 31. The Department proposes to extend the season to close on September 15. The purpose is to allow additional angling opportunity in this section. Angling pressure during this period will not impact KRFC natural stocks as they will not have migrated into this area during that period. The Department anticipates that impacts on Trinity River Hatchery KRSC will be minimal due to the nature of the fishery.

Changes to Regulatory Language and Table

Chapter 2, Article 1, Section 2.10 of the California Freshwater Sport Fishing Regulations describes legal hook size, gaps and rigging to be used during angling. This section is applicable to the Klamath basin. Therefore the language in Subsection (b)(91.1)(A)1. was amended to refer anglers to Section 2.10. Subsections (b)(91.1)(A) 2. and 3. have been removed from the Regulatory Language passage as they are redundant.

The numeric adult KRFC quota for each of the 4 sub quota areas in the Klamath basin has been added to the Regulation Table. This action is intended to reduce angler confusion and provide a numeric harvest value for each area.

To provide clarity daily bag and possession limits on exempted KRFC fisheries contained in Subsection (b)(91.1)(E).(2).(a.) and Subsection (b)(91.1)(E).(6).(b.) have been added to the body of the Regulation Table.

Additional semantic changes were made to the regulations to provide clarity and consistency with regard to geographic references and to correct grammatical errors. In particular the language contained in Section 7.50 Subsection (b)(91.1)(2).(a).(iii.) has been modified to read “the Denny Road bridge at Hawkins Bar”. This describes the lower end of that stream section thoroughly and should prevent any confusion or ambiguity by the angling public.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on Wednesday, March 4, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Wine and Roses Country Inn, Garden Ballroom, 2505 West Turner Road, Lodi, California, on Thursday, April 9, 2009 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Fish and Game Commission Conference Room, 1416 Ninth

Street, Room 1320, Sacramento, California, on Tuesday, April 21, 2009, at 9:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 15, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. All comments must be received no later than April 21, 2009, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Fonbuena at the preceding address or phone number. **Mr. Neil Manji, Chief, Fisheries Branch, Department of Fish and Game, phone (916) 327-8840, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are projected have an unknown impact on the net revenues to businesses servicing sport fishermen. This is not likely to affect the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

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.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would 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.

**TITLE 14. FISH AND GAME
COMMISSION**

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203, 203.1, 331, 332, 1050, 1572, 3452, 3453, 4005, 4009.5, 4751, 4902 and 10502 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 331, 332, 460, 713, 1050, 1570–1572, 1801, 3452, 3453, 3800, 3950, 3951, 4005, 4009.5, 4330–4333, 4336, 4751, 4756, 4800–4805, 4902, 10500 and 10502 of said Code, proposes to amend Sections 265, 353, 360, 361, 362, 363, 364, 555 and 708, Title 14, California Code of Regulations, relating to Mammal Hunting Regulations.

Pursuant to the provisions of sections 203 and 203.1 of the Fish and Game Code, the Fish and Game Commission will consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony in adopting season, bag and possession limits, and areas of take, and prescribe the manner and means of taking as part of the 2009–2010 Mammal Hunting Regulations.

At the Fish and Game Commission’s meeting on February 5, 2009, the Department of Fish and Game made the following recommendations for changes relative to game mammal regulations for the 2009–2010 seasons: proposes to amend sections 265, 353, 360, 361, 362, 363, 364, 555, and 708, Title 14, California Code of Regulations, to make tag quota changes, clarifications, and urgency changes for the 2009–2010 Mammal Hunting Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

**Section 265, Use of Dogs for Pursuit/Take of
Mammals for Dog Training**

The dog control zone boundaries descriptions were last amended in 2002. Since that time, various roads and

other map features used to delineate the dog control zone boundary have changed. This amendment seeks to update those dog control zone boundary descriptions to utilize current road alignments and designations. To the extent possible, the boundaries were retained in their same location. In some cases, the realignment of road resulted in minor location changes. It is not anticipated that dog handlers will have any unreasonable difficulty in understanding the new boundaries. The boundaries should be more accurate and easier to comprehend using commonly available maps.

Throughout the years the dog tracking and electronic retrieval devices have changed with technology. Dog treeing switches (devices consisting of a switch mechanism which results in a change in the transmitted signals when the dog raises its head to a treed animal) used to be made with a mercury switch. These mercury switches are currently illegal to use. There are now treeing switches used that use magnetic devices to activate the treeing switch. The requirement for the switch to be a “mercury switch” needs to be removed and any treeing switch device needs to be illegal.

Treeing switches on dog collars are activated when a dog raises its head to bark at a treed animal. The activated switch sends a signal to the telemetry device the hunter carries. This activation lets the hunter know that an animal is treed. If the treeing switch were allowed, the hunter would have no need to follow the dogs on foot during the chase. The hunter could just wait until the treeing switch went off and walk to the tree and find the treed animal and dogs with telemetry equipment. Without the use of a treeing switch device, the hunter is required to follow the dogs on foot and be with the dogs when an animal is treed or be close enough to hear the barking of the dogs to determine if an animal is treed. The use of treeing switches on dog collars would limit the sporting aspect of fair chase.

**Section 353, Methods Authorized for
Taking Big Game**

Subsection (f):

OPTION#1:

Existing regulations provide equipment restrictions to be used to take deer under the conditions of a muzzle-loading rifle or muzzleloading rifle/archery deer tag. Currently, sight devices on muzzleloading rifles are restricted to open or “peep” type sights only. By limiting the sights to open or “peep” type sights, a person’s visual acuity becomes the primary factor in limiting the effective range of both modern (in–line) and traditional (flintlock, wheellock, matchlock and percussion) muzzleloading rifles.

Recent advances in muzzleloading rifles, propellants and projectiles have increased the power of muzzle-

loading rifles resulting in higher muzzle velocities and increased effective killing range. When combined with modern higher powered riflescopes the effective killing range of muzzleloading rifles has increased substantially, placing them on par with many modern centerfire rifles. Considering the increase in technological advances in the power of muzzleloading rifles and resulting effective downrange velocities, the primary intent of restricting the sight type was to maintain a semblance of “traditional” muzzleloading rifles by restricting their effective shooting distance through control of the sight mechanism.

The Department has received several requests from visually impaired hunters to allow the use of scopes on muzzleloading rifles under the conditions of a muzzleloading rifle or muzzleloading rifle/archery deer hunt tag as a reasonable accommodation under the Americans with Disabilities Act of 1990 (ADA). The primary concern of these entities is that various sight impairments prevent visually impaired hunters from participating in the muzzleloading rifle deer hunts, or preclude them from making accurate shots based on their inability to focus on either, the sights currently authorized, the target object, or both. A scope would provide the visually impaired with the ability to focus the scope, thus providing a clearer sight picture (generally a scope reticle), as well as a more well focused target object.

The Department believes that allowing the use of any riflescopes (especially scopes in excess of one power; 1X magnification) on muzzleloading rifle deer hunts would result in an increase in deer harvest and hunter success. By allowing scopes with unlimited power on muzzleloading rifles, the effective shooting range is substantially increased due to the increased resolution and power provided by the scope’s additional magnification. The increased effective range would ultimately result in higher deer harvest and increased hunter success, thereby requiring a significant reduction in tag quotas, possible elimination of some muzzleloading rifle deer hunts, and a reduction in hunter opportunity.

However, the Department believes that allowing the use of riflescopes not exceeding one power (1X magnification) would be a reasonable alternative. By limiting the scope power to 1 power (1X magnification) or less, the effective range of muzzleloaders would remain unchanged and no significant change in deer harvest or hunter success would occur. A one power (1X) scope would provide the visually impaired with a mechanism that would allow adjustment of the focus on both the sight mechanism (scope reticle) and the target object, thereby providing visual relief and a reasonable accommodation per their request under the ADA.

The proposed regulation change would allow hunters, including those with visual impairments, to use rifle mounted scopes or other similar devices, not exceeding

1 power (1X) in magnification, while hunting deer under the conditions of a muzzleloading rifle or muzzleloading rifle/archery tag. No increase in deer harvest or loss of hunter opportunity would result from this action and the proposal is consistent with existing deer herd management plan recommendations.

OPTION #2:

Allow disabled muzzleloading rifle hunters that have, and can provide upon request by law enforcement personnel, written medical documentation attesting to their inability to use conventional muzzleloading rifle equipment to use a muzzleloading rifle with a scope during the muzzleloading rifle only hunts. This will result in creating another application process which the Department will have to implement and monitor, and depending upon the level of increased hunter success, may lead to tag quota reductions, possible elimination of hunts and unnecessarily reduce hunter opportunity. This alternative was included for consideration at the specific request of the Fish and Game Commission (meeting held February 5, 2009 in Sacramento).

Subsection (j)

There are currently no Fish and Game Code laws or California Code of Regulations Title 14 regulations relating to the possession of a loaded muzzleloading firearm in a vehicle. There is a Penal Code section relating to the carrying of a loaded firearm in a public place, but this section does not cover some areas of the state where the Penal Code section is not applicable. These areas are commonly frequented by hunters who travel these areas in vehicles. The Fish and Game Code addresses the carrying of both rifles and shotguns in vehicles but does not address muzzleloading firearms. The muzzleloading firearms do not fall under the Fish and Game Code laws as they relate to loaded firearms.

By not having laws or regulations regulating the carrying of loaded muzzleloading firearms in either the Fish and Game Code or the California Code of Regulations Title 14, wardens in the field cannot enforce safety regulations relating to the carrying of loaded muzzleloading firearms in vehicles unless the situation falls under the authority of the Penal Code.

The popularity of Muzzleloader hunting has increased in recent years due to the increased technology in Muzzleloading firearms. Wardens have seen an increase in the public using muzzleloading firearms. Wardens have come across numerous hunters with loaded muzzleloading firearms in vehicles. The only thing a warden can do in these instances is explain the safety ramifications to the hunters. They have no authority to make the person unload the firearm. This is a safety to both the hunter and warden who is making the contact. With a regulation prohibiting the carrying of a loaded muzzleloading firearm in a vehicle, it will increase the safety

for the hunter, public and wardens or others who contact hunters in public places.

Section 360, subsection (a), Deer A, B, C and D Zone Hunts

Existing regulations provide for the number of license tags available for the A, B, C, and D Zones. This regulatory proposal changes the number of tags for all existing zones to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

Deer: § 360(a) A, B, C, and D Zone Hunts		
Tag Allocations		
Zone	Current	Proposed
A	65,000	30,000–65,000
B	55,500	35,000–65,000
C	8,575	5,000–15,000
D3–5	33,000	30,000–40,000
D–6	10,000	6,000–16,000
D–7	9,000	4,000–10,000
D–8	8,000	5,000–10,000
D–9	2,000	1,000–2,500
D–10	700	400–800
D–11	5,500	2,500–6,000
D–12	950	100–1,500
D–13	4,000	2,000–5,000
D–14	3,000	2,000–3,500
D–15	1,500	500–2,000
D–16	3,000	1,000–3,500
D–17	500	100–800
D–19	1,500	500–2,000

Section 360, subsection (b), Deer X Zone Hunts

Existing regulations provide for the number of hunting tags for the X zones. The proposal changes the number of tags for all existing zones to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

Existing regulations provide area descriptions for zones X–7a and X–7b. The area description for each zone references a campground which is no longer in ex-

istence. The proposal would delete references to this campground, thereby eliminating any confusion on the part of hunters.

Deer § 360(b) X–Zone Hunts		
Tag Allocations		
Zone	Current	Proposed
X–1	2,280	1,000–6,000
X–2	180	50–500
X–3a	250	100–1,200
X–3b	845	200–3,000
X–4	425	100–1,200
X–5a	60	25–200
X–5b	85	50–500
X–6a	325	100–1,200
X–6b	375	100–1,200
X–7a	205	50–500
X–7b	125	25–200
X–8	230	100–750
X–9a	775	100–1,200
X–9b	325	100–600
X–9c	325	100–600
X–10	400	100–600
X–12	850	100–1,200

Section 360, subsection (c), Additional Hunts

Existing regulations provide for the number of hunting tags in the Additional Hunts. The proposal changes the number of tags for all existing hunts to a series of ranges as indicated in the table below. The proposal provides a range of tag numbers for each hunt from which a final number will be determined, based on the post-winter status of each deer herd. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April.

Existing regulations for Additional Hunts G–8 (Fort Hunter Liggett Antlerless Deer Hunt) and J–10 (Fort Hunter Liggett Apprentice Either–Sex Deer Hunt) provide for hunting to begin on October 4 and continue for two (2) consecutive days and reopen on October 11 and continue for three (3) consecutive days in order to accommodate for Base operations and other hunt opportunities. The proposal would modify the season to account for the annual calendar shift by changing the season opening dates to October 3 and October 10, respectively, in order to accommodate for Base operations. No loss of hunter opportunity would result from this action and the proposal is consistent with existing deer herd management plan recommendations.

Deer: § 360(c) Additional Hunts		
Tag Allocations		
Hunt Number (and Title)	Current	Proposed
G-1 (Late Season Buck Hunt for Zone C-4)	2,850	500-5,000
G-3 (Goodale Buck Hunt)	35	5-50
G-6 (Kern River Deer Herd Buck Hunt)	50	25-100
G-7 (Beale Either-Sex Deer Hunt)	20 Military*	20 Military*
G-8 (Fort Hunter Liggett Antlerless Deer Hunt)	10 Military* and 10 Public	10 Military* and 10 Public
G-9 (Camp Roberts Antlerless Deer Hunt)	15 Military* and 15 Public	15 Military* and 15 Public
G-10 (Camp Pendleton Either-Sex Deer Hunt)	400 Military*	400 Military*
G-11 (Vandenberg Either-Sex Deer Hunt)	500 Military* and DOD**	500 Military* and DOD**
G-12 (Gray Lodge Shotgun Either-Sex Deer Hunt)	30	10-50
G-13 (San Diego Antlerless Deer Hunt)	300	50-300
G-19 (Sutter-Yuba Wildlife Areas Either-Sex Deer Hunt)	25	10-50
G-21 (Ventana Wilderness Buck Hunt)	25	25-100
G-37 (Anderson Flat Buck Hunt)	25	25-50
G-38 (X-10 Late Season Buck Hunt)	300	50-300
G-39 (Round Valley Late Season Buck Hunt)	5	5-150
M-3 (Doyle Muzzleloading Rifle Buck Hunt)	20	10-75
M-4 (Horse Lake Muzzleloading Rifle Buck Hunt)	10	5-50
M-5 (East Lassen Muzzleloading Rifle Buck Hunt)	10	5-50
M-6 (San Diego Muzzleloading Rifle Either-Sex Deer Hunt)	80	25-100
M-7 (Ventura Muzzleloading Rifle Either-Sex Deer Hunt)	150	50-150
M-8 (Bass Hill Muzzleloading Rifle Buck Hunt)	20	5-50
M-9 (Devil's Garden Muzzleloading Rifle Buck Hunt)	15	5-100
M-11 (Northwestern California Muzzleloading Rifle Buck Hunt)	20	20-200
MA-1 (San Luis Obispo Muzzleloading Rifle/Archery Either-Sex Deer Hunt)	150	20-150
MA-3 (Santa Barbara Muzzleloading Rifle/Archery Buck Hunt)	150	20-150
J-1 (Lake Sonoma Apprentice Either-Sex Deer Hunt)	25	10-25
J-3 (Tehama Wildlife Area Apprentice Buck Hunt)	15	15-30
J-4 (Shasta-Trinity Apprentice Buck Hunt)	15	15-50
J-7 (Carson River Apprentice Either-Sex Deer Hunt)	15	10-50
J-8 (Daugherty Hill Wildlife Area Apprentice Either-Sex Deer Hunt)	15	10-20
J-9 (Little Dry Creek Apprentice Shotgun Either-Sex Deer Hunt)	5	5-10
J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt)	10 Military* and 75 Public	10 Military* and 75 Public
J-11 (San Bernardino Apprentice Either-Sex Deer Hunt)	40	10-50
J-12 (Round Valley Apprentice Buck Hunt)	10	10-20
J-13 (Los Angeles Apprentice Either-Sex Deer Hunt)	40	25-100

Deer: § 360(c) Additional Hunts Tag Allocations		
Hunt Number (and Title)	Current	Proposed
J-14 (Riverside Apprentice Either-Sex Deer Hunt)	30	15-75
J-15 (Anderson Flat Apprentice Buck Hunt)	10	5-30
J-16 (Bucks Mountain-Nevada City Apprentice Either-Sex Deer Hunt)	75	10-75
J-17 (Blue Canyon Apprentice Either-Sex Deer Hunt)	25	5-25
J-18 (Pacific-Grizzly Flat Apprentice Either-Sex Deer Hunt)	75	10-75
J-19 (Zone X-7a Apprentice Either-Sex Deer Hunt)	25	10-40
J-20 (Zone X-7b Apprentice Either-Sex Deer Hunt)	20	5-20
J-21 (East Tehama Apprentice Either-Sex Deer Hunt)	50	20-80

* Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs.

** DOD = Department of Defense

Section 361, Archery Deer Hunts

Existing regulations provide for the number of hunting tags for existing area-specific archery hunts. The proposal changes the number of tags for existing hunts to a series of ranges presented in the table below. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can

have an adverse effect on herd recruitment and over-winter adult survival, final tag quotas may fall below the proposed range.

Existing regulations for Archery Hunt A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt) provide for hunting on Saturdays, Sundays and holidays only beginning the first Saturday in October and continuing through November 9, except if rescheduled by the Base Commander between the season opener and December 31 with Department concurrence. The proposal would modify the season to account for the annual calendar shift by changing the season closing date to November 8.

Archery Deer Hunting: § 361 Tag Allocations		
Hunt Number (and Title)	Current	Proposed
A-1 (C Zones Archery Only Hunt)	2,045	150-3,000
A-3 (Zone X-1 Archery Hunt)	255	50-1,000
A-4 (Zone X-2 Archery Hunt)	15	5-100
A-5 (Zone X-3a Archery Hunt)	35	10-300
A-6 (Zone X-3b Archery Hunt)	95	25-400
A-7 (Zone X-4 Archery Hunt)	135	25-400
A-8 (Zone X-5a Archery Hunt)	25	15-100
A-9 (Zone X-5b Archery Hunt)	10	5-100
A-11 (Zone X-6a Archery Hunt)	55	10-200
A-12 (Zone X-6b Archery Hunt)	140	10-300
A-13 (Zone X-7a Archery Hunt)	60	10-200
A-14 (Zone X-7b Archery Hunt)	20	5-100
A-15 (Zone X-8 Archery Hunt)	55	5-100
A-16 (Zone X-9a Archery Hunt)	150	50-500
A-17 (Zone X-9b Archery Hunt)	300	50-500
A-18 (Zone X-9c Archery Hunt)	350	50-500

Archery Deer Hunting: § 361 Tag Allocations		
Hunt Number (and Title)	Current	Proposed
A-19 (Zone X-10 Archery Hunt)	120	25-200
A-20 (Zone X-12 Archery Hunt)	200	50-500
A-21 (Anderson Flat Archery Buck Hunt)	25	25-100
A-22 (San Diego Archery Either-Sex Deer Hunt)	1,000	200-1,500
A-24 (Monterey Archery Either-Sex Deer Hunt)	100	25-200
A-25 (Lake Sonoma Archery Either-Sex Deer Hunt)	35	20-75
A-26 (Bass Hill Archery Buck Hunt)	30	10-100
A-27 (Devil's Garden Archery Buck Hunt)	10	5-75
A-30 (Covelo Archery Buck Hunt)	40	20-100
A-31 (Los Angeles Archery Either-Sex Deer Hunt)	1,000	200-1,500
A-32 (Ventura/Los Angeles Archery Late Season Either-Sex Deer Hunt)	250	50-300
A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt)	25 Military* and 25 Public	25 Military* and 25 Public

* Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs.

Section 362, Nelson Big Horn Sheep

Existing regulations provide for the number of big-horn sheep hunting tags for each hunt zone. This proposed regulatory action would provide for tag allocations for most hunt zones pending final tag quota determinations based on survey results that should be completed by February of 2009. The final tag quotas will provide for adequate hunting opportunities while allowing for a biologically appropriate harvest of bighorn sheep. The following proposed number of tags was determined using the procedure described in Fish and Game Code Section 4902:

HUNT ZONE	NUMBER OF TAGS
Zone 1 — Marble Mountains	4
Zone 2 — Kelso Peak/Old Dad Mountains	6
Zone 3 — Clark/Kingston Mountain Ranges	2
Zone 4 — Orocopia Mountains	0
Zone 5 — San Geronio Wilderness	0-2
Zone 6 — Sheep Hole Mountains	1
Zone 7 — White Mountains	3
Open Zone Fund-Raising Tags	2
TOTAL	18-20

The number of tags allocated for each of the seven hunt zones is based on the results of the Department's 2008 estimate of the bighorn sheep population in each zone. Tags are proposed to allow the take of less than 15 percent of the mature rams estimated in each zone.

Section 363, Pronghorn Antelope

Existing regulations provide for the number of pronghorn antelope hunting tags for each hunt zone. This proposed regulatory action would provide for tag allocation ranges for most hunt zones pending final tag quota determinations based on winter survey results that should be completed by March of 2009. The final tag quotas will provide for adequate hunting opportunities while allowing for a biologically appropriate harvest of bucks and does in specific populations. The proposed tag allocation ranges for the hunt zones are as set forth below.

Pronghorn Antelope Tag Allocation Ranges — 2009						
<i>Hunt Area</i>	<i>Archery-Only Season</i>		<i>General Season</i>			
			Period 1		Period 2	
	Buck	Doe	Buck	Doe	Buck	Doe
Zone 1 — Mount Dome	1-10	0-3	3-60	0-20	0	0
Zone 2 — Clear Lake	1-10	0-3	5-80	0-25	0	0
Zone 3 — Likely Tables	2-20	0-7	25-150	0-50	25-130	0-50
Zone 4 — Lassen	2-20	0-7	25-150	0-50	25-150	0-50
Zone 5 — Big Valley	1-15	0-5	3-150	0-50	0	0
Zone 6 — Surprise Valley	1-10	0	3-25	0-7	0	0
Big Valley Apprentice Hunt	N/A		1-15 either-sex		0	
Lassen Apprentice Hunt	N/A		1-15 either-sex		0	
Surprise Valley Apprentice Hunt	N/A		1-4 either-sex		0	
Fund-Raising Hunt	N/A		1-10 Buck			

Section 364, Elk

Existing regulations specify elk license tag quotas for each hunt. In order to maintain hunting quality in accordance with management goals and objectives, it is periodically necessary to adjust quotas in response to dynamic environmental and biological conditions. This

proposed amendment modifies elk tag numbers to ranges of tags to adjust for fluctuations in population numbers.

Periodic quota changes are necessary to maintain hunting quality in accordance with management goals and objectives.

2009 Proposed Elk Tag Allocation										
Hunt Name	Anterless	Either-sex	Bull	Spike	Muzzle-loader Bull	Muzzle-loader Antlerless	Muzzle-loader Either-Sex	Archery Either-Sex	Archery Antlerless	Archery Bull
Roosevelt Elk										
Siskiyou	0-30	0-30								
Del Norte	0-20		0-10							
Marble Mountains		0-80								
Marble Mtns Apprentice		0-4								
Klamath	0-20		0-20							
Big Lagoon		0-10								
Northwestern California		0-25								
Rocky Mountain Elk										
Rocky Mtn Elk										

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 9-Z

2009 Proposed Elk Tag Allocation										
Hunt Name	Anterless	Either-sex	Bull	Spike	Muzzle-loader Bull	Muzzle-loader Antlerless	Muzzle-loader Either-Sex	Archery Either-Sex	Archery Antlerless	Archery Bull
Northeastern		0-20						0-10		
Northeastern Apprentice		0-4								
Tule Elk										
Cache Creek	0-4		0-4							
Cache Creek Apprentice			0-2							
La Panza										
Period 1	0-12		0-12							
Period 1 (Apprentice)	0-2		0-2							
Period 2	0-12		0-12							
Owens Valley										
Region wide								0-10		
Bishop										
Period 1 Muzzleloader					0-10	0-30	0-10			
Period 2 Apprentice	0-30	0-10	0-10							
Period 3	0-30	0-10	0-10							
Period 4	0-30	0-10	0-10							
Period 5	0-30	0-10	0-10							
Independence										
Period 1 Archery								0-10	0-30	0-10
Period 2	0-30	0-10	0-10							
Period 3	0-30	0-10	0-10							
Period 4	0-30	0-10	0-10							
Period 5	0-30	0-10	0-10							
Lone Pine										
Period 1 Muzzleloader					0-10	0-30	0-10			
Period 2	0-30	0-10	0-10							
Period 3	0-30	0-10	0-10							
Period 4	0-30	0-10	0-10							
Period 5	0-30	0-10	0-10							
Tinemaha & W. Tinemaha										
Period 1 Archery								0-10	0-30	0-10
Period 2	0-30	0-10	0-10							
Period 3	0-30	0-10	0-10							
Period 4	0-30	0-10	0-10							
Period 5	0-30	0-10	0-10							

2009 Proposed Elk Tag Allocation										
Hunt Name	Antlerless	Either-sex	Bull	Spike	Muzzle-loader Bull	Muzzle-loader Antlerless	Muzzle-loader Either-Sex	Archery Either-Sex	Archery Antlerless	Archery Bull
Grizzly Island										
Period 1	0-12			0-6						
Period 1 Apprentice	0-2			0-2						
Period 2	0-12		0-3	0-6						
Period 2 Apprentice				0-2						
Period 3	0-12		0-3	0-4						
Fort Hunter Liggett										
Archery Only								0-6	0-10	
Period 1	0-14									
Period 1 Apprentice	0-4									
Period 2	0-14									
Period 3			0-14							
Period 3 Apprentice			0-2							
East Park Reservoir										
Period 1			0-2							
Period 3	0-10									
San Luis Reservoir										
	0-5	0-10	0-10							

Existing regulations establish season dates for the Fort Hunter Liggett tule elk hunts. The proposed regulations for Fort Hunter Liggett do not change the number of hunt days. The proposal slightly modifies the season dates for the period 3 bull hunt (including the apprentice hunt) from the fourth Saturday in December to the last Wednesday in December and the archery only either-sex hunt from the last Saturday in August to the first Thursday in September in order to accommodate military operations.

Existing regulation establish season dates for the East Park Reservoir tule elk hunts. The proposal for East Park Reservoir modifies the season dates for the bull elk hunt to match the dates for the antlerless elk hunts.

Existing regulation establishes the number of fund raising tags available. The proposal converts one Grizzly Island fund raising tag to be valid in five elk zones without increasing the overall number of fund raising tags available. The proposal diversifies elk hunting opportunities in other areas of the state without increasing the overall number of fund raising tags available.

Section 365, Bear

Existing subsection 365(a)(4), Title 14, California Code of Regulations, provides a description of the bear hunting area for the Southern California bear hunting area. This hunt area includes several counties in Southern California, including Santa Barbara County, adjacent to San Luis Obispo County. Currently, bear hunting in San Luis Obispo County is not allowed. The proposed regulation change enlarges the Southern California bear hunting area to include San Luis Obispo County to provide additional hunting opportunity.

Existing subsection 365(b), Title 14, California Code of Regulations, requires the bear season to close early when the Department receives notification that 1,700 bears have been taken. In addition, the Department is required to send a letter to each bear hunter when this early closure occurs. The proposed change eliminates the early closure of the bear hunting season because it is unnecessary and insignificant to the bear population, and the cost of notifying all hunters by mail is an unnecessary expense.

Section 555, Cooperative Elk Hunt Areas

Existing regulations specify that hunters who purchase an elk tag from a Cooperative Elk Hunting Area must be a resident of California. SB 1032 (Hollingsworth), signed by the Governor in September, 2006, eliminated the California residency requirement (beginning in 2007) for general season elk tag holders. California residency is also not required for the purchase of an elk tag under the Enhancement and Management of Fish and Wildlife and their Habitat on Private Lands (PLM) Program or the Fund-Raising License Tag Program. To provide consistency among regulations, the proposed amendment eliminates the California residency requirements for hunters wishing to purchase an elk tag from a Cooperative Elk Hunting Area.

The proposed amendment makes a change to a sub-section reference for payment of tag fees. The new ref-

erence accurately identifies the correct sub-section for the fees.

Section 708, Big Game License Tag, Application, Distribution and Reporting

Existing regulations provide for the issuance of deer tags. This regulatory proposal would establish new definitions/classifications of deer hunts and the time frame that deer tags may be issued would be based on when the tag quota for the hunt or zone filled during the previous license year. This proposal would establish criteria for deer tag exchanges and eliminate most refunds for deer tag application fees under certain circumstances. Additionally, this proposed regulatory action would specify that the fee paid by the purchaser of a fund-raising elk or big horn sheep license tag would include the cost and processing fee of an annual hunting license.

ZONE	DESCRIPTION	2008 Quota	Quota Filled Date	Season Close Date	Drawn Quantity	Issued Upon Request Quantity	Draw Hunt in 2008	Application Used To Apply
	PREMIUM HUNT ZONES	Premium Deer Hunt Tags shall include all deer hunt tags where the tag quota filled on or before the first business day after July 1 in the immediately preceding license year.						
A3	A3 ARCHERY HUNT IN ZONE X1	255	*6/18/2008	7-Sep-08	255		Y	First-Deer
A4	A4 ARCHERY HUNT IN ZONE X2	15	*6/18/2008	7-Sep-08	15		Y	First-Deer
A5	A5 ARCHERY HUNT IN ZONE X3A	35	*6/18/2008	7-Sep-08	35		Y	First-Deer
A6	A6 ARCHERY HUNT IN ZONE X3B	95	*6/18/2008	7-Sep-08	95		Y	First-Deer
A7	A7 ARCHERY HUNT IN ZONE X4	135	*6/18/2008	7-Sep-08	135		Y	First-Deer
A8	A8 ARCHERY HUNT IN ZONE X5A	25	*6/18/2008	7-Sep-08	25		Y	First-Deer
A9	A9 ARCHERY HUNT IN ZONE X5B	10	*6/18/2008	7-Sep-08	10		Y	First-Deer
A11	A11 ARCHERY HUNT IN ZONE X6A	55	*6/18/2008	7-Sep-08	55		Y	First-Deer
A12	A12 ARCHERY HUNT IN ZONE X6B	140	*6/18/2008	7-Sep-08	140		Y	First-Deer
A13	A13 ARCHERY HUNT IN ZONE X7A	60	*6/18/2008	7-Sep-08	60		Y	First-Deer
A14	A14 ARCHERY HUNT IN ZONE X7B	20	*6/18/2008	7-Sep-08	20		Y	First-Deer
A15	A15 ARCHERY HUNT IN ZONE X8	55	*6/18/2008	7-Sep-08	55		Y	First-Deer
A16	A16 ARCHERY HUNT IN ZONE X9A	150	*6/18/2008	7-Sep-08	150		Y	First-Deer
A20	A20 ARCHERY HUNT IN ZONE X12	200	*6/18/2008	7-Sep-08	200		Y	First-Deer
A21	A21 ANDERSON FLAT HUNT	25	*6/18/2008	21-Nov-08	25		Y	First-Deer
A24	A24 MONTEREY HUNT	100	*6/18/2008	9-Nov-08	100		Y	First-Deer
A25	A25 LAKE SONOMA HUNT	35	*6/18/2008	27-Oct-08	35		Y	First-Deer
A26	A26 BASS HILL HUNT	30	*6/18/2008	7-Dec-08	30		Y	First-Deer
A27	A27 DEVILS GARDEN HUNT	10	*6/18/2008	9-Nov-08	10		Y	First-Deer
A30	A30 COVELO HUNT	40	*6/18/2008	23-Nov-08	40		Y	First-Deer
A33	A33 FORT HUNTER LIGGETT (LATE SEASON)	25	*6/18/2008	9-Nov-08	25		Y	First-Deer
C	ALL C ZONES GENERAL SEASON ONLY	8,575	6/12/2008	26-Oct-08	3504	5071	N	First-Deer
D12	ZONE D12	950	6/12/2008	23-Nov-08		950	N	First-Deer
D17	ZONE D17	500	5/20/2008	2-Nov-08		500	N	First-Deer
G1	G1 LATE SEASON HUNT IN C4	2,850	*6/18/2008	2-Nov-08	2850		Y	First-Deer
G3	G3 GOODALE HUNT	35	*6/18/2008	21-Dec-08	35		Y	First-Deer
G6	G6 KERN RIVER DEER HERD HUNT	50	*6/18/2008	14-Dec-08	50		Y	First-Deer
G8	G8 FORT HUNTER LIGGETT HUNT	10	*6/18/2008	13-Oct-08	10		Y	First-Deer
G9	G9 CAMP ROBERTS HUNT	15	*6/18/2008	1-Sep-08	15		Y	First-Deer
G12	G12 GRAY LODGE HUNT	30	*6/18/2008	28-Sep-08	30		Y	First-Deer
G13	G13 SAN DIEGO HUNT	300	*6/18/2008	16-Nov-08	300		Y	First-Deer
G19	G19 SUTTER-YUBA WILDLIFE AREAS HUNT	25	*6/18/2008	31-Dec-08	25		Y	First-Deer
G21	G21 VENTANA WILDERNESS HUNT	25	*6/18/2008	30-Nov-08	25		Y	First-Deer
G37	G37 ANDERSON FLAT HUNT	25	*6/18/2008	30-Nov-08	25		Y	First-Deer
G38	G38 LATE SEASON HUNT IN X10	300	*6/18/2008	2-Nov-08	300		Y	First-Deer
G39	G39 ROUND VALLEY LATE SEASON	5	*6/18/2008	9-Nov-08	5		Y	First-Deer

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 9-Z

ZONE	DESCRIPTION	2008 Quota	Quota Filled Date	Season Close Date	Drawn Quantity	Issued Upon Request Quantity	Draw Hunt in 2008	Application Used To Apply
J1	J1 LAKE SONOMA HUNT -	25	*6/18/2008	2-Nov-08	25		Y	First-Deer
J3	J3 TEHAMA WILDLIFE AREA HUNT -	15	*6/18/2008	30-Nov-08	15		Y	First-Deer
J4	J4 SHASTA-TRINITY HUNT -	15	*6/18/2008	30-Nov-08	15		Y	First-Deer
J7	J7 CARSON RIVER HUNT-	15	*6/18/2008	26-Oct-08	15		Y	First-Deer
J8	J8 DAUGHERTY HILL WA HUNT -	15	*6/18/2008	31-Dec-08	15		Y	First-Deer
J9	J9 LITTLE DRY CREEK HUNT -	5	*6/18/2008	28-Sep-08	5		Y	First-Deer
J10	J10 FORT HUNTER LIGGETT HUNT -	75	*6/18/2008	13-Oct-08	75		Y	First-Deer
J11	J11 SAN BERNARDINO HUNT -	40	*6/18/2008	23-Nov-08	40		Y	First-Deer
J12	J12 ROUND VALLEY HUNT -	10	*6/18/2008	21-Dec-08	10		Y	First-Deer
J13	J13 LOS ANGELES HUNT -	40	*6/18/2008	23-Nov-08	40		Y	First-Deer
J14	J14 RIVERSIDE HUNT -	30	*6/18/2008	23-Nov-08	30		Y	First-Deer
J15	J15 ANDERSON FLAT HUNT -	10	*6/18/2008	30-Nov-08	10		Y	First-Deer
J16	J16 BUCKS MOUNTAIN/NEVADA CITY	75	*6/18/2008	2-Nov-08	75		Y	First-Deer
J17	J17 BLUE CANYON -	25	*6/18/2008	2-Nov-08	25		Y	First-Deer
J18	J18 PACIFIC/GRIZZLY FLAT -	75	*6/18/2008	2-Nov-08	75		Y	First-Deer
J19	J19 HUNT IN ZONE X7A -	25	*6/18/2008	19-Oct-08	25		Y	First-Deer
J20	J20 HUNT IN ZONE X7B -	20	*6/18/2008	19-Oct-08	20		Y	First-Deer
J21	J21 EAST TEHAMA -	50	*6/18/2008	2-Nov-08	50		Y	First-Deer
MA1	MA1 SAN LUIS OBISPO HUNT	150	*6/18/2008	14-Dec-08	150		Y	First-Deer
MA3	MA3 SANTA BARBARA HUNT	150	*6/18/2008	14-Dec-08	150		Y	First-Deer
M3	M3 DOYLE HUNT	20	*6/18/2008	23-Nov-08	20		Y	First-Deer
M4	M4 HORSE LAKE HUNT	10	*6/18/2008	2-Nov-08	10		Y	First-Deer
M5	M5 EAST LASSEN HUNT	10	*6/18/2008	2-Nov-08	10		Y	First-Deer
M6	M6 SAN DIEGO HUNT	80	*6/18/2008	31-Dec-08	80		Y	First-Deer
M7	M7 VENTURA HUNT	150	*6/18/2008	14-Dec-08	150		Y	First-Deer
M8	M8 BASS HILL HUNT	20	*6/18/2008	2-Nov-08	20		Y	First-Deer
M9	M9 DEVIL'S GARDEN HUNT	15	*6/18/2008	9-Nov-08	15		Y	First-Deer
M11	M11 NW CALIFORNIA HUNT	20	*6/18/2008	23-Nov-08	20		Y	First-Deer
X1	ZONE X1	2,280	*6/18/2008	19-Oct-08	2280		Y	First-Deer
X2	ZONE X2	180	*6/18/2008	19-Oct-08	180		Y	First-Deer
X3A	ZONE X3A	250	*6/18/2008	19-Oct-08	250		Y	First-Deer
X3B	ZONE X3B	845	*6/18/2008	19-Oct-08	845		Y	First-Deer
X4	ZONE X4	425	*6/18/2008	19-Oct-08	425		Y	First-Deer
X5A	ZONE X5A	60	*6/18/2008	19-Oct-08	60		Y	First-Deer
X5B	ZONE X5B	85	*6/18/2008	19-Oct-08	85		Y	First-Deer
X6A	ZONE X6A	325	*6/18/2008	19-Oct-08	325		Y	First-Deer
X6B	ZONE X6B	375	*6/18/2008	19-Oct-08	375		Y	First-Deer
X7A	ZONE X7A	205	*6/18/2008	19-Oct-08	205		Y	First-Deer
X7B	ZONE X7B	125	*6/18/2008	19-Oct-08	125		Y	First-Deer
X8	ZONE X8	230	*6/18/2008	12-Oct-08	230		Y	First-Deer
X9A	ZONE X9A	775	*6/18/2008	13-Oct-08	775		Y	First-Deer
X9B	ZONE X9B	325	*6/18/2008	13-Oct-08	325		Y	First-Deer
X9C	ZONE X9C	325	*6/18/2008	9-Nov-08	325		Y	First-Deer
X10	ZONE X10	400	*6/18/2008	12-Oct-08	400		Y	First-Deer
X12	ZONE X12	850	*6/18/2008	13-Oct-08	850		Y	First-Deer
	RESTRICTED HUNT ZONES	Restricted Deer Hunt Tags shall include all non-Premium deer hunt tags where the tag quota filled on or before the first business day after August 1 in the immediately preceding license year.						
A1	***A1 ARCHERY HUNT IN C ZONES	2,045	9-Jul-08	7-Sep-08	911	1134	Y	First & Second
D6	ZONE D6	10,000	4-Aug-08	2-Nov-08	4127	5873	N	First & Second
	UNRESTRICTED HUNT ZONES	Unrestricted Deer Hunt Tags shall include all deer hunt tags where the tag quota did not fill on or before the first business day after August 1 in the immediately preceding license year.						
AO	**AO#1 & AO#2 ARCHERY ONLY	99,999		23-Nov-08	645	4223	N	First & Second
A17	A17 ARCHERY HUNT IN ZONE X9B	300		7-Sep-08	73	118	Y	First & Second
A18	A18 ARCHERY HUNT IN ZONE X9C	350		7-Sep-08	36	65	Y	First & Second
A19	A19 ARCHERY HUNT IN ZONE X10	120		31-Aug-08	12	39	Y	First & Second
A22	A22 SAN DIEGO HUNT	1,000	17-Dec-08	31-Dec-08	76	924	Y	First & Second
A31	A31 LOS ANGELES HUNT	1,000	12-Sep-08	31-Dec-08	269	731	Y	First & Second
A32	A32 VENTURA/LOS ANGELES LATE SEASON	250		30-Nov-08	25	106	Y	First & Second
A	ZONE A	65,000		21-Sep-08	3417	27988	N	First & Second
B	ALL B ZONES	55,500		26-Oct-08	4267	34799	N	First & Second

ZONE	DESCRIPTION	2008 Quota	Quota Filled Date	Season Close Date	Drawn Quantity	Issued Upon Request Quantity	Draw Hunt in 2008	Application Used To Apply
D3-5	ZONES D3, D4, AND D5	33,000		2-Nov-08	4706	24628	N	First & Second
D7	ZONE D7	9,000	19-Aug-08	2-Nov-08	1422	7578	N	First & Second
D8	ZONE D8	8,000		26-Oct-08	1042	6347	N	First & Second
D9	ZONE D9	2,000	14-Aug-08	26-Oct-08	639	1361	N	First & Second
D10	ZONE D10	700		26-Oct-08	94	454	N	First & Second
D11	ZONE D11 (ALSO D13 AND D15)	5,500		9-Nov-08	217	4300	N	First & Second
D13	ZONE D13 (ALSO D11 AND D15)	4,000		9-Nov-08	279	2885	N	First & Second
D14	ZONE D14	3,000		9-Nov-08	325	2672	N	First & Second
D15	ZONE D15 (ALSO D11 AND D13)	1,500		9-Nov-08	38	382	N	First & Second
D16	ZONE D16	3,000		23-Nov-08	198	2311	N	First & Second
D19	ZONE D19	1,500		2-Nov-08	72	1284	N	First & Second

* 2008 Draw was run on June 18, 2008

** AO#1 & AO#2 are combined for 2008 to reflect change in 2009 for Archery Only

*** In 2008 this zone was a Premium Hunt Zone

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Ball Room, Yolo Fliners Club, 17980 County Road 94B, Woodland, California, on Wednesday, March 4, 2009 at 10:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Garden Ball Room, Wine & Roses Country Inn, 2505 W Turner Road, Lodi, California, on Thursday, April 9, 2009 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing to be held in the Fish and Game Commission Conference Room 1320, Resources Building, 1416 9th Street, Sacramento, California, on Tuesday, April 21, 2009 at 9:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 21, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 20, 2009. All comments must be received no later than April 21, 2009 at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box

944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Jon Snellstrom at the preceding address or phone number. **Craig Stowers, Wildlife Programs Branch, Department of Fish and Game, phone (916) 445-3553, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

Section 265 — The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These proposals are economically neutral to business.

Section 353 — The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action modifies method of take regulations for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

Sections 360, 361, 362, 363, 364, 365, 555 — The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

Section 708 — The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts the issuance of deer tags. These proposals are economically neutral to business.

The following “impacts of Regulatory Action” apply to all sections in this notice:

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost impacts on a Representative Private Person or Business:

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.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would 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.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5, and 2084, of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5, and 2084 of said Code, proposes to amend Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon popu-

lations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS).

California's sport fishing regulations will need to conform to the new Federal regulations to achieve optimum yield in California. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (zero to three miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

PFMC Regulatory Outlook

On March 13, 2009, the PFMC will develop the ocean salmon fisheries regulatory options for public review and the final PFMC regulation recommendations will be made on April 9, 2009. The various ocean salmon sport fishery alternatives that the PFMC will examine in the process of adopting options may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler–day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

Commission Regulatory Outlook

Although there are no PFMC regulatory options to review at this time, the PFMC March options will serve as the basis for the Commission's 2009 regulatory action affecting the State's ocean salmon sport fishery. There exists a strong possibility of continued ocean water closures off California due to expected low Sacramento River fall Chinook salmon returns to the Central Valley river system based upon 2008 PFMC projections.

Further Commission actions affecting the ocean salmon sport fishery may be developed after the annual PFMC reports, *Review of 2008 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2009 Ocean Salmon Fisheries*, are available in late February 2009.

Present Regulations

Current regulations have a short salmon fishing season between Horse Mountain and Point Arena from February 16 through April 4, 2008. After April 4, 2008, all areas were closed to salmon fishing.

All areas also include an informational note: In 2009, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.

Proposed Regulations

For public notice purposes to facilitate Commission discussion, the Department is proposing two regulatory options: 1) no fishing in all areas and 2) limited salmon fishing for varied season dates to be determined from May 15, 2009 to November 15, 2009 in the five California sub–areas between the California/Oregon Border and U.S./Mexico Border. The proposed changes from current regulations are shown below:

For all areas and options: The informational note is proposed to be removed for regulatory clarity. The note does not contain actual fishing regulations and provides limited information on the Commission schedule of actual season determinations which cannot be specified in advance for 2010. Other mechanisms to notify the public of the date of Commission action, such as mailing lists of interested and affected parties, specific information in the annual regulations booklets and periodic web postings, are more timely methods of public notification and education.

Option 1 — No fishing in all areas

- (1) All subsections are proposed to be removed to reduce public confusion.
- (2) The following language is proposed instead “All waters of the ocean are closed to salmon fishing.”

Option 2 — Limited salmon fishing, if salmon allocations are made available

- (1) North of Horse Mountain and Humboldt Bay
 - a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and September 30, 2009.
 - b. Exception: Pursuant to Section 27.75, the ocean area surrounding the Klamath River mouth bounded on the north by 41°38' 48" N lat. (approximately 6 nautical miles north of the Klamath River mouth), on the south by 41°26' 48" N. lat. (approximately 6 nautical miles south of the Klamath River mouth), and extending 3 nautical miles offshore is closed to salmon fishing between August 1 and August 31. No salmon may be taken at any time in ocean waters at the mouths of the

Smith and Klamath rivers and during August and September at the mouth of the Eel River.

- i. This closure is a requirement of State (Section 27.75) and Federal regulations and the FMP to protect returning salmon stocks in the ocean prior to their entry into the three rivers.
- (2) Between Horse Mountain and Point Arena
 - a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and November 15, 2009.
 - (3) Between Point Arena and Pigeon Point
 - a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and November 8, 2009.
 - b. Exception: San Francisco Bay is proposed to open for salmon fishing for varied dates to be determined between May 15, 2009 and November 8, 2009. For purposes of this regulation, the San Francisco Bay is defined as the waters of San Francisco and San Pablo bays plus all their tidal bays, tidal portions of their rivers and streams, sloughs and estuaries between Golden Gate Bridge and Carquinez Bridge unless otherwise noted in Section 7.50.
 - i. This exception allows for the flexibility to keep the San Francisco Bay open when the ocean fishery is closed due to ocean salmon stock constraints.
 - (4) Between Pigeon Point and Point Sur and South of Point Sur
 - a. Limited salmon fishing for varied dates to be determined between May 15, 2009 and October 4, 2009.
 - (5) Bag Limit and Minimum Size
 - a. North of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size may range from 20 to 24 inches total length.
 - b. South of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size may range from 20 to 24 inches total length.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on Wednesday, March 4, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Wine

and Roses Country Inn, Garden Ballroom, 2505 West Turner Road, Lodi, California, on Thursday, April 9, 2009 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Fish and Game Commission Conference Room, 1416 Ninth Street, Room 1320, Sacramento, California, on Tuesday, April 21, 2009, at 9:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 15, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. All comments must be received no later than April 21, 2009, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Fonbuena at the preceding address or phone number. **Ms. Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and Game, (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the

Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:

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.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to

Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would 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.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF EMERGENCY REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) Section 12838.5 and Penal Code (PC) Section 5058, and the rulemaking authority granted by PC Section 5058.3, in order to implement, interpret and make specific PC Section 5054, proposes to amend sections 3000, 3043.6 and 3375 and to adopt new sections 3077, 3077.1, 3077.2, 3077.3 and 3077.4 of the California Code of Regulations (CCR), Title 15 concerning Senate Bill (SB) 618 and the transfer of inmate assessment responsibilities to the county court and probation departments.

PUBLIC HEARING

- Date and Time: **April 21, 2009 — 9:00 a.m. to 10:00 a.m.**
- Place: Department of Corrections and Rehabilitation
10000 Goethe Road
Pilot Hill Conference Room
(Room 118)
Sacramento, CA 95827
- Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD

The public comment period will close, **April 21, 2009, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regard-

ing the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 255-5601, or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 255-5500**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**D. Hawkins
Regulation and Policy Management Branch
Telephone (916) 255-5338**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Lawrence H. Cook
Division of Community Partnerships
Telephone (916) 445-3404**

LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to GC Section 17561.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed in accordance with GC Sections 17500 through 17630: *None*
- Cost or savings to any state agency: *None — No fiscal impact. In Fiscal Year 2007-08, a \$5.233 million Reducing Recidivism Budget Change Proposal providing the funding for the SB 618 program was approved and incorporated into the current Fiscal Year 2008-09 budget.*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

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

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

**AVAILABILITY OF THE FINAL STATEMENT
OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

**AVAILABILITY OF CHANGES TO
PROPOSED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC 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 CDCR.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to GC Section 11340. This action:

- Puts into regulations the provisions and authority of SB 618 (2005/2006 session), which added PC Section 1203.8, allows the CDCR to enter into an agreement with up to three counties in the State of California. This agreement transfers the responsibility of the risk and needs assessment for eligible non-violent offenders to the county probation department and courts from which the inmate received a conviction and sentence to state prison. SB 618 supports successful reintegration of parolees into society by developing an early assessment of the offender's risks and needs prior to sentencing and transfer into the state prison system. This transfer of the assessment function from the CDCR to the community in which an offender committed his or her crime and to which the parolee will be required by statute to return to on supervised parole, will better enable each offender to become a contributing member of society which in turn will improve public safety in the community.
- Defines SB 618 Participants and the SB 618 Program.
- Authorizes a participating county to develop a multi-agency plan that will prepare and enhance non-violent felony offenders' successful reentry back into the community. This plan will be developed by, and have the concurrence of, the presiding judge, the chief probation officer, the district attorney, the local custodial agency, and the public defender, or their designees for submission to the board of supervisors for its approval.
- Authorizes and defines the purpose of the SB 618 Participant's Life Plan.
- Places SB 618 Participants to the top of a receiving institution's programming waiting lists in the event the institution's vocational/training program is full.
- Allows for medical, dental and mental health assessments, and the classification of SB 618 Participants prior to CDCR reception.

- Additionally, this action is necessary to accommodate the February 5, 2007 agreement with the County of San Diego, to implement the provisions of SB 618, Transfer of Assessment Responsibilities Pilot Program. This Pilot Program, which transferred the assessment authority for eligible non-violent offenders to the County of San Diego, outlined the operational plans of the County of San Diego working in conjunction with the CDCR's Richard J. Donovan Reception Center and Correctional Facility (RJD) and the California Institution for Women (CIW). The effective dates of this pilot program were not to exceed 24 months and will end on February 5, 2009. In order to continue the program without interruption, it is necessary that the CDCR promulgate and adopt permanent regulations before the Pilot Program effective ending date of February 5, 2009 is realized.

TITLE 22. DEPARTMENT OF SOCIAL SERVICES

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 Adult Residential Facility Age Regulations

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held April 15, 2009, as follows:

April 15, 2009
Office Building # 8
744 P St. Room 105
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on April 15, 2009.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially

as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahw.net.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Office of Regulations Development
California Department of Social Services
714 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Title 22, Division 6, Chapter 1 (General Licensing Requirements), Section 80001 (Definitions); and Chapter 6 (Adult Residential Facilities), Section 85002 (Definitions-Forms) and Section 85068.4 (Acceptance and Retention Limitations)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulations implement the Settlement Agreement ("Agreement") of October 27, 2008 between the California Association of Mental Health Patients' Rights Advocates (CAMHPRA) and the California Department of Social Services (CDSS). CAMHPRA filed a lawsuit against the CDSS on behalf of persons with mental health disabilities who are 60 years of age or older, claiming that the CDSS unlawfully ex-

cluded adults over the age of 59 from licensed Adult Residential Facilities (ARFs). The Agreement was reached between CAMHPRA and the CDSS in *California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al.*, Santa Clara County Superior Court, No. 106–CV061397. *This Agreement specifies all of the actual regulatory language proposed in this regulation package.*

In the California Code of Regulations (CCR), Title 22, Section 80001(a)(5), an ARF is defined as “any facility of any capacity which provides 24–hour a day nonmedical care and supervision to adults except elderly persons.” The CDSS’ Community Care Licensing Division (CCLD) licenses ARFs and other community care facilities. For the purposes of an ARF, an “adult” is considered to be a person 18 years of age through 59 years of age. Residential Care Facilities for the Elderly (RCFEs) constitute a separate licensing facility category, in which varying degrees of care and supervision are provided to persons 60 years of age or older. An RCFE is defined in Health and Safety Code Section 1569.2(l); and in CCR, Title 22, Section 87101(r)(5).

As of January 2, 2009, there were approximately 5,298 licensed ARFs statewide, of which approximately 4,682 have a capacity of six or fewer clients. About half of the ARFs in California serve persons with primarily mental health disabilities and about half serve persons with primarily developmental disabilities. ARFs typically develop programs designed to meet the special mental health and/or developmental needs of their clients.

Under existing regulations, an ARF may *retain* clients over 59 years of age whose needs are compatible with those of other clients if they require the same level of care and supervision as other clients and the licensee is able to meet their needs. An exception is not required to retain a client over 59 years of age as long as the number of such clients does not exceed 50 percent of the census in facilities with a capacity of six or fewer, or 25 percent of the census in facilities with a capacity of over six. However, licensees of ARFs must currently obtain an exception to *admit* persons over 59 years of age. It has always been the CCLD’s practice to consider granting an exception to licensees of ARFs to admit a person over 59 years of age with compatible needs. (An exception is a written authorization by the licensing agency to use alternative means that meet the intent of the regulations and that are based on the unique needs or circumstances of the client for whom the exception is granted, as specified in CCR, Title 22, Section 80001(e)(6).)

In 2005, the ARF licensing regulations were amended to allow licensees of ARFs to *retain* persons over 59 years of age without an exception, as described above (Office of Administrative Law File No.

05–0822–03S). This change incorporated into regulation the CCLD’s standard practice—albeit through the exception process—of allowing existing ARF clients to age in place if certain criteria were met. The issue of amending the regulations to also permit licensees of ARFs to *admit* persons over 59 years of age without an exception was not addressed in that regulation package.

The aforementioned Agreement required the CDSS to adopt the proposed regulations, to be known as the ARF Age Regulations. *As indicated above, the Agreement specifies the actual language to be used in the ARF Age Regulations.* The proposed regulations will allow licensees of ARFs to both *retain and admit* persons 60 years of age or older without obtaining an exception, subject to capacity limitations and compliance with specified requirements. The proposed regulations will also do the following:

- Change the definition of “Adult Residential Facility” to include “persons 60 years of age or older” if certain requirements are met.
- Require ARF licensees that admit and retain any person 60 years of age or older to include any letters of support and a completed functional capabilities assessment, Needs and Services Plan, and medical assessment in each such person’s file.
- Permit the CDSS to require an ARF licensee to comply with various RCFE regulations if necessary to ensure that a client 60 years of age or older receives appropriate age–related care in the ARF.
- Require that the Needs and Services Plan and the medical assessment of any ARF client 60 years of age or older be updated at least annually; and require the medical assessment to be updated in accordance with the RCFE regulations, to ensure that any age–related health care needs are identified and addressed appropriately in the ARF.
- Keep intact existing regulatory provisions that require an ARF licensee to obtain an exception if accepting or retaining a person 60 years of age or older would result in the number of such persons exceeding 50 percent of the census in facilities with a capacity of six or fewer, or 25 percent of the census in facilities with a capacity over six. The proposed regulations will further require that specified information be included with any such exception request, including any letters of support and the person’s completed functional capabilities assessment, Needs and Services Plan, and medical assessment.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact exists because this regulation does not affect any State agency or program.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500–17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: No fiscal impact exists because this regulation does not affect any State agency or program.
4. Federal Funding to State Agencies: No fiscal impact exists because this regulation does not affect any State agency or program.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

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

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no fiscal impact on small businesses as a result of filing these regulations because the regulations do not alter the number of clients in a facility.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California

nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

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

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Section 1530, Health and Safety Code. Subject regulations implement and make specific the Settlement Agreement of October 27, 2008 between the California Association of Mental Health Patients' Rights Advocates and the California Department of Social Services in *California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al.*, Santa Clara County Superior Court, No. 106–CV061397, filed November 9, 2006.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Robin Garvey (916) 657–2586
 Backup: Sandra Ortega (916) 657–2586

TITLE 27. INTEGRATED WASTE MANAGEMENT BOARD

NOTICE OF PROPOSED RULEMAKING

Title 27.	Environmental Protection
Section 21200.	CIWMB — Change of Ownership During Closure or Postclosure Maintenance.
Section 21570.	CIWMB — Filing Requirements.
Section 21640.	CIWMB — Review of Permits.
Section 21685.	CIWMB — Proposed Solid Waste Facilities Permit; CIWMB Processing Requirements.

Section 21820.	CIWMB — Closure Cost Estimates.
Section 21840.	CIWMB — Postclosure Maintenance Cost Estimates.
Section 21865.	CIWMB — Amendment of Closure and Postclosure Maintenance Plans.
Section 21880.	CIWMB — Certification of Closure.
Section 22100.	CIWMB — Scope and Applicability.
Section 22101.	CIWMB — Amount of Required Coverage and Corrective Action Cost Estimate Requirement.
Section 22102.	CIWMB — Disbursements from the Corrective Action Financial Assurance Mechanism.
Section 22103.	CIWMB — Updated Corrective Action Cost Estimate.
Section 22211.	CIWMB — Amount of Required Coverage.
Section 22220.	CIWMB — Scope and Applicability.
Section 22221.	CIWMB — Amount of Required Coverage.
Section 22231.	CIWMB — Cancellation or Nonrenewal by a Provider of Financial Assurance.
Section 22234.	CIWMB — Disbursements from Financial Mechanisms.
Section 22245.	CIWMB — Pledge of Revenue.
Section 22248.	CIWMB — Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Insurance.
Appendix 3	Financial Assurance Forms
CIWMB 100	Trust Agreement.
CIWMB 106	Certificate of Insurance for Closure, Postclosure Maintenance, Reasonably Foreseeable Corrective Action.
CIWMB 114	Pledge of Revenue Requirements.

PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (CIWMB) proposes to amend Title 27, California Code of Regulations (27 CCR), §§ 21200, 21570, 21640, 21685, 21820, 21840, 21865, 21880, 22100, 22101, 22102, 22103, 22211, 22220, 22221, 22231, 22234, 22245, 22248, Appendix 3 — CIWMB 100, CIWMB 106, and CIWMB 114. The proposed changes modify existing regulations governing change of ownership requirements, permit application, permit review, and CIWMB permit processing requirements, closure cost estimates, postclosure maintenance plans and cost estimates, certification of closure requirements, known or

reasonably foreseeable corrective action plans, cost estimates and financial assurance requirements, cancellation or nonrenewal of financial assurance mechanisms, postclosure maintenance financial assurance requirements, and financial assurance forms and mechanisms.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the CIWMB. **The written comment period for this rulemaking ends at 5:00 p.m. on April 13, 2009.** The CIWMB will also accept oral and written comments during the public hearing described below. Please submit your written comments to:

Richard Castle
 Financial Assurances Section
 Waste Compliance and Mitigation Program
 California Integrated Waste Management Board
 P.O. Box 4025, M.S. 10A-18
 Sacramento, CA 95812-4025
 e-mail: rcastle@ciwmb.ca.gov
 Phone: (916) 341-6343 Fax: (916) 319-7392

PUBLIC HEARING

A public hearing to receive comments on the proposed rulemaking will be scheduled for April 16, 2009. The hearing will be held in Room 550 (Fifth Floor) at the Joe Serna, Jr. Cal/EPA Building, 1001 I Street, Sacramento, California. The hearing will begin at 12:00 p.m. and conclude after the public gives all testimony. The CIWMB requests that persons who make oral comments at the hearing submit written copies of their testimony at the hearing. Room 550 is wheelchair accessible.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Law and Regulation: Public Resources Code section 40502 requires the CIWMB to adopt rules and regulations, as necessary, to carry out its duties under Division 30 of the Public Resources Code. Public Resources Code section 43020 requires the CIWMB to adopt and revise regulations which set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal. Public Resources Code section 43021 requires CIWMB regulations to include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities.

Existing regulations contain the compliance requirements for change of ownership, permit application, and

permit review, the CIWMB permit processing requirements, and the compliance requirements relating to closure cost estimates, certification of closure, postclosure maintenance plans and cost estimates, known or reasonably foreseeable corrective action plans, cost estimates and financial assurance demonstrations, cancellation or nonrenewal of financial assurance mechanisms, postclosure maintenance financial assurance and financial assurance forms and mechanisms. Existing regulations also identify the process for access to financial assurance demonstrations.

The proposed regulations would clarify and adjust the change of ownership requirements, permit application, permit review and CIWMB permit processing requirements, the certification of closure requirement, and the closure cost estimate and postclosure maintenance plan and cost estimate components. The proposed regulations would also require reasonably foreseeable corrective action demonstrations to address non-water quality related exposures, clarify the disbursement and replenishment process for corrective action financial assurance, and define the required amounts of postclosure maintenance financial assurance demonstrations. The proposed regulations would also clarify and adjust requirements relating to existing financial assurance mechanisms, including cancellation or nonrenewal procedures and the insurance mechanism. Further, the proposed regulations would clarify the terms and conditions of two existing financial assurance forms (the Trust Agreement and Certificate of Insurance for Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action), and create a new submittal form for an existing financial assurance demonstration (Pledge of Revenue Agreement CIWMB 114).

PLAIN ENGLISH REQUIREMENTS

CIWMB staff prepared the proposed regulatory changes pursuant to the standard of clarity provided in Government Code §11349 and the plain English requirements of Government Code §§11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and can be easily understood by those who will use them.

AUTHORITY AND REFERENCES

PRC §§40002, 40502, 40508, 43020, 43021, 43040, 43050 and 43103 provide authority for this proposed regulation change. The purpose of the proposed regulation is to implement, interpret and make specific referenced sections PRC §§40052, 40508, 43020, 43021, 43040, 43101, 43103, 43500–43610, 44001–44017,

44100, 44101, 44300, 44301, 44500–44503, 44813–44816, and Title 40, Code of Federal Regulations, §§258.72–258.74.

FEDERAL LAW OR REGULATIONS MANDATE

These regulatory changes either comply with or exceed the minimum standards set by federal regulations (40 CFR, § 258.1 et seq.)

MANDATE ON STATE AGENCIES, LOCAL AGENCIES, OR SCHOOL DISTRICTS

CIWMB staff has determined that adoption of the proposed regulations will not impose a mandate on local agencies or school districts.

CIWMB staff has further determined that the proposed regulation changes will result in no costs or savings to state agencies, no costs to any local agency or school district that is required to be reimbursed under Part 7 (commencing with §17500) of Division 4 of the Government Code, no other non-discretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the state.

FINDING ON NECESSITY OF REPORTS

The proposed regulation does not require a report.

EFFECT ON HOUSING COSTS

CIWMB staff made an initial determination that the proposed regulation changes would not have a significant effect on housing costs.

EFFECT ON BUSINESSES

CIWMB staff made an initial determination that the proposed regulation changes would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

CIWMB staff made an initial determination that the proposed regulation changes would not have a statewide adverse economic impact on small businesses including the ability of California businesses to compete with businesses in other states. Due to the capital investment required, few small businesses own/operate solid waste disposal sites. Disposal sites are more likely to be run by local government agencies or large businesses.

**EFFECT ON CREATION OR ELIMINATION
OF JOBS, EXISTING OR NEW BUSINESS
IN THE STATE OF CALIFORNIA**

CIWMB staff has determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the State of California; 2) the creation of new or the elimination of existing businesses with California; or 3) the expansion of businesses currently doing business with the state.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES**

There are no cost impacts known to CIWMB staff that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

CONSIDERATION OF ALTERNATIVES

The CIWMB must determine that no reasonable alternative considered by the CIWMB or that has otherwise been identified and brought to the attention of the CIWMB 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 CIWMB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be directed to:

Richard Castle
Financial Assurances Section
Waste Compliance and Mitigation Program
California Integrated Waste Management Board
P.O. Box 4025, M.S. 10A-18
Sacramento, CA 95812-4025
e-mail: rcastle@ciwmb.ca.gov
Phone: (916) 341-6343 Fax: (916) 319-7392

Back-up contact person to whom inquiries concerning the proposed administrative action or the substance of the proposed regulations may be directed:

Elizabeth Castañeda
Financial Assurances Section
Waste Compliance and Mitigation Program
California Integrated Waste Management Board
P.O. Box 4025, M.S. 10A-18
Sacramento, CA 95812-4025
e-mail: ecastaneda@ciwmb.ca.gov
Phone: (916) 341-6323 Fax: (916) 319-7509

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

The CIWMB will have the entire rulemaking file and all information upon which the proposed regulations are based available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is 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 Richard Castle at the address, e-mail, or telephone number listed above. For more timely access to the proposed text of the regulations and in the interest of waste prevention, interested parties are encouraged to access the CIWMB's website at <http://www.ciwmb.ca.gov/Rule-Making/Postclosure/Phase2/default.htm>. Additionally, the final statement of reasons will be available at the above listed Internet address or you may call the contact persons named above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

The CIWMB may adopt the proposed regulation changes as described in this notice. If the CIWMB makes modifications which are sufficiently related to the proposed text, it will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the CIWMB adopts the regulations as revised. Requests for the modified text should be made to the contact person. The CIWMB will transmit any modified text to all persons who testify at a public hearing if one is held; all persons who submit written comments at a public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The CIWMB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

GENERAL PUBLIC INTEREST

BUREAU OF STATE AUDITS

Upcoming Interested Persons Meetings

Representatives from the California Bureau of State Audits are conducting public meetings regarding the implementation of the Voters First Act, which calls for the selection of a Citizens Redistricting Commission (Commission) that will draw new boundary lines for State Assembly, State Senate, and State Board of Equalization districts. Specifically, the purpose of the meetings is to solicit comments about the processes that should be established for individuals to apply to become members of the Commission and for the selection of an Applicant Review Panel to assess the applicants and create an applicant pool of 60 qualified members. Below are the dates for our upcoming meetings. For additional information or to view the entire Notice of Interested Persons Meetings, please visit our website at <http://www.bsa.ca.gov> or call Barbara Paget at (916) 445-0255.

San Francisco — Friday, February 27, 2009

Location: Office of the Courts
Milton Marks Auditorium
455 Golden Gate Ave.
San Francisco, CA 94102

Time: 10 a.m. to 12 p.m. *

Sacramento — Tuesday, March 3, 2009

Location: California Secretary of State Office Building
Auditorium
1500 11th Street
Sacramento, CA 95814

Time: 1 p.m. to 3 p.m. *

* The time allocated for each meeting may be extended on the day of the meeting if representatives from the Bureau of State Audits determine that additional time is necessary to accommodate the number of participants. However, no meeting shall extend past 5:00 p.m.

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH CARE SERVICES WILL MAKE MODIFICATIONS TO REDUCTIONS IN PAYMENTS FOR SPECIFIED HEALTH CARE SERVICES

This notice provides information of public interest about pending reductions to provider payments for

Medi-Cal fee-for-service benefits and non Medi-Cal programs whose rates are identical to Medi-Cal rates. Assembly Bill 1183 (2008) added Section 14105.191 to the Welfare and Institutions Code, requiring the California Department of Health Care Services (DHCS) to implement a one or five percent provider payment reduction (depending on the provider type) for dates of service on or after March 1, 2009. These reductions will replace the 10 percent provider payment reduction under Welfare and Institutions Code 14105.19, effective for the period from July 1, 2008, through and including February 28, 2009.

The one percent payment reduction will apply to Medi-Cal fee-for-service benefits rendered by any provider authorized to bill for the provision of the benefit, including, but not limited to, the following providers:

- Physicians
- Podiatrists
- Nurse Practitioners
- Certified Nurse Midwives
- Nurse Anesthetists
- Organized Outpatient Clinics
- Hospital Outpatient Departments
- Allied Health Providers
- Dentists
- Vision Care

In addition, payments for services provided under the non Medi-Cal programs listed below will be reduced by one percent:

- California Children's Services
- Genetically Handicapped Persons Program
- State Only Family Planning Program
- Child Health and Disability Program

The five percent payment reduction will apply to the following providers:

- Intermediate Care Facilities (Nursing Facilities — Level A)
- Distinct Part Skilled Nursing Facilities
- Distinct Part Subacute Care Units
- Distinct Part Pediatric Subacute Care Units
- Adult Day Health Care Centers
- Pharmacies

Services, facilities, and payments exempted from the provider payment reductions pursuant to Section 14105.191 of the Welfare and Institutions Code, are as follows:

- Contracted acute hospital inpatient services
- Federally Qualified Health Center services
- Rural Health Clinic Services
- Long Term Care Facilities, including:

- Freestanding skilled nursing facilities
- Intermediate care nursing facilities for the developmentally disabled
- Freestanding subacute care units of skilled nursing facilities
- Facilities owned or operated by the State Department of Mental Health or the State Department of Developmental Services
- Hospice services
- Contract services designated by the Director of DHCS
- Payments to providers to the extent the payments are funded by means of a certified public expenditure or intergovernmental transfer
- Services pursuant to local assistance contracts and interagency agreements to the extent the funding is not included in the funds appropriated to DHCS
- Payments for Medi-Cal managed care plans for services to consumers transitioning from Agnews Developmental Center into specified counties
- Breast and Cervical Cancer Treatment Program and Cancer Detection Programs: Every Woman Counts
- Family Planning: Access, Care, and Treatment (Family PACT) Waiver Program
- Small and Rural Hospitals

Payments for Medi-Cal fee-for-service benefits, other than those specifically identified above as exempt or that are subject to the five percent reduction, are subject to the one percent provider payment reduction. The required reductions will apply to services rendered by any provider authorized to bill for the service.

The reductions described above will not apply to payments for services paid with funds appropriated to other departments or agencies.

Reductions in payments for services provided by hospitals that do not contract with DHCS under the Selective Provider Contracting Program (Welfare and Institutions Code, Section 14081 et seq.) are set forth in Welfare and Institutions Code, Section 14166.245. These reductions were implemented beginning on October 1, 2008.

PUBLIC REVIEW AND COMMENTS

The California statutes discussed above are available for public review at local county welfare offices throughout the State. Written comments (or requests for copies of the statutes) may be submitted to: Linda Machado, Chief, Professional Provider Unit; Department of Health Care Services; Medi-Cal Benefits, Waivers

Analysis, and Rates Division; MS 4612; P.O. Box 997413; Sacramento, CA 95899-7413.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

PUBLIC MEETING: On **April 16, 2009**, at 10:00 a.m. in The Auditorium of the State Resources Building, 1416 9th Street, Sacramento, California 95814.

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

BUSINESS

MEETING: On **April 16, 2009**, following the Public Meeting, in The Auditorium of the State Resources Building, 1416 9th Street, Sacramento, California 95814.

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

DISABILITY ACCOMMODATION NOTICE

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

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-

Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

CALIFORNIA ENVIRONMENTAL PROTECTION
AGENCY OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT

Notice to Interested Parties
February 27, 2009

Announcement of Availability of Two Documents

Development of a Reference Dose (RfD) for
Methamphetamine
and

Assessment of Children's Exposure to Surface
Methamphetamine Residues in Former Clandestine
Methamphetamine Labs, and Identification of a
Risk-Based Cleanup Standard for Surface
Methamphetamine Contamination

The Office of Environmental Health Hazard Assessment (OEHHA) has released two final documents on methamphetamine, *Development of a Reference Dose (Rfd) for Methamphetamine* and *Assessment of Children's Exposure to Surface Methamphetamine Residues in Former Clandestine Methamphetamine Labs, and Identification of a Risk-Based Cleanup Standard for Surface Methamphetamine Contamination*. These two documents were first released in December of 2007 for public review and comment and for discussion at public workshops in January 2008. The documents also went through a peer review process mandated in Health and Safety Code Section 57004. OEHHA has responded to all comments provided by the public and by the external peer reviewers and released the documents again on December 26, 2008, for a final public review and comment period. The final documents each have a section on responses to comments received that describe any changes made.

Under the provision of the Health and Safety Code Section 25400.16(c), the Department of Toxic Sub-

stances Control (DTSC), in consultation with OEHHA, is required to develop a health-based target remediation standard for surface methamphetamine contamination in residences that were used to illegally manufacture methamphetamine.

The final documents, developed by OEHHA, will form the basis for the standard that is intended to ensure safe human re-occupancy of a residence. Please refer to http://www.oehha.ca.gov/public_info.html to access the final reports and other specific information regarding OEHHA's reports.

**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# 2008-1231-02
BOARD OF BARBERING AND COSMETOLOGY
Esthetician Curriculum Regulations

The Bureau of Barbering and Cosmetology (the Bureau; formerly the Board of Barbering and Cosmetology) has made substantial revisions to its existing regulation on skin care (esthetician) curriculum.

Title 16
California Code of Regulations
AMEND: 950.3
Filed 02/11/2009
Effective 03/13/2009
Agency Contact: Kevin Flanagan (916) 575-7104

File# 2008-1230-01
CALIFORNIA GAMBLING CONTROL
COMMISSION
Statewide Involuntary Exclusion List

This action implements section 19844 of the Business and Professions Code, providing a procedure for the creation of a list of persons who are to be excluded from all gambling establishments on the basis that they pose a threat to the interests of the State of California or controlled gambling and a procedure to afford excluded persons an administrative review of exclusion decisions.

Title 4
California Code of Regulations
ADOPT: 12362
Filed 02/13/2009
Effective 03/15/2009
Agency Contact: James Allen (916) 263-0700

File# 2009-0102-01
**CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD**
Gas Monitoring and Control Compliance Deadlines
Existing section 20921 of title 27 of the California Code of Regulations contains compliance deadlines for active disposal sites to fully implement a landfill gas monitoring and control program. This regulatory action adjusts the compliance deadlines to provide additional time.

Title 27
California Code of Regulations
AMEND: 20921
Filed 02/18/2009
Effective 02/18/2009
Agency Contact: Robert Holmes (916) 341-6376

File# 2009-0202-02
**CALIFORNIA POLLUTION CONTROL
FINANCING AUTHORITY**
California Capital Access Program for Small Business
This rulemaking amends the California Capital Access Program for small businesses by adopting the statutory definitions of certain terms, by allowing for the discontinuation of a financial institution's participation in the program for providing false or misleading information to the Authority, by excluding from the statutory maximums the fees paid by Independent Contributors, and by creating Preferred Lender status for certain qualifying financial institutions.

Title 4
California Code of Regulations
ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078
Filed 02/11/2009
Effective 02/11/2009
Agency Contact: Aaron Todd (916) 654-5740

File# 2009-0209-01
COMMISSION ON TEACHER CREDENTIALING
Multiple and Single Subject Credential Requirements
This rulemaking creates application and eligibility criteria and procedures for two extensions of time for preliminary teaching credentials to enable credential holders to complete clear credential requirements. One extension is for two years and is for those whose preliminary credentials have expired or are about to expire but

the credential holders have found employment. The second is for three years and is for those whose preliminary credentials have expired or are about to expire and they have not found employment. The rulemaking also incorporates by reference several forms in connection with the credential extension application process.

Title 5
California Code of Regulations
AMEND: 80413, 80487
Filed 02/17/2009
Effective 02/17/2009
Agency Contact:
Terri H. Fesperman (916) 323-5777

File# 2009-0211-03
DEPARTMENT OF FOOD AND AGRICULTURE
Mediterranean Fruit Fly Interior Quarantine
This emergency regulatory action will expand the existing quarantine area for the Mediterranean fruit fly by approximately 59 square miles surrounding the Spring Valley area in San Diego County.

Title 3
California Code of Regulations
AMEND: 3406(b)
Filed 02/13/2009
Effective 02/13/2009
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2009-0205-02
**DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT**
Re-adoption of Ignition Resistance Construction System within Wildland-Urban Interface
This is a readopt of an emergency regulatory action that incorporates by reference the new OSFM building standards (Title 24, California Building Code, Part 2, Chapter 7A) recently approved by the California Building Standards Commission and applies them to manufactured homes, mobilehomes, multifamily manufactured housing, and commercial modulars built or installed in a Wildland-Urban Interface Fire Area. This will provide minimum standards for the design, materials and construction methods for roofs, roof coverings, roof assemblies, attic eaves and cornice vents, and exterior wall coverings for manufactured homes, mobilehomes, multifamily manufactured housing, or commercial modulars in order to resist the intrusion of flame or burning embers projected by a vegetation fire on or into these structures in the same manner as conventionally constructed structures. These regulations also establish requirements for third-party approval of design plans for ignition resistant construction systems and third-party inspections in the manufacturing facili-

ty, and establish requirements for Department approval of the design and construction of the ignition resistant construction system if the structure has already left the manufacturing facility.

Title 25
California Code of Regulations
ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
Filed 02/11/2009
Effective 02/25/2009
Agency Contact: Ruth Ibarra (916) 327-2796

File# 2009-0107-02
DEPARTMENT OF JUSTICE
Statewide Registry of Private Conservators, Guardians and Trustees

Department of Justice (Department) proposed this action without regulatory effect to repeal title 11, division 1, chapter 4.1 of the California Code of Regulations, the Department's regulations implementing the statewide registry of private conservators, guardians, and trustees pursuant to Probate Code sections 2850-2856. Probate Code section 2856 was amended by Stats. 2006, ch. 491, sec. 7 to repeal all statutory authority for the statewide registry effective 1/1/2009.

Title 11
California Code of Regulations
REPEAL: 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327
Filed 02/18/2009
Agency Contact:
Dennis M. Eagan (510) 622-2156

File# 2009-0116-05
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Powered Industrial Trucks — Seat Belts and Signaler

This rulemaking adds a requirement that trucks, trailers, and railcars boarded by powered industrial trucks be secured as specified in referenced regulations. It adds a requirement that employers establish and enforce systems to prevent trucks, trailers, and railcars from pulling away from loading docks before loading/unloading is complete. It adds manufacturing requirements for specified kinds of powered industrial trucks manufactured after the effective date (March 15, 2009) of these rules by reference to incorporated ANSI, NFPA, or UL Safety Standards. It also adds a requirement that when a powered industrial truck comes equipped with an operator restraint system, such as a seatbelt, that the system must be used.

Title 8
California Code of Regulations

AMEND: 3336, 3650, 3653
Filed 02/13/2009
Effective 03/15/2009
Agency Contact: Marley Hart (916) 274-5721

File# 2009-0107-03
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Replace Graphics

This is a nonsubstantive action replacing older graphics with newer, redrawn graphics to improve visual clarity and readability.

Title 8
California Code of Regulations
AMEND: 3664, 3732, 3737, 3944, 4186, 4307.1, 4345, 4353, 4354
Filed 02/18/2009
Agency Contact: Marley Hart (916) 274-5721

File# 2009-0130-02
STATE PERSONNEL BOARD
Hearings and Appeals

The State Personnel Board has approved revisions to Title 2, section 51.3. This regulatory action is exempt from the APA pursuant to Government Code section 18211.

Title 2
California Code of Regulations
AMEND: 51.3
Filed 02/17/2009
Effective 03/19/2009
Agency Contact:
Dorothy Bacskai Egel (916) 653-1403

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN September 17, 2008 TO
February 18, 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 1
01/20/09 AMEND: 260
01/20/09 AMEND: Appendix A, Std. Form 400
Title 2
02/17/09 AMEND: 51.3
02/02/09 AMEND: 18402, 18450.3

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 9-Z

01/30/09 ADOPT: 18427.5
01/30/09 ADOPT: 18421.8, 18521.5 AMEND:
18401
01/27/09 AMEND: 2294
01/26/09 AMEND: 1859.104.1
01/21/09 ADOPT: 1859.184.1 AMEND: 1859.2,
1859.103, 1859.184
01/12/09 AMEND: div. 8, ch. 24, secs. 45100,
45127, 45128
01/08/09 ADOPT: 18420.1
01/08/09 ADOPT: 18944.3 AMEND: 18944.1
12/30/08 AMEND: 714
12/29/08 ADOPT: 2298
12/15/08 AMEND: 17463, 17470, 17519
12/09/08 ADOPT: 25100
12/08/08 AMEND: 1700
11/03/08 AMEND: 647.1, 647.2, 647.3, 647.20,
647.20.1, 647.21, 647.22, 647.23,
647.24, 647.25, 647.26, 647.30, 647.31,
647.32, 647.33, 647.35, 647.36, 648.1,
648.3, 648.5, 649.20, 649.21
10/31/08 AMEND: 18545, 18703.4, 18730,
18940.2, 18942.1, 18943
10/31/08 ADOPT: 18402.1 AMEND: 18427
10/22/08 ADOPT: 59600
10/21/08 ADOPT: 1859.41.1, 1859.42.1 AMEND:
1859.2, 1859.41, 1859.42, 1859.43,
1859.51, 1859.147, Form SAB 50-01,
Form SAB 50-03
10/20/08 ADOPT: 20120, 20121, 20122, 20123,
20124, 20125, 20126, 20127

Title 3

02/13/09 AMEND: 3406(b)
02/10/09 AMEND: 3060.4(a)(1)(C)(1), 3652(k)
02/05/09 AMEND: 3434(b)
02/02/09 AMEND: 3406(b)
01/21/09 ADOPT: 3591.22(a), 3591.22(b),
3591.22(c), 3591.22(d)
01/21/09 ADOPT: 3591.21(a), 3591.21(b),
3591.21(c)
01/20/09 REPEAL: 3664, 3665, 3666, 3667, 3668,
3669
01/14/09 AMEND: 3434(b)
01/13/09 AMEND: 3434(b)
01/12/09 AMEND: 3589(a)
12/30/08 AMEND: 3417(b)
12/18/08 AMEND: 3417(b)
12/18/08 AMEND: 3406(b)
12/16/08 AMEND: 1358(b)
12/12/08 AMEND: 3434(b)
12/10/08 AMEND: 3589
12/04/08 AMEND: 3435(b)
11/26/08 AMEND: 3406(b)
11/20/08 ADOPT: 6400

11/12/08 AMEND: 3591.5(a)
11/12/08 AMEND: 3434(b)
11/07/08 AMEND: 3433(b)
10/30/08 ADOPT: 1430.142 AMEND: 1430.43
REPEAL: 1430.44.5
10/29/08 AMEND: 3435(b)
10/28/08 ADOPT: 3408
10/22/08 AMEND: 3700(c)
10/20/08 AMEND: 3433(b)
10/20/08 AMEND: 3434(b)
10/17/08 AMEND: 3423(b)
10/15/08 AMEND: 3433(b)
10/14/08 AMEND: 3434(b)
10/14/08 AMEND: 3423(b)
10/01/08 AMEND: 3434(b)
09/24/08 AMEND: 810.1 REPEAL: 810
09/23/08 AMEND: 3591.20(a)
09/23/08 AMEND: 3434(b)
09/18/08 AMEND: 3591.20(a)
09/17/08 AMEND: 3435(b)

Title 4

02/13/09 ADOPT: 12362
02/11/09 ADOPT: 8078.1 AMEND: 8070, 8072,
8076, 8078
01/13/09 ADOPT: 4027, 4027.1, 4027.2, 4027.3,
4027.4, 4027.5
12/29/08 AMEND: 12482
11/24/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3,
8102.4, 8102.5, 8102.6, 8102.7, 8102.8,
8102.9, 8102.10, 8102.11, 8102.12,
8102.13, 8102.14, 8102.15 AMEND:
8090, 8091, 8092, 8093, 8094, 8095,
8096, 8097, 8098, 8099, 8100, 8101
11/17/08 AMEND: 1505
10/30/08 AMEND: 1606
10/16/08 ADOPT: 12047, 12048, 12050, 12348
AMEND: 12002
10/03/08 ADOPT: 12008 AMEND: 12122,
12200.14, 12200.20, 12202, 12203A,
12203.2, 12205.1, 12218.13, 12220.14,
12220.20, 12220.20A, 12222, 12237,
12301, 12342, 12343, 12344, 12345
09/29/08 AMEND: 1843.2

Title 5

02/17/09 AMEND: 80413, 80487
02/04/09 ADOPT: 9800, 9810, 9820, 9830
01/20/09 ADOPT: 9517.1
01/05/09 AMEND: 80004
12/09/08 ADOPT: 18131.1 AMEND: 18131
11/06/08 AMEND: 42723
10/17/08 ADOPT: 100000, 100001, 100002,
100003, 100004, 100005, 100006,
100007, 100008, 100009, 100010,

	100011, 100012, 100013, 100014, 100015		10233, 10236, 10240, 10241, 10243, 10244, 10245, 10246, 10250, 10250.1, 10251, 10253, 10253.1, 10254, 10256, 10260, 10270, 10271, 10272, 10273, 10275, 10280, 10281, 10290, 10291, 10293, 10294, 10294.5, 10295, 10296, 10297 AMEND: 10252, 10252.1 REPEAL: 10250
10/14/08	ADOPT: 42729		
Title 8			
02/18/09	AMEND: 3664, 3732, 3737, 3944, 4186, 4307.1, 4345, 4353, 4354		
02/13/09	AMEND: 3336, 3650, 3653		
02/09/09	AMEND: 3231, 3277, Appendix B Following Section 3299, Appendix A following Section 3326, 3340, 3341, 3575, Appendices A, B, C, D, E, F, G following Section 3583	11/17/08	ADOPT: 10150.1, 10150.2, 10150.3, 10150.4, 10151, 10151.1, 10166.1 AMEND: 10150, 10160, 10160.1, 10160.5, 10161, 10161.1, 10162, 10164, 10165, 10166, 10167 REPEAL: 10168
01/29/09	AMEND: 4994		
01/28/09	AMEND: 4999	11/17/08	ADOPT: 10397, 10403, 10409, 10508, 10550, 10593, 10603, 10629, 10770.5, 10770.6, 10782, 10785, 10844, 10845 AMEND: 10301, 10302, 10324, 10346, 10400, 10410, 10411, 10412, 10450, 10500, 10505, 10507, 10510, 10541, 10561, 10589, 10608, 10616, 10626, 10750, 10751, 10753, 10754, 10755, 10770, 10779, 10840, 10842, 10843, 10846, 10848, 10850, 10860, 10865, 10866, 10946, 10950, 10953 REPEAL: 10306, 10308, 10347, 10390, 10391, 10392, 10395, 10396, 10414, 10415, 10416, 10417, 10514, 10520, 10548, 10555, 10563, 10590, 10591, 10592, 10610, 10630, 10758, 10762, 10771, 10867, 10890, 10952, 10955, 10957, 10995, 10996
01/20/09	AMEND: Appendix B following sections 1529, 5208, 8358		
01/15/09	AMEND: 2500.7		
01/13/09	ADOPT: 29, 31.1, 31.3, 31.7, 32.6, 36.5, 41.5, 41.6, 41.7, 63, 120, 121, 122, 123, 124 AMEND: 1, 10, 11, 11.5, 12, 13, 14, 15, 16, 17, 18, 19, 20, 30, 30.5, 31, 31.5, 32, 33, 34, 35, 35.5, 36, 38, 39, 39.5, 40, 41, 43, 44, 45, 46, 46.1, 47, 49, 49.2, 49.4, 49.6, 49.8, 49.9, 50, 51, 52, 54, 55, 56, 57, 60, 61, 62, 65, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159 REPEAL: 10.5, 32.5, 37, 53, 70, 71, 72, 73, 74, 75, 76, 76.5, 77, 101, 114, 115		
12/22/08	ADOPT: 16404, 16430, 16435.5 AMEND: 16421, 16422, 16423, 16424, 16425, 16426, 16427, 16428, 16429, 16431, 16432, 16434, 16435, 16436, 16437, 16439	11/12/08	AMEND: 15600, 15601, 15602, 15603, 15604, 15605, 15606, 15607, 15611
12/02/08	AMEND: 2940.6, Appendix C	11/06/08	AMEND: 2540.8, 2540.9, 2548.23, 2719, 2740, 2741, 2880, 2980
12/01/08	AMEND: 5198(f)(2)(A)	10/01/08	AMEND: 3412, 3413, 3414, 3416
11/19/08	AMEND: 1658(p)	09/23/08	AMEND: 5155
11/17/08	ADOPT: 10116, 10116.1, 10116.2, 10116.3, 10116.5, 10116.6, 10116.7, 10116.8 AMEND: 10123.1 renumbered to 10116.4, 10001 renumbered to 10116.9, 10002 renumbered to 10117, 10003 renumbered to 10118, 10004 renumbered to 10119, 10005 renumbered to 10120, 10123, 10127, 10127.1, 10128, 10133.13, 10133.14, 10133.16, 10133.22, 10133.53, 10133.54, 10133.55, 10133.56, 10133.57, 10133.58 REPEAL: 10133.3, 10133.50	09/22/08	ADOPT: 1530.1
11/17/08	ADOPT: 10210, 10211, 10212, 10213, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10227, 10228, 10229, 10230, 10232, 10232.1, 10232.2,	09/17/08	AMEND: 1512
		Title 9	
		02/06/09	ADOPT: 4000, 4005
		01/07/09	AMEND: 7400
		11/18/08	ADOPT: 9550
		Title 10	
		02/05/09	ADOPT: 2308.1, 2308.2, 2308.3
		01/15/09	AMEND: 2699.6707, 2699.6711, 2699.6721, 2699.6723, 2699.6725, 2699.6809
		01/14/09	AMEND: 2698.100, 2698.200, 2698.201, 2698.206, 2698.300, 2698.301
		01/12/09	AMEND: 2498.5
		12/31/08	ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55
		12/02/08	AMEND: 2652.1

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 9-Z

11/12/08 AMEND: 2498.4.9
 11/12/08 AMEND: 2498.4.9
 11/07/08 AMEND: 2498.5
 11/03/08 AMEND: 2498.5
 09/22/08 AMEND: 2699.6500, 2699.6803,
 2699.6805

Title 11

02/18/09 REPEAL: 313, 314, 315, 316, 317, 318,
 319, 320, 321, 322, 323, 324, 325, 326,
 327
 02/03/09 ADOPT: 64.7
 01/28/09 AMEND: 51.19
 12/31/08 AMEND: 1005(d)
 12/02/08 AMEND: 1005, 1007, 1008
 11/07/08 AMEND: 1005, 1081
 10/27/08 AMEND: 1005, 1007, 1008, 1052
 10/16/08 AMEND: 1081
 10/14/08 AMEND: 1005
 10/02/08 AMEND: 1003, 9040, 9041, 9073(b)
 10/02/08 AMEND: 1081
 09/23/08 ADOPT: 44.3

Title 12

01/27/09 AMEND: 501
 01/12/09 AMEND: 503

Title 13

02/05/09 ADOPT: 20.05 AMEND: 20.04
 02/05/09 AMEND: 25.08
 01/20/09 AMEND: 2700, 2701, 2702, 2703, 2704,
 2705, 2706, 2708, 2709, 2710
 12/22/08 AMEND: 553.70
 12/05/08 AMEND: 110.04
 12/01/08 AMEND: 1956.8
 11/24/08 ADOPT: 2027
 11/03/08 AMEND: 25.06, 25.07, 25.08, 25.09,
 25.10, 25.14, 25.15, 25.16, 25.17, 25.18,
 25.19, 25.20, 25.21, 25.22
 10/20/08 ADOPT: 346.00, 346.02, 346.04, 346.06,
 346.08, 346.10, 346.12, 346.14, 346.16
 10/07/08 AMEND: 935
 10/02/08 AMEND: 423.00
 10/02/08 AMEND: 15.00, 15.03

Title 13, 17

12/03/08 AMEND: 2299.3, 93118.3
 10/20/08 ADOPT: 2299.5, 93118.5

Title 14

01/28/09 AMEND: 701
 01/13/09 AMEND: 300
 01/12/09 ADOPT: 4970.00, 4970.01, 4970.02,
 4970.03, 4970.04, 4970.05, 4970.06.1,
 4970.06.2, 4970.06.3, 4970.07,
 4970.07.1, 4970.07.2, 4970.08, 4970.09,
 4970.10, 4970.10.1, 4970.10.2,
 4970.10.3, 4970.10.4, 4970.11, 4970.12,
 4970.13, 4970.14, 4970.14.1, 4970.14.2,

4970.14.3, 4970.15, 4970.15.1,
 4970.15.2, 4970.15.3, 4970.15.4,
 4970.16, 4970.17, 4970.18, 4970.19,
 4970.19.1, 4970.19.2, 4970.19.3,
 4970.19.4, 4970.19.5, 4970.19.6,
 4970.20, 4970.21, 4970.22, 4970.23,
 4970.23.1, 4970.23.2, 4970.24,
 4970.25.1, 4970.25.2, 4970.25.3,
 4970.26 REPEAL: 4970.49, 4970.50,
 4970.51, 4970.52, 4970.53, 4970.54,
 4970.55, 4970.56, 4970.57, 4970.58,
 4970.59, 4970.60, 4970.61, 4970.62,
 4970.63, 4970.64, 4970.65, 4970.66,
 4970.67, 4970.68, 4970.69, 4970.70,
 4970.71, 4970.72
 12/31/08 AMEND: 957 REPEAL: 957.11, 957.12
 12/29/08 AMEND: 243, 245 REPEAL: 241
 12/17/08 ADOPT: 1032 AMEND: 895, 895.1,
 929.1, 949.1, 969.1, 1032.7, 1032.9,
 1037.3, 1054.5, 1055.3, 1056.3, 1090.1,
 1090.2, 1090.4, 1090.6, 1090.17,
 1092.03, 1092.04, 1092.06, 1092.18,
 1104.3 REPEAL: 1032
 12/11/08 AMEND: Division 5, Appendix M
 12/10/08 ADOPT: 120.1, 120.2 AMEND: 120,
 120.3 REPEAL: 120.01
 11/26/08 AMEND: 1257
 11/24/08 AMEND: 749.3
 11/13/08 ADOPT: 18660.40
 11/07/08 AMEND: 895.1, 919.9, 939.9
 11/07/08 AMEND: 1038(i)
 11/07/08 AMEND: 895.1, 898, 914.8, 916, 916.2,
 916.9, 916.11, 916.12, 923.3, 923.9,
 934.8, 936, 936.2, 936.9, 936.11, 936.12,
 943.3, 943.9, 954.8, 956, 956.2, 956.9,
 956.11, 956.12, 963.3, 963
 10/30/08 AMEND: 29.85
 10/23/08 AMEND: 163, 164
 10/22/08 AMEND: 1052.4
 10/21/08 AMEND: 15387 Appendix C
 10/09/08 AMEND: 791, 791.7, 795
 09/22/08 AMEND: 4900 REPEAL: 4901, 4902,
 4903, 4904

Title 15

02/05/09 ADOPT: 3077, 3077.1, 3077.2, 3077.3,
 3077.4 AMEND: 3000, 3043.6, 3375
 02/02/09 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
 12/19/08 REPEAL: 4826, 4985
 12/16/08 ADOPT: 3099
 12/15/08 ADOPT: 3334 AMEND: 3000

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 9-Z

12/11/08 AMEND: 3323
 12/09/08 AMEND: 3000, 3001, 3041.3, 3075.3, 3294.5, 3356, 3369.5, 3370, 3376.1, 3382, 3383, 3393, 3401, 3402, 3405, 3406, 3407, 3408, 3410, 3411, 3414, 3430, 3432, 3433
 11/26/08 ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792
 10/30/08 AMEND: 3000, 3375, 3376.1, 3379
 10/28/08 ADOPT: 3999.7
 10/23/08 ADOPT: 1417 AMEND: 1029, 1206, 1248, 1357, 1358, 1461
 10/15/08 ADOPT: 3999.6

Title 16

02/11/09 AMEND: 950.3
 02/03/09 ADOPT: 2068.7
 01/28/09 AMEND: 950.2
 01/28/09 ADOPT: 1832.5
 01/09/09 ADOPT: 2504.1, 2517.5, 2564.1, 2575.5
 AMEND: 2537, 2540.6, 2590, 2592.6
 12/30/08 AMEND: 1387
 12/18/08 AMEND: 3340.28, 3340.29
 12/17/08 AMEND: 4170
 12/11/08 AMEND: 1336
 12/09/08 AMEND: 1399.25 REPEAL: 1399.26
 11/24/08 AMEND: 1419, 1419.1, 1419.3
 10/30/08 AMEND: 1399.571
 10/17/08 ADOPT: 1399.610, 1399.612 AMEND: 1399.502
 10/07/08 AMEND: 832.47
 10/02/08 AMEND: 3351.2
 09/29/08 AMEND: 2522, 2524, 2579, 2579.10
 REPEAL: 2522.5, 2579.1
 09/22/08 AMEND: 4154, 4155
 09/19/08 AMEND: 11.5, 12, 12.5, 37, 87.1

Title 17

02/03/09 ADOPT: 100701
 01/29/09 ADOPT: 33060 AMEND: 33007, 33010, 33020, 33025, 33030, 33040
 01/28/09 AMEND: 950.2
 01/28/09 ADOPT: 1832.5
 12/30/08 AMEND: 30195.1
 12/26/08 ADOPT: 100501
 12/02/08 ADOPT: 95100, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, 95112, 95113, 95114, 95115, 95125, 95130, 95131, 95132, 95133
 10/30/08 AMEND: 100407, 100408
 09/24/08 AMEND: 52082, 56103, 56104, 58670

09/18/08 ADOPT: 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, 94809, 94810

Title 18

02/05/09 AMEND: 1620
 01/02/09 AMEND: 1702.5
 12/01/08 AMEND: 1602.5
 11/14/08 AMEND: 1591, 1602
 09/24/08 AMEND: 1574
 09/24/08 AMEND: 1599

Title 19

11/14/08 AMEND: 2900, 2910, 2915, 2920, 2930, 2940, 2945, 2950, 2955, 2960, 2965, 2966, 2970, 2980
 09/24/08 AMEND: 560
 09/24/08 AMEND: 906.3

Title 21

11/26/08 AMEND: 6633.2

Title 22

02/04/09 ADOPT: 66260.201, 66260.202, 66273.7, 66273.33.5, 66273.41, 66273.70, 66273.71, 66273.72, 66273.73, 66273.74, 66273.75, 66273.76, and 66273.77 AMEND: 66260.10, 66260.23, 66261.4, 66261.9, 66261.50, appendix X of chapter 11, 66264.1, 66265.1, 66273.1, 66273.2, 66273.3, 66273.4, 66273.5, 66273.6, 66273.8, 66273.9, 66273.30, 66273.31, 66273.32, 66273.33, 66273.34, 66273.35, 66273.36, 66273.37, 66273.38, 66273.39, 66273.40, 66273.51, 66273.52, 66273.53, 66273.54, 66273.55, 66273.56, 66273.60, 66273.61, 66273.62, and 67100.2 REPEAL: 6 6273.7.1, 66273.7.2, 66273.7.3, 66273.7.4, 66273.7.5, 66273.7.6, 66273.7.7, 66273.7.8, 66273.7.9, 66273.7.10, 66273.10, 66273.11, 66273.12, 66273.13, 66273.14, 66273.15, 66273.16, 66273.17, 66273.18, 66273.19, 66273.20, 66273.21, 66273.41, 66273.70, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, and 66273.90 Articles Affected: Amend article 3; Adopt new article 4; Renumber old article 4 to article 5; Renumber old article 5 to article 6; Repeal old article 6; Repeal old article 7 and adopt new article 7.

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 9-Z

01/29/09 AMEND: 97174
 01/28/09 AMEND: 41508, 41509, 41510, 41511, 41512, 41514, 41515, 41515.1, 41515.2, 41516, 41516.1, 41516.3, 41517, 41517.3, 41517.5, 41517.7, 41518, 41518.2, 41518.3, 41518.4, 41518.5, 41518.7, 41518.8, 41518.9, 41519, 41610, 41611, 41670, 41671, 41672, 41700, 41800, 41811, 41815, 41819, 41823, 41827, 41831, 41832, 41835, 41839, 41844, 41848, 41852, 41856, 41864, 41866, 41868, 41872, 41900, 42000, 42050, 42075, 42110, 42115, 42120, 42125, 42130, 42131, 42132, 42140, 42160, 42180, 42305, 42320, 42321, 42326, 42330, 42400, 42401, 42402, 42403, 42404, 42405, 42406, 42407, 42420, 42700, 42701, 42702, 42703, 42705, 42706, 42707, 42708, 42709, 42710, 42711, 42712, 42713, 42714, 42715, 42716, 42717, 42718, 42719, 42720 REPEAL: 42800, 42801
 01/26/09 AMEND: 51313.6, 51320, 51476, 51510, 51510.1, 51510.2, 51510.3, 51511, 51513, 51520 REPEAL: 51513.5, 51520.1, 51520.2, 59998
 01/23/09 AMEND: 51000.6.1, 51000.8, 51000.16, 51000.20, 51000.20.1, 51000.24.1, 51000.25.2, 51000.30, 51000.50, 51000.51, 51000.52, 51000.53, 51000.55, 51000.60
 01/22/09 ADOPT: 72038, 72077.1, 72329.1
 AMEND: 72077, 72329
 01/15/09 AMEND: 101115
 01/06/09 AMEND: 66270.60, 67450.30
 12/09/08 AMEND: 51521
 12/09/08 AMEND: 100031, 100032, 100033, 100034, 100035, 100036, 100037, 100038, 100039, 100040, 100042, 100043 REPEAL: 100041
 11/24/08 AMEND: 2706-1
 11/20/08 AMEND: 3254(i)-2
 11/13/08 ADOPT: 97234, 97267 AMEND: 97215, 97225, 97226, 97227, 97241, 97244, 97248
 11/06/08 AMEND: 2706-2, 3302-1, 3303.1(c)-1
 10/29/08 AMEND: 64413.1, 64414, 64431, 64432, 64432.2, 64432.8, 64433.3, 64445.1, 64447.2, 64482
 10/28/08 AMEND: 87102, 87105
 10/15/08 AMEND: 2051-3

09/26/08 AMEND: 3258-1, 3267-1, 3267-2

Title 23

02/03/09 AMEND: 3989
 01/07/09 ADOPT: 3939.34
 01/05/09 ADOPT: 3006
 12/09/08 ADOPT: 3939.33
 12/01/08 ADOPT: 3949.6
 11/06/08 AMEND: 2200, 2200.4, 2200.5, 2200.6
 11/06/08 ADOPT: 3939.32
 11/05/08 AMEND: 1062, 1064, 1077, 3833.1
 10/22/08 ADOPT: 3989.7
 10/14/08 AMEND: 3939.19
 10/06/08 AMEND: 3939.20
 09/17/08 ADOPT: 3919.4

Title 25

02/11/09 ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
 01/21/09 ADOPT: 1322, 1426, 2426 AMEND: 1000, 1002, 1004, 1005, 1006, 1018, 1020, 1020.1, 1020.6, 1032, 1183, 1210, 1211, 1212, 1216, 1312, 1320, 1333, 1429, 1432, 1438, 1468, 1474, 1504, 1612, 1752, 1756, 2002, 2004, 2005, 2006, 2018, 2183, 2210, 2211, 2212, 2216, 2312, 2327, 2429, 2438, 2474, 2504, 2612, 2752, 2756
 12/05/08 ADOPT: 7150, 7151, 7152, 7153, 7154, 7155, 7156, 7157, 7158, 7159, 7160
 10/08/08 AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A REPEAL: 4021, 4031.5, 4047, 4047.3, 4047.6, 4550, 4560, 4570, 4580, 4600, 4603, 4605, 4619, 4624, 4626, 4665, 4670, 4680, 4800, Appendix RV-P-1

Title 27

02/18/09 AMEND: 20921
 01/05/09 AMEND: 27001
 01/05/09 AMEND: 27000
 12/02/08 AMEND: 25805(b)

Title MPP

02/09/09 AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-182
 02/05/09 ADOPT: 40-037, 70-101, 70-102, 70-103, 70-104, 70-105 AMEND: 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201, 69-202, 69-205