



California Regulatory Notice Register

REGISTER 2006, NO. 17-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

APRIL 28, 2006

PROPOSED ACTION ON REGULATIONS

TITLE 02. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z06-0417-01

Multi-County: Fire Agencies Self Insurance System 503

TITLE 02. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z06-0417-02

Multi-County: Schools Association for Excess Risk 504

TITLE 02. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z06-0417-03

State Agency: Department of Technology Services 504

TITLE 08. DIVISION OF WORKERS' COMPENSATION

Administrative Penalties Pursuant to Labor Code Section 5814.6 — Notice File No. Z06-0418-02 505

TITLE 08. DIVISION OF WORKERS' COMPENSATION

Utilization Review Enforcement — Notice File No. Z06-0418-03 509

TITLE 08. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Railings and Stairways/Boom-Type Mobile Cranes — Notice File No. Z06-0412-01 511

TITLE 10. DEPARTMENT OF INSURANCE

Life and Annuity Consumer Protection — Notice File No. Z06-0417-04 518

TITLE 10. DEPARTMENT OF INSURANCE

Mileage Verification — Notice File No. Z06-0417-05 522

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Certification Criteria for Web-Based Training — Notice File No. Z06-0418-11 525

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

Conflict of Interest Code — Notice File No. Z06-0418-04 527

(Continued on next page)

***Time-
Dated
Material***

TITLE 16. BUREAU OF AUTOMOTIVE REPAIR	
<i>Consumer Assistance Program Eligibility — Notice File No. Z06-0418-01</i>	528
TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD	
<i>Assistants Eliminations Dual Licensure — Notice File No. Z06-0418-09</i>	531
GENERAL PUBLIC INTEREST	
AIR RESOURCES BOARD	
<i>Notice of Postponement (Notice Register, Register 2006, No. 14-Z, Technical Amendments to the Motor Vehicle Evaporative and Exhaust Emissions Test)</i>	533
DEPARTMENT OF FISH AND GAME	
<i>CESA Consistency Determination for Reclamation District 108 (RD 108) Poundstone Intake Consolidation and Positive Barrier, Fish Screen Project, Yolo and Colusa Counties</i>	533
DEPARTMENT OF FISH AND GAME	
<i>CESA Consistency Determination for San Francisco Marine Sand Miners, San Francisco Bay-Delta Estuary, Santa Clara County</i>	534
DEPARTMENT OF HEALTH SERVICES	
<i>Medi-Cal Long Term Care Quality Assurance Fee</i>	535
FISH AND GAME COMMISSION	
<i>(Continuation of California Notice Register 7-Z and 11-Z, No. Z05-0207-10 and Subsequent Date Change, and Meeting of April 7, 2006.)</i>	536
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	
<i>Health Advisory Cosumnes/Mokelumne River Fish</i>	539
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with the Secretary of State	539
Sections Filed, November 16, 2005 to April 19, 2006	541

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

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002-931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Thomson West and is offered by subscription for \$202.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. "Periodicals Postage Paid in Saint Paul, MN." **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Thomson-West/Barclays, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

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

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: Fire Agencies Self Insurance System

A written comment period has been established commencing on April 28, 2006, and closing on June 8, 2006. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, 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 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 or 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 or 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 pro-

posed conflict of interest code(s). Any written comments must be received no later than June 8, 2006. 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 Kevin S. Moen, 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 Kevin S. Moen, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

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: Schools Association for Excess Risk

A written comment period has been established commencing on April 28, 2006, and closing on June 12, 2006. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, 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 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 or 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 or 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 June 12, 2006. 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 Kevin S. Moen, 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 Kevin S. Moen, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

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 amended conflict of interest codes of the following agencies:

CONFLICT OF INTEREST CODE

ADOPTION

STATE AGENCY: Department of Technology Services.

A written comment period has been established commencing on **March 24, 2006**, and closing on **May 8, 2006**. Written comments should be directed to Adrienne Korchmaros, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed amendment to the conflict of interest code will be submitted to the Commission's Executive Director for 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 amendment will be submitted to the Commission for review.

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

The Executive Director or the Commission, upon his or her own motion or at the interest of any interested person, will approve, or revise and approve, or return the amendment 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 amendment to the conflict of interest code. Any written comments must be received no later than May 8, 2006. 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 code 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 Adrienne Korchmaros, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 08. DIVISION OF WORKERS' COMPENSATION

NOTICE OF PROPOSED RULEMAKING

Subject Matter of Regulations:
Administrative Penalties Pursuant to Labor Code § 5814.6

TITLE 8, CALIFORNIA CODE OF REGULATIONS
Sections 10225 et seq.

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 133 and 5814.6, proposes to adopt regulations within Article 1, Subchapter 1.8.1 to Chapter 4.5 of Title 8, California Code of Regulations, commencing with section 10225, relating to Administrative Penalties Pursuant to Labor Code § 5814.6.

PROPOSED REGULATORY ACTION

The Department of Industrial Relations, Division of Workers' Compensation, proposes to adopt regulations within Article 1, Subchapter 1.8.1 to Chapter 4.5 of Title 8, California Code of Regulations, commencing with section 10225, relating to Administrative Penalties Pursuant to Labor Code § 5814.6:

- Section 10225 Definitions
- Section 10225.1 Schedule of Administrative Penalties Pursuant to Labor Code § 5814.6
- Section 10225.2 Notice of Administrative Penalty Assessment, Appeal Hearing Procedures and Review

PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the subjects noted above, on the following dates:

- Date:** Thursday, June 29, 2006
- Time:** 10:00 a.m. to 5:00 p.m. or conclusion of business
- Place:** Elihu Harris State Building, Auditorium
1515 Clay Street,
Oakland, CA 94612

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

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

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on June 29, 2006**. The Department of Industrial Relations, Division of Workers' Compensation will consider only comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 p.m. on June 29, 2006**.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code sections 133, 5307.3 and 5814.6.

Reference is to Labor Code §§ 129.5, 139.48, 5300, 5814 and 5814.6.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Labor Code § 5814.6 requires the Administrative Director of the Division of Workers' Compensation to impose administrative penalties in amounts up to \$400,000 on employers or insurers who have knowingly and unreasonably delayed or refused payment of compensation to injured workers in violation of Labor Code § 5814 with a frequency that indicates a general business practice. Administrative penalties authorized under Labor Code § 5814.6 are alternatives to administrative penalties authorized under Labor Code § 129.5. All penalties collected must be deposited into the Work-

ers' Compensation Return-to-Work Fund established pursuant to Labor Code § 139.48, to promote the early and sustained return to work of employees following work-related injuries or illnesses.

These proposed regulations implement, interpret, and make specific these sections of the Labor Code as follows:

1. Section 10225

This proposed section defines key terms to ensure that their meaning within the regulations proposed for sections 10225.1 and 10225.2 will be clear to the workers' compensation community.

2. Section 10225.1

This proposed section provides that:

(a) Administrative penalties pursuant to Labor Code § 5814.6 may only be imposed after one or more penalty awards have been issued by a Workers' Compensation Administrative Law Judge based on violation(s) of Labor Code § 5814.

(b) The Administrative Director is authorized to conduct investigations and hearings necessary to discover a factual basis for determining that violations subject to Labor Code § 5814.6 have occurred, either independent of, or concurrently with, audits conducted pursuant to Labor Code §§ 129 and 129.5.

(c) The Administrative Director may utilize the provisions of Government Code §§ 11180 – 11191 regarding investigations and hearings in carrying out the responsibilities mandated by Labor Code § 5814.6.

(d) No penalty shall be based solely on conduct occurring before June 1, 2004.

(e) Penalty awards for violations based on conduct occurring on or after June 1, 2004 may be considered as evidence of a general business practice regardless of the date of injury.

(f) The Administrative Director may charge penalties under both Labor Code §§ 129.5 and 5814, however only one penalty may be imposed following the hearing on such charges.

(g) Penalties are specified for the following particular violations of Labor Code § 5814:

1. \$100,000 for a finding of knowing violation with a frequency indicating a general business practice;
2. \$30,000 for each finding by a Workers' Compensation Administrative Law Judge of failure to comply with an existing award;
3. \$1,000 to \$15,000, depending on duration, for delay in payment of temporary disability benefits;
4. \$1,000 to \$15,000, depending on severity, for each penalty award by a Workers' Compensation Administrative Law Judge for unreasonably denying authorization for treatment or failing to reimburse an employee for self-procured treatment;

5. \$2,500, for each penalty award by a Workers' Compensation Administrative Law Judge for failure to provide a notice or training voucher regarding a supplemental job displacement benefit in a timely manner;

6. \$1,000 for each penalty award by a Workers' Compensation Administrative Law Judge for failure to reimburse an injured worker for supplemental job displacement services, or where a failure to pay the training provided results in an interruption of training.

7. \$1,000 to \$15,000, depending on duration, for each penalty award by a Workers' Compensation Administrative Law Judge for failure to make timely payment of permanent disability benefits;

8. \$1,000 for each penalty award by a Workers' Compensation Administrative Law Judge for any other violation of Labor Code § 5814.

(h) The Administrative Director may adjust a penalty based on consideration of specified equitable factors.

(i) Each administrative penalty shall be doubled upon a second finding, and tripled upon a third finding under Labor Code § 5814.6 within a five-year period.

3. Section 10225.2

This proposed section specifies the administrative procedures to be followed in assessing penalties under Labor Code § 5814.6, including:

- Notice of penalty assessment
- Appeal from penalty assessment
- Discretionary prehearing conference
- Evidentiary hearing
- Recommended determination and order
- Final determination and order
- Petition to WCAB appealing final determination and order

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. The only entities subject to these administrative penalties are those who have knowingly and unreasonably delayed or refused compensation to injured workers with a frequency indicating a general business practice.
- Adoption of these regulations will not: (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses within the State of California, or (3) affect the expansion of businesses currently doing business in California.

- Effect on Housing Costs: None.
- Cost impacts on representative private persons or business: The proposed regulations will not have a significant adverse economic impact on representative private persons or directly affected businesses. The only entities subject to these administrative penalties are those who have knowingly and unreasonably delayed or refused compensation to injured workers with a frequency indicating a general business practice.

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations will not affect small businesses. The businesses that are subject to the Administrative Penalties Pursuant to Labor Code §5814.6 are insurers, self-insured employers (who must by regulation have substantial net worth and income) and third party administrators, all of whom do not qualify as “small business.”

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: The proposed regulations may impose costs on State agencies. (State government accounts for about 3% of the occupational injuries and illnesses.) Any such costs are, however, are non-reimbursable since the requirement on an employer to comply with California’s workers’ compensation laws is not unique to State agencies and applies to all employers alike, public and private. All penalties collected must be deposited into the Workers’ Compensation Return-to-Work Fund established pursuant to Labor Code § 139.48, to promote the early and sustained return to work of employees following work-related injuries or illnesses. The proposed regulations will not affect any federal funding.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. (See “Local Mandate” section above.)
- Other nondiscretionary costs/savings imposed upon local agencies: None. (See “Local Mandate” section above.)

CONSIDERATION OF ALTERNATIVES

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

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

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to Government Code § 11346.45, the text of the draft proposed regulations was made available for pre-regulatory public comment through the Division’s Internet message board (the DWC Forums).

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this notice, the rulemaking file consists of the notice, the initial statement of reasons, the proposed text of the regulations, pre-rulemaking comments, and the Form 399. Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division’s website at www.dir.ca.gov. To access them, click on the “Proposed Regulations — Rulemaking” link and scroll down the list of rulemaking proceedings to find the current “Administrative Penalties Pursuant to Labor Code § 5814.6” rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of

Workers' Compensation, 1515 Clay Street, Oakland, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON

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

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142
E-mail: mgray@dir.ca.gov

The telephone number of the contact person is (510) 286-7100.

BACKUP CONTACT/PERSON CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact persons:

Destie Overpeck (doverpeck@dir.ca.gov)
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The telephone number of the backup contact person is (510) 286-7100.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended will appear in Title 8, California Code of Regulations, commencing with section 10225.

TITLE 08. DIVISION OF WORKERS' COMPENSATION

NOTICE OF RULEMAKING

Workers' Compensation — Utilization Review Enforcement

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation (hereafter "Administrative Director"), proposes to adopt regulations to implement the provisions of Labor Code section 4610(i) governing the investigation and assessment of penalties for violations of the utilization review standards in workers' compensation claims, after considering all comments and recommendations regarding the proposed action. This action is taken pursuant to the authority vested in the Administrative Director by Labor Code sections 133, 4610 and 5307.3.

When adopted, the proposed regulations will constitute sections 9792.11 through 9792.15 of Article 5.5.1, Subchapter 1, Chapter 4.5, Division 1 of Title 8 of the California Code of Regulations. The regulations implement, interpret and make specific the manner in which the Administrative Director will exercise the authority under Labor Code section 4610(i) to assess penalties for violations of the utilization review standards described in the other subdivisions of section 4610 and in sections 9792.6 through 9792.10 of Title 8 of the California Code of Regulations.

PROPOSED REGULATORY ACTION

The Department of Industrial Relations, Division of Workers' Compensation proposes to adopt in Division

1, Article 5.5.1, Chapter 4.5, Subchapter 1, of title 8, California Code of Regulations, commencing with Section 9792.11:

- Section 9792.11 Investigation Procedures: Labor Code § 4610 Utilization Review Violations
- Section 9792.12 Penalty Schedule for Labor Code § 4610 Utilization Review Violations
- Section 9792.13 Assessment of Administrative Penalties — Penalty Adjustment Factors
- Section 9792.14 Liability for Penalty Assessments
- Section 9792.15 Administrative Penalties Pursuant to Labor Code § 4610 — Order to Show Cause, Notice of Hearing, Determination and Order and Review Procedure

PUBLIC HEARING

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

- Date:** Thursday, June 29, 2006
- Time:** 10:00 A.M. to 5:00 P.M., or until conclusion of business
- Place:** Elihu Harris State Office Building — Auditorium
1515 Clay Street
Oakland, California 94612

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

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

The Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their com-

ments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 P.M., on June 29, 2006**. The Division of Workers' Compensation will consider only comments received at the Division by that time. Equal weight will be accorded to comments presented at the hearing and to other written comments received by 5 P.M. on that date by the Division.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray
Regulations Coordinator
Division of Workers' Compensation, Legal Unit
P.O. Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 P.M. on June 29, 2006**.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code section 133, 4610 and 5307.3.

Reference is made to Labor Code Sections 129, 129.5, 4062, 4600, 4600.4, 4604.5, 4610, 4614, and 5300.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Labor Code section 4610(i) provides that if the Administrative Director of the Division of Workers' Compensation determines that an employer, insurer or other entity subject to the section has failed to meet any of the timeframes in section 4610 or has failed to meet any other requirement of the section, the Administrative Director may assess, by order, administrative penalties for each such failure. Subsection (i) also provides that a proceeding that provides the affected person or entity notice and an opportunity for a hearing on any such pro-

posed order assessing administrative penalties must be held. Also, the section provides that the administrative penalties allowed in the section “shall not be deemed to be an exclusive remedy” for the Administrative Director. Finally, the section directs that any penalties so assessed and collected must be deposited into the “Workers’ Compensation Administration Revolving Fund.”

Section 4610, enacted by SB 228 (Alarcon) [Stats. 2003, Ch. 639], became effective January 1, 2004.

The other subsections of Labor Code section 4610 set out the detailed requirements governing the utilization review process. Section 4610(b) requires each employer in California to have a utilization review process meeting the requirements of section 4610. Under section 4610, whenever the employer, its insurer or any other entity used by the employer or insurer, *modifies, delays or denies* requests, in whole or in part, from treating physicians for authorization for recommended medical treatment in workers’ compensation claims, that decision must be made and communicated within specified timelines and according to specified rules. The Administrative Director adopted regulations to make the rules governing the timelines and other requirements more specific. These regulations, found at sections 9792.6 through 9792.10 of Title 8 of the California Code of Regulations, were first adopted on an emergency basis on December 13, 2004 and became final regulations on September 22, 2005.

The regulations now proposed by the Administrative Director implement, interpret and make specific the manner in which administrative penalties for violations of these utilization review standards will be investigated, assessed and appealed, as follows:

1. Section 9792.11 Investigation Procedures: Labor Code § 4610 Utilization Review Violations

This section provides that the Administrative Director, or his or her designee, shall investigate the utilization review process of any employer, insurer or other entity subject to Labor Code section 4610 and it describes the types of files, records and other things and the places that the investigation may include.

The section explains that such an investigation may be done based on factual information or a complaint containing facts indicating the possible existence of a utilization review violation, or by selection of any claims administrator as part of an audit done pursuant to Labor Code sections 129 and 129.5. The section discusses other sources of authority the Administrative Director may use to conduct such investigations. It provides that the Administrative Director has discretion in deciding whether to conduct utilization review investigations separately or concurrently with claims file audits. It also provides that the section shall only apply to

investigations and actions that occur on or after August 1, 2006,

The section explains that administrative penalties may be assessed for both violations of Labor Code section 4610 and its implementing regulations, section 9792.6 through 9792.10 of Title 8 of the California Code of Regulations.

TITLE 08. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

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

PUBLIC MEETING: On **June 15, 2006**, at 10:00 a.m. in the Auditorium, State Resources Building, 1416 Ninth Street, Sacramento, California 95814.

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

PUBLIC HEARING: On **June 15, 2006**, following the Public Meeting in the Auditorium, State Resources Building, 1416 Ninth Street, Sacramento, California 95814.

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

BUSINESS MEETING: On **June 15, 2006**, following the Public Hearing in the Auditorium, State Resources Building, 1416 Ninth 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 accommoda-

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

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

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

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on June 15, 2006.

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 16, Section 1620; Article 17, Section 1626; and Article 18, Section 1629
Railings and Stairways
2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 93, Section 4920
Boom-Type Mobile Cranes

A description of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 16, Section 1620; Article 17, Section 1626; and Article 18, Section 1629
Railings and Stairways

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This proposed rulemaking is the result of two requests from the Division of Occupational Safety and Health (Division) which have been combined into a single proposal due to their inter-related subject matter.

Existing provisions in the Construction Safety Orders for railings/guardrails, stairwells, and stairways have been reviewed and found to be not at least as effective as corresponding Federal standards found in 29 CFR 1926.502(b), 1926.1051, and 1926.1052. The Occupational Safety and Health Standards Board (Board) therefore proposes to amend Title 8, Sections 1620, 1626, and 1629, as necessary, to be at least as effective as Federal standards.

This proposed rulemaking action contains numerous nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

Section 1620. Design of Temporary Railing.

Section 1620 contains design and construction criteria for railings required during construction. It is proposed to rename this section to “Design and Construction of Railings” to more accurately describe the subject matter. The effect of this modification will be to assist the regulated public in locating standards for guard railings used during construction.

Subsection 1620(a).

This existing subsection describes the materials and construction of railing components; i.e., top railings and mid-railings and their height above the floor, platform, runway or ramp level. It is proposed to divide this subsection into new subsections (a)(1) for top rails, and (a)(2) for mid-rails, and to relocate the description for “selected lumber” to a separate subsection (b). The effect of these modifications will be to clarify standards for railings used during construction.

Subsection 1620(b).

This existing subsection prescribes dimensions and spacing for wood posts. Modifications are proposed to

name subsection (b) “Wood railings” and to reorganize the existing provision to subsection (b)(2) due to the relocation of the description of “selected lumber” from subsection (a) to (b)(1) and a non-substantive reformatting to locate existing construction standards for wood railings [existing subsections (b), (c) and (d)] into subsection (b). The effect of these modifications will be to simplify compliance by grouping construction standards for wood railings.

Subsection 1620(c).

Existing subsection (c) prescribes construction standards for wooden top railings and mid-rails. The existing subsection is proposed to be relocated into new subsection (b)(3) in order to group construction standards for wood railings. This non-substantive relocation will have no regulatory effect.

Existing subsection (f) which prescribes strength requirements for railings will be modified and relocated to subsection (c) due to the consolidation of subsection (b) described above. Modifications to existing subsection (f) are described below.

Subsection 1620(c)(1).

This new subsection will provide that when the 200-pound test load of new subsection (c) is applied in a downward direction, the top edge of the guardrail shall not deflect to a height less than 39 inches above the walking/working level. The effect of this modification is to improve worker safety and to conform state standards to counterpart Federal OSHA standards [29 CFR 1926.502(b)(4)].

Subsection 1620(d).

Existing subsection (d) prescribes that top and mid-rails shall be placed on that side of the post which will afford the greatest support and protection. Existing subsection (d) is proposed to be relocated into new subsection (b)(4) in order to group construction standards for wood railings. This non-substantive relocation will have no regulatory effect.

A new subsection (d) is proposed which will be to prescribe strength requirements for mid-rails, screens, mesh, intermediate vertical members, solid panels, and equivalent structural members. The effect of this modification is to improve worker safety and to conform state standards to counterpart Federal OSHA standards [29 CFR 1926.502(b)(5)].

Subsection 1620(e).

The existing subsection (e) prescribed that light wood barrier members resting on barrels, boxes, or other makeshift supports should not be used as a railing substitute. The advisory committee determined that the existing provision was unnecessary, and since there was no counterpart federal standard, it is proposed for dele-

tion. The effect of this deletion is to streamline the standards.

Existing subsection (g) which prescribes construction standards for railings exposed to heavy stresses will be relocated into subsection (e) due to the consolidation in subsection (b) described above. Modifications to existing subsection (g) are described below.

Subsection 1620(f).

Existing subsection (f) specifies that guardrails shall be capable of withstanding a load of 13 pounds per linear foot applied either horizontally or vertically downward at the top rail. Existing subsection (f) is proposed to be modified and relocated to subsection (c). Modifications to existing subsection (f) will change the strength requirement to be capable of withstanding without failure, a force of at least 200 pounds applied within 2 inches of the top edge, in any outward or downward direction, at any point along the top edge. The relocation of subsection (f) is due to the consolidation of subsection (b) previously described. The effect of this modification will be to improve worker safety and to conform state standards to counterpart Federal OSHA standards [29 CFR 1926.502(b)(3)].

In the place of the relocated subsection (f), a new subsection (f) will prescribe that rail end overhang shall not constitute a projection hazard. The effect of this amendment is to improve worker safety and to provide equivalency with counterpart Federal OSHA standards [29 CFR 1926.502(b)(7)].

Subsection 1620(g).

The existing subsection specifies that railing receiving heavy stresses from employees trucking or handling materials shall be provided additional strength by the use of heavier stock, closer spacing of posts, bracing, or by other means. It is proposed to clarify by stipulating railings “exposed to” rather than “receiving” heavy stress and to relocate this subsection to (e). The effect of this modification is to clarify that additional strength is required for railing potentially subject to heavy stress, rather than just railing actually receiving heavy stress, and the relocation is due to the consolidation of subsection (b) described above. Existing subsection (h), described below, will be modified and relocated into subsection (g) due to the consolidation and modifications previously described.

Subsection 1620(h).

Existing subsection (h) prescribes standards for other types of railing construction. It is proposed to relocate this subsection to subsection (g) due to consolidation and modifications previously described. Furthermore, modifications are proposed to provide standards applicable to all types of railings other than wood railings, which are described in subsection 1620(b). The effect of these changes is to specify minimum strength stan-

dards for all types of railing construction for equivalency with Federal standards [29 CFR 1926.502(b)(3) and (b)(5)].

The substance of existing subsection (h)(3) is proposed to be relocated to subsection (f) to clarify that it applies to all types of railing construction, not just “other types.” The effect of the modification and relocation is to clarify the proper application of this standard.

Subsection 1620(i).

Existing subsection (i) prescribes that handrails not a permanent part of the structure being built shall have a minimum clearance of 3 inches between the handrail and walls or other objects. It is proposed to relocate this provision to subsection 1626(c)(11) for stair rails and stairs. The effect of this relocation is to locate standards in a logical manner.

Section 1626, Stairwells and Stairs.

Subsection 1626(a).

Existing subsection (a) contains requirements for the construction of stair hand railings. It is proposed to substantially modify these provisions to be equivalent with counterpart Federal OSHA standards and to relocate them to subsection (c). In their place, it is proposed to relocate standards for stairway width and construction from subsection 1629(a)(2) to Section 1626(a)(1) and standards for railings and toeboards from Section 1626(b) to Section 1626(a)(2). The new subsection (a)(2) will contain a clarification that railings and toeboards shall be constructed in accordance with Article 16. The effect of these relocations and modifications will be to put requirements for stairways in a more logical location, thus simplifying compliance.

Subsection 1626(b).

Existing subsection (b) prescribes that railings and toeboards shall be installed around stairwells. As previously noted, this provision is proposed to be clarified and relocated to subsection (a)(2). In its place a new subsection 1626(b) will contain requirements for all stairways which will provide equivalence with counterpart Federal standards. The effect of these modifications will be to clarify standards for stairways and stairwells and to provide equivalence with Federal standards [29 CFR 1926.1052(a)].

Subsection 1626(c).

Existing subsection (c) prescribes standards for stairway illumination. It is proposed to relocate these provisions to Section 1629(a)(7). In their place a new subsection 1626(c) will contain requirements for stair rails and handrails equivalent to counterpart Federal standards [29 CFR 1926.1052(c)]. The effect of these modifications will be to provide equivalence with Federal standards and to simplify compliance.

Subsection 1626(d).

Existing subsection (d) prescribes housekeeping for stairways. General housekeeping requirements, applicable to stairways, are already prescribed in Section 1513(a), and are thus eliminated as being unnecessary here.

In the place of housekeeping requirements, provisions for temporary construction use of pan-type and skeleton metal stairs currently contained in subsection 1626(f) are proposed to be relocated and modified for consistency with Federal standards. The effect of these modifications is to locate standards in a more logical manner and to provide equivalence with Federal standards [29 CFR 1926.1052(b)].

Subsection 1626(e).

Existing subsection (e) prescribes that open sides of stairs, landings, porches, balconies and similar locations shall be guarded with railings. Although not specifically relocated, portions of this requirement are already covered by Section 1621 and the remaining requirements of this subsection will effectively be provided by subsection 1626(b)(5). Thus this section becomes redundant, and therefore is proposed for deletion. The effect of this proposal will be to eliminate the duplication and simplify application of the standards.

Subsection 1626(f).

Existing subsection (f) prescribes temporary stair and landing treads. These provisions are proposed to be relocated to subsection 1626(d) with minor, non-substantive modifications for consistency with counterpart Federal OSHA standards [29 CFR 1926.1052(b)]. This formatting change will have no substantive effect.

Subsection 1626(g).

Existing subsection (g) prescribes that all parts of stairways, including the treads and landings, shall be free of hazardous projections, such as protruding nails, etc. This subsection is proposed to be relocated to subsection 1626(b)(7). This relocation will have no substantive effect.

Subsection 1626(h).

Existing subsection (h) prescribes that slippery conditions on stairways shall be eliminated. This subsection is proposed to be clarified and relocated to subsection 1626(b)(8). This relocation will have no substantive effect.

Section 1629, Stairways and Ladders.

Subsection 1629(a)(2).

Subsection (a)(2) prescribes standards for stairway width and construction. It is proposed to relocate these requirements to subsections 1626(a)(1) and (b)(1). The effect of these relocations will be to put requirements for stairways in a more logical location, thus simplifying compliance.

Subsection 1629(a)(2) Exception 1.

The existing exception provides that stairways 44 inches or less in width may have one handrail, except that stairways open on one or both sides shall have handrails provided on the open side or sides. It is proposed to delete this exception since it applies to subsection (a)(2) which is being relocated and since this subject will now be prescribed more clearly in new subsection 1626(c) which is based on counterpart Federal OSHA standard 29 CFR 1926.1052(c). The effect of this modification will be to clarify handrail requirements and to provide equivalency with Federal standards.

Subsection 1629(a)(2) Exception 2.

The existing exception 2 is for prefabricated metal scaffold stairway systems; however, because of its location, the intent of the exception is ambiguous. Since there is no corresponding Federal OSHA counterpart, the exception is proposed for deletion. The effect will be to clarify that for the purposes of Section 1629, scaffolds are not to be considered structures.

Subsection 1629(a)(4).

The existing subsection prescribes stairways for building access and exit. The last sentence of the existing subsection provides that where two stairways are provided and work is being performed in the stairways, one stairway shall be maintained clear for access between levels at all times. It is proposed to relocate this last sentence to a new subsection (a)(4)(B), and it is also proposed to add a new subsection (a)(4)(A) that when a building or structure has only one stairway between levels, that stairway shall be kept clear to permit free passage of employees. The effect of these modifications will be to clarify stairway and access requirements and to provide equivalency with counterpart Federal standards [29 CFR 1926.1051(a)(3) and (a)(4)].

Subsection 1629(a)(4), Exception 2.

Existing exception 2 states that for the purposes of Section 1629, scaffolds are not to be considered structures. Since this duplicates subsection 1629(a)(2), it is proposed for deletion. The effect of this deletion will be to eliminate duplication.

Subsection 1629(a)(7).

Provisions of existing subsection 1626(c) for stairway illumination are proposed to be relocated to this new subsection in Article 18, Access and Egress, since adequate stairway illumination is necessary for safe access and egress. The existing specified illumination level is consistent with that specified by 29 CFR 1926.56, Subpart D, Table D-3 for general construction area lighting. The effect of this relocation will be to clarify illumination of stairways for access and egress.

Subsections 1629(b)(1)(B) and (b)(4).

Existing subsection (b)(1)(B) provides that roof and attic work areas of all buildings shall be provided with a safe means of access and egress, such as stairways, ramps or ladders that conform to the provisions of Article 25. By virtue of its current location, although the subsection states that it is to apply to all buildings, it can be misinterpreted to apply only to wood frame buildings. It is proposed to relocate the provisions of subsection (b)(1)(B) to new subsection (b)(4) to clarify its application to all buildings. The effect of this relocation will be to clarify that safe means of access to roof and attic work areas is to be provided for all buildings during construction.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

Impact on Businesses

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

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commenc-

ing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

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

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

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

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

REASONABLE ALTERNATIVES CONSIDERED

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

2. TITLE 8: **GENERAL INDUSTRY
SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 93,
Section 4920
Boom-Type Mobile Cranes

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action was initiated as a result of a Division of Occupational Safety and Health (Division) Request for New, Or Change In Existing, Safety Order, Form 9 memorandum to the Occupational Safety and Health Standards Board (Board) dated August 14, 2001.

The Division’s Form 9 request indicates that the language contained in General Industry Safety Orders (GISO) Section 4920 has caused confusion as to which cranes involved in railway or automobile wrecking are exempt from the requirements of Article 93. Specifically, it is not clear whether all cranes used in conjunction with railway and automobile wrecking operations are exempt from the requirements of Article 93 or just those cranes that are specifically dedicated to clear railway and/or automobile wreckage. New cranes entering the marketplace can be used for dual purposes. However, cranes used for both non-wreckage and wreckage applications are not exempt from Article 93. The Board staff agrees with the Division that the intent of Section 4920 and the American National Standards Institute (ANSI)/American Society of Mechanical Engineers (ASME) B30.5 mobile crane standard is to exclude only cranes that have only that one use on the jobsite; i.e., railway or automobile wreck clearance.

The proposed language is similar to the comparable Federal OSHA standard and the ANSI B30.5 –2000 mobile crane standard to the extent that the exclusion of use-specific railway and automobile wrecking cranes from the boom-type mobile crane standards is the same. The only modification to the federal language and Division’s Form 9 is to further clarify the cranes that are excluded.

The proposed amendments are as follows:

Section 4920. Purpose.

This section explains to the employer that the orders contained in Article 93 apply to various types of mobile cranes, including boom-type excavators and any modification of these types of equipment, that retain their primary functional characteristics with the exception of cranes of less than one ton or less lifting capacity. The existing language also exempts “railway and automotive wrecking cranes.”

An amendment is proposed to reword the text of Section 4920 to clarify that cranes designed and used exclusively for railway and/or automotive wreck clearance

(e.g. tow truck crane) are excluded from having to comply with the requirements of Article 93. The proposed amendment will have no other effect than to clearly indicate to the employer that only cranes designed and dedicated for use to clear railway and/or automotive wreckage are exempt from the provisions of Article 93.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. Board staff is not aware of any state agencies who own and operate mobile boom-type cranes for use in automobile and/or railway wreckage clearance.

Impact on Housing Costs

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

Impact on Businesses

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

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program

or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

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

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

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

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

REASONABLE ALTERNATIVES CONSIDERED

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

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's

Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

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

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than April 14, 2006. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on June 15, 2006, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

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

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

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

TITLE 10. DEPARTMENT OF INSURANCE

**300 Capitol Mall, 17th Floor
Sacramento, California 95814**

NOTICE OF PROPOSED ACTION

DATE: April 17, 2006

REGULATION FILE: RH05045983

SUBJECT OF PROPOSED RULEMAKING

The Insurance Commissioner proposes to amend the regulations described below after considering comments from the public. The Commissioner proposes add California Code of Regulations, Title 10, Chapter 5, Subchapter 9, Article 1, §§ 2698.23 to 2698.27 (the "Life and Annuity Consumer Protection Program" regulation).

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code section 10127.17. Insurance Code section 10127.17 also provides the authority for this rulemaking.

PUBLIC HEARING

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

Date and time: June 16, 2006, at 10:00 a.m.

Location: California Department of Insurance
300 Capitol Mall, 6th Floor,
Room 635
Sacramento, CA 95814

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

REASONABLE ACCOMMODATION

Pursuant to the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Unruh Civil Rights Act, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on the proposed regulations, may request assistance by contacting Elena Fishman, Staff Counsel, 300 Capitol Mall, 17th Floor, Sacramento, CA, 95814; telephone, 916-492-3507; fax, 916-324-1883. It is recommended that assistance be requested at least two weeks prior to the hearing.

PRESENTATION OF WRITTEN COMMENTS;
CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 5:00 p.m. on June 16, 2006. Please direct all written comments to the following contact person:

Elena Fishman, Staff Counsel
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
Telephone: (916) 492-3507

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

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

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to one of the contact persons at his respective address listed above, no later than 5:00 p.m. on June 16, 2006. Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL
OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: fishmane@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Elena Fishman and sent to the following facsimile number: (916) 324-1883. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

INFORMATIVE DIGEST

Summary of Existing Law and Policy Statement Overview

Existing law generally regulates the sale and marketing of life insurance and annuities. Existing law requires the Insurance Commissioner to collect certain fees and assessments from insurers for regulatory purposes.

These regulations are a result of AB 2316 (Chapter 835, Statutes of 2004) which created the Life and Annuity Consumer Protection Fund which is funded from a \$1 fee levied against insurers based upon each individual life insurance and annuity product worth \$15,000 or more issued to a resident of this state. The funds are dedicated to protecting consumers of insurance products and shall be distributed 50% to the department for consumer protection functions related to individual life insurance and annuity products, and 50% to district attorneys for investigation and prosecution of individual life insurance and annuity product financial abuse cases involving licensees and for other projects beneficial to insurance consumers. These provisions shall remain in effect until January 1, 2010.

The proposed regulations are modeled after the Department's fraud prevention grant program regulations which provide funds to District Attorneys for a variety of fraud prevention activities. The purpose of the proposed regulations is to set forth the specific details of how and when the fee assessment will be conducted for life insurers and the procedures and requirements for the grant program to district attorneys. The proposed regulations are necessary to provide a regulatory framework to assess and ensure the payment by life insurers of the appropriate fee as well as the quality of the district attorney programs funded by grants under this statute.

Effect of Proposed Action

The proposed regulations define the Life and Annuity Consumer Protection Program that will provide additional resources to bolster the ability of both District Attorneys and Department of Insurance investigators to actively and aggressively investigate and prosecute cases of life insurance and annuity financial abuse which have increased dramatically over the past few years.

The proposed regulations identify the specific type of policies subject to the fee assessment, the beginning date of the assessment, how frequently the assessment will be made, the methodology used by the Department to conduct the assessment, timelines for completing the assessment and information about late fees. The proposed regulations also define how an annuity shall be valued for purposes of this statutory fee assessment. The proposed regulations establish the amount of funds available for the Department and the amount of funds

available for distribution to district attorneys through grants as well as describing the authorized uses of said funds. These sections will provide details and clarity to insurers regarding how and when to assess the fee and to District Attorneys in applying for grants through the Program.

The proposed regulations notify and inform District Attorneys of the specific criteria that will be used by the Department to evaluate grant applications as well as describe in detail the required contents of an application for funding. The proposed regulations also provide notice to District Attorney grantees of the reporting requirements and due dates for grants. The proposed regulations inform the grantees of the special process to be followed for multi-year grants or grant renewal.

The proposed regulations provide information about the services the Commissioner may provide to the grantee; how the Commissioner will monitor performance under the grant and how unsatisfactory performance by the grantee will be handled; how unused funds will be reallocated; the Commissioner's right to review, reproduce, monitor and audit the records of the grantee; the grantees duties regarding records management and retention; the Commissioner's rights and the grantee's responsibilities regarding auditing the grant; and, the cause for termination of the grant by the Commissioner or the grantee as well as applicable timelines. These sections will provide grantees with detailed information in advance about how various aspects of the grant will be handled by the Commissioner.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

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

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

The Commissioner has made an initial determination that the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. As described above, certain insurers will for the first time be required to count the number of new life insurance policies and annuity contracts valued over \$15,000 written during a certain time period. They will also be required to perform an on-line self assessment and submit payment to the Department of the appropriate amount. The types of businesses that may be affected are life insurers. The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

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

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The Commissioner has determined that for certain insurance companies (life insurers) that are exempt under current regulations, and as such are not required to perform a count of the new life and annuity policies valued over \$15,000 issued during a time period or conduct an on-line self-assessment and submit payment to the Department as required, there may be an additional cost impact. The additional costs may include identifying the number of life and annuity policies sold with a value of over \$15,000, conducting the on-line self-assessment and submitting the required fee to the Department.

However, for many life insurance companies, the impact has already been mitigated by the fact that they are required to annually report life insurance and annuity sales to the National Association of Insurance Commissioners (NAIC) and many life insurers have developed systems and procedures to handle fee assessments required by prior legislation. The Commissioner is not aware of any costs that the proposed regulations will have on private persons or business entities other than

described above but invites interested parties to comment on the issue.

FINDING OF NECESSITY

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

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on the issue.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed regulations will not affect small business. Pursuant to Government Code section 11342.610, subdivision (b), paragraph (2), insurers are not small businesses.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Re-

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

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

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

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find, near the top of the leftmost column, the pull down menu under the heading "Quick Links." Select the "Legal Information" link. On the "Legal Information" page, click on the "Proposed Regulations" link. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

- To search, enter "RH05045983" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "10127.17") or search by keyword ("life", "annuity", "consumer protection" for example). Then, click on the "Submit" button to display links to the various filing documents.
- To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the "Life and Annuity Consumer Protection Program Regulations" link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

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

TITLE 10. DEPARTMENT OF INSURANCE

45 Fremont Street, 21st Floor
San Francisco, California 94105

File No. RH06091489
Date: April 14, 2006

**Proposed Amendment of Section 2632.5
Automobile Insurance Rating Factors: Mileage
Verification**

NOTICE OF PROPOSED ACTION AND NOTICE
OF PUBLIC HEARING

SUBJECT OF HEARING

Notice is hereby given that Insurance Commissioner John Garamendi ("Commissioner") proposes to amend California Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, Article 3, Section 2632.5(c)(2) to add subsections (A) and (B) to clarify the types of information an insurer is allowed or required to collect to determine estimated annual mileage.

California Insurance Code Section 1861.02(a), added by Proposition 103, provides that rates and premiums for an automobile insurance policy shall be determined by applying three mandatory factors and various optional factors. Annual miles driven is one of the mandatory rating factors. The current regulations do not specifically indicate the information an insurer is allowed or required to collect to determine the number of miles driven annually.

AUTHORITY AND REFERENCE

The Commissioner proposes to amend California Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, Article 3, Section 2632.5(c)(2) under the express authority of California Insurance Code Section 1861.02(e). The proposed amendment implements, in-

terprets, and makes specific California Insurance Code Section 1861.02(a).

HEARING DATE AND LOCATION

A workshop with respect to this amendment is not being held. The proposed amendment does not involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period.

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this amendment at the following date, time, and place:

Tuesday, June 13, 2006 — 10:00 a.m.
California Department of Insurance
Hearing Room
45 Fremont Street, 22nd Floor,
San Francisco, CA 94105

SUBMISSION OF COMMENTS;
CONTACT PERSONS

All persons are invited to present oral and/or written comments at the hearing. Written comments not presented at the hearing must be addressed to the following contact person:

Kim Morimoto
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4143
morimotok@insurance.ca.gov

Questions regarding the hearing and comments on the substance of the proposed action should be addressed to the above contact person. If the contact person is unavailable, inquiries may be sent to the backup contact person:

Elizabeth Mohr
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4112
mohre@insurance.ca.gov

DEADLINE FOR WRITTEN COMMENTS

All written materials submitted must be received by the Commissioner, in care of the contact person, at the address listed above, by no later than **5:00 p.m. on Tuesday, June 13, 2006**. Any materials received after that time will not be considered.

COMMENTS TRANSMITTED BY ELECTRONIC COMMUNICATION

The Commissioner will accept written comments transmitted by e-mail sent to the following e-mail address: morimotok@insurance.ca.gov or mohre@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of the contact person for this proceeding using the following fax number: (415) 904-5490. **Comments shall be transmitted by one method only and are subject to the deadline for written comments set forth above.**

Comments sent to other e-mail addresses or other facsimile numbers will not be accepted.

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person for this hearing in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Subchapter 4.9 in connection with their participation in this matter. Persons interested in inquiring about the appropriate procedures should contact the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking shall also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST

Summary of Existing Law

California Insurance Code Section 1861.02(a), added by Proposition 103, provides that rates and premiums for an automobile insurance policy shall be determined by applying three mandatory factors and various optional factors. The second mandatory factor is the number of miles driven annually.

California Code of Regulations, Title 10, Section 2632.5(c)(2) defines the second mandatory factor to mean the estimated annual mileage for the insured vehicle during the 12 month period following inception of the policy.

Existing law does not specifically indicate the information an insurer is allowed or required to collect to determine estimated annual mileage.

Policy Statement Overview and Effect of Proposed Action

The existing regulations do not explicitly set forth the information collected by an insurer to determine estimated annual mileage pursuant to California Insurance Code Section 1861.02(a).

Proposed subsections (A) and (B) to Title 10, Code of Regulations, Section 2632.5(c)(2) are intended to clarify the types of information an insurer is allowed or required to collect to determine estimated annual mileage to comply with California Insurance Code Section 1861.02(a).

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

This proposed amendment does not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, and no other nondiscretionary cost or savings imposed on local agencies.

COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING

The Commissioner has determined that the proposed amendment will result in no cost or savings to any state agency, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The Commissioner has made an initial determination that adoption of the proposed amendment will not have a significant impact on reporting requirements, record-keeping requirements or other compliance requirements.

The Commissioner has made an initial determination that adoption of the proposed amendment will not have a significant, statewide adverse economic impact di-

rectly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed amendment simply clarifies and makes specific existing legal requirements.

However, the Commissioner invites comment on proposed alternatives designed to lessen any adverse economic impact on business while ensuring compliance with all applicable legal requirements.

The types of businesses affected by the proposed amendment are insurers transacting automobile insurance in the State of California.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

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

BUSINESS REPORT

The proposed amendment does not require a report.

EFFECT ON JOBS/BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the amendment may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed amendment will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS

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

ALTERNATIVES

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

alternatives to the proposed amendment at the scheduled hearing or during the written comment period.

IMPACT ON SMALL BUSINESS

The matters proposed herein will affect insurance companies and, therefore, will not affect small business. (Gov. Code Section 11342.610, subd. (b), para. (2).)

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to, or mandating, the proposed amendment.

OTHER STATUTORY REQUIREMENTS

There are no other specific statutory requirements applicable to the proposed amendment.

TEXT OF AMENDMENT AND STATEMENT OF REASONS

The Commissioner has prepared an initial statement of reasons that sets forth the reasons for the proposed action. The Commissioner also has available all the information upon which this proposed action is based as well as the express terms of the proposed action. Upon request, the proposed text and initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed amendment, the statement of reasons, the information upon which the proposed action is based, and any supplemental information contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Written requests for the rulemaking file or questions regarding this proceeding should be directed to the contact person listed above.

FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Department's website.

AUTOMATIC MAILING

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

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department’s website, <http://www.insurance.ca.gov>. As of the date of this Notice, the steps required to access these documents are as follows. In the “Quick Links” section, click on Legal Information, then on Proposed Regulations. When the “Search” screen appears, enter RH06091489 (the Department’s regulation file number for this proceeding) in the “Search for” field.

AVAILABILITY OF MODIFIED TEXT OF AMENDMENT

In response to public comment, the Commissioner may determine that changes to the proposal are appropriate. If those changes are sufficiently related to the original text that the public had adequate notice of the proposal, as amended, copies of the amended text will be sent to all persons who testified or presented comments at the public hearing or submitted written comments during the comment period, and to anyone who requested information regarding the proposal. Thereafter, the Commissioner will accept written comments, arguments, evidence and testimony concerning the changes only, for a period of at least 15 days prior to adoption.

At least 45 days notice will be given if the changes are not sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

TITLE 11. COMMISSION ON PEACE OFFICERS STANDARDS AND TRAINING

**Notice of Proposed Regulatory Action
Certification Criteria for Self-Paced Training —
Regulations 1001, 1015, 1018, 1052, 1053, 1055,
1056, and 1081 and Procedures D-2, E-1, F-1,
and F-6**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations. This proposal is made pursuant to the authority vested by Penal Code § 13503 —

powers of the Commission on POST, and § 13506 — Commission on POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503 (e) — Commission on POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses, § 13523 — Commission on POST authority to reimburse for training expenses of full-time regularly paid employees, from cities, counties, or districts.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

POST has been the leader in developing and delivering technology-based training to law enforcement in the form of telecourses, case law updates, digital video discs, interactive video discs, and CD-ROMs. However, POST did not immediately embrace the concept of developing Internet training because of the slow speed of computer modems and the inability of existing technology to deliver audio and video.

Agencies that used POST-developed multimedia training courses have since transitioned to automation and computers. With the rapid growth of high-speed modems, cable connections, digital media, and extremely fast computer systems, the work environment has changed and new training opportunities now exist. POST is moving to take advantage of these opportunities through training delivered via the Internet. However, as POST staff examined and addressed the need for Web-based training certification, it became clear that the real issue is certification of self-paced training proposed by course presenters. Current POST regulations provide a process for certification of traditional instructor-led training and cover pertinent topics such as reimbursement and certification requirements and processes.

Recommended amendments to POST regulations create a certification process for self-paced training. The proposed regulations follow existing classroom certification processes wherever possible, with amendments as necessary to accommodate the unique characteristics of self-paced training. The proposed regulations address self-paced training certification, the non-reimbursable status of self-paced training, and the quality of self-paced training as follows:

- Add definitions of “blended learning” and “Web-based training.”
- Exclude self-paced training from POST reimbursement because there are no travel, lodging, or per diem expenses associated with self-paced training.
- Specify the evaluation and certification package criteria for self-paced training.

- Create two types of course certification and specify the distinction between instructor-led training and self-paced training.
- Require separate course certification for each part of a blended learning course — training that includes both instructor-led training and self-paced training.
- Add various digital media to the list of audio-visual training materials that POST must review prior to use.
- Indicate that POST will automatically recertify multimedia training, including WBT.
- Change related regulation sections, mostly for re-lettering of references.
- Use the new category of self-paced training certification to “raise the bar” for training development. Certification requirements for self-paced training include learning objectives that define the training requirements, learning activities to allow the student to meet the course objectives, and evaluations to determine if the student met the course objectives. The requirements for certifying self-paced training are thus intentionally stricter than the requirements for certifying classroom training, intended to enhance the learning experience, and support the POST long-term goal of improving the quality and impact of training for California law enforcement as stated in POST Strategic Plan Section B.

Two events further support the need to amend POST regulations to allow certification of self-paced training. In April 2004, the Commission approved the conversion of two POST CD-ROM courses to WBT. In June 2005, the Continuing Education Division of the Los Angeles Police Department expressed a desire to have POST certify the WBT they are developing for in-service training. At its January 20, 2005 meeting, the Commission approved a proposal to amend Commission Regulations to address certification of self-paced training.

The two groups impacted by these regulation amendments have ready access to the same regulations concerning reimbursement and certification requirements and processes:

1. POST Training Delivery and Compliance Bureau staff review and recommend approval / disapproval of course certification requests submitted by presenters of law enforcement training to California peace officers. The proposed regulation amendments provide a process by which the bureau can properly judge the value of proposed self-paced training.

2. The presenters of law enforcement training to California peace officers. The proposed amendments provide presenters with a well-defined set of requirements and documentation to submit when requesting self-paced training certification.

TEXT OF PROPOSAL, RULEMAKING FILE, AND INTERNET ACCESS

The following information regarding the proposed regulatory action is located on the POST website at www.post.ca.gov/RegulationNotices/RegulationNotices.asp:

- POST bulletin and Notice of Proposed Regulatory Action
- Text of Proposed Regulatory Action
- Initial Statement of Reasons.

Anyone who does not have Internet access may request a copy of the above documents by calling 916.227.4847 or by submitting a written request to the **Contact Persons** listed below. Please refer to POST Bulletin 2006-04. The rulemaking file contains the above-mentioned documents and all information considered for this proposal. The Commission will maintain the file for inspection during the Commission’s normal business hours (Monday through Friday, 8 a.m. to 5 p.m.).

The Final Statement of Reasons will be prepared after the close of the public comment period and will appear on the POST website at the address cited above. To request a copy, call the above phone number, or write to the address under **Contact Persons** (see below) in this notice.

PUBLIC COMMENT

The Commission hereby requests written comments related to the proposed actions. Please direct all comments to Executive Director Kenneth J. O’Brien. POST must receive all written comments before 5:00 p.m. on June 12, 2006 by fax at 917.228.2801 or by U.S. Mail addressed to the Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083.

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person or his/her duly authorized representative may request that POST hold a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

CONTACT PERSONS

Please direct any questions about the proposed text, subject matter, or statement of reasons to Patricia

Cassidy, POST, at 1601 Alhambra Boulevard, Sacramento, CA, 95816-7083, by telephone at 916.227.4847, by FAX at 916.227.5271, or via email at Pat.Cassidy@post.ca.gov. The back-up contact person is Graham Breck. His telephone number is 916.227.4550; his email address is Graham.Breck@post.ca.gov.

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 Section 17561 Requires 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 statewide 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 have no affect on California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement and 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.

Effect 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 regulation amendments will neither create nor eliminate jobs in the state of California and will not 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 Com-

mission, 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.

ADOPTION OF PROPOSED REGULATIONS

Following the close of 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 clearly indicated text of any modified language will be available, at least 15 days before adoption, to all persons whose comments POST receives during the public comment period and to all persons who request notification from POST of the availability of such changes. Please address a request for the modified text 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 becomes available.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN that the Department of Motor Vehicles, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict of Interest Code located in Title 13, Section 1 of the California Code of Regulations. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and 87306 of the Government Code.

The Department of Motor Vehicles (the department) proposes to amend its Conflict of Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The proposed amendment affects the Appendix of Designated Employee Positions by: (1) adding new employee positions to the list of designated positions; (2) deleting employee positions from the list of designated positions; (3) changing the disclosure category for some existing designated positions; and, (4) reflecting the reorganization and title changes of the department since the Conflict of Interest Code was last adopted.

This amendment reflects the organizational structure of the Department as of April 25, 2005. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than **June 12, 2006**, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or person's representative requests a public hearing, he or she must do so no later than **June 12, 2006**, by contacting the Contact Person set forth below.

The Department of Motor Vehicles has prepared a written explanation of the reasons for the proposed amendments (Initial Statement of Reasons) and has available the information on which the amendments are based. Copies of the proposed amendments, the Initial Statement of Reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Department of Motor Vehicles has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small business.

In making these proposed amendments, the Department of Motor Vehicles must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

Contact Person: All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Randi Calkins at the Department of Motor Vehicles, Regulations Branch, E244, PO Box 932382, Sacramento, CA 94232-3820, or at (916) 657-8898, or rcalkins@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to Regulations Coordinator, Debbie Baity at (916) 657-5690 or dbaity@dmv.ca.gov.

TITLE 16. BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING THE CONSUMER ASSISTANCE PROGRAM LOW-INCOME ELIGIBILITY AND APPLICATION FORM REVISIONS

NOTICE IS HEREBY GIVEN that the Bureau of Automotive Repair (hereinafter "Bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at the following locations on the following dates:

Southern California

June 14, 2006, 10:00 a.m.

Bureau of Automotive Repair
1180 Durfee Avenue, Suite 120
Conference/Training Room
South El Monte, CA 91733

Northern California

June 16, 2006, 10:00 a.m.

Contractors State Licensing Board
9821 Business Park Drive
Hearing Room
Sacramento, CA 95827

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be **received by the Bureau at its office not later than 5:00 p.m. on June 16, 2006**, or must be received by the Bureau at one of the above referenced hearings. **Comments sent to persons or addresses other than those specified under Contact Person, or received after the date and time specified above, regardless of the manner of transmission, will not be considered or included in the record of this proposed regulatory action.** The Bureau, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Sections 44000, 44001.3, 44001.5, 44002 and 44091 of the Health and Safety Code and Section 9882 of the Business and Professions Code, and to implement, interpret or make specific Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44014.7, 44015, 44017, 44017.1, 44020, 44037.1, 44037.2, 44062.1, 44090, 44091, 44092, 44093, 44094 and 44095 of the Health and Safety Code; the Bureau is proposing to adopt the following changes to Article 11 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations:

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Introduction:

The Bureau, located within the Department of Consumer Affairs (DCA), is the state agency charged with the administration and implementation of the Smog Check Program (Program). The Program is designed to reduce emissions from mobile sources, such as passenger vehicles and light trucks, by requiring that these vehicles meet specific in-use emissions standards as verified by periodic inspections. To ensure uniform and consistent vehicle testing, the Bureau licenses Smog Check stations and technicians and certifies inspection equipment.

The Bureau is also charged with the implementation and administration of the Consumer Assistance Program (CAP) which includes both a Repair Assistance (RA) option and a Vehicle Retirement (VR) option. The RA option is designed to offer financial assistance to eligible individuals whose vehicles have failed a biennial Smog Check inspection and whose household income falls at or below a specified amount based on the federal poverty guideline (FPG), or those individuals whose vehicles have been directed to a Test-Only Smog Check station and have failed.

To offer the RA option to a larger number of working poor individuals, BAR is proposing to increase the current household income eligibility level from one hundred eighty-five percent (185%) of the FPG to two hundred twenty-five percent (225%), as authorized by AB 383 (Montanez, Chapter 565, Statutes of 2005). This expansion will meet the needs of a segment of the population most in need of financial help with repairs, help lower the emissions of high polluting and gross polluting vehicles, and help increase air quality for all California citizens.

The proposed action also includes several minor technical, grammatical and editorial changes, including

revisions to the CAP application form, that have no regulatory effect or that are conforming.

Background:

Health and Safety Code section 44062.1 authorizes DCA to offer RA to eligible individuals based on the individuals' total household income within a percentage of the FPG, as published by the United States Department of Health and Human Services. Prior to January 1, 2006, the maximum household family income for participation in the RA option was 185% of the FPG. AB 383, effective January 1, 2006, increased the base percentage to two hundred percent (200%), with a provision allowing DCA to further increase the percentage to a maximum of 225%, under specified conditions. Effective January 1, 2009, the percentage will revert to 185% of the FPG pursuant to the provisions of AB 383. This regulatory action proposes to increase that maximum household income to 225% of the FPG until December 31, 2008. Further, the proposed action will conform to the provisions of AB 383 that mandate a return to the 185% standard on January 1, 2009.

Other provisions for participation, which will remain unchanged, require that the applicant be one or a combination of the following:

1. The owner of a motor vehicle that has failed a biennial Smog Check inspection.
2. The owner of a motor vehicle who was issued a notice to correct for an alleged violation of Section 27153 or 27153.5 of the Vehicle Code, which address exhaust products and motor vehicle exhaust standards.
3. The owner of a motor vehicle that has failed a biennial Smog Check inspection and is directed to a Test-Only station, pursuant to Section 44010.5 or 44014.7.

DCA is required to offer RA, funded by the High Polluter Repair or Removal Account (HPRRA) in the Vehicle Inspection and Repair Fund (VIRF) to eligible consumers based on the cost-effectiveness and air quality benefit of the needed repair. RA may include re-testing costs and the costs of repairs to remedy a violation of Section 27153 or 27153.5 of the Vehicle Code.

The applicant for RA shall file an application on a form prescribed by DCA and shall certify under penalty of perjury that the applicant meets the applicable eligibility standards. Verification of low-income eligibility is based on at least one form of documentation, as determined by DCA, including but not limited to an income tax return and employment warrant, or verification of receipt of at least one of several forms of public assistance.

Repairs to motor vehicles that fail a biennial Smog Check inspection are based upon a pre-approved list of repairs for cost-effective emission reductions or repairs

to remedy a violation of Section 27153 or 27153.5 of the Vehicle Code.

The purpose of the RA option is to:

- Provide eligible consumers with financial assistance for their vehicles that have failed a biennial Smog Check inspection, or who have been issued a notice to correct for an alleged smog-related violation if the vehicle subject to that notice has failed a Smog Check inspection subsequent to receiving the notice, or the owner of a motor vehicle that has failed a biennial Smog Check inspections and is directed to a Test-Only station.
- Encourage greater low-income consumer participation in the RA option of CAP in order to help decrease the number of high polluting vehicles being operated in California.
- Help California achieve the emissions reduction objectives established in the State Implementation Plan (SIP).
- Help the Smog Check Program demonstrate equivalency with federal regulatory standards.

In addition, Section 44014.5 provides that vehicles failing their Smog Check inspections as gross polluters shall be referred to a Test-Only station, or a Gold Shield Test-and-Repair station.

BAR's CAP provides eligible consumers with RA to help these consumers bring their vehicles into compliance with state law.

Current Regulation:

Existing regulations in the California Code of Regulations, Title 16, Division 33, Chapter 1, Article 11, are summarized as follows:

1. Section 3394.1 describes the purpose of the Consumer Assistance Program (CAP) and establishes its two components — VR and RA.
2. Section 3394.2 provides that the Bureau shall administer CAP through contracts, as specified.
3. Section 3394.3 establishes the CAP assistance limits at up to \$1,000 under the VR option, and up to \$500 under the RA option.
4. Section 3394.4 specifies the various requirements that must be met by applicants and their vehicles in order to be eligible for CAP participation. In particular, subparagraph (A) of paragraph (2) of subsection (a) requires that an applicant for low-income RA have a household income that is less than or equal to one hundred eighty-five percent (185%) of the FPG.
5. Section 3394.5 lists the vehicles that are not eligible for participation in CAP, as specified.

6. Section 3394.6 establishes the application and documentation process for participation in CAP, as specified.

Effect of Regulatory Action:

The proposed action will make the following changes to existing regulation:

1. Amend subparagraph (A) of paragraph (2) of subsection (a) of Section 3394.4, to increase the household income eligibility level to 225% of the FPG until December 31, 2008 and to revert to 185% of the FPG beginning January 1, 2009. In addition, several grammatical and editorial changes will be made throughout Section 3394.4 to clarify its provisions.
2. The CAP application form will be revised to conform to the increased household income eligibility level. The revisions will also include other nonsubstantive grammatical and editorial changes. These changes to the CAP application will also result in a change to the application revision date. These changes do not modify any requirement, right, responsibility, condition, prescription or other regulatory element and, therefore, do not have any regulatory effect.
3. Amend subsection (a) of Section 3394.6 to reflect the new revision date for the CAP application form incorporated by reference therein.

FISCAL IMPACT ESTIMATES

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

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Costs to Any Local Agency or School district for Which Government code Section 17561 Requires Reimbursement:

None.

Businesses Impact:

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

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

This regulatory action is designed to expand the federal household income eligibility requirements to allow for greater participation in the CAP RA option for the working poor. The increase of eligibility requirements

will decrease the number of high polluting vehicles and increase the air quality standards for California. This will not adversely impact business in any way. The only impact on business would be a possible increase in repairs at Gold Shield Smog Check stations resulting from higher consumer participation levels.

Impact on Jobs/New Businesses:

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

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs:

None.

Effect on Small Business:

The Bureau has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau at 10240 Systems Parkway, Sacramento, California 95827.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the Bureau of Automotive Repair at the address mentioned above.

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

CONTACT PERSON

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

James Allen, Regulations Analyst
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-3460
Fax No.: (916) 255-1369
E-mail: jim_allen@dca.ca.gov

The backup contact person is:

Debbie Romani, Staff Services Manager
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-3460
Fax No.: (916) 255-1369
E-mail: debbie_romani@dca.ca.gov

WEB SITE ACCESS

Materials regarding this proposal can also be found on the Bureau's Web site at www.smogcheck.ca.gov.

TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology and Audiology Board is proposing to take the action described in the Informative Digest. No public hearing has been scheduled on the proposed action. However, any interested person or such person's duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on June 12, 2006. The

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Speech–Language Pathology and Audiology Board (“Board”) is authorized by Business and Professions Code Section 2538.1 to issue Speech–Language Pathology Assistant registrations (SLPA).

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

The proposed amendment of Section 1399.151.1 is a minor technical change that adds a clarifying title to the affected section regarding application processing times for issuance of a SLPA registration to conform the subsection with existing regulation text.

The proposed adoption of Section 1399.170.20.1 essentially establishes a process for canceling an individual’s SPLA registration upon issuance of the individual’s Speech–Language Pathology license.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly effecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None

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

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

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Speech–Language

Pathology and Audiology Board at 1422 Howe Avenue, Suite 3, Sacramento, CA 95825.

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

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

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

CONTACT PERSON

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

Name: Kathi Burns, Board Analyst
 Address: 1422 Howe Avenue, Suite 3
 Sacramento, CA 95825
 Telephone No.: (916) 263-2666
 Fax No.: (916) 263-2668
 E-Mail Address: kathi_burns@dca.ca.gov

The backup contact person is:

Name: Annemarie Del Mugnaio,
 Executive Officer
 Address: 1422 Howe Avenue, Suite 3
 Sacramento, CA 95825
 Telephone No.: (916) 263-2666
 Fax No.: (916) 263-2668
 E-Mail Address: Annemarie_DelMugnaio@dca.ca.gov

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

GENERAL PUBLIC INTEREST

AIR RESOURCES BOARD

NOTICE OF POSTPONEMENT

NOTICE OF PUBLIC HEARING TO CONSIDER TECHNICAL AMENDMENTS TO THE MOTOR VEHICLE EVAPORATIVE AND EXHAUST EMISSIONS TEST PROCEDURES

By Notice dated March 28, 2006, and published in the April 7, 2006, California Regulatory Notice Register,

Register 2006, No. 14-Z, the Air Resources Board (the Board or ARB) announced it would conduct a public hearing to consider technical amendments to the motor vehicle evaporative and exhaust emissions test procedures. The hearing was scheduled for Thursday, May 25, 2006, at 9:00 a.m., at the California Environmental Protection Agency, Air Resources Board, 1001 "I" Street, Auditorium, Second Floor, Sacramento, California.

PLEASE BE ADVISED that the hearing has been postponed to the following date, time and place:

DATE: **June 22, 2006**

TIME: 9:00 a.m.

PLACE: South Coast Air Quality Management District Auditorium
 21865 E. Copley Drive
 Diamond Bar, CA 91765

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 22, 2006, and may continue at 8:30 a.m., June 23, 2006. This item may not be considered until June 23, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before June 22, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
 Public Interest Notice

For Publication April 28, 2006

CESA CONSISTENCY DETERMINATION FOR Reclamation District 108 (RD108) Poundstone Intake Consolidation and Positive Barrier Fish Screen Project Yolo and Colusa Counties

The Department of Fish and Game ("Department") received notice on April 11, 2006 that Reclamation District 108 (RD108) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the construction and operation of a pumping plant and positive barrier fish screen along the west bank of

the Sacramento River near river mile 110.3 and the decommissioning of several other unscreened pumping facilities in Yolo and Colusa Counties.

The U.S. Bureau of Reclamation (“BOR”) received a no jeopardy federal biological opinion (151422SWR2005SA00266:HLB) from the National Marine Fisheries Service on January 6, 2006. The biological opinion considers the federally and state listed endangered Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*) and the federally and state listed threatened Central Valley spring–run Chinook salmon (*Oncorhynchus tshawytscha*), and authorizes incidental take. The U.S. Fish and Wildlife Service issued BOR a no jeopardy federal biological opinion (1–1–05–I–0404) on November 8, 2005 which considers the federally and state listed threatened giant garter snake (*Thamnophis gigas*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, RD108 is requesting a determination that the federal biological opinions 151422SWR2005-SA00266:HLB and 1–1–05–I–0404 are consistent with CESA. If the Department determines that the federal biological opinions are consistent with CESA, RD108 will not be required to obtain an incidental take permit under CESA for the proposed project.

from the San Francisco Bay–Delta estuary (“project”). The project could result in the take of various fish species, two of which are listed under both the Endangered Species Act (“ESA”) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (“CESA”) (Fish & G. Code, § 2050 *et seq.*). Those species are Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*) and Central Valley spring–run Chinook salmon (*Oncorhynchus tshawytscha*) (together, “Chinook salmon”). Sacramento River winter–run Chinook salmon are listed as endangered under ESA and CESA. Central Valley spring–run Chinook salmon are listed as threatened under ESA and CESA.

Because of the the project’s potential for take of ESA–listed salmonids, the Corps consulted with the National Marine Fisheries Service (“NMFS”), as required by ESA. On March 9, 2006, NMFS issued to the Corps a “no jeopardy” biological and conference opinion (151422SWR2005SR00626:DPW) (“opinion”), which describes the project and sets forth measures to minimize impacts to Chinook salmon and its habitat in the vicinity of the project activities. On March 15, 2006, the Director of the Department of Fish and Game (“Department”) received a letter from Mr. Earl F. Bouse on behalf of the Sand Miners requesting a determination by the Department that the opinion is consistent with CESA, pursuant to Fish and Game Code section 2080.1.

DEPARTMENT OF FISH AND GAME

DETERMINATION

**CALIFORNIA DEPARTMENT OF FISH AND GAME
CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
Tracking Number 2080–2005–030–01**

Project: San Francisco Marine Sand Miners
Location: San Francisco Bay–Delta Estuary, Santa Clara County
Notifier: Mr. Earl F. Bouse, Jr., Study Group Chair
San Francisco Marine Sand Mining
Environmental Management Services
Walnut Creek, California

BACKGROUND

Pursuant to section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), the U.S. Army Corps of Engineers (Corps) has authorized three companies—Hanson Aggregates Mid–Pacific, Inc. (“Hanson”), RMC/CEMEX, Inc., and Jerico Products, Inc./Morris Tug and Barge (“Jerico”) (collectively, the Sand Miners)—to annually mine up to 2.6 million cubic yards of sand

The Department has determined that the opinion is consistent with CESA. The mitigation measures in the opinion meet the conditions set forth in Fish and Game Code section 2081, subparagraph (b) and (c), which, when met, authorize the incidental take of CESA–listed species. Specifically, the Department finds that the take of Chinook salmon will be incidental to an otherwise lawful activity (i.e., the annual removal of up to 2.6 million cubic yards of sand from the San Francisco Bay–Delta estuary), and the mitigation measures identified in the opinion will minimize and fully mitigate the impacts of the authorized take on Chinook salmon. The mitigation measures in the opinion include, but are not limited to, the following:

1. The Sand Miners will purchase 0.15 acres of open water habitat that will be restored at Kimball Island, which has been established as a mitigation bank. The restoration of open water habitat at Kimball Island, which is located along the migration corridor for Chinook salmon, will improve habitat quality and increase the available habitat for juvenile salmonid rearing and migration within the San Francisco Bay–Delta estuary, and thereby increase the growth, health, and condition of juveniles.

2. When priming the pump or clearing the pipe, the end of the pipe will be held at a height in the water column no greater than three feet off the bottom.
3. The Sand Miners will implement a monitoring program to evaluate the risk of entrainment of juvenile salmonids during sand mining (“entrainment study”). The 2006 entrainment study will be terminated prior to its completion if either 35 ESA-listed salmonids or 2 green sturgeon are collected.
4. Sand mining should be conducted during daylight hours from January 1 through May 31 to minimize the potential for the entrainment of juvenile Chinook salmon, which tend to be more surface-oriented in the daytime.
5. A system that recirculates used water back to the working end of the suction pipe should be constructed and utilized on the hopper-style barges.
6. The Corps and the Sand Miners should conduct a study to evaluate the behavior of fish in the vicinity of project activities.
7. The Corps and the Sand Miners should purchase monitoring equipment and participate in a study designed to determine how juvenile Chinook salmon use the estuary during their migration to the ocean. A large effort, co-sponsored by NMFS and U.C. Davis, is proposed to be conducted from 2007–2009. The monitors should be placed near the sand mining sites to determine their use by salmonid smolts, which will be tagged and released upstream of the sites.

Based on the Department’s consistency determination, the Sand Miners do not need to obtain authorization from the Department under CESA for take of Chinook salmon that occurs in carrying out the project described in the opinion, provided the Sand Miners comply with the mitigation measures and other conditions described in the opinion. However, if the project as described in the opinion, including the mitigation measures therein, change after the date of the opinion, or if NMFS amends or replaces that opinion, the Sand Miners will need to obtain from the Department a new consistency determination (in accordance with Fish and Game Code section 2081.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081).

DEPARTMENT OF HEALTH SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH SERVICES REMINDS PROVIDERS OF THE DEADLINE FOR FILING AN EXEMPTION

This notice is to provide information of public interest concerning the definition of Multi-Level Retirement Communities and the annual deadline for filing a request for exemption. All Free Standing Nursing Facilities (FS/NF-Bs) are subject to a Quality Assurance Fee (QAF) under California Health and Safety Code sections 1324.20 through 1324.30, and Welfare and Institutions Code section 14105.06. Continuing Care Retirement Communities (CCRCs) are exempt from the QAF fee. Multi-Level Retirement Communities (MLRCs) are similar entities that provide a graduated continuum of services. To become exempt, MLRCs that have not previously been exempted must seek exemption from the QAF before May 1 of each year. This year the deadline is extended to June 1, 2006.

JUNE 1, 2006, DEADLINE FOR FILING REQUEST FOR EXEMPTION

Health and Safety Code section 1324.20, subdivision (a), defines the facilities that are exempt from the QAF:

(a) “Continuing care retirement community” means a provider of a continuum of services, including independent living services, assisted living services...and skilled nursing care, on a single campus, that is subject to Section 1791, or a provider of such a continuum of services on a single campus that has not received a Letter of Exemption pursuant to subdivision (b) of Section 1771.3.

CDHS published the definition of an MLRC in the November 2005 Medi-Cal Update Bulletin 344:

§ 100(f) “Multi-Level Retirement Community” (MLRC) means a provider of a continuum of services, including independent living services, assisted living services and skilled nursing care on a single campus, which has not received a certificate of authority or a letter of exemption from the Department of Social Services, Health and Safety Code section 1771.3.

MLRCs, which previously have been determined to be exempt, will remain exempt until they change ownership at which time they must provide documentation that their status has not changed. A change of ownership is defined in 42 Code of Federal Regulations section 489.18.

MLRCs that are not currently exempt, and that wish to become exempt, must request an exemption and must comply with the November 2005 Medi-Cal Update Provider Bulletin 344 § 133(c) and this Public Notice by May 1, of each year. For 2006, the deadline will be June 1, 2006.

A facility requesting exemption as an MLRC must provide the following:

- (1) A description of the campus that indicates that the facility provides a continuum of services, including independent living services, assisted living services and skilled nursing services on a single campus.
- (2) The addresses of the Skilled Nursing Facility and the Residential Care for the Elderly buildings if they are different, as well as, proof that they are on the same campus.
- (3) A copy of the SNF license and the RCFE license for the current year, if applicable.
- (4) Medi-Cal provider number, federal tax identification number and the Office of Statewide Health Planning and Development number of the current owner.
- (5) Information that proves that the SNF and the RCFE are owned by the same entity (common ownership).
- (6) For any FS/NF-B that changes its corporate structure or business practices, six months of cost reports during its operation under the new structure.
- (7) A statement that the facility has not received a certificate of authority or a letter of exemption from the Department of Social Services, as specified in Health and Safety Code section 1771.3.

PUBLIC REVIEW AND COMMENTS

A copy of the November 2005 Medi-Cal Update Provider Bulletin 344 may be requested from, and any comments may be sent to:

Ruben Romero, Chief
Long Term Care System Development Unit
Rate Development Branch
Department of Health Services
1501 Capitol Avenue, Suite 71.4001
MS 4612,
P.O. Box 997417
Sacramento, CA 95899-7417.

FISH AND GAME COMMISSION

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

(Continuation of California Notice Register 7-Z and 11-Z, No. Z05-0207-10 and subsequent date change, and Meeting of April 7, 2006.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 713, 1050, 2000, 2020, 2150.2, 3005.5, 3800 and 4150, Title 14, CCR, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 1008, 2000, 2001, 3005.5, 3511, 3800, 4150, 4190 and 4800 of said Code, proposes to amend Section 679, Title 14, California Code of Regulations, relating to Wildlife Rehabilitation.

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

(NOTE: Updated Informative Digest changes shown in bold face type.)

At the December 9, 2005, commission meeting in Concord, the Commission was asked by members of the public to take this regulation change proposal off the consent calendar and continue it until the February 3, 2006 meeting to allow interested parties time to have input. After working with interested parties the Department has made some minor changes and is re-submitting this package.

The proposal is to establish a specific application process (including associated forms) to approve new wildlife rehabilitation facilities. Documentation is required from the applicant to assist the Department in determining the need for such new facilities. The proposal also establishes an inspections and processing fee and describes a consistent process through the use of non-profit organization to conduct inspections.

The proposal identifies specific training requirements to be met by wildlife rehabilitation facilities and their personnel.

Minor editorial changes are made to clarify and update existing regulatory language regarding wildlife rehabilitation care standards.

Existing regulation allows the department to issue a (MOU) Memorandum of Understanding to wildlife rehabilitation facilities that meet the minimum standards set forth in the 1993 Wildlife Rehabilitation Minimum Standards and Accreditation Program (WRMSAP) manual but does not describe a specific application process. The regulation change proposal identifies a specific process (including associated forms) by which the Department can better evaluate the need for such facilities and the applicant's qualifications for conducting wildlife rehabilitation activities. The proposal establishes a non-refundable application processing fee and a one-time facility inspection fee predetermined by the department pursuant to Fish and Game Code Sections 713 and 2150.2. Payment of an application processing and an inspection fee is proposed to offset the cost of reviewing and processing a wildlife rehabilitation permit. The Department has provided information in the proposed Fiscal Impact Analysis (III, (a), 1, of this document).

New wildlife rehabilitation permits will be issued on an "as needed" basis only and will remain subject to approval by the regional manager within the region where the facility would be located. The department will request applicants obtain two letters from already permitted rehabilitation facilities (nearest to the location of the proposed facility). This requirement will allow the department to determine if there is a need for a new facility. A letter of intent will be required as part of the application package to assist the department in assessing the applicants qualifications with regard to education experience and available facilities. Application validity is one year from date of approval; if the facility is not operational in this time frame, the applicant's permit will be revoked.

The department is requiring the applicant have a minimum of two years or 400 hours of experience working under a currently-permitted rehabilitation facility. The applicant must have documentation from the permitted facility that they do have the required hours to make them eligible for a wildlife rehabilitation permit.

This proposal also establishes in regulation the MOU shall be valid for a term not to exceed three (3) years from the date of issuance and will be issued to meet the needs of the specific department/region at the discretion of the regional manager. At the end of the three years when the MOU expires, the applicant may apply for the renewal of the MOU by filling out a Permit/Application Renewal form. Upon the renewal of a permit a non-refundable processing fee will be charged.

The department is updating the regulations to reflect the current standards contained in the most recent edition of the WRMSAP Manual.

The original proposal is modified in four different sections:

(e)(2)(E)— Add the following additional language at the end of the section: MOU will be valid for three years. At the end of three years if a permittee wishes to renew a wildlife rehabilitation permit, a permit renewal form FG 542 (Rev 11/05) will be submitted along with a processing fee of \$41.00 to be determined by the department pursuant to Fish and Game Code Section 2150.2 and adjusted annually pursuant to Fish and Game Code 713.

(f)(6)— add "(when available)" after the word found in the third sentence to read — This record shall include the name and address of the person finding the animal, the location where the animal was found (when available), a description of its condition and treatment, the dates it was received and transferred from the facility and the location of its final disposition.

(f)(8)— remove entire section

(f)(9)— remove the "formal" from the second sentence.

The original proposal is modified to add/clarify directions that already permitted facilities will renew their permits by filling out an Application/renewal form FG 542 (Rev 11/05) and paying only a processing fee every three years. Many currently permitted facilities were unclear if they were going to be considered new applicants once their permit expired.

The words "when available" were added to the written document requirement so that wildlife rehabilitators would not be in violation of the regulations when they received animals from unknown locations.

The veterinarian of Record section was removed because there is already a veterinarian policy in the Wildlife Rehabilitation Minimum Standards and Accreditation Program manual that is adopted in the regulations in section (e)(2)(A).

The word "formal" was removed from the training section to allow for a wider variety of training classes to be taken by wildlife rehabilitators to count for their yearly mandatory training session.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the North Tahoe Conference Center, 5318 North Tahoe Blvd., Kings Beach, California on Friday, May 5, 2006, 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 Mammoth Inn Conference Room, 1 Minaret Road, Mammoth Lakes, California on Friday, June 23, 2006, at 8:30 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 Jun 14, 2006, 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 June 23, 2006. All comments must be received no later than June 23, 2006, at the hearing in Mammoth Lakes, CA. All written comments must include the true name and mailing address of the commentator.

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, 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 Businesses, 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. At the May 28, 2005 CCWR Advisory Committee meeting, it was determined that a processing fee and an inspection fee to cover the cost by the department and/or the CCWR inspectors was a reasonable suggestion. The departments proposed fees are at a lower level than what was decided upon at the meeting.

- (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:

A private person or business will be required to pay a new fee pursuant to proposed regulations geared to recover the department's cost of administering the program.

- (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.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

CALIFORNIA ENVIRONMENTAL PROTECTION
AGENCY OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT

NOTICE TO INTERESTED PARTIES
April 28, 2006

ANNOUNCEMENT OF DRAFT REPORT, PUBLIC
WORKSHOP, AND PUBLIC COMMENT PERIOD

HEALTH ADVISORY: SAFE EATING
GUIDELINES FOR FISH FROM THE LOWER
COSUMNES AND LOWER MOKELUMNE
RIVERS (SACRAMENTO AND SAN
JOAQUIN COUNTIES)

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) announces the availability of the draft report entitled "Health Advisory: Safe Eating Guidelines for Fish from the Lower Cosumnes and Lower Mokelumne Rivers (Sacramento and San Joaquin Counties)." The report contains an evaluation of findings of elevated mercury levels in fish from the lower Cosumnes and lower Mokelumne rivers and provides safe eating guidelines for these water bodies. OEHHA is soliciting comments from interested parties on the draft report and advisory during a 30-day public comment period. OEHHA will also hold a public workshop to make a presentation, answer questions, and take comments on May 11, 2006, at 6:45 PM, at the Lodi Public Library,

201 W. Locust St., Lodi. Comments may be submitted at any time until the close of the comment period.

Comments on the draft report may be submitted by phone, fax, or e-mail to Dr. Susan A. Klasing. All comments must be received by 5:00 p.m. on May 29, 2006. OEHHA will consider comments received by this time and revise the draft report and advisory as appropriate to issue a final report and advisory.

OEHHA is making the draft document available at the OEHHA Web site at <http://www.oehha.ca.gov>. A copy of the report is also available by calling (916) 327-7319.

If you would like to submit comments, receive further information on this announcement, or have questions, please contact Dr. Susan A. Klasing using the information provided below.

Dr. Susan A. Klasing
California Environmental Protection Agency
Office of Environmental Health Hazard Assessment
Pesticide and Environmental Toxicology Section,
P.O. Box 4010
Sacramento, California 95812-4010
Phone: (916) 323-9667
Fax: (916) 327-7320
e-mail: sklasing@oehha.ca.gov

**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.

**ACUPUNCTURE BOARD
Citation and Fine**

Pursuant to SB 362, statutes of 2003, section 125.9 of the Business and Professions Code was amended to increase the maximum amount of an administrative fine to \$5,000. This regulatory action would allow the Acupuncture Board to impose a civil penalty between \$2,501 and \$5,000 where a violation has an immediate relationship to the health and safety of another person, the cited person has a history of two or more prior citations of the same or similar violations, the citation involves a multiple violation that demonstrates a willful disregard of the law, or the citation involves a violation

or violations perpetrated against a senior citizen or disabled person.

Title 16
California Code of Regulations
AMEND: 1399.465
Filed 04/17/06
Effective 05/17/06
Agency Contact: Janelle Wedge (916) 445-1995

AIR RESOURCES BOARD

AAQS for Ozone (****FILE DUE 4/21/06****)

Section 39606(a)(2) of the Health and Safety Code requires the Air Resources Board to adopt ambient air quality standards. This regulatory action makes revisions to the California ambient air quality standard for ozone including establishing a new 8-hour-average standard.

Title 17
California Code of Regulations
AMEND: 70100, 70100.1, 70200, Incorporated Documents
Filed 04/17/06
Effective 05/17/06
Agency Contact: Alexa Malik (916) 322-4011

BUREAU OF AUTOMOTIVE REPAIR

Additional Authorization, Customer's Designee

AB 1079 amended section 9884.9 of the Business and Professions Code by adding a provision that allows a customer to designate another person to authorize work or parts supplied in excess of the written estimated price. This regulatory action specifies the form and content of the designation and the procedures to be followed by the automotive repair dealer in recording the designation.

Title 16
California Code of Regulations
AMEND: 3353
Filed 04/17/06
Effective 05/17/06
Agency Contact: James Allen (916) 255-4300

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

Nonsubstantive Change

The Department of Alcohol and Drug Programs is amending the captioned sections of title 9, California Code of Regulations, in order to bring its authority and reference citations into conformity with those numbering changes taken place in Stats. 2004, Ch. 862, and is making miscellaneous editorial changes.

Title 9
California Code of Regulations
AMEND: 10000, 10010, 10015, 10020, 10025, 10030, 10035, 10040, 10045, 10050, 10055, 10060, 10065, 10070, 10080, 10085, 10090, 10095, 10105, 10110, 10115, 10120, 10125, 10130, 10140, 10145, 10150, 10155, 10160, 10165, 10170, 10175, 10185, 10190, 10195,
Filed 04/19/06
Effective 05/19/06
Agency Contact: Mary Conway (916) 327-4742

DEPARTMENT OF FOOD AND AGRICULTURE

Tree Fruit — Marking and Size Requirements

This rulemaking amends 3 CCR 1446.4, 3 CCR 1454.10, and 3 CCR 1462.10 by removing the requirement that every nonconsumer container of nectarines, peaches, plums or fresh prunes be marked with the variety of fruit or if that isn't known with the words, "Unknown Variety."

Title 3
California Code of Regulations
AMEND: 1446.4, 1454.10, 1462.10
Filed 04/13/06
Effective 04/13/06
Agency Contact: Steve Patton (916) 445-2180

DEPARTMENT OF INSURANCE

To Allow CAARP to Take Commercial Applications Over the Internet

This regulatory action amends provisions and establishes procedures for filing applications for commercial coverage with the California Automobile Assigned Risk Plan (CAARP) using online Electronic Application Submission Interface (EASi) procedures. The amended provisions and new procedures are set forth in the "California Automobile Assigned Risk Plan Plan of Operations" that is incorporated by reference into section 2498.4.9.

Title 10
California Code of Regulations
AMEND: 2498.4.9
Filed 04/18/06
Effective 05/18/06
Agency Contact: Nancy Hom (415) 538-4144

DEPARTMENT OF INSURANCE

CAARP Plan of Operations Sections 14, 16, 20, 23, 37, 40, 41, 43, 47, and 54

In this regulatory action, the Department of Insurance amends various sections of the "California Automobile Assigned Risk Plan Plan of Operations."

Title 10
 California Code of Regulations
 AMEND: 2498.4.9
 Filed 04/18/06
 Effective 05/18/06
 Agency Contact: Michael Riordan (415) 538-4226

Title 8
 California Code of Regulations
 AMEND: 3395
 Filed 04/19/06
 Effective 04/19/06
 Agency Contact: Keith Umemoto (916) 274-5721

EMPLOYMENT TRAINING PANEL
 Job Creation

Employment Training Panel is proposing repeal of 22 CCR 4414 and amendment of 22 CCR 4400 to delete the existing standards for job creation training in Section 4414 and define job creation as an aspect of the Panel's funding priorities in new subdivision 4400(kk). This action implements Unemployment Insurance Code secs. 10200(b)(3) and (4) by expanding job creation standards to include training for new employees of firms locating or expanding in the state, and for displaced workers.

Title 22
 California Code of Regulations
 ADOPT: 4400(kk) REPEAL: 4414
 Filed 04/19/06
 Effective 05/19/06
 Agency Contact: Maureen Reilly (916) 327-5422

EMPLOYMENT TRAINING PANEL
 Out-of-State Competition

Existing law requires the Panel to foster the retention of jobs in manufacturing and other industries that are threatened by out-of-state competition. This regulatory action revises the Panel's procedures and standards for determining whether an employer is eligible for training funds in light of this statutory requirement for out-of-state competition.

Title 22
 California Code of Regulations
 AMEND: 4416
 Filed 04/12/06
 Effective 05/12/06
 Agency Contact: Maureen Reilly (916) 327-5422

**OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD**
 Heat Illness Prevention

Readoption of emergency regulation that requires employers to provide shade and water to employees who work in hot outdoor workplaces and requires employers and employees to have training in various aspects of heat injury prevention.

**OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD**
 De-Energized Equipment or Systems

This is a nonsubstantive change making an editorial correction to a referenced subsection. In section 2320.4(a)(3), the reference to subsection 3314(c) should be to 3314(e).

Title 8
 California Code of Regulations
 AMEND: 2320.4(a)(3)
 Filed 04/17/06
 Effective 04/17/06
 Agency Contact: Marley Hart (916) 274-5721

OFFICE OF SPILL PREVENTION AND RESPONSE
 Financial Responsibility

The regulatory action deals with Certificates of Financial Responsibility and also includes the amendment of the following incorporated by reference Forms: FG OSPR 1924, 1925, 1929, 1930, 1946, 1947, 1962 and 1972.

Title 14
 California Code of Regulations
 AMEND: 791.7, 793, 795,
 Filed 04/17/06
 Effective 05/17/06
 Agency Contact:
 Joy D. Lavin-Jones (916) 327-0910

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN NOVEMBER 16, 2005 TO
 APRIL 19, 2006**

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

Title 1
 03/28/06 AMEND: 1395
 03/27/06 ADOPT: 250, 260, 270, 280 AMEND: 55

CALIFORNIA REGULATORY NOTICE REGISTER 2006, VOLUME NO. 17-Z

12/29/05	AMEND: 1038	03/01/06	AMEND: 3406(b)
Title 2		02/22/06	AMEND: 3406(b)
04/10/06	ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80	02/21/06	AMEND: 3433(b)
04/04/06	ADOPT: 18215.1 AMEND: 18225.4, 18428	02/21/06	AMEND: 3700(c)
03/14/06	ADOPT: 1859.70.3, 1859.71.5, 1859.78.9, 1859.93.2, 1859.93.3 AMEND: 1859.2, 1859.61, 1859.74, 1859.77.1, 1859.79, 1859.79.2, 1859.83, 1859.104, 1859.202, 1859.66	02/21/06	ADOPT: 3591.19(a)(b)(c) AMEND: 3591.19(a)
03/08/06	AMEND: 56, 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8	02/16/06	ADOPT: 3433
02/28/06	AMEND: 57.1, 57.2, 57.3, 57.4	02/07/06	AMEND: 6502
02/21/06	ADOPT: 18371	02/02/06	AMEND: 3700(c)
02/21/06	REPEAL: 2550, 2551, 2552, 2553, 2554, 2555, 2556	01/12/06	AMEND: 6393, 6394, 6395, 6396
02/21/06	AMEND: 2320(a) (2)	12/28/05	AMEND: 3406(b)
02/21/06	ADOPT: 18361.10	12/28/05	ADOPT: 6576, 6950
02/16/06	AMEND: Div. 8, Ch. 58, Sec. 54700	12/15/05	AMEND: 6400
01/30/06	AMEND: Div. 8, Ch. 103, Sec. 59150	12/13/05	AMEND: 3700(c)
01/24/06	REPEAL: 649.23, 649.25, 649.26, 649.27	12/01/05	AMEND: 3700(c)
01/23/06	AMEND: 18351	11/23/05	AMEND: 3406(b)
01/20/06	AMEND: 1897	Title 4	
01/17/06	AMEND: Div. 8, Ch. 64, Sec. 55300	03/24/06	ADOPT: 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, 10190, 10191
01/17/06	ADOPT: 560 REPEAL: 560	03/23/06	ADOPT: 10302(bb), 10305(d), 10305(e), 10315(d), 10315(j), 10320(b), 10322(e), 10325(c), 10325(c)(3)(K), 10325(c)(6), 10325(c)(8), 10325(c)(12), 10325(f)(7), 10325(f)(10), 10325(g)(5)(B)(ii), 10325(g)(5)(B)(iv), 10325(g)(5)(B)(v), 10326(g)(6), 1036(g) (7),
12/29/05	AMEND: 18329.5, 18701, 18751	02/28/06	AMEND: 4143
12/21/05	AMEND: 599.960, 599.961	01/25/06	ADOPT: 12002, 12004, Appendix A AMEND: 12100, 12200, 12220, 12300
12/20/05	AMEND: 18700, 18707, 18708	01/20/06	ADOPT: 1843.6
12/12/05	ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80	01/09/06	ADOPT: 1902.5
11/16/05	AMEND: 1181	01/09/06	ADOPT: 1690.1
Title 3		12/29/05	AMEND: 8070, 8071, 8072, 8073, 8074, 8076
04/13/06	AMEND: 1446.4, 1454.10, 1462.10	12/21/05	ADOPT: 12359
04/11/06	AMEND: 3700(c)	12/14/05	AMEND: 7075, 7082, 7084, 7092, 7093, 7094, 7098
04/11/06	AMEND: 3700(c)	12/05/05	AMEND: 1977
04/10/06	AMEND: 3406(b)	12/05/05	REPEAL: 1959.5, 1959.6, 1959.7, 1959.8, 1976.5, 1976.7
03/30/06	AMEND: 3406(b)	11/28/05	ADOPT: 7075, 7076, 7077, 7078, 7079, 7079, 7080, 7081, 7082, 7083, 7084, 7085, 7086, 7087, 7088, 7089, 7090, 7091, 7092, 7093, 7094, 7095, 7096, 7097, 7098, 7099 REPEAL: 7000, 7001, 7003, 7004, 7005, 7006, 7007, 7008, 7009, 7010, 7011, 7012, 7013, 7013.
03/28/06	AMEND: 3406(b)	11/28/05	ADOPT: 503, 512, 515, 516, 517, 518, 519, 523, 524 AMEND: 500, 501, 502, 510, 513, 514, 520, 552, 530, 531, 533 REPEAL: 521
03/23/06	ADOPT: 6310 AMEND: 6170		
03/07/06	AMEND: 3700(c)		

11/23/05 AMEND: 4083

Title 5

04/04/06 AMEND: 11704

03/16/06 ADOPT: 1207.1, 1207.2 AMEND: 1204.5

03/16/06 ADOPT: 15566, 15567, 15568, 15569

02/17/06 ADOPT: 19827 AMEND: 19814, 19814.1, 19851, 19853

01/19/06 ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7

12/30/05 AMEND: 58050, 58164, 58168, 58170, 58172

12/29/05 ADOPT: 4680, 4681, 4682, 4683, 4684, 4685, 4686, 4687 AMEND: 4600, 4610, 4611, 4620, 4621, 4622, 4630, 4631, 4632, 4633, 4640, 4650, 4651, 4660, 4662, 4663, 4664, 4665, 4670, 4910 REPEAL: 4661, 4671

12/12/05 ADOPT: 80033.2

12/07/05 AMEND: 43810

12/06/05 ADOPT: 11963.5 AMEND: 11704, 11963.2, 11963.3, 11963.4, 11963.5, 11963.6

11/17/05 AMEND: 41301 REPEAL: 41303, 41304

Title 8

04/19/06 AMEND: 3395

04/17/06 AMEND: 2320.4(a)(3)

04/11/06 ADOPT: 32613 AMEND: 32130, 32135, 32140, 32155, 32190, 32325, 32350, 32400, 32450, 32500, 32602, 32604, 32605, 32607, 32609, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32647, 32648, 32649, 32650, 32680, 32690, 32781, 32980, 33020, 40130, 5

04/04/06 ADOPT: 6070, 6074, 6075, 6080, 6085, 6087, 6089, 6090, 6095, 6100, 6105, 6110, 6115, 6120 REPEAL: 1200, 1204, 1205, 1210, 1215, 1216, 1217, 1220, 1225, 1230, 1240, 1250, 1270, 1280

04/03/06 AMEND: 1720

03/22/06 AMEND: 9701, 9702, 9703

03/15/06 AMEND: 1710(f)

03/14/06 ADOPT: 9783.1 AMEND: 9780, 9780.1, 9781, 9782, 9783 REPEAL: 9780.2, 9784

02/28/06 AMEND: 1644

02/27/06 AMEND: 3637, 3638, 3639, 3640, 3642, 3646

02/22/06 ADOPT: 8397.14, 8397.15, 8397.16 AMEND: 8354, 8397.12

02/14/06 AMEND: 31100

02/09/06 ADOPT: 296.0 296.1, 2.96.2, 296.3, 296.4 AMEND: 290.1, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, 295.0

02/09/06 AMEND: 15201, 15300, 15400, 15400.2, 15402.4, 15450.1, 15452, 15454, 15463

01/27/06 AMEND: 100, 102

01/27/06 AMEND: 1518

01/25/06 AMEND: 1635

12/20/05 AMEND: 3395

12/14/05 AMEND: 6632(f)

12/13/05 AMEND: 20299

12/05/05 AMEND: 4650

11/22/05 ADOPT: 13694

11/22/05 ADOPT: 13680, 13681, 13682, 13683, 13684, 13685, 13686, 13687, 13688, 13689, 13690, 13691, 13692, 13693

Title 9

04/19/06 AMEND: 10000, 10010, 10015, 10020, 10025, 10030, 10035, 10040, 10045, 10050, 10055, 10060, 10065, 10070, 10080, 10085, 10090, 10095, 10105, 10110, 10115, 10120, 10125, 10130, 10140, 10145, 10150, 10155, 10160, 10165, 10170, 10175, 10185, 10190, 10195,

01/23/06 AMEND: 3400

01/19/06 AMEND: 400

12/30/05 ADOPT: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415

Title 10

04/18/06 AMEND: 2498.4.9

04/18/06 AMEND: 2498.4.9

03/30/06 AMEND: 2698.52(c), 2698.53(b), 2698.56(c)

03/24/06 ADOPT: 2498.6

03/24/06 REPEAL: 2546, 2546.1, 2546.2, 2546.3, 2546.4, 2546.5, 2546.6, 2546.7, 2546.8

03/09/06 AMEND: 2697.6

02/28/06 ADOPT: 2713, 2715.5, 2797, 2841.5, 3012.3 AMEND: 2716.5, 2770, 2791, 2792.32, 2795.1, 2846.1, 2846.5, 2846.7, 2849.01, 2930 REPEAL: 2708, 2709, 2821, 2822

02/27/06 AMEND: 2632.5 (c) (1) (A)

02/09/06 AMEND: 2699.6600

01/31/06 ADOPT: 310.100.4, 310.114.4 AMEND 310.101

CALIFORNIA REGULATORY NOTICE REGISTER 2006, VOLUME NO. 17-Z

01/25/06	ADOPT: 2025, 2026, 2027, 2028, 2029, 2030	12/16/05	ADOPT: 253.02 AMEND: 345.16
01/23/06	AMEND: 2698.99	12/07/05	ADOPT: 2425.1 AMEND: 2420, 2421, 2423, 2425, 2426, 2427, Incorporated Test Procedures
01/23/06	ADOPT: 2592, 2592.01, 2592.02, 2592.03, 2592.04, 2592.05, 2592.06, 2592.07, 2592.08, 2592.09, 2592.10, 2592.11, 2592.12, 2592.13, 2592.14	12/05/05	AMEND: 425.01
01/20/06	AMEND: 2498.6	Title 14	
12/28/05	AMEND: 2498.5	04/17/06	AMEND: 791.7, 793, 795,
12/13/05	AMEND: 2312, 2312.5, 2315	04/11/06	AMEND: 18454, 18456, 18456.3, CIWMB form 60
11/23/05	AMEND: 260.210, 260.211, 1726, 1950.122, 2020	04/10/06	AMEND: 630
11/16/05	AMEND: 2699.6600, 2699.6809	04/03/06	ADOPT: 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
Title 11		04/03/06	ADOPT: 4970, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01 REPEAL: 4970.02, 4970.03, 4970.04, 4
03/15/06	AMEND: 351, 357, 371, 376, 377, 378, 380	03/28/06	AMEND: 187
02/22/06	AMEND: 51.19	03/27/06	AMEND: 163.1.
02/09/06	AMEND: 1001, 1015 REPEAL: 1020, 1021	03/22/06	AMEND: 119, Appendix A
01/31/06	ADOPT: 64.2	03/20/06	AMEND: 27.82
01/19/06	AMEND: 1005	03/20/06	ADOPT: 5.81, 27.92 AMEND: 5.80, 27.60, 27.90, 27.95
01/11/06	ADOPT: 116.2	03/02/06	ADOPT: 1.60, 1.61, 1.93 AMEND: 1.71
01/09/06	AMEND: 999.1, 999.2, 999.3, 999.4	03/01/06	AMEND: 851.23
12/22/05	AMEND: 1005, 1007, 1008, D-1, D-10, D-14	02/23/06	AMEND: 2000, 2090, 2105, 2110, 2401, 2420, 2425, 2430, 2501, 2530, 2535, 2540, 2850
12/15/05	AMEND: 51.12	02/10/06	AMEND: 895, 895.1, 1038, 1038(f)
12/01/05	ADOPT: 116.1	02/09/06	ADOPT: 18459.1.2, Forms 203, 204 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18457, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 18462, 18463, 18464, 18466, Penalty Tables 1&2
11/22/05	ADOPT: 49.17	02/08/06	AMEND: 2310
Title 12		12/22/05	AMEND: 11900
04/10/06	AMEND: 453.1	12/19/05	ADOPT: 163.1 AMEND: 163, 164
Title 13		12/06/05	ADOPT: 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01
04/04/06	AMEND: 423.00		
03/24/06	AMEND: 156.00		
03/24/06	AMEND: 590		
02/22/06	ADOPT: 225.35 AMEND: 225.03, 225.09, 225.12, 225.18, 225.21, 225.42, 225.45, 225.48, 225.51, 225.54, 225.72		
02/22/06	AMEND: 345.39, 345.45, 345.56, 345.78		
02/15/06	ADOPT: 1971.1		
02/14/06	ADOPT: 152.00, 190.03, 268.10, 268.12, 280.12, 285.06, 292.06, 340.13 AMEND: 330.08, 345.65 REPEAL: 330.10, 345.67		
01/31/06	ADOPT: 2023, 2023.1, 2023.2, 2023.3, 2023.4 AMEND: 1956.1, 2020, 1021 REPEAL: 1956.2, 1956.3, 1950.4		
01/30/06	AMEND: 77.05, 77.10, 77.15, 77.16, 77.17		
01/18/06	AMEND: 553.70		
01/13/06	AMEND: 2467, 2467.1		
01/12/06	ADOPT: 1875		
01/12/06	AMEND: 970		

REPEAL: 4970.02, 4970.03, 4970.04, 4970.05
 12/02/05 AMEND: 18660.5, 18660.6, 18660.10, 18660.20, 18660.21, 18660.22, 18660.36, 18660.37
 11/30/05 ADOPT: 957.11, 957.12 AMEND: 957
 11/16/05 AMEND: 913.2 [933.2, 953.2], 913.11 [933.11, 953.11]

Title 15

03/27/06 AMEND: 3176.3
 01/25/06 AMEND: 3482
 01/19/06 AMEND: 3370
 01/17/06 AMEND: 3000, 3062, 3075, 3210
 12/15/05 AMEND: 3335
 12/05/05 AMEND: 3173.1
 11/21/05 ADOPT: 3999.2

Title 16

04/17/06 AMEND: 3353
 04/17/06 AMEND: 1399.465
 03/29/06 ADOPT: 1399.159.01 AMEND: 1399.159, 1399.159.1 REPEAL: 1399.159.4
 03/21/06 AMEND: 1914, 1918, 1920, 1950, 1983, 1991, 1993, 1998
 03/14/06 REPEAL: 1530
 03/13/06 REPEAL: 1515
 03/13/06 ADOPT: 1034.1 AMEND: 1021, 1028, 1034
 03/13/06 ADOPT: 1399.25
 03/10/06 AMEND: 1566, 1566.1
 03/09/06 AMEND: 3351.3 and 3351.4
 03/02/06 ADOPT: 2524.1, 2579.11
 02/27/06 AMEND: 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.6
 02/24/06 AMEND: 3008, 3031, 3062.1
 02/21/06 AMEND: 1833.1, 1870, 1870.1
 02/07/06 ADOPT: 1379.19
 01/12/06 AMEND: 1313.01
 01/05/06 AMEND: 1399.710
 12/30/05 AMEND: 119.6, 120
 12/30/05 AMEND: 1820, 1970.4, 1991, 1996
 12/27/05 AMEND: 3005
 12/15/05 ADOPT: 1399.454 AMEND: 1399.434, 1399.436, 1399.450, 1399.451
 12/13/05 AMEND: 3005
 12/12/05 ADOPT: 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 35.1 AMEND: 70, 98
 12/02/05 ADOPT: 3067
 11/30/05 AMEND: 2542, 2542.1, 2547, 2547.1
 11/29/05 AMEND: 1397.61(f)
 11/21/05 AMEND: 1397.61(a)
 11/18/05 AMEND: 1364.11

Title 17

04/17/06 AMEND: 70100, 70100.1, 70200, Incorporated Documents
 04/10/06 ADOPT: 30346.11, 30346.12 AMEND: 30345.2, 30346.6, 30348.3
 12/29/05 ADOPT: 30105

Title 18

02/09/06 AMEND: 4055, 4056, 4057, 4058, 4059, 4060, 4061
 01/10/06 AMEND: 1S84
 12/29/05 AMEND: 1620
 12/27/05 ADOPT: 1823.4
 12/09/05 ADOPT: 25106.5-11

Title 20

01/12/06 AMEND: 79, 80
 01/03/06 ADOPT: 1362, 1363.1, 1363.2, 1365.1, Appendix C AMEND: 1364, 1366, 1368.1, 1369, 1370, Appendix A, Appendix B REPEAL: 1363, 1365, 1368, 1368.5
 12/30/05 AMEND: 1601, 1602, 1603, 1604, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608

Title 22

04/19/06 ADOPT: 4400(kk) REPEAL: 4414
 04/12/06 AMEND: 4416
 03/24/06 ADOPT: 110056, 110060, 100604, 110100, 110112, 110116, 110124, 110144, 110148, 110156, 110160, 110168, 110204, 110224, 110228, 110232, 110244, 110248, 110246, 110280, 110288, 110296, 110307, 110311, 110315, 110319, 110323, 110347, 110355, 110383, 110410,
 03/23/06 AMEND: 926-3, 926-4, 926-5
 03/20/06 AMEND: 66264.147, 66264.151, 66265.147
 03/09/06 ADOPT: 12900
 03/07/06 AMEND: 100058, 100066, 100078, 100079
 02/02/06 AMEND: 97170, 97172, 97174, 97178, 97180, 97184, 97188, 97190, 97198
 01/31/06 ADOPT: 66250.1, 66250.2
 01/23/06 AMEND: 51510, 51510.1, 51511, 51511.5, 51511.6, 51535, 51535.1, 51544, 54501
 01/20/06 AMEND: 4448
 01/17/06 AMEND: 14000
 01/17/06 AMEND: 12000
 12/30/05 ADOPT: 67384.1, 67384.2, 67384.3, 67384.4, 67384.5, 67384.6, 67384.7, 67384.8, 67384.9, 67384.10, 67384.11

CALIFORNIA REGULATORY NOTICE REGISTER 2006, VOLUME NO. 17-Z

12/27/05 ADOPT: 66262.44 AMEND: 66261.111,
66262.10
12/19/05 ADOPT: 66264.151 AMEND:
66264.115, 66264.120, 66264.143,
66264.145, 66264.147, 66265.115,
66265.120, 66265.143, 66265.145,
66265.147, 67450.13, 67450.30,
67450.49

Title 23

04/10/06 ADOPT: 2917 AMEND: 2914.5
03/28/06 ADOPT: 3944.2
03/22/06 ADOPT: 2814.20, 2814.21, 2814.22,
2814.23, 2814.24, 2814.25, 2814.26,
2814.27, 2814.28, 2814.29, 2814.30,
2814.31, 2814.32, 2814.33, 2814.34,
2814.35, 2814.36, 2814.37
03/13/06 ADOPT: 3939.21
02/01/06 ADOPT: 3989.3
01/20/06 ADOPT: 3939.17
12/27/05 ADOPT: 3939.16
12/20/05 ADOPT: 3957
12/15/05 ADOPT: 3939.18
12/09/05 ADOPT: 3939.19
12/09/05 ADOPT: 3939.20
12/02/05 ADOPT: 3989.2
12/01/05 ADOPT: 3939.15
11/28/05 ADOPT: 2814.20, 2814.21, 2814.22,
2814.23, 2814.24, 2814.25, 2814.26,

2814.27, 2814.28, 2814.29, 2814.30,
2814.31, 2814.32, 2814.33, 2814.34,
2814.35, 2814.36, 2814.37

Title 25

02/07/06 AMEND: 1001
12/19/05 ADOPT: 11101, 13302 AMEND: 19200,
19201, 19202, 19203, 19204, 19205,
19206, 19207, 19300, 19301, 19400
12/07/05 AMEND: 1338.1 REPEAL: 1433.1

Title 27

01/13/06 ADOPT: 15241, 15242
11/17/05 AMEND: 21685

Title 28

12/14/05 AMEND: 1300.75.4

Title MPP

04/03/06 AMEND: 11-501, 42-302, 42-701,
42-711, 42-712, 42-713, 42-715,
42-716, 42-718, 42-719, 42-720,
42-721, 42-722, 42-802, 42-1009,
42-1010, 44-111, 63-407 REPEAL:
42-710
02/10/06 AMEND: 63-103.2, 63-300.5,
63-402.229, 63-503.441, 63-509(b),
63-509(c), 63-801.737(QR)
01/23/06 AMEND: 42-101
01/12/06 AMEND: 11-400, 11-402, 11-403, and
11-406