



California Regulatory Notice Register

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PROPOSED ACTION ON REGULATIONS

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture adopted Section 3433, of the regulations in Title 3 of the California Code of Regulations pertaining to Diaprepes Root Weevil Interior Quarantine as an emergency action that was effective on May 19, 2005. The Department proposes to continue the regulation as amended and to complete the adoption process by submission of a Certificate of Compliance no later than September 18, 2006.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the actions proposed to the agency officer named below on or before August 21, 2006.

Following the public hearing and the written comment period, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or

prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

The amendment of Section 3433 established an area of approximately four square miles surrounding the La Jolla (University City) area of San Diego County as an additional area under quarantine against the pest *Diaprepes abbreviatus*, Diaprepes root weevil. The effect of the amendment is to provide authority for the State to regulate movement of the articles and commodities covered that may move life stages of the Diaprepes root weevil from, into, and within that area under quarantine to prevent artificial spread of the weevil to noninfested areas to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3433 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3433. No reimbursement is required for Section 3433 under Section 17561 of the Government Code because the Agricultural Commissioner of San Diego County requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

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

EFFECT ON BUSINESSES

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the adopted regulation on a representative private person or business is not expected to

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

ASSESSMENT

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3433 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding

the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

If the regulation amended by the Department differs 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 amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 5. SUPERINTENDENT OF PUBLIC INSTRUCTION

AMENDMENT TO TITLE 5, CALIFORNIA CODE OF REGULATIONS REGARDING GENERAL CHILD CARE PROGRAMS — ELIGIBILITY

[Notice published July 7, 2006]

NOTICE IS HEREBY GIVEN that the Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education staff, on behalf of the Superintendent, will hold a public hearing beginning at **9:00 a.m. on August 23, 2006**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the

proposed action described in the Informative Digest. The Superintendent requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

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

Debra Strain, Regulations Coordinator
 Legal Division
 California Department of Education
 1430 N Street, Room 5319
 Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 319-0155 or by e-mail to regulations@cde.ca.gov. Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on August 23, 2006**.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the Superintendent may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposed regulations.

AUTHORITY AND REFERENCE

Authority: Sections 8261 and 8263, Education Code.
 References: Sections 8203, 8208, 8250, 8261, 8263 and 56026, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulations provide clarification and specific information needed to implement the recommendations submitted in the April 2005 *CalWORKs*

and *Alternative Payment Child Care Programs Error Rate Study Report* required by Chapter 229, Statutes of 2004 (Senate Bill 1104, Committee on Budget and Fiscal Review). Senate Bill 1104 required the California Department of Education (CDE) to estimate the percentage of errors in determination of eligibility, need, family fees, and provider payments and report on potential improper payments that result from parent or provider fraud or error and to make recommendations. This study will be referenced as the "Error Rate Study." The Error Rate Study examined administrative errors in eligibility, family fees, determination of need, and provider payments. The Error Rate Study also explored potential improper payments caused by parent, providers, and agency staff.

These regulations will address one issue: clarification of the documentation necessary to determine eligibility for subsidized child care and development services. The proposed regulations will also provide clarification and require specific documentation regarding eligibility for child care and development services.

These regulations add:

- Definition of "family," "homeless," "parent," and "self-certification of income," and
- Calculation of Income.

These regulations amend:

- Definition of "adjusted monthly income," "income eligible," "income fluctuation," "parental incapacity," and "total countable income"
- Contents of Basic Data File
- Documentation of Total Countable Income
- Documentation of Public Assistance
- Documentation of the Child's Exceptional Need
- Documentation of Homelessness and
- Documentation and Determination of Family Size.

INCORPORATION BY REFERENCE

This regulation incorporates by reference the Child Care Data Collection Privacy Notice and Consent Form CD 9600A (Rev. 01/04). A copy may be obtained from the Regulations Coordinator.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Superintendent has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Costs to any local agencies or school districts for which reimbursement would be required pursuant to

Part 7 (commencing with section 17500) of division 4 of the Government Code: None.

Other non-discretionary costs or savings imposed on local educational agencies: None

Costs or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

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

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not effect small businesses because the regulations apply only to school districts and not to business practices.

CONSIDERATION OF ALTERNATIVES

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

The Superintendent 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.

CONTACT PERSONS

Inquiries concerning the content of this regulation should be directed to:

Cecelia Fisher-Dahms, Consultant
Child Development Division
California Department of Education
1430 N Street, Room 3410
Sacramento, CA 95814
Telephone: (916) 322-4883
E-mail: cfisher@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at (916) 319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Superintendent has prepared an Initial Statement of Reasons for the proposed regulation and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the Department of Education's web site at <http://www.cde.ca.gov/re/lr/rr/>.

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

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

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the Regulations Coordinator.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

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 proposed regulations, may request assistance by contacting Irene Martinez, Child Development Division, 1430 N Street, 3rd Floor, Sacramento, CA, 95814; telephone, (916) 323-1344; fax, (916) 323-6853. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 08. DIVISION OF WORKERS' COMPENSATION

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION**

NOTICE OF PROPOSED RULEMAKING

Workers' Compensation — Medical Treatment Utilization Schedule

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), exercising the authority vested in her by Labor Code sections 59, 133, 4603.5, and 5307.3, proposes to adopt regulations contained in Article 5.5.2 of Chapter 4.5, Subchapter 1, Division 1, of Title 8, California Code of Regulations, sections 9792.20 through 9792.23.

The regulations concern the adoption of the Medical Treatment Utilization Schedule. The regulations implement, interpret, and make specific sections 77.5, 4604.5 and 5307.27, as adopted by Senate Bill 228 (Chapter 639, Stats. of 2003, effective January 1, 2004), and Labor Code section 4600, and 4604.5, as amended by Senate Bill 899 (Chapter 34, stats. of 2004, effective April 19, 2004).

PROPOSED REGULATORY ACTION

The Division of Workers' Compensation, proposes to adopt Article 5.5.2 of Chapter 4.5, Subchapter 1, Division 1, of Title 8, California Code of Regulations, commencing with Section 9792.20:

- Section 9792.20 Medical Treatment Utilization Schedule—Definitions
- Section 9792.21 Medical Treatment Utilization Schedule
- Section 9792.22 Presumption of Correctness, Burden of Proof and Hierarchy of Scientific Based Evidence
- Section 9792.23 Medical Evidence Evaluation Advisory Committee

TIME AND PLACE OF PUBLIC HEARING

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

Date: August 23, 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 or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

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

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 August 23, 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 August 23, 2006.**

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 133, 4603.5, 5307.3, and 5307.27.

Reference is to Labor Code sections 77.5, 4600, 4604.5, and 5307.27, Labor Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These regulations are required by legislative enactments—Senate Bill 228 (Chapter 639, Stats. of 2003, effective January 1, 2004) and Senate Bill 899 (Chapter 34, stats. of 2004, effective April 19, 2004). Senate Bill 228 included Labor Code section 77.5, which required the Commission on Health and Safety and Workers' Compensation (hereinafter CHSWC) to conduct a survey and evaluation of evidence-based, peer-reviewed, nationally recognized standards of care, and to report its findings and recommendations to the Administrative Director for purposes of the adoption of a medical treatment utilization schedule. Senate Bill 228 also included Labor Code section 5307.27, requiring the Administrative Director, in consultation with CHSWC, to adopt, after public hearings, a medical treatment utilization schedule. Section 5307.27 requires the medical treatment utilization schedule to address, at a minimum, the frequency, duration, intensity, and appropriateness of all treatment procedures and modalities commonly performed in workers' compensation cases.

Senate Bill 228 further included Labor Code section 4604.5, which was later amended by Senate Bill 899. Labor Code section 4604.5 provides that upon adoption of the medical treatment utilization schedule pursuant to Labor Code section 5307.27, the recommended guidelines set forth in the schedule are presumptively correct on the issue of extent and scope of medical treatment. Labor Code section 4604.5 also provides that the presumption is rebuttable and may be controverted by a preponderance of the scientific medical evidence establishing that a variance from the guidelines is reasonably required to cure or relieve the injured worker from the effects of his or her injury. The presumption created is one affecting the burden of proof.

Labor Code section 4604.5 further provides that the recommended guidelines set forth in the adopted schedule shall reflect practices that are evidence and scientific

based, nationally recognized, and peer-reviewed. The guidelines shall be designed to assist providers by offering an analytical framework for the evaluation and treatment of injured workers, and shall constitute care in accordance with Labor Code section 4600 for all injured workers diagnosed with industrial conditions.

Labor Code section 4604.5 provides that for injuries occurring on and after January 1, 2004, an injured worker shall be entitled to no more than 24 chiropractic, 24 occupational therapy, and 24 physical therapy visits per industrial injury.

Labor Code section 4600 provides, in pertinent part, that medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including orthotic and prosthetic devices and services, that are reasonably required to cure or relieve the injured worker from the effects of his or her injury shall be provided by the employer. In the case of his or her neglect or refusal reasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. Also pertinent to these proposed regulations is subdivision (b) of Labor Code section 4600 which was added by Senate Bill 899. This subdivision provides that, as used in this division and notwithstanding any other provision of law, medical treatment that is reasonably required to cure or relieve the injured worker from the effects of his or her injury means treatment that is based upon the guidelines adopted by the administrative director pursuant to Labor Code section 5307.27.

The proposed regulations define the terms used in the controlling statutes, set forth the medical treatment utilization schedule, identify the presumption of correctness and burden of proof required pursuant to the statute and set forth the hierarchy of scientific based evidence to be utilized in specified situations. The proposed regulations further set forth the creation, composition, term of service, and purpose of a medical evidence evaluation advisory committee to advise the Administrative Director on matters concerning the medical treatment utilization schedule.

1. Section 9792.20—Medical Treatment Utilization Schedule—Definitions

This section defines key terms used in these regulations to ensure that the meaning, as used in the regulations, will be clear to the public.

Section 9792.20(a) sets forth the definition for the term "acute." This term is defined as a medical condition lasting less than 3 months.

Section 9792.20(b) sets forth the definition for the term "American College of Occupational and Environmental Medicine (ACOEM)." The term is defined as a medical society of physicians and other health care pro-

professionals specializing in the field of occupational and environmental medicine, dedicated to promoting the health of workers through preventive medicine, clinical care, research, and education.

Section 9792.20(c) defines the term “ACOEM Practice Guidelines.” This term is defined as the American College of Occupational and Environmental Medicine’s Occupational Medicine Practice Guidelines, 2nd Edition (2004), published by OEM Press. This section further incorporates the ACOEM Practice Guidelines by reference, and informs the public that a copy may be obtained from OEM Press, 8 West Street, Beverly Farms, Massachusetts 01915 (www.oempres.com).

Section 9792.20(d) sets forth the definition for the term “chronic” as a medical condition lasting 3 months or more.

Section 9792.20(e) sets forth the definition for the term “claims administrator.” The term is defined as a self-administered workers’ compensation insurer, a self-administered self-insured employer, a self-administered legally uninsured employer, a self-administered joint powers authority, a third-party claims administrator, or the California Insurance Guarantee Association.

Section 9792.20(f) sets forth the definition of the term “evidence-based” as based, at a minimum, on a systematic review of literature published in medical journals included in MEDLINE.

Section 9792.20(g) sets forth the definition of the term “hierarchy of evidence” as establishing the relative weight that shall be given to scientifically based evidence.

Section 9792.20(h) sets forth the definition for the term “medical treatment.” The term is defined as care which is reasonably required to cure or relieve the employee from the effects of the industrial injury consistent with the requirements of sections 9792.20–9722.23.

Section 9792.20(i) sets forth the definition for the term “medical treatment guidelines.” The term is defined as written recommendations systematically developed through a comprehensive literature search to assist in decision-making about the appropriate health care for specific clinical circumstances.

Section 9792.20(j) sets forth the definition for the term “medical treatment provider.” The term is defined as a provider of medical services as well as related services or goods, including but not limited to an individual or facility, a health care service plan, a health care organization, a member of preferred provider organization, or a medical provider network as provided in Labor Code section 4616.

Section 9792.20(k) sets forth the definition for the term “MEDLINE.” The term, which is commonly known as PubMed, is defined as the search engine for

the National Library of Medicine. The section further sets forth its website address as www.pubmed.gov.

Section 9792.20(l) sets forth the definition for the term of “nationally recognized” as meaning published in a peer-reviewed medical journal; or developed, endorsed and disseminated by a national organization based in two or more U.S. states; or currently adopted by one or more U.S. state governments or by the U.S. federal government; and is the most current version.

Section 9792.20(m) sets forth the definition of the term “scientifically based.” The term is defined as meaning based on scientific literature, wherein the literature is identified through performance of a literature search, the identified literature is graded, and then used as the basis for the guideline.

2. Section 9792.21—Medical Treatment Utilization Schedule

This section sets forth the medical treatment utilization schedule.

(a) This section informs the public that the Administrative Director adopts and incorporates by reference the ACOEM Practice Guidelines, Second Edition (2004), published by OEM Press, into the medical treatment utilization schedule. The section further informs the public that a copy of the ACOEM Practice Guidelines may be obtained from OEM Press, 8 West Street, Beverly Farms, Massachusetts 01915 (www.oempres.com).

(b) This section explains that the ACOEM Practice Guidelines are intended to assist medical treatment providers by offering an analytical framework for the evaluation and treatment of injured workers. The section further explains that the ACOEM Practice Guidelines are intended to help those who make medical treatment decisions regarding the care of injured workers understand what treatment has been proven effective in providing the best medical outcomes to those workers, in accordance with section 4600 of the Labor Code.

(c) This section explains that treatment cannot be denied on the sole basis that the condition or injury is not addressed by the ACOEM Practice Guidelines. The section further explains that if this situation is encountered, the claims administrator must authorize treatment, and clarifies that such authorized treatment must be in accordance with other scientifically and evidence-based medical treatment guidelines that are generally recognized by the national medical community, in accordance with subdivisions (b) and (c) of section 9792.22.

3. Section 9792.22—Presumption of Correctness, Burden of Proof and Hierarchy of Scientific Based Evidence

This section identifies the presumption of correctness and burden of proof required by the statute and sets

forth the hierarchy of scientific based evidence to be utilized in specified situations.

(a) This section informs the public pursuant to the statute that the ACOEM Practice Guidelines are presumptively correct on the issue of extent and scope of medical treatment and diagnostic services addressed in those guidelines for both acute and chronic medical conditions. The section explains that the presumption is rebuttable and may be controverted by a preponderance of scientific medical evidence establishing that a variance from the schedule is reasonably required to cure or relieve the injured worker from the effects of his or her injury. The section further explains that the presumption created is one affecting the burden of proof.

(b) This section explains that, pursuant to the statute, for all conditions or injuries not addressed by the ACOEM Practice Guidelines, the treatment and diagnostic service which is authorized must be in accordance with other scientifically and evidence-based medical treatment guidelines that are generally recognized by the national medical community.

(c)(1) This section sets forth a hierarchy of scientific based evidence to be used to determine the effectiveness of different medical treatments or diagnostic services when the following situations exist:

- where the medical treatment or diagnostic service provided is not addressed by section 9792.22(a) (medical treatment or diagnostic services that are addressed by the ACOEM Practice Guidelines);
- where the medical treatment or diagnostic service provided is not addressed by provisions of section 9792.22(b) referring to medical treatment or diagnostic services that are addressed by other medical treatment guidelines that are “scientifically and evidence-based” and are “generally recognized by the national medical community[;]”
- where the medical treatment or diagnostic service provided is at variance with the provisions of section 9792.22(a) (medical treatment or diagnostic services that are addressed by the ACOEM Practice Guidelines);
- where the medical treatment or diagnostic service provided is at variance with the provisions of section 9792.22(b) referring to medical treatment or diagnostic services that are addressed by other medical treatment guidelines that are “scientifically and evidence-based” and are “generally recognized by the national medical community[;]”
- where the recommended medical treatment or diagnostic service covered under section 9792.22(b) is at variance with another treatment guideline also covered under section 9792.22(b).

The hierarchy of scientific based evidence is set forth in this section as follows:

(A) **Level A.** Strong research-based evidence provided by generally consistent findings in multiple (more than one) high quality randomized control studies (RCTs).

(B) **Level B.** Moderated research-based evidence provided by generally consistent findings in one high-quality RCT and one or more low quality RCTs, or generally consistent findings in multiple low quality RCTs.

(C) **Level C.** Limited research based evidence provided by one RCT (either high or low quality) or inconsistent or contradictory evidence findings in multiple RCTs.

(c)(2) This subdivision explains that evidence shall be given the highest weight in the order of the hierarchy of scientific based evidence.

4. Section 9792.23—Medical Evidence Evaluation Advisory Committee

This section explains the creation, composition, term of service, and purpose of a medical evidence evaluation advisory committee.

(a)(1) This subdivision explains that the Medical Director will create a medical evidence evaluation advisory committee to provide recommendations to the Administrative Director on matters concerning the medical treatment utilization schedule. The subdivision further explains that the recommendations of the evidence evaluation advisory committee are advisory only and will not constitute scientifically based evidence.

(a)(1)(A) This subpart explains that if the Medical Director position becomes vacant, the Administrative Director will appoint a competent person to temporarily assume the authority and duties, as set forth in this section, of the Medical Director until the Medical Director position is filled.

(a)(2) This subdivision explains that the Medical Director, or his or her designee, will appoint the members of the medical evidence evaluation advisory committee. This subdivision further provides that the medical evidence evaluation advisory committee will consist of 10 members of the medical community representing the following specialty fields:

(a)(2)(A) This subpart informs the public that one member of the medical evidence evaluation advisory committee will be from the orthopedic field;

(a)(2)(B) This subpart informs the public that one member of the medical evidence evaluation advisory committee will be from the chiropractic field;

(a)(2)(C) This subpart informs the public that one member of the medical evidence evaluation advisory committee will be from the occupational medicine field;

(a)(2)(D) This subpart informs the public that one member of the medical evidence evaluation advisory committee will be from the acupuncture medicine field;

(a)(2)(E) This subpart informs the public that one member of the medical evidence evaluation advisory committee will be from the physical or occupational therapy field;

(a)(2)(F) This subpart informs the public that one member of the medical evidence the evaluation advisory committee will be from the psychology or psychiatry field;

(a)(2)(G) This subpart informs the public that one member of the medical evidence evaluation advisory committee will be from the pain specialty field;

(a)(2)(H) This subpart informs the public that three members of the medical evidence evaluation advisory committee will be appointed at the discretion of the Medical Director or his or her designee.

(a)(3) This subdivision explains that in addition to the ten members of the medical evidence evaluation advisory committee, the Medical Director, or his or her designee, may appoint an additional three members to the medical evidence evaluation advisory committee. These three additional members will be appointed as subject matter experts for any given topic.

(b) This section informs the public that the Medical Director, or his or her designee will serve as the chairperson of the medical evidence evaluation advisory committee.

(c) This section informs the public that the members of the medical evidence evaluation advisory committee will use the hierarchy of evidence set forth in subdivision (c)(1) of section 9792.22 to evaluate evidence when making recommendations to revise, update or supplement the medical treatment utilization schedule.

(d) This section explains the terms of service of the members of the medical evidence evaluation advisory committee. The section informs the public that the members of the medical evidence evaluation advisory committee, with the exception of the three subject matter experts, will serve a term of one year period. If at the end of the one year period a successor is not selected, the member of the committee will continue in that position until a successor is selected. The section further informs the public that the subject matter experts will serve in the medical evidence evaluation advisory committee until the evaluation of the subject matter guideline is completed.

(f) This section informs the public that the Administrative Director, in consultation with the medical evidence evaluation advisory committee, may revise, update, and supplement the medical treatment utilization schedule as necessary.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Adoption of this regulation will not: (1) create or eliminate jobs within the State of California; (2) create new businesses or eliminate existing businesses within the State of California; or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- Cost impacts on representative private person or business: The Administrative Director has determined that the proposed regulations will not have a significant adverse economic impact on representative private persons or directly affected businesses.
- There will be some small costs related to the purchase of the ACOEM Practice Guidelines at the cost of \$195.00 per book. There may also be some costs related to the purchase of other medical treatment guidelines that are evidence and scientifically based, nationally recognized and peer-reviewed. However, it is expected that many business already own these guidelines as part of their ongoing business expenses.

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: None.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The potential costs imposed on all public agency employers by these proposed regulations, although not a benefit level increase, are not a new State mandate because the regulations apply to all employers, both public and private, and not uniquely to local governments. The Administrative Director has determined that the proposed regulations will not impose any new mandated programs on any local agency or school district. The California Supreme Court has determined that an increase in workers' compensation benefit levels does not constitute a new State mandate for the purpose of local mandate claims because the increase does not

impose unique requirements on local governments. See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46. The potential costs imposed on all public agency employers and payors by these proposed regulations, although not a benefit level increase, are similarly not a new State mandate because the regulations apply to all employers and payors, both public and private, and not uniquely to local governments.

- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. (See “Local Mandate” section above.)
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed regulations do not apply to any local agency or school district. (See “Local Mandate” section above.)

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations will result in small initial costs to small businesses if they have not already purchased the ACOEM Practice Guidelines at the cost of \$195.00 per book. There may also be some costs related to the purchase of other medical treatment guidelines that are evidence and scientifically based, nationally recognized and peer-reviewed if these business do not already own these guidelines as part of their ongoing business practices.

CONSIDERATION OF ALTERNATIVES

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

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

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

The text of the draft proposed regulations was made available for pre-regulatory public comment from June 23, 2005 through July 8, 2005 through the Division’s Internet website (the “DWC Forum”), as required by Government Code section 11346.45.

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, proposed text of the regulations, pre-rulemaking comments and the Economic Impact Statement (Form STD 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 the regulations being proposed 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 Medical Treatment Utilization Schedule 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, 17th Floor, Oakland, California 94612, 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 FOR GENERAL QUESTIONS

Non-substantive inquiries concerning this action, such as requests to be added to the mailing list for rule-making 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
P.O. Box 420603
San Francisco, CA 94142
E-mail: mgray@dir.ca.gov

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

CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person above is unavailable, or for questions regarding the substance of the proposed regulations, inquiries should be directed to:

Minerva Krohn
Division of Workers' Compensation
P.O. Box 420603
San Francisco, CA 94142
E-mail: mkrohn@dir.ca.gov

The telephone number of this 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 shown 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 Division's website at 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 with any final amendments will appear in title 8 of the California Code of Regulations, commencing with section 9792.20. The text of the final regulations also may be available

through the website of the Office of Administrative Law at www.oal.ca.gov.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULEMAKING

DATE: June 19, 2006

REGULATION FILE: RH04037853

SUBJECT OF PROPOSED RULEMAKING

The Insurance Commissioner ("Commissioner") proposes to adopt a regulation regarding bail education. Specifically, the regulation establishes general parameters for bail education curriculum, and recites substantive and procedural criteria for approval of bail education providers, instructors, and courses. It specifies certain required records and how those records shall be maintained. It identifies standards for successful completion of a bail education course. Finally, it discusses sanctions for violations of the regulation and incorporates various forms for submitting information to the Department of Insurance ("Department").

This adoption will only occur after the Commissioner considers all comments, objections and recommendations regarding the proposed regulation. If adopted, the regulation will add sections 2105.1 through 2105.19 to Title 10, Chapter 5, Subchapter 1, Article 2 of the California Code of Regulations ("C.C.R.").

PUBLIC HEARING DATE AND LOCATION:

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulation at the following date, time, and place:

Date and time: **Wednesday, August 30,
2006**

10:00 A.M.

Location: **California Department
of Insurance
300 Capitol Mall,
Room 635
Sacramento, CA 95814**

Access to hearing rooms

The building and room 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 primary contact person (listed below) in order to make special arrangements, if necessary.

PRESENTATION OF WRITTEN COMMENTS

A person may submit written comments without, or in addition to, attending the public hearing. Written comments and questions should be addressed to the below primary contact person.

Primary contact person

Jon Tomashoff, CPCU, Senior Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4119
Facsimile: (415) 904-5490
tomashoffj@insurance.ca.gov

Backup contact person

Jose Aguilar, Assistant Chief Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4141
Facsimile: (415) 904-5729
aguilarj@insurance.ca.gov

E-mail comments preferred

The Department of Insurance encourages the transmission of written comments in Word™ or PDF format (converted from Word, not scanned) by E-mail to tomashoffj@insurance.ca.gov. Comments sent to a different E-mail address will not be accepted. The Department will promptly acknowledge receipt of comments sent by E-mail.

Deadline for written comments

All written materials must be received by the Insurance Commissioner, addressed to the primary contact person at the address listed above, no later than 5:00 p.m. on August 30, 2006. Any written materials received after that time will not be considered.

Comments transmitted by facsimile

The Commissioner will accept written comments transmitted by facsimile provided they are legible and directed to the attention of the primary contact person at the above facsimile number. Comments sent to a different facsimile number will not be accepted.

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 Subchapter 4.5, Title 10, of the California Code of Regulations, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the

following address, in order to inquire about the appropriate procedures:

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 must also be submitted to the primary contact person for this hearing, listed above. Please contact the Office of the Public Advisor for further information.

AUTHORITY AND REFERENCE

The regulation will implement, interpret, and/or make specific the provisions of California Insurance Code (“C.I.C.”) section 1810.7. C.I.C. §§ 1810.7 and 1812 provide the authority for the regulation.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

C.I.C. § 1810.7 requires applicants for a bail license (bail agent, bail solicitor, bail permittee) to complete not less than 12 hours of classroom education in subjects pertinent to the duties and responsibilities of a bail licensee prior to licensure. Bail licensees must thereafter complete not less than six hours of continuing education each year prior to renewal of his or her license. The commissioner must approve bail education providers, course outlines and schedules of classes to be provided. C.I.C. § 1810.7 contains other provisions as well.

PROPOSED SECTIONS

Each section of the regulation is summarized below. The actual text of the regulation, along with an Initial Statement of Reasons explaining the specific purpose of each section, and the rationale for the determination that each section is reasonably necessary to fulfill the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is set forth on the Department website: www.insurance.ca.gov.

Section 2105.1 defines “Class,” “Classroom,” “Commissioner,” “Course,” “Department,” “Electronic Filing,” “Electronic Signature,” “Fee Schedule,” “Instructor,” “Original signature,” “Provider,” and “Provider director.”

Section 2105.2 recites the topics that must be covered in a prelicensing course.

Section 2105.3 addresses the substantive and procedural requirements for approval and renewal of approval of bail education providers.

Section 2105.4 deals with instructor qualifications.
 Section 2105.5 and 2105.6 deal with substantive and procedural requirements for approval and renewal of approval of courses.
 Section 2105.7 addresses maintenance of records by providers.
 Section 2105.8 discusses successful completion of a prelicensing course.
 Section 2105.9 discusses successful completion of a continuing education course.
 Section 2105.10 deals with certificates of completion.
 Section 2105.11 pertains to enforcement.
 Section 2105.12 is a form entitled Department Prelicensing/Continuing Education Program Provider Certification/Renewal Application.
 Section 2105.13 is a form entitled Out-of-State Provider Jurisdiction Agreement.
 Section 2105.14 is a form entitled Prelicensing/Continuing Education Program Instructor Qualification.
 Section 2105.15 is a form entitled Bail Course Approval/Renewal Application.
 Section 2105.16 is a form entitled Class Presentation Schedule.
 Section 2105.17 is a form entitled Prelicensing and Continuing Education Program Course Attendance Record and Verification.
 Section 2105.18 is a form entitled Prelicensing and Continuing Education Provider Stipulation to Maintain Records Outside of California.
 Section 2105.19 is a form entitled Provider Roster.

**DISCLOSURES REGARDING
THE PROPOSED ACTION**

**MANDATES ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The regulation does not impose any mandate on local agencies or school districts.

COST OR SAVINGS TO STATE AGENCY

There will be no fiscal impact as the Dept of Insurance is already regulating bail education providers under the status quo pursuant to statutory mandate, and collecting fees for such, in a manner fiscally equivalent to what is required by this regulation.

**COST TO ANY LOCAL AGENCY
OR SCHOOL DISTRICT**

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.

**OTHER NONDISCRETIONARY COSTS TO
OR SAVINGS TO ANY LOCAL AGENCY**

None

**COSTS OR SAVINGS IN FEDERAL
FUNDING TO THE STATE**

None

**SIGNIFICANT, STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY AFFECTING
BUSINESS, INCLUDING THE ABILITY OF
CALIFORNIA BUSINESSES TO COMPETE WITH
BUSINESSES IN OTHER STATES**

The Commissioner has made an initial determination that the adoption of this regulation would not have a significant, statewide adverse economic impact directly affecting business. The regulation will have a slight economic impact on bail education providers. The regulation will not alter the ability of California businesses to compete with businesses in other states.

The regulation will not involve any new or increased fee, assessment or charge. It will not require the purchase of any new equipment, structures or supplies, or the hiring of additional staff, other than possibly a supply of forms. Compliance should be relatively easy, with certain existing business employees requiring merely an hour each to read and understand the regulation. Thereafter, affected businesses will be required to follow certain procedures recited in the regulation. The regulation will not create any time delays that will increase interest, inventory or other time-sensitive costs. The annual ongoing costs to a business will depend on the number of courses, instructors and students.

The regulation will impose various reporting requirements necessary to ensure that providers are competent and honest, courses compliant with curriculum guidelines, and students credited with completed courses.

The regulation will not affect the ability of California businesses to compete with businesses in other states because any bail education provider, whether based within or outside of California, will have to comply equally with the regulation.

**POTENTIAL COST IMPACT ON PRIVATE
PERSONS OR ENTITIES/BUSINESSES**

“The agency is not aware of any cost impacts that a representative private person or business would neces-

sarily incur unreasonable compliance with the proposed action.”

**EFFECT ON JOBS AND BUSINESSES
IN CALIFORNIA**

The regulation will not result in the creation or elimination of jobs, nor the creation, elimination or expansion of businesses.

IMPACT ON HOUSING COSTS

None

BUSINESS REPORTING REQUIREMENT

The regulation will impose various reporting requirements necessary to ensure that providers are competent and honest, courses compliant with curriculum guidelines, and students credited with completed courses.

IMPACT ON SMALL BUSINESS

The regulation will affect education providers that are small businesses in the manner described above in the section entitled “Significant, Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States.”

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 regulation is imposed or would be as effective and less burdensome to affected private persons than the proposed regulation. The Commissioner invites public comment on alternatives to the regulation.

COMPARABLE FEDERAL LAW

There is no existing federal regulation or statute comparable to the regulation.

**TEXT OF REGULATION AND INITIAL
STATEMENT OF REASONS**

The Department has prepared an initial statement of reasons that sets forth the reasons for the regulation. The initial statement of reasons, and the text of the regulation, is available on the Department’s website.

Instructions for accessing the website page containing these documents are provided below.

Upon request, the 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 primary contact person listed above by e-mail.

The file for this proceeding, which includes a copy of the proposed regulation, 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 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. Arrangements to view the file should be directed to the primary contact person listed above by e-mail.

AUTOMATIC MAILING

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

WEBSITE POSTINGS

Documents concerning this rulemaking are available on the Department’s website, and can be located by going to <http://www.insurance.ca.gov/0200-industry/0500-legal-info/0200-regulations/proposed-regulations.cfm>, and typing “bail education” in the search field.

MODIFIED LANGUAGE

If the Commissioner decides to adopt a regulation that differs in any substantial manner from the text that was originally provided to the public, the full text of the revised regulation will be available to the public for at least 15 days prior to its adoption. (If the revisions vary from the original text to such an extent that the public was not adequately placed on notice that the revisions could result from the original text, the Department will initiate an entirely new rulemaking.) Interested persons may request a copy of the revised regulation from the primary contact person listed above, and provide comment on the revisions to that contact person, within 15 days prior to adoption.

**OBTAINING THE FINAL STATEMENT OF
REASONS**

A copy of the final statement of reasons may be obtained by contacting the primary contact person listed above.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION

Self-Service Storage Agent License

RH06093053

July 6, 2006

SUBJECT OF PROPOSED RULEMAKING

Insurance Commissioner John Garamendi proposes to adopt the regulations described below after considering comments from the public. The Commissioner proposes to add sections 2194.9 through 2194.17 of Article 11 to Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations.

PUBLIC HEARING

A public hearing has been scheduled in connection with this proposed action for Monday, August 28, 2006 starting at 1:00 PM at the Department of Insurance, 45 Fremont Street, San Francisco, CA in the 22nd Floor Hearing Room. Should there be no persons arriving by one-half hour from the start of the public hearing or additional persons arriving by one-quarter hour from the last commentor, the public hearing will close. The sole purpose of this hearing is to address the merits of the proposed regulations. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department of Insurance (“Department”) requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at hearing.

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of Insurance Code sections 1758.7 through 1758.792. Section 1 of A.B. 2520 (Stats. 2004, ch. 428) provides the Insurance Commissioner with authority for this rulemaking.

WRITTEN COMMENT PERIOD

Any interested person or authorized representative may submit written comments on the proposed regulations to the Commissioner during the public comment period. **The public comment period will close at 5:00 PM on August 28, 2006.** The Commissioner will only

consider comments received at the Department of Insurance offices by that time. Send comments to the contact person below.

CONTACT PERSON

All written comments or inquiries concerning the proposed regulations and requests for copies of the proposed text may be directed to:

Julie D. Soo, Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4429

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:

Gail Houser, Manager, Processing Section, Licensing Services Division
California Department of Insurance
320 Capitol Mall, 1st Floor
Sacramento, CA 95814
Telephone: (916) 492-3029

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided that they are sent to the following e-mail address: sooj@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided that they are directed to the attention of Julie D. Soo and sent to the following facsimile number: (415) 904-5490. **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/POLICY STATEMENT OVERVIEW

Existing law makes it a crime to act or assume to act in a capacity for which a production agency license is required without having such a license. Assembly Bill 2520 (Vargas) of 2004 (Chapter 428, Statutes of 2004), effective January 1, 2005, added Article 16.3, commencing with section 1758.7, to Chapter 5 of Part 2 of Division 1 of the Insurance Code, creating a new category of production agency license and expanding the scope of activities for which a license is required. Thus,

this addition to the Insurance Code expands the scope of an existing crime. Regulations are necessary to advise applicants of the requirements for the Self-Service Storage Agent License and to establish the guidelines and fees necessary for the acceptance of applications by the Department of Insurance (“Department”).

Emergency regulations were submitted to OAL on June 21, 2006. These regulations were noticed on June 13, 2006. Notice for emergency regulation was first issued on July 28, 2005. That subsequent rulemaking file submitted to the Office of Administrative Law on September 30, 2005 for adoption on an emergency basis was withdrawn on October 11, 2005 pending further Department of Insurance internal review of the regulation requirements and the licensing forms.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The Commissioner has made the following initial determinations:

**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 ANY STATE AGENCY

Except for cost to the Department of Insurance for implementing the Self-Service Storage Agent License program, the Commissioner has determined that the proposed regulations will result in no cost or savings to any State agency. As disclosed in the Economic and Fiscal Impact Estimate/Form 399, the Budget Office for the Department of Insurance anticipates that the Department will be able to absorb the costs associated with implementing the mandates of this licensing program. Most of the costs will be offset by the licensing fee. Original estimates since the initial adoption of the Emergency Regulations effective June 26, 2006 are currently relied upon even though applications received to date reflect a shortfall of estimated applications. The Department anticipates that the number of applications will likely reach original estimates, particularly in light of additional publicity surrounding promulgation of permanent regulations.

**COST TO ANY LOCAL AGENCY
OR SCHOOL DISTRICT**

The Commissioner has determined that the proposed regulations will result in 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.

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

The Commissioner has determined that the proposed regulations will result in no other non-discretionary cost or savings imposed on local agencies.

**COST OR SAVINGS IN FEDERAL
FUNDING TO THE STATE**

The Commissioner has determined that the proposed regulations will result in no cost or savings in federal funding to the State.

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

To the extent that these regulations provide for an optional insurance product line to providers that choose to market Self-Service Storage Insurance, the economic impact is a cost-benefit choice to be made by an individual business. The Commissioner has determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**POTENTIAL COST IMPACT ON PRIVATE
PERSONS OR ENTITIES/BUSINESSES**

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

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the health, safety, or welfare of the people of this State that proposed section 2194.15, which requires record maintenance and retention subject to production for examination by the Commissioner, 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 existing businesses, and the expansion of businesses currently doing business within 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 this issue.

IMPACT ON HOUSING COSTS

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

SMALL BUSINESS DETERMINATION

The Commissioner has not identified any alternatives that would lessen any adverse impact on small business. To the extent that these regulations provide for an optional insurance product line to vendors that choose to market Communications Equipment Insurance, the economic impact is a cost-benefit choice to be made by an individual business.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), the Commissioner must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose of the proposed regulations, and that no alternative would be as effective or less burdensome to private persons or businesses directly affected than these regulations.

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

COMPARABLE FEDERAL LAW

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

AVAILABILITY OF TEXT OF REGULATIONS
AND INITIAL STATEMENT OF REASONS

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above San Francisco address, between the hours of 9:00 AM and 4:30 PM, Monday

through Friday. As of the date of publication in the Notice Register, the rulemaking file consists of this Notice, the Text of the proposed regulations, and the Initial Statement of Reasons.

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 at www.insurance.ca.gov: click 'Industry' along the burgundy horizontal bar. At 'Legal Information' located on the right hand side column of the opening screen, click the 'View Proposed Regulations' link. Enter "RH06093053" or "Self-Service Storage Agent License" as the search term. For those without Web access, documents are available from the contact person at the fax number listed.

AVAILABILITY OF CHANGED OR MODIFIED
TEXT

If modifications are made to the text of the proposed regulations, the modified text, with changes indicated, will be made available to the public for at least 15 days prior to the date on which the Commissioner adopts the amendments. Requests for copies of any modifications should be sent to the contact person at the address indicated above. The Commissioner will accept written comments on the modified text for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF
REASONS

When available, a copy of the Final Statement of Reasons can be obtained from the Department's Website at www.insurance.ca.gov. For those without Web access, documents are available from the contact person at the fax number listed.

Date Published in the California Regulatory Notice Register (CRNR): July 7, 2006

**TITLE 14. FISH AND GAME
COMMISSION**

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the au-

thority vested by sections 1050, 5510, 8550, 8553 and 8555 of the Fish and Game Code and to implement, interpret or make specific sections 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557, and 8559 of said Code, proposes to amend Sections 163 and 164, Title 14, California Code of Regulations, relating to the Commercial Herring Fishery.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

The proposed regulations would establish fishing quotas, set the minimum mesh size in Tomales Bay, establish season dates and times that fishing operations are allowed, specify issuance of permits by first-class mail, modify the maximum number of permits in San Francisco Bay before being re-issued, modify the requirements for vessel identification on the vessel house and modify Section 163 for consistency with Section 163.1.

The following is a summary of the proposed changes in Sections 163, and 164, Title 14, California Code of Regulations (CCR):

The proposed regulations would establish fishing quotas by area for the 2006–07 herring fishing season, based on the most recent assessments of the spawning populations of herring in San Francisco and Tomales bays. Three options are provided for the San Francisco Bay quota. San Francisco Bay Quota Option 1 would set the quota at 14,505 tons which represents 10 percent of the 2005–06 spawning biomass estimate. If the Commission were to adopt San Francisco Bay Quota Option 1, a 14,505-ton quota, this would result in a 25.6-ton individual quota for a “CH” gill net permittee and a 7.7-ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery. San Francisco Bay Quota Option 2 would set the quota at 13,171 tons which represents a reduction in the quota at ten percent by the percentage of three-year old fish (9.2 percent) estimated to comprise the 2005–06 commercial landings. This quota represents 9.1 percent of the spawning biomass estimate. If the Commission were to adopt Quota Option 2, a 13,171-ton quota, this would result in a 23.2-ton individual quota for a “CH” gill net permittee and 7.0-ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery.

San Francisco Bay Quota Option 3 would set the quota at 4,502 tons which represents 7.6 percent of the 2004–05 spawning biomass estimate. If the Commission were to adopt San Francisco Bay Quota Option 3, a 4,502-ton quota, this would result in a 7.9-ton individual quota for a “CH” gill net permittee and a 2.3-ton individual quota for a non-“CH” gill net permittee participating in the HEOK fishery.

- A set fishing quota of 350 tons (seventeen percent of the 2005–06 spawning biomass estimate of 3,686 tons) is proposed for Tomales Bay, with no provisions to increase the quota in-season.
- The proposed amendment specifies that the length of the meshes of any gill net used or possessed in the roe fishery in Tomales Bay, shall be no less than 2 inches or greater than 2–1/2 inches. This proposal finalizes the study to evaluate the effect of reduced mesh size on the length and age composition of herring caught in 2-inch mesh gill nets in Tomales Bay.
- The proposed regulations would set the dates of the roe herring fisheries in San Francisco Bay from 5 p.m. on Sunday, December 3, 2006, until noon on Friday, December 22, 2006 (“DH” gill net platoon only), and from 5:00 p.m. on Tuesday, January 2, 2007, until noon on Friday, March 9, 2007, for the odd and even platoons.
- The proposed regulations would set the dates of the roe herring fisheries in Tomales Bay from noon on Tuesday, December 26, 2006, until noon on Wednesday, February 28, 2007.
- The proposed amendment would specify that all herring permit applications, transfer fees, authorized agent requests and fresh fish permit applications be sent to the License and Revenue Branch in Sacramento, California, and would modify the regulations to provide that the Department mail permits via first-class mail not certified mail.
- The proposed amendment would specify 80 permits would be the threshold for re-issuing DH permits for the DH platoon and 160 permits would be the threshold for re-issuing permits for the odd and even platoons in the San Francisco Bay roe herring fishery.
- The proposed amendment would modify the regulations to allow vessel identification signage on the side of the house to be seen from air and eliminate the signage on the top of the wheel house.
- The proposed regulations would modify subsections (a)(5), (b)(1), (c)(1)(D), and (e)(2) of Section 163 regarding crew lists, multiple permit ownership, lottery qualification criteria and gill

net vessel fishing for consistency with Section 163.1.

- The proposed regulations would correct the Herring Eggs on Kelp Permit Application number in subsection 164(h)(1) to coincide with the 2006–07 season application.

Minor changes are proposed to clarify and simplify the regulations.

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 California State Building 9, First Floor Auditorium, 744 P Street, Sacramento, California on Friday, August 4, 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 Museum of Natural History, Fleischmann Auditorium, 2559 Puesta del Sol Road, Santa Barbara, on Friday, August 25, 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 August 18, 2006 at the address given below, or by fax at (916) 653–5040, or by e–mail to FGC@fgc.ca.gov, but must be received no later than August 25, 2006, at that address. All written comments must include the true name and mailing address of the commentor.

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, 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 Jon Fischer or Sheri Tiemann at the preceding address or phone number. **Becky Ota, Marine Region, Department of Fish and Game, phone (650) 631–6789, 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. 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 businesses, including the ability of California businesses to compete with businesses in other states.

Overall the proposed 2006–07 regulations would benefit California’s commercial herring fishermen and herring processing plants, all of which are small businesses as defined under Government Code Section 11342.610. Depending on which option the Fish and Game Commission (Commission) selects, net benefits would accrue to the San Francisco Bay herring fishery in the form of potential increased catches, revenues, and related economic activity. Harvest quotas for San Francisco Bay herring fishermen could be increased from 4,502 tons to 14,505 tons (Option 1), from 4,502 to 13,171 tons (Option 2), or remain status quo at 4,502 tons (Option 3).

Option 1 includes a proposed quota of 14,505 tons for San Francisco Bay in 2006–07, and represents potential ex–vessel revenues of as much as \$8,122,800 in the San Francisco Bay herring fishery, which consists of approximately 348 herring fishermen. Relative to the 2005–06 quota of 4,502 tons, this represents a potential revenue increase of \$5,601,680. This increased revenue projection is based on average price data from the 2005–06 season, assuming that the entire San Francisco quota is harvested in each year ($\$8,122,800_{2006-07} - \$2,521,120_{2005-06} = \$5,601,680$, presented in year 2005 dollars). Additionally, the Tomales Bay quota is proposed to be 350 tons, down from last season’s 400 ton quota. While this reduction might appear to be a potential revenue loss of \$26,600 to the fishermen, historical landings on average are well below the proposed 350 ton quota. Only 18.5 tons of the Tomales Bay quota was landed in 2005–06, well below the 400 ton to 500 ton quota that was available. Over the last 10 seasonal quotas set for Tomales Bay, the landings only averaged

172.2 tons and never exceeded 356 tons for any one season. Thus no revenue losses are anticipated from the proposed 350 ton quota. The 2006–07 Humboldt Bay and Crescent City Harbor herring fishery quotas remain the same as for the 2005–06. Thus the increase in potential ex–vessel revenue from all herring quotas, for all 348 herring fishermen, could be \$5,575,080 to \$5,601,680 under the proposed 2006–07 regulation. Using a regional output multiplier of 1.8478 and projected increases in ex–vessel revenues of \$5,575,080 to \$5,601,680, the increase in economic contribution of the 2006–07 herring fishery could be as much as \$10,301,684 to \$10,350,836 in year 2005 dollars.

Option 2 has a proposed quota of 13,171 tons for San Francisco Bay in 2006–07, and represents potential increases in ex–vessel revenues of as much as \$4,828,040 to \$4,854,640 in the herring fishery of 348 fishermen. This increased revenue projection is based on average price data from the 2005–06 season, assuming that the entire San Francisco quota is harvested in each year (\$7,375,760 2006–07 – \$2,521,120 2005–06 = \$4,854,640 in year 2005 dollars). As in the above option, the Tomales Bay quota is proposed to be 350 tons. The 2006–07 Humboldt Bay and Crescent City Harbor herring fishery quotas remain the same as for the 2004–05. Thus the potential increase in ex–vessel revenue from all herring quotas, for all 348 herring fishermen, could be as much as \$4,828,040 to \$4,854,640 (in year 2005 dollars) under the proposed Option 2. Using a statewide output multiplier of 1.8478 and the projected ex–vessel revenue increases of \$4,854,640 the increase in economic contribution of the 2006–07 herring fishery could be as much as \$8,970,448 in year 2005 dollars. (This is calculated by taking the projected ex–vessel revenues and multiplying by a statewide demand output multiplier of 1.8748 times \$4,854,640 = \$8,970,448).

Option 3 has a proposed quota of 4,502 tons for San Francisco Bay, 350 tons for Tomales Bay, status quo for Humboldt Bay and Crescent City Harbor in 2006–07 Based on historic landings in the respective areas, and the information presented in Option 1 for Tomales Bay, we do not expect any adverse economic impacts associated with Option 3.

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.

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

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

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

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by section 2860 of the Fish and Game Code and to implement, interpret or make specific section 2861 of said Code, proposes to amend Section 632(b), Title 14, California Code of Regulations, relating to Commercial Lobster Fishing in Dana Point State Marine Park.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The Fish and Game Commission (hereafter Commission) proposes to authorize commercial lobster fishing in the area referred to as the “Dana Point Marine Life Refuge” in Section 10907 of the Fish and Game Code (hereafter FGC), which is also the area referred to as the “Dana Point State Marine Park” in Subsection 632(b)(72), Title 14, CCR. Members of the lobster fishing industry have expressed to the Commission that the area is economically important to their livelihood.

The area spans approximately 0.56 nautical miles of coastline around Dana Point, and extends offshore 1200 feet from the mean high tide line, encompassing approximately 0.16 square nautical miles. It falls entirely within the 70 square nautical-mile area of commercial fishing block number 757 (Figure 1).

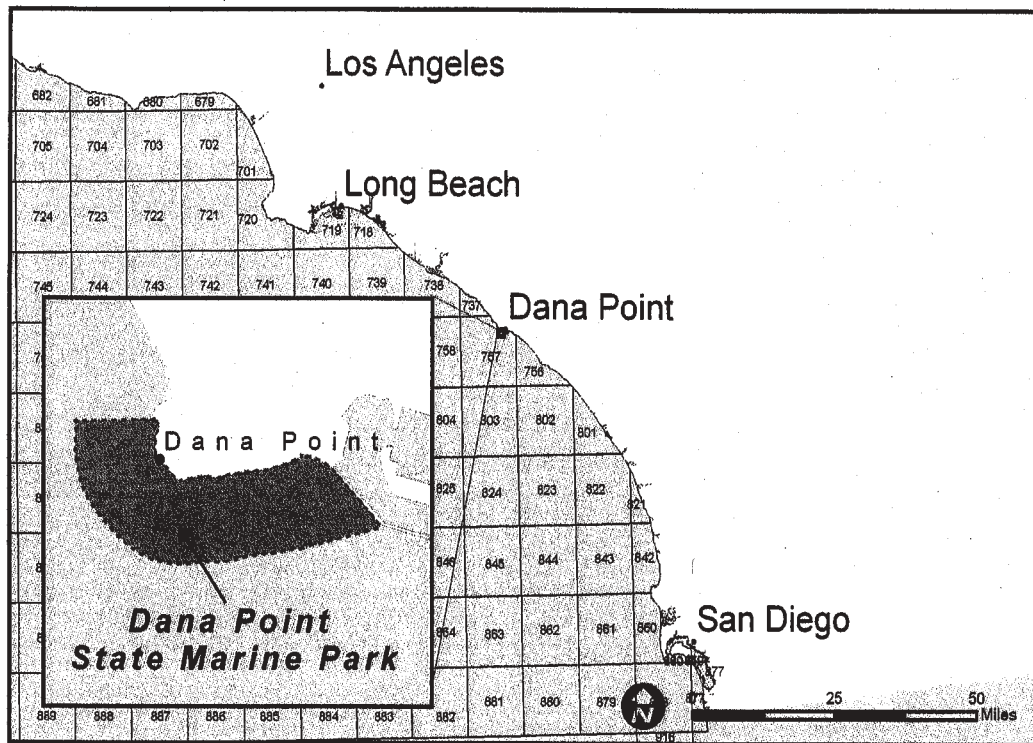
In order to allow for commercial lobster fishing, the Commission proposes to change the designation established in its regulations in Subsection 632(b)(72), so

that the area would become the “Dana Point State Marine Conservation Area” instead of the “Dana Point State Marine Park.”

In a state marine conservation area, the Commission may permit certain commercial and recreational harvest of marine resources, provided that these uses do not compromise protection of the species of interest, natural community, habitat, or geological features. Conversely, in a state marine park, the Commission may authorize recreational harvest, but it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial exploitation purposes.

Section 632, Title 14, CCR presently defines 84 marine protected areas (MPAs) and special closures that span California’s coastline. The regulations also designate each of the 84 areas as a special closure, a state marine reserve, a state marine park, or a state marine conservation area. The Dana Point State Marine Park is MPA number 72.

Figure 1. Dana Point State Marine Park including surrounding commercial fishing blocks.



1. *Statutory History of the Dana Point Marine Life Refuge*

In 1957, subdivision (f) of Section 10500 was added to the FGC, making it unlawful for any person to take or possess any invertebrate or specimen of marine plant life in a “Marine Life Refuge, except under a permit or special authorization.” Also in 1957, and subsequently in 1965, 1968, 1969, 1971, 1988 and 1989, the Legislature established 13 such Marine Life Refuges and de-

fining the specific boundaries of these areas in FGC Sections 10900 et Seq. These statutes are found in Article 6 of Chapter 2, Division 7 of the FGC, entitled “Marine Life Refuges.” Section 10907, defining the Dana Point Marine Life Refuge, was added in 1969.

The legislation establishing the Dana Point Marine Life Refuge also added the area, along with the Doheny Beach Marine Life Refuge, to a list of three other statutorily-established Southern California marine life ref-

uges in Section 10664 of the FGC. This Section allows take, under authority of a sportfishing license, of certain fish, mollusks, and crustaceans, in these particular refuges. However, the text of this Section also specifies that in these areas, “All other fish and forms of aquatic life are protected and may not be taken without a written permit from the Department.”

In 1993, the Legislature re-affirmed its intent to maintain the Dana Point Marine Life Refuge (S.B. 716, ch. 256, Stats. 1993) and amended the laws to add additional restrictions. The legislation removed Dana Point from the list of refuges enumerated in Section 10664, and established FGC Section 10667, which provided additional take and access restrictions specific only to the Dana Point Marine Life Refuge.

Section 10667 remains effective today, allowing take, under authority of a sportfishing license, of certain fish, mollusks, and crustaceans, but only in areas below the intertidal zone. Additional language limits use of the intertidal zone to only certain “minimum impact” activities, and also specifies that “All other fish and forms of aquatic life are protected and may not be taken without a written permit from the Department.” This language, consistent with the language of Subdivision 10500(f), prohibits commercial fishing in the Dana Point Marine Life Refuge, except under a permit from the Department.

Members of the California Lobster and Trap Fishermen’s Association have explained that shortly after the creation of the Dana Point and the other six Orange County marine life refuges, such a “permit from the Department” was provided by then Director Fullerton to authorize commercial lobster fishing for certain individuals in these areas. The authorization provided evidently was in the form of a letter from the Director, to the individual permittees. The letter or letters have not been recovered.

The Department Directors that followed Mr. Fullerton did not subsequently re-authorize such permits, although no requests were made to do so. It appears that from that time until 2005, Department wardens did not enforce the prohibition on commercial take in the refuge, recognizing this former “gentleman’s agreement.” However, in recent years, the Department has determined that allowing commercial harvest in the Dana Point Marine Life Refuge would be inconsistent with the intent and spirit of the legislation that established this particular marine refuge, and with the legislative acts that subsequently followed.

In making this determination, the Department relies upon Section 10502.6 of the FGC, enacted with the 1993 legislation. Subdivision (a) of this Section authorizes the Director to appoint a Director of the Dana Point Marine Life Refuge, and subdivision (c) of this Section further states: “The Director of the Dana Point

Marine Life Refuge may issue a permit authorizing any person to enter the Dana Point Marine Life Refuge for the purpose of taking fish or marine plants under the conditions that the Department determines to be *necessary for the protection and propagation of fish and wild-life and related scientific purposes in that refuge.*” Furthermore, none of the various pieces of legislation that define any of the marine life refuge boundary areas or provide special provisions for use or access in these areas made mention of allowing commercial fishing, either under a special permit or otherwise.

2. *Marine Managed Areas Improvement Act (MMAIA, Stats. 2000, ch. 385)*

In 2000, the Legislature adopted the MMAIA, codified in Sections 36600 through 36900 of the Public Resources Code (hereafter PRC). The Act is incorporated by reference into the FGC pursuant to Section 1591.

The legislative findings and declarations, described in Section 36601 of the PRC, explain that establishment of marine managed areas (MMAs) throughout California had been done in piecemeal fashion over the past 50 years by several legislative or quasi-legislative entities at both state and local levels. The MMAIA calls for agencies to work together to establish a standardized approach to MMAs, with a properly designed and coordinated system. Specifically, the legislation required that all existing and future MMAs be reclassified or classified as a state marine reserve, a state marine park, a state marine conservation area, a state marine cultural preservation area, a state marine recreational management area, or a state water quality protection area (Section 36700, PRC). Three of these classifications (state marine reserve, state marine park, and state marine conservation area) are defined by the MMAIA as MPAs (Section 36602(e), PRC).

Section 36750 of the PRC further provides that the reclassification shall be “based upon the management purpose and level of resource protection at each site. . . Upon the reclassification of existing sites. . . the use of all other classifications shall cease for the marine and estuarine environments of the state.”

Subdivision 36725(a) of the PRC, and Section 1590 of the FGC (also adopted as part of the MMAIA), provide authority to the Fish and Game Commission to undertake this reclassification process, as it may “designate, delete, or modify *state marine recreational management areas established by the Commission for hunting purposes, state marine reserves, and state marine conservation areas.*” It should be noted that the statute does not explicitly state that the Commission’s authority extends to areas *established by legislation*, although that could well be implied from a reading of the MMAIA in its entirety.

Notably, however, the Legislature did not itself reclassify the statutorily-established marine life refuges in Article 6 of Chapter 2, Division 7 of the FGC at the time it adopted the MMAIA. Nor has it taken action since to remove any of the legislatively-created areas from the statutes.

3. *MMAIA Re-Classification Exercises by the Fish and Game Commission*

In 2004, the Department and Commission undertook to re-designate the state's existing array of MPAs following the classification scheme identified in Section 36700 of the PRC (OAL ID # Z04-1005-08). In so doing, it followed the direction (Section 36750, PRC) to consider the management purpose and level of resource protection at each site. The statutory language defining and prescribing activities which may take place in the Dana Point Marine Life Refuge was most closely aligned with the definition of a "State Marine Park" provided in subdivision 36700(b) of the PRC, which allows for recreational but not commercial opportunities (Subdivision 36710(b), PRC).

The State Inter-Agency Coordination Committee, established by Section 36800, PRC, was charged with reviewing proposals for new or amended MMAs to ensure consistency in the use of designations throughout the state. The Committee reviewed the Department and Commission's proposal to reclassify all existing MPAs in the state's marine and estuarine waters, and to incorporate them into the Commission's regulations in Subsection 632(b), Title 14, CCR. The State Inter-Agency Coordination Committee concurred with the proposed reclassifications prior to the Commission's adoption of the regulations in December, 2004.

As a result, the area known as the Dana Point Marine Life Refuge was incorporated into the Fish and Game Commission's regulations as the "Dana Point State Marine Park" in Section 632, Title 14, CCR. Other than the name, there is no difference between the regulations and the statutes that remain in the FGC. Along with the Dana Point MPA, the Commission also re-classified the six other Orange County marine life refuges as state marine parks as well.

Shortly thereafter in 2005, members of the California Lobster and Trap Fishery Association reminded the Department and the Commission that the "gentlemen's agreement" had remained in effect until the present, whereby the statutory prohibition on commercial lobster harvest was not enforced in any of the Orange County marine life refuges. In response to this request, and recognizing that these areas had been commercially fished for many years under the gentleman's agreement, the Department proposed, and the Commission adopted, a compromise package, recognizing that fishermen that relied on these areas could suffer a substan-

tial economic hardship if all seven areas were all closed to commercial harvest. The proposal called for transforming six of the seven Orange County refuge areas to state marine conservation areas from state marine parks, thereby allowing commercial harvest, but limiting the commercial activity to commercial lobster fishing only.

The Department selected to maintain the Dana Point area as the one MPA that should remain closed to commercial fishing due to the more specific nature of the restrictions provided in FGC Section 10667. This proposed change (OAL ID #s 05-0510-09 and 05-0621-16) became effective on November 2, 2005.

However, although commercial lobster fishing is now permitted in six of the seven areas, the fishermen who relied on waters within the Dana Point State Marine Park now request that the Commission re-classify the seventh area from a State Marine Park to a Marine Conservation Area, as it did for the other six Orange County refuge areas.

4. *Current Understanding of MPA Modification Processes*

Upon further review of the MMAIA and how it interrelates with the Marine Life Protection Act (MLPA) legislation (Ch. 1015, Stats. 1999), it appears that actions to modify existing MPAs must be consistent with the MLPA statutes. In the 2005 rulemaking (OAL ID #s 05-0510-09 and 05-0621-16) that reclassified the six other State Marine Parks to State Marine Conservation Areas, the authority cited was Section 1590 of the FGC, codified with adoption of the MMAIA.

However, the Department now does not believe Section 1590 of the FGC was the proper source of authority to "modify an MPA" when one is looking to modify an MPA that was originally designated by the Legislature, as opposed to one originally established by the Commission. This belief is founded upon express statutory provisions that suggest that the Commission must look to the entity that established the MPA before determining if they have authority to modify its original classification. For example, Subdivision 36725(a), PRC states that if the State Parks and Recreation Commission designates an MMA, the (Fish and Game) Commission may not have any authority to modify or delete the area, depending on its classification.

Moreover, as described in item 2 above, the plain language of Section 1590, may limit the Commission's ability to "designate, delete or modify" MPAs to only: a) state marine recreational management areas established by the Commission for hunting purposes, b) state marine reserves, and c) state marine conservation areas. No mention is made of legislatively-created marine life refuges. Moreover, this language does not appear to allow for transformation of a state marine park into a state

marine conservation area, since state marine parks are not identified in the list of items the Commission may “designate, delete or modify.”

Additionally, Subdivision 10502(d), codified in the general provisions pertaining to refuges and other protected areas, states that the Commission may make additional regulations *not in conflict with any law* for the protection of birds, mammals, fish, amphibian, and *marine life within any refuge*.

Most importantly, Section 2861 of the FGC, codified with the MLPA, entitled “Modification of MPAs,” which contains the following language:

(a) The Commission shall, annually until the master plan is adopted and thereafter at least every three years, receive, consider, and promptly act upon petitions from any interested party, to add, delete, or modify MPAs, favoring those petitions that are compatible with the goals and guidelines of this chapter.

(b) Prior to the adoption of a new MPA or the modification of an existing MPA that would make inoperative a statute, the Commission shall provide a copy of the proposed MPA to the Legislature for review by the Joint Committee on Fisheries and Aquaculture or, if there is no such committee, to the appropriate policy committee in each house of the Legislature. (emphasis added)

The Department now believes that Section 2860, established with the MLPA, which allows the Commission to regulate commercial and recreational fishing and any other taking of marine species in MPAs, along with Section 2861 which requires the Commission to annually review petitions to add, delete, or modify MPAs, are the statutes that are most on-point to address the situation at hand. This is a request from an interested party (lobster fishermen) to modify an existing MPA that was established by statute. Therefore, the Department believes that while the Commission clearly has authority to modify existing MPAs that it has previously created, special rules apply for those MPAs that were established by the Legislature itself, pursuant to FGC Subdivision 2861(b).

The Department recommends that the Commission proceed with providing a copy of the change to the Joint Committee on Fisheries and Aquaculture as described in FGC Subdivision 2861(b), prior to adoption of the proposed change to convert the Dana Point State Marine Park to the Dana Point State Marine Conservation Area, a change that is necessary in order to grant the industry’s request to allow commercial lobster harvest in the area.

5. Commercial Lobster Fishing Activity in the Dana Point MPA, 2000–2004

Members of the California Lobster and Trap Fisherman’s Association have requested the proposed change based on a claim of economic hardship. If regulations continue to define the area as the Dana Point State Marine Park, commercial fishing, including lobster fishing, will remain prohibited. Presently, there are approximately 220 individuals that are authorized to fish for lobster in California, under authority of a commercial lobster operator permit.

It is common practice for individual lobster fishermen to fish with trap gear consistently in the same areas. Unlike coastal pelagic fisheries which are generally not affiliated with particular bottom types or areas, lobster fishing is done only in rocky reef or kelp forest habitat. Most lobster fishing in California takes place south of Point Conception in water less than 150 feet deep along the coast or at offshore islands.

All commercial lobster fishing must be done with traps. While there is no limit on the number of traps a commercial lobster permittee may use, traps must be serviced at least once every 96 hours, weather permitting, pursuant to FGC Section 9004.

Consequently, the lobster fishery can be described as one where access to specific areas is very important. Most lobster fishermen fish only in a few particular areas, and set their traps in densities based on their prior experience working the area. To maximize productivity, fishermen set traps in a way that strikes the best balance between too large a distance between traps (inefficient use of time and labor) and too little distance between traps (resulting in low yields per trap). While there is some amount of overlap in areas that fishermen work, it is relatively uncommon to see more than a few fishermen working a particular area, such as a specific reef, cove, point or kelp bed.

For those lobster fishermen that previously relied on the Dana Point MPA area as part of their “turf,” continuing to lose the area to future commercial fishing would likely result in some degree of economic hardship. Meanwhile, a large majority of the 220 permitted lobster fishermen are not impacted by the closure, as their records show they have never fished in block 757. However, because commercial lobster fishing data are collected at the block scale and since the Dana Point State Marine Park only encompasses a small portion of block 757, the Department is unable to precisely quantify how many individuals previously fished the area, or how much the catch from this area may be worth.

6. Economic Impact Based on Landing Receipt Information

The Department requires that fishermen or buyers record the general location of where the catch was made

on the fish receipt at the time of sale. Unfortunately, commercial landing receipts do not have the resolution needed to determine if the catch was made inside or outside the Dana Point MPA. Landing receipts require only that the buyer list the "fishing block" where the catch was made.

The Dana Point MPA falls entirely within block 757, which includes about 70 square nautical miles of ocean area (see Figure 1). The Dana Point MPA encompasses only about 0.16 square nautical miles of this area. However, since lobster fishing generally only takes place in water less than 150 feet deep, most of the ocean area falling within block 757 is not utilized for lobster fishing. Therefore, in trying to determine what percentage of the block 757 catch might have originated from waters within the Dana Point MPA, it would be incorrect to consider the entire area of block 757. Only the shallow waters along the coast should be included in any calculation.

The Department has considered two possible ways to estimate the percentage of the block 757 catch attributable to the Dana Point MPA. First, all of the 0.16 square nautical miles inside the MPA area is 60 feet and less in depth, while 4.4 square nautical miles of the total area in block 757 is 60 feet and less, based on bathymetric information. That would mean about 3.6 percent of the block 757 area that is 60 feet and less in depth falls within the Dana Point MPA. Therefore, it is possible that about 3.6 percent of the block 757 catch comes from the Dana Point MPA, if all lobster catch in block 757 came from waters 60 feet and less, and all areas 60 feet and less were considered equal in terms of their habitat value for producing lobster.

Alternatively, looking at the length of coastline included within the Dana Point MPA relative to the length of coastline that falls in block 757 may be appropriate. The Dana Point MPA spans 0.56 nautical miles of coastline, while there is about 5.6 nautical miles of coastline in all of block 757 (see Figure 1). That would mean about 10 percent of the block 757 catch could have come from the Dana Point MPA if all areas of the coastline in the block were considered equal in terms of their habitat value for producing lobster.

However, the Department recognizes that in fact, not all of the water less than 60 feet, nor the entire block 757 coastline, is equal in terms of its habitat value for producing lobster. There are areas of rocky reef habitat in block 757 that fall both inside and outside of the Dana Point MPA that could support commercial lobster fishing. Likewise, there are areas of shallow sandy habitat in block 757 that occur both inside and outside the Dana Point MPA, which are not suitable for commercial lobster fishing. Therefore, the Department cannot say that either of the potential methods of calculation described above is very precise. However, the Department can say

with certainty that it would be incorrect to attribute all of the block 757 catch as having originated from the Dana Point MPA.

Despite the impossibility of determining how many individuals previously fished in the area, and what percentage of the block 757 catch comes from the Dana Point MPA, the landing receipt information that lists block 757 still provides some baseline information that may be helpful in determining the degree of economic impact that may result from continuing to close the area to commercial lobster fishing.

The Department evaluated commercial lobster landing receipts for four seasons (2000–2003), where each season begins in October and runs through the March of the following year. Catch information for the two most recent seasons was not included in the analysis because the new regulations closing the Dana Point area to commercial harvest were in effect during all or part of those seasons.

Over the 2000–2003 seasons, block 757 catch averaged just over 35,000 pounds per season, compared with an average statewide total of 695,000 pounds per season. Therefore, the catch from block 757 produces approximately 5% of the statewide total.

The median price paid to fishermen statewide over this 4-year period was \$7 per pound. Therefore, block 757 produced approximately \$245,000 worth of lobster in each of these seasons.

In the 2000 season, landing receipts with catches recorded as originating from block 757 showed that 28 individual permittees landed catch from this block area. In 2001–2003, there were 24, 25 and 22 individuals respectively. So, on average each season, 25 permittees fishing in block 757 earned a total of \$245,000 from the sale of their catch. If equally distributed this comes to about \$9,800 per permittee. The other approximately 195 lobster fishermen in the state did not participate in lobster fishing in block 757, and thus had no earnings from the area.

However, the landing receipts show that in fact, the catch was not equally distributed between the 25 individuals. In looking at the maximum possible economic loss to a single individual, the person with the highest catches from block 757 landed an average of just under 4,000 pounds in each of these four seasons, meaning that this individual would lose approximately \$28,000 per season if he or she could not catch that lobster from another location, and if all of those catches recorded from block 757 originated from waters within the Dana Point MPA.

7. Department Conclusions on Impacts

As described above, it may be reasonable to estimate that only 10 percent or less of the catch from block 757 comes from waters within the Dana Point MPA.

Therefore, if commercial lobster fishing were to remain closed in the Dana Point MPA, the estimated degree of impact might be that 2.5 individuals would be impacted at a level of \$9,800 each per season, or alternatively, 25 individuals would be impacted at a level of \$980 each per season, or some combination in between. The highest potential impact to any individual could be no more than \$28,000 per year and, if so, the impact to other individuals would necessarily be less.

Given that usually only a few fishermen work a particular area such as the MPA, it is probably more likely that the impact would be to few individuals each at a greater degree. This estimate also assumes that catch could not be made from some other nearby location open to lobster fishing, although recent information from other MPAs suggests that when fishermen are faced with closed areas, they often mitigate by relocating to areas that remain open. Analyses of newly established MPAs have shown that lobster fishermen are able to land the same volume of lobster as they did prior to the closure.

However, even if 100 percent of the catch from block 757 came from the Dana Point MPA, the maximum impact would be approximately \$245,000 per year; about 5 percent of the total value of the fishery statewide.

In summary, the Department's evaluation of the economic impact of the present Dana Point State Marine Park designation to the lobster fishery as a whole is negligible, relative to the \$4.87 million average seasonal value of the fishery statewide.

8. Technical Changes to Subsection 632(b), Title 14, CCR

As described above, the Commission previously took action to re-classify the six other Orange County marine life refuges from state marine parks to state marine conservation areas (OAL ID #s 05-0510-09 and 05-0621-16), which became effective on November 2, 2005. Additional language is now proposed to make clear that the regulations established in Subsection 632(b), Title 14, CCR, supercede the statutes establishing these marine life refuges and prescribing the terms of their use.

The proposed addition to the regulatory language would make clear that that pursuant to the Commission's authority in Fish and Game Code Section 2860 to regulate commercial and recreational fishing and any other taking of marine species in MPAs, Fish and Game Code Sections 10500(f), 10550(g), 10502.5, 10502.6, 10502.7, 10502.8, 10655, 10655.5, 10656, 10657, 10657.5, 10658, 10660, 10661, 10664, 10666, 10667, 10711, 10801, 10900, 10901, 10902, 10903, 10904, 10905, 10906, 10907, 10908, 10909, 10910, 10911, 10912, 10913, and 10932 are made inoperative as they apply to Subsection 632(b).

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 Museum of Natural History, Fleischmann Auditorium, 2559 Puesta del Sol Road, Santa Barbara, on Friday, August 25, 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 August 18, 2006 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov, but must be received no later than August 25, 2006, at the hearing in Santa Barbara, CA. All written comments must include the true name and mailing address of the commentor.

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, 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 Jon Fischer or Sheri Tiemann at the preceding address or phone number. **Marci Yaremko, Marine Region, Department of Fish and Game, phone (805) 568-1220, 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.

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:

None.

- (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:

Negligible. The Department estimates that if the Dana Point State Marine Park is re-designated as the Dana Point State Marine Conservation Area in order to allow for continued commercial lobster fishing, there is potential for existing commercial lobster permittees to land an estimated \$24,500 worth of lobster each season from this particular area. See Section III(a) of this Initial Statement of Reasons.

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

See items (a) and (b) above.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Effect on Small Business

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

Consideration of Alternatives

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

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 202 and 355 of the Fish and Game Code and to implement, interpret or make specific sections 202, 355 and 356 of said Code, proposes to amend Section 502, Title 14, California Code of Regulations, relating to migratory waterfowl, American coot and common moorhen hunting.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and establish daily bag and possession limits. In addition to the six proposals contained herein, the U.S. Fish and Wildlife Service, after analysis of waterfowl population survey and other data, may also initiate changes in federal regulations which will require changes in existing and proposed regulations in California. Changes in federal regulations for season opening and closing dates, elimination or creation of special management areas, season length, and daily bag limits for migratory birds may occur. Five (items 1 through 5) of the six proposed changes to state regulations require changes in the federal regulations. These proposals must be approved by the Pacific Flyway Council at their meeting on July 19, 2006. The Service will consider these and other recommendations at their meeting on July 26-27, 2006. Item 6 (including the table) below proposes a range of season dates and bag limits for waterfowl. At this time, the California Breeding Pair Survey has not been conducted and the Service has not established federal regulation "frameworks" which occurs in late July after the analysis of current waterfowl population survey, other data, input from the Flyway Councils and the public. Also, minor editorial changes were made to clarify and simplify the regulations and to comply with existing federal frameworks.

The Department's proposals are as follows:

1. Modify the existing boundary in the Northeastern Zone to include Shasta Valley in the Northeastern Zone.
2. Increase the Small Canada goose season length in the North Coast Special Management Area to 107 days, (split the Small Canada goose section into 2

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- segments) and allow hunting for Small Canada geese from February 24 until March 10.
- 3. Increase the white-fronted goose daily bag limit to either 3 or 4 in the Northeastern Zone. An increase to 4 is contingent upon a spring hunt in Oregon.
- 4. Increase the white-fronted goose daily bag limit to 4 in the Southern San Joaquin Valley and Balance of State zones, contingent upon a spring hunt in Oregon.
- 5. Increase the black brant season length to 30 days.
- 6. Provide a range of waterfowl hunting season lengths (which may be split into two segments) between 38 and 107 days for all hunting methods. A range of daily bag limits is also given for ducks in all zones and geese in the Northeastern California, Southern San Joaquin Valley, Southern California, Balance of State, and Colorado River zones. Also, federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone. See the following table for season and bag limit ranges.

AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens	Concurrent w/duck season	25/day, 25 in possession
			2/day, Possession limit double the daily bag
Northeastern Zone	Ducks	Between 38 & 105 days	4-7/day, no more than 3-7 mallards, no more than 1-2 hen mallards, 0-3 pintail, 0-1 canvasback, 2 redheads, 0-4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 105 days	
	Canvasback	Between 0 & 105 days	
	Geese	100 days	4/ day, up to 4 white geese, up to 3-4 white-fronts, up to 2 Large Canada geese, only 1 Small Canada goose. Possession limit double the daily bag.
Southern San Joaquin Valley Zone	Ducks	Between 38 & 100 days	4-7/day, no more than 3-7 mallards, no more than 1-2 hen mallards, 0-3 pintail, 0-1 canvasback, 2 redheads, 0-4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 100 days	
	Canvasback	Between 0 & 100 days	
	Geese	100 days	4/ day, up to 4 white geese, up to 3-4 white-fronts, up to 3 Large Canada geese, up to 4 Small Canada geese. Possession limit double the daily bag.
Colorado River Zone	Ducks	Between 38 & 101 days	4-7/day, no more than 3-7 mallards, no more than 2 hen mallards or Mexican-like ducks, 0-3 pintail, 0-1 canvasback, 2 redheads, 0-4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 101 days	
	Canvasback	Between 0 & 101 days	
	Geese	101 days	6/ day, up to 4 white geese, up to 3 dark geese. Possession limit double the daily bag.
Southern California Zone	Ducks	Between 38 & 100 days	4-7/day, no more than 3-7 mallards, no more than 1-2 hen mallards, 0-3 pintail, 0-1 canvasback, 2 redheads, 0-4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 100 days	
	Canvasback	Between 0 & 100 days	
	Geese	100 days	5/day, up to 4 white geese, up to 3 dark geese. Possession limit double the daily bag.
Balance of State Zone	Ducks	Between 38 & 100 days	4-7/day, no more than 3-7 mallards, no more than 1-2 hen mallards, 0-3 pintail, 0-1 canvasback, 2 redheads, 0-4 scaup. Possession limit double the daily bag.
	Pintail	Between 0 & 100 days	
	Canvasback	Between 0 & 100 days	
	Geese	100 days	4/ day, up to 4 white geese, up to 3-4 white-fronts, up to 3 Large Canada geese, up to 4 Small Canada geese. Possession limit double the daily bag.
SPECIAL AREA	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
North Coast	All Canada Geese	Between 0 & 107 days, except for Large Canada geese which can not exceed 100 days or extend beyond the last Sunday in January.	4/day, only 1 may be a Large Canada goose. Possession limit double the daily bag.
South Humboldt Bay	All species	Closed during brant season	
Sacramento Valley (West)	White-fronted geese	Closed after Dec 14	2/day. Possession limit double the daily bag.
Morro Bay	All species	Open in designated areas only	
Martis Creek Lake	All species	Closed until Nov 16	
Northern Brant	Black Brant	Between 0 & 30 days, must end by Dec 15	
Balance of State Brant	Black Brant	Between 0 & 30 days, must end by Dec 15	
YOUTH HUNTING DAYS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	The Saturday fourteen days before the opening of waterfowl season extending for 2 days.	Same as regular season
Southern San Joaquin Valley Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
Southern California Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
Colorado River Zone		The Saturday following the closing of waterfowl season.	
Balance of State Zone		The Saturday following the closing of waterfowl season extending for 2 days.	
FALCONRY OF DUCKS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	Between 38 and 105 days	3/ day, possession limit 6
Balance of State Zone		Between 38 and 107 days	
Southern San Joaquin Valley Zone		Between 38 and 107 days	
Southern California Zone		Between 38 and 107 days	
Colorado River Zone		Ducks only	

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this

action at a hearing to be held at California State Building 9, First Floor Auditorium, 744 P Street, Sacramen-

to, California, on Friday, August 4, 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 Museum of Natural History, Fleischmann Auditorium, 2559 Puesta del Sol Road, Santa Barbara, California, on Friday, August 25, 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 August 18, 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 August 21, 2006. All comments must be received no later than August 25, 2006, at the hearing in Santa Barbara, 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 Sherrie Koell at the preceding address or phone number. **Doug Updike, Acting Chief, Wildlife Programs Branch, Department of Fish and Game, phone (916) 445-3555, 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 pre-

scribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

Impact of Regulatory Action

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

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

Consideration of Alternatives

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

**TITLE 14. SAN FRANCISCO BAY
CONSERVATION AND DEVELOPMENT
COMMISSION**

Notice of Proposed Rulemaking

The San Francisco Bay Conservation and Development Commission (“the Commission”) proposes to amend the following regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The San Francisco Bay Conservation and Development Commission will hold a public hearing on Thursday, September 21, 2006 at its regularly-scheduled meeting, which begins at 1:00 PM., at the MetroCenter, 101 Eighth Street, Oakland, California. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. Any person may present written statements or arguments to the Commission staff in advance of the public hearing or through 5:00 PM on Tuesday, September 26, 2006. The Commission requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any person or organization may submit written comments on the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on Tuesday, September 26, 2006**. The Commission will consider only comments received by that time. Please submit comments to:

Jonathan Smith
San Francisco Bay Conservation and
Development Commission
50 California Street, Suite 2600
San Francisco, California 94111

AUTHORITY AND REFERENCE

Authority: California Government Code Section 66632(f) and California Public Resources Code Section 29201(e).

Reference: California Public Resources Code Sections 21080.5(d)(2)(C) and 21080.5(d)(2)(D).

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The Commission proposes to amend Commission Regulation Sections 10214, 10381(a), 10620(a), and 11002(d) to clarify that Commission rules and regulations require BCDC to consult with all public agencies that have jurisdiction by law with respect to the proposed issuance of a BCDC permit and to the proposed approval of an amendment to a Commission plan before the Commission issues the permit or approves the proposed plan amendment.

The Commission also proposes to amend Commission Regulation Sections 10500, 10620, 11003, and 11005 to clarify that Commission rules and regulations require that the Commission will include as part of final action on a permit application or proposed plan amendment written responses to the significant environmental points raised during the evaluation process.

The California Environmental Quality Act (CEQA) provides that all public agencies, including the Commission, must prepare appropriate environmental documentation as part of the process of issuing a permit to authorize a project that may have a substantial adverse impact on the environment and as part of the process of adopting plans or plan amendments. CEQA also requires that public agencies, including the Commission, must make specified environmental findings when it approves projects or adopts or amends plans.

CEQA also provides a procedure whereby the Secretary of the Resources Agency can certify an agency’s program as being “functionally equivalent” and thereby the agency need only follow its own regulations in lieu of preparing, circulating, and certifying an environmental impact report. However, to allow the Secretary of the Resources Agency to certify an agency’s program as being functionally equivalent, the program must comply with specified criteria. These criteria include that the rules and regulations of the agency must require the agency to consult with all public agencies that have jurisdiction by law with respect to the proposed activity. (Cal. Public Resources Code Section 21080.5(d)(2)(C)) These criteria also include that the rules and regulations must require that final action on a proposed activity include written responses of the reviewing agency to significant environmental points raised during the review process. (Cal. Public Resources Code Section 21080.5(d)(2)(D)).

In July 1979, the Secretary of Resources certified the Commission's permit and planning programs as meeting all of the statutory criteria and therefore as being "functionally equivalent." Legislation enacted in 2002 required the Resources Agency to develop a protocol for reviewing certified regulatory programs and evaluate the consistency of those programs with the requirements of CEQA. Resources developed such a protocol and then directed its member agencies to review their programs based on the protocol. BCDC did so, and cooperatively identified two areas where BCDC regulations could more clearly state the need to comply with a statutory requirement. BCDC believes that it already complies with those requirements, but agrees that the requirement could be stated more clearly in its regulations. Therefore, the Commission is now proposing the following changes:

1. to clarify that BCDC regulations require it to consult with all public agencies that have jurisdiction by law with respect to a proposed permit application, amend Section 10214, Section 10381(a), and Section 10620(a) to incorporate that requirement expressly.
2. to clarify that BCDC regulations require it to consult with all public agencies that have jurisdiction by law with respect to a proposed Bay Plan or other Commission plan amendment, amend Section 11002(d) to incorporate that requirement expressly.
3. to clarify that BCDC regulations require that final action on a permit application will include written responses to significant environmental points raised during the evaluation process, amend Section 10500 and 10620(a) to incorporate that requirement expressly.
4. to clarify that BCDC regulations require that final action on the proposed adoption a new BCDC plan or on a proposed amendment to the Bay Plan or other BCDC plan will include written responses to significant environmental points raised during the evaluation process, amend Section 11003 and Section 11005 to incorporate that requirement expressly.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none. The Commission already meets these obligations as a matter of practice. The proposed changes will simply clarify this practice by making the requirement express.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other nondiscretionary cost or savings imposed on local agencies: none.

Cost of savings in federal funding to the state: none.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: none.

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur as a result of the proposed action.

Significant effect on housing costs: none.

Assessment of potential to create or eliminate jobs or businesses within the State of California: this proposed action would not create or eliminate jobs within California, would not create new businesses or eliminate existing businesses within California, or affect the expansion of businesses currently doing business within California.

Small Business Determination: The Commission has determined that the proposed regulatory changes would not affect small business.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

Jonathan Smith
 Chief Counsel
 San Francisco Bay Conservation and Development
 Commission
 50 California Street, Suite 2600
 San Francisco, CA 94111
 Telephone: (415) 352-3655
 Email: jons@bcdc.ca.gov

The backup contact person for these inquiries is:

Ellen Sampson
Staff Counsel
San Francisco Bay Conservation and Development
Commission
50 California Street, Suite 2600
San Francisco, CA 94111
Telephone: (415) 352-3610
Email: ellens@bcdca.gov

Please direct requests for copies of the text (the "express terms") or the proposed regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other information upon which the proposed rulemaking is based to Mr. Smith at the above address.

**AVAILABILITY OF TEXT OF THE
REGULATIONS AND THE STATEMENT
OF REASONS AND PLAIN
ENGLISH DETERMINATION**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date that this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Jonathan Smith at the address or telephone number listed above.

The proposed regulations were prepared pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and were written to be easily understood by the affected parties.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Commission may adopt the proposed regulatory changes substantially as described in this notice. If the Commission makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as modified. Please send requests for copies of any modified regulations to Jonathan Smith at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Smith at the above address.

**AVAILABILITY OF DOCUMENTS ON THE
INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the proposed changes in strikeout and underlined format, as well as the Final Statement of Reasons once it is completed, can be accessed through the BCD website at www.bcdc.ca.gov.

**TITLE 15. CORRECTIONS STANDARDS
AUTHORITY**

**NOTICE OF PROPOSED AMENDMENT TO
TITLE 15, MINIMUM STANDARDS FOR
JUVENILE FACILITIES, CALIFORNIA CODE OF
REGULATIONS, BY THE STATE CORRECTIONS
STANDARDS AUTHORITY**

Pursuant to Welfare and Institutions Code Sections 210 and 885, the State Corrections Standards Authority (CSA) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the CSA to amend and adopt the regulations contained in Title 15, Division 1, Subchapter 5, California Code of Regulations (known as the Minimum Standards for Juvenile Facilities), after considering all comments, objections, and recommendations regarding these regulations.

PUBLIC HEARING

The CSA will hold the following public hearings:

August 23, 2006

10:00 am

Orange County Probation Department
Training Room #2
1001 South Grand Avenue
Santa Ana, CA 92705

August 28, 2006

10:00 am

Corrections Standards Authority
660 Conference Room
660 Bercut Drive
Sacramento CA 95814

Both locations are wheelchair accessible. At the hearings, any person may present statements or arguments,

orally or in writing, relevant to the proposed action described in the Informative Digest. The CSA requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will remain open only as long as persons in attendance are presenting testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the CSA. The written comment period closes at **5:00 pm on August 28, 2006**. The CSA will consider only comments received at CSA offices by that time. Submit comments to:

Gary Wion, Field Representative
 600 Bercut Drive
 Sacramento CA 95814
 Phone: (916) 324-1641
gary.wion@cdcr.ca.gov
 Fax: (916) 327-3317

AUTHORITY AND REFERENCE

Welfare and Institutions Code Sections 210 and 885 authorizes the CSA to adopt and amend the proposed regulations, which would implement, interpret, or make specific Sections 210, and 885 of the Welfare and Institutions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Welfare and Institutions Code Sections 210 and 885 authorizes the CSA to establish standards for local juvenile detention facilities.

Summary of Existing Regulations

Existing standards that prescribe requirements for local juvenile detention facilities are promulgated by the Corrections Standards Authority. These regulations are contained in Title 15 — Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 5 of the California Code of Regulations (CCR).

Summary of Effect

The proposed action would update Title 15, Division 1, Chapter 1, Subchapter 5 CCR adopting new and revised definitions to add clarity to the regulations; change the name “Board of Corrections” to “Corrections Standards Authority;” clarify the intent of staffing regulations; add language requiring a statement of non-discrimination in facility policy and procedure manuals; align minimum standards for fire and life safety with germane Health and Safety Code statutes; add lan-

guage requiring the facility administrator, mental health administrator and health administrator to cooperatively develop policy and procedures relative to the death of a minor; add a requirement that facility administrators develop policy and procedures for detaining juveniles within the juvenile hall; add information to be required in the facility orientation process; clarify and strengthen the requirements for facility use of force policy and procedures; delete language that duplicates state strip search statute; ensure that minors are able to submit grievances confidentially; adds requirements for facility administrators to develop policy and procedures regarding the use of force to collect DNA samples; clarify annual education requirements and align minimum standards with germane Educational Code statutes; increase the total number of hours of visitation for each minor; add language allowing minors cost-free telephone access to legal representation; require appropriate gender specific social awareness programs; prohibit group punishment; address the issue of confidentiality when discussing a minor’s health and mental health concerns; clarify that an initial mental health evaluation may be offered at a juvenile facility prior to transfer; clarify that either a licensed health care or non-licensed, trained personnel may deliver medications; clarify that psychotropic medications should not be used for coercion, discipline, convenience or retaliation; require facilities to incorporate prevention of, and response to, mental health crisis situations and suicidal behavior into policy and procedures; update dietary references in the minimum diet regulation; replace the term “therapeutic diet” with “medical diet”; clarify the requirement for stain free undergarments; and require that covering blankets are laundered weekly, rather than monthly. The effects of the proposed changes are further described below.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain regulations for local juvenile detention facilities in conformance with sound correctional practices and to ensure the safe and secure detention of minors.

Section 1300, Severability. This regulation specifies the conditions under which requirements of regulations may be severed. The revisions reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1302, Definitions. This regulation defines terms used throughout these regulations. To provide clarity and consistency, 14 regulations have been modified, ten have been deleted and four have been added.

Section 1303, Pilot Projects. This regulation outlines the procedures to apply for a pilot project. The re-

visions reflect legislative action, replacing the Board of Corrections/Board with Corrections Standards Authority/CSA. There is no operational impact.

Section 1304, Alternate Means of Compliance. This regulation outlines the procedures to apply for an alternate means of compliance. The revisions reflect legislative action, replacing the Board of Corrections/Board with Corrections Standards Authority/CSA. There is no operational impact.

Section 1311, Emergency Suspension of Standards or Requirements. This regulation outlines the procedures to apply for an emergency suspension of standards. The revisions reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1312, Juvenile Criminal History Information. This regulation outlines the juvenile criminal history information. The revisions reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1314, Appeal. This regulation outlines the process for jurisdictions to appeal CSA application of standards. The revisions reflect legislative action, replacing the Board of Corrections/Board with Corrections Standards Authority/CSA. There is no operational impact.

Section 1320, Appointment and Qualifications. This regulation outlines the appointments and qualification requirements for staff. The revisions reflect legislative action, replacing the Board of Corrections/Board with Corrections Standards Authority/CSA. There is no operational impact.

Section 1321, Staffing. This regulation requires facilities to be appropriately staffed. The purpose of these revisions is to clarify the intent of the regulation. Additionally, the word “unit” has been added after the word “living” and the word “all” has been removed from before the word “operations” to ensure consistency throughout the regulations. These revisions should not have an operational impact for those facilities that are in compliance.

Section 1323, Fire and Life Safety. This regulation outlines the fire and life safety requirements for juvenile facilities. The revisions reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1324, Policy and Procedures Manual. This regulation requires each facility to develop, publish, and implement a manual of written policies. This revision requires that all facility administrators shall include a statement of non-discrimination in the facility policy and procedures manual.

Revisions also require facility administrators to include storage and maintenance requirements of chemi-

cal agents, if used, in the facility policy and procedures manual. This requirement may prompt development of a log in/out system and schedule of stock rotation, if not currently in policy.

The revisions reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1325, Fire Safety Plan. This regulation requires each facility to have a fire safety plan. The revision aligns the regulation with Health and Safety Code Section 13146.1(a) and (b) fire inspection requirements.

Section 1340, Reporting of Legal Actions. This regulation outlines the requirement for reporting of legal actions to the Corrections Standards Authority. The revisions reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1341, Death and Serious Illness or Injury of a Minor While Detained. This regulation requires facilities to have a policy and procedure pertaining to death and serious illness or injury of a minor while detained and also requires certain notifications in the event of a death or serious illness or injury of a minor. The revisions will require the facility administrator, health administrator and the mental health administrator to cooperatively develop written policies and procedures.

The revisions also reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1342, Population Accounting. This regulation outlines the population accounting requirements. The revisions reflect legislative action, replacing the Board of Corrections/Board with Corrections Standards Authority/CSA. There is no operational impact.

Section 1343, Juvenile Facility Capacity. This regulation outlines the juvenile facility capacity establishment and requirements for reporting crowding to the Corrections Standards Authority.

The revisions reflect legislative action, replacing the Board of Corrections/Board with Corrections Standards Authority/CSA. There is no operational impact.

Section 1350, Admittance Procedures. The current regulation requires each facility to have admittance procedures. The proposed revision would require juvenile hall administrators to establish written criteria for detaining youth. This change would ensure clarity between the procedures for admittance versus detention in a hall. The change may require a change in operation, if policies and procedures are not currently in place.

Section 1353, Orientation. The current regulation requires each facility to provide orientation services. The revision adds information to be included in the orientation process. The orientation process may need

to be updated in those facilities that do not already include this additional information.

Section 1357, Use of Force. The current regulation requires each facility to have a policy and procedure on the use of force. The proposed changes provide clarification of the amount of force to be used, adds follow up procedures for health staff, provides specific items to be covered by training, and requires an administrative review into uses of force.

Section 1360, Searches. This regulation requires that each facility administrator develop policy and procedures relative to strip searches. The proposed changes delete the duplication of statute and allow the facility administrators to develop search policy relative to searching minors who are returning from activities outside the living unit.

Section 1361, Grievance Procedure. This regulation requires each facility to have a grievance procedure. The revision would require facilities to revise procedures to create an avenue for confidential submission of a grievance.

Section 1363, Use of Reasonable Force to Collect DNA Specimens, Samples, Impressions. This is a new regulation. There is no current regulation regarding the use of force in the collection of DNA specimens in juvenile facilities. Pursuant to statute, the CSA was required to develop such a regulation. The impact would be minor for most facilities, as most facilities already have CSA submittal procedures in place and already have policies for the collection of DNA specimens.

Section 1370, Education Program. This regulation requires each facility to have an educational program that meets the requirements of the State Educational Code. The proposed revisions clarify the annual education review requirements for the superintendent of schools and require consistency with the State Education Code.

Section 1374, Visiting. This regulation outlines the requirements for visitation. This revision would increase the total number of hours that a minor be given opportunity for visitation from one hour to two hours per week.

Section 1375, Correspondence. This regulation outlines correspondence requirements. The revisions reflect legislative action, replacing the Board of Corrections with Corrections Standards Authority. There is no operational impact.

Section 1377, Access to Legal Services. This regulation requires each facility to ensure that minors have access to legal services. The revision would require facilities to allow cost-free telephone access to legal representation as appropriate. Some facilities may be required to adjust procedures to allow such access.

Section 1378, Social Awareness Program. This regulation requires facilities to provide social awareness programs. The proposed change ensures that appropriate programs are gender specific.

Section 1390, Discipline. This regulation requires facilities to have policies regarding discipline. The proposed changes would prohibit group punishment.

Section 1407, Confidentiality. The current regulation addresses the need for probation, medical and mental health professionals to share health information for the well being of the minor, but is silent regarding a minor's right to discuss medical and mental health concerns in a confidential manner. This revision would address this issue and remind probation and health care professionals of their responsibility to afford privacy during health care encounters. The proposed language will add clarifying language, and will not affect facility operations.

Section 1437, Mental Health Services and Transfer to a Treatment Facility. The current regulation requires the health administrator/responsible physician, in cooperation with the mental health director, to establish policies and procedures to provide mental health services. In addition, it mirrors statutory language requiring that a mentally disordered person that appears to be a danger to themselves or others, or to be gravely disabled, is to be transferred for further evaluation to a designated Lanterman-Petris-Short facility. The proposed amendment reiterates that an initial evaluation may occur at the juvenile facility prior to a decision to transfer to a designated treatment facility for further evaluation. The proposed change will not affect facility operations.

Section 1438, Pharmaceutical Management. This regulation requires policies and procedures, space and accessories for the secure storage, controlled administration, and disposal of all legally obtained drugs. In subsection (b)(7), the term "health care personnel" was added after "Licensed" to make it clear that either appropriately *licensed* health care personnel or trained non-licensed personnel may deliver medication acting on the order of a prescriber. The proposed language will not affect facility operations.

Section 1439, Psychotropic Medications. This regulation requires policies and procedures addressing the use of psychotropic medications. In addition, it references the Welfare and Institutions Code, Section 5150 noting that a mentally disordered person who appears to be a danger to themselves or others, or to be gravely disabled, may be transferred for further evaluation to a designated Lanterman-Petris-Short facility. Subsection (d) was amended to clarify that, as with all medications, the administration of psychotropic medications should be guided by appropriate clinical judgment, and not be

used as a means of coercion, discipline, convenience or retaliation. The proposed language will not affect facility operations.

Section 1450, Suicide Prevention Program. Current regulation requires the health administrator, in cooperation with the mental health director and the facility administrator, to develop a written suicide prevention plan, with policy and procedures to train staff to identify minors who present a suicide risk, appropriately monitor their condition, and provide the necessary treatment and follow-up. The proposed changes will add clarifying language which will require facilities to incorporate prevention of, and response to, mental health crisis situations. These revisions will also require that staff training include emergency response protocols. Other grammatical changes were made to enhance clarity.

Section 1461, Minimum Diet. This regulation outlines the minimum diet requirement for minors in juvenile facilities, based on recognized state and national standards. The current regulations cite outdated nutritional references; the proposed revisions cite updated references.

Section 1462, Therapeutic Diets. This regulation outlines the requirements for special medically prescribed diets. To provide greater clarity, the title of this regulation has been changed to "Medical" Diets. The word "therapeutic" has been changed to "medical" to reflect that the diet has been prescribed by medical staff. The proposed revision will not impact facility operations.

Section 1480, Standard Facility Clothing Issue. This regulation requires that facilities provide clean, reasonability fitted, durable, easily laundered clothing and footwear that are in good repair. Additionally, the facility is required to provide undergarments that are freshly laundered and substantially free of stains, including shorts and tee shirts for males, and bra and panties for females. Interpretation in the field as to what was "substantially stain free" varied significantly between counties. The proposed revision is intended to afford greater clarity and consistency in facilities. The proposed change will not affect facility operations.

Section 1501, Bedding and Linen Exchange. This regulation requires policies and procedures for the scheduled exchange of laundered bedding and linen for minors in custody. The recommended modification changes the requirement that the covering blanket be cleaned or laundered least every three months to once a month (this parallels the requirement in the Minimum Standards for Local Detention Facilities). Statewide, facilities are phasing out wool blankets, which require less frequent laundering, in favor of blankets of cotton or synthetic fiber for two reasons: 1) cotton or synthetic blankets are easier to clean and 2) many minors have an

allergic reaction to wool. This change will have a very minor effect on facility operations because sheets, mattress covers and pillowcases already need to be laundered each week.

DISCLOSURE REGARDING THE PROPOSED ACTION

The CSA has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

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

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

Small Business Determination:

The CSA has determined that the proposed regulations will have no affect on small businesses. These proposed regulations affect the operations and programs for local juvenile detention facilities.

CONSIDERATION OF ALTERNATIVES

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

The CSA invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearings or during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Gary Wion, Field Representative
600 Bercut Drive
Sacramento, CA 95814
Phone: (916) 324-1641
gary.wion@cdcr.ca.gov
Fax: (916) 327-3317

Or

Rebecca Craig, Field Representative
600 Bercut Drive
Sacramento, CA. 95814
Phone: (916) 324-2600
rebecca.craig@cdcr.ca.gov
Fax: (916) 327-3317

Questions on the substance of the proposed regulations may be directed to Mr. Wion or Ms. Craig.

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Mr. Wion at the above contact information.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Initial Statement of Reasons and text of the proposed regulation, as well as the rulemaking file, which includes all the information on which this proposal is based, is available for viewing at the CSA's office at the above address.

AVAILABILITY OF MODIFIED TEXT

If the CSA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the CSA adopts the regulations as revised.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be accessed through the CSA website at www.csa.ca.gov. Those persons who do not have access to the Internet may submit a written request to Allison Ganter at the above address.

AVAILABILITY OF DOCUMENTS; INTERNET ACCESS

Copies of the Notice Of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in strikeout and underline can be accessed through our website at www.csa.ca.gov. Those persons who do not have access to the Internet may submit a written request to Gary Wion at the above address.

TITLE 16. BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING DISCIPLINARY GUIDELINES

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/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

August 23, 2006, 10:00 a.m.
Bureau of Automotive Repair
1180 Durfee Avenue, Suite 120
Conference/Training Room
South El Monte, CA 91733

NORTHERN CALIFORNIA

August 25, 2006, 10:00 a.m.
Contractors State Licensing Board
9821 Business Park Drive
Hearing Room
Sacramento, California 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 August 25, 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 orig-

inal 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 Section 9882 of the Business and Professions Code and Section 11400.20 of the Government Code; and to implement, interpret or make specific Section 9882 of the Business and Professions Code and Sections 11400.20 and 11425.50 of the Government Code; the Bureau is proposing to adopt the following changes to Chapter 1 of Division 33 of Title 16 of the California Code of Regulations:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau of Automotive Repair was established within the California Department of Consumer Affairs in 1972. The Bureau was created by Chapter 1578, Statutes of 1971 (Senate Bill 51, Beilenson), which mandated a statewide consumer protection program for automotive repair.

Through its statewide offices, the Bureau conducts consumer protection services related to automotive repair. Bureau representatives register and regulate automotive repair dealers, accept and mediate auto repair complaints from the public, investigate violations of the Automotive Repair Act (Business and Professions Code Section 9880, et seq.) and, when appropriate, refer cases to law enforcement authorities for prosecution. Specifically, Section 9889.5 provides the basic statutory authority under which the Bureau may take disciplinary action against its licentiates.

The Bureau’s disciplinary guidelines have been in existence for over two decades. They were developed to assist Administrative Law Judges in recommending the most appropriate penalty upon a licensee who has been found to have violated the Bureau’s laws and regulations. The guidelines also serve to assist Deputy Attorneys General in fashioning appropriate terms and conditions for stipulated settlement agreements in uncontested cases. Another function of the guidelines is to inform and educate licentiates concerning the potential consequences of illegal activities.

Legislation that went into effect January 1, 1996, (SB 523, Kopp [Ch. 938, Stats. 1995]) required licensing agencies, like BAR, who utilize administrative disciplinary guidelines to adopt those guidelines in regulation in accordance with the Administrative Procedures Act. (See Gvt. Code § 11425.50(e)) In July 1997, the Bureau’s adoption of its guidelines, as revised in May 1997, became effective with the approval of Section 3395.4 of the California Code of Regulations by the Office of Administrative Law.

The Bureau no longer issues Notices of Violation. Therefore, it is not appropriate to list such notices as a factor to be considered in aggravation in a disciplinary case.

The majority of the disciplinary orders issued in the Bureau’s administrative disciplinary cases include an award for cost reimbursement pursuant to Business and Professions Code section 125.3. However, there has been little or no consistency in these awards with respect to how and when payments are to be made. This has made it confusing for the respondent licensee who must pay; and difficult, time consuming and more costly for the Bureau in collecting the awards. In order to achieve some level of consistency, the Bureau wishes to include in its guidelines a recommended term and condition of probation for orders that include an award of costs pursuant to Business and Professions Code section 125.3.

Since the May 1997 revision of the Bureau’s *Guidelines for Disciplinary Penalties and Terms of Probation*, several new regulations have been adopted which, if violated by a licentiate, could result in the filing of formal administrative disciplinary actions. These regulations are not included in the penalty section of the guidelines, but should be. There are also other statutes and regulations that were previously omitted from the penalty guidelines that the Bureau now wishes to add.

Current Regulation

Section 3395.4 provides that, in reaching a decision on a formal administrative disciplinary action, the Bureau shall consider its disciplinary guidelines entitled *Guidelines for Disciplinary Penalties and Terms of Probation* [May 1997], which are incorporated by reference. This section further provides that these guidelines are advisory and may be deviated from when the Bureau, in its sole discretion, determines that the facts of a particular case warrant such deviation.

Effect of Regulatory Action

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

1. Amends Section 3395.4 by incorporating by reference the Bureau’s *Guidelines for*

Disciplinary Penalties and Terms of Probation, as revised June 2006.

2. Revises the *Guidelines for Disciplinary Penalties and Terms of Probation* by deleting from the section on Factors in Aggravation, any reference to Notices of Violation.
3. Revises the *Guidelines for Disciplinary Penalties and Terms of Probation* by adding to Section III. Standard Terms and Conditions of Probation, a recommended condition of probation for cases in which cost reimbursement is awarded pursuant to Business and Professions Code section 125.3.
4. Revises the *Guidelines for Disciplinary Penalties and Terms of Probation* by adding statutes and regulations to Section IV. Penalty Guidelines, that were either not included or did not exist at the time of the last revision in May 1997.
5. Revises the *Guidelines for Disciplinary Penalties and Terms of Probation* by making minor editorial, grammatical and technical changes primarily for clarification purposes.

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:

The proposed action does not increase or decrease the penalties that may be imposed in an administrative disciplinary action. Any "adverse economic impact" would only occur as the result of a disciplinary order following a formal administrative proceeding and a finding of fact affirming a violation of the Bureau's laws and/or regulations. That potential "adverse economic impact" may be avoided simply by complying with the law.

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 or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

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 to the regulation 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 FINAL STATEMENT OF REASONS AND RULEMAKING FILE

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
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

WEBSITE ACCESS

Materials regarding this proposal can also be found on the Bureau's website at www.autorepair.ca.gov or www.smogcheck.ca.gov.

GENERAL PUBLIC INTEREST

**TITLE 2. DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further no-

tice, each of these prospective contractors in order to submit a responsive bid must present evidence that it's Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

DEPARTMENT OF FISH AND GAME

Department of Fish and Game – Public Interest
Notice

For Publication July 7, 2006

**CESA CONSISTENCY DETERMINATION FOR
Aubell Property Joint Maintenance Facility Project
Del Norte County**

The Department of Fish and Game (“Department”) received notice on June 19, 2006 that the California Department of Parks and Recreation (“CDPR”) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (“CESA”). This project consists of the construction of a maintenance facility for use by Redwood National and State Parks on a 10 acre site in Aubell, Del Norte County.

The National Marine Fisheries Service, on October 27, 2005, issued to the National Park Service, a no jeopardy federal biological opinion (151422SWR2003AR8948:BAD) which considers the Federally and State threatened Southern Oregon/Northern California Coast (SONCC) Coho Salmon (*Oncorhynchus kisutch*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, CDPR is requesting a determination on whether the federal biological opinion 151422SWR2003AR8948:BAD is consistent with CESA.

If the Department determines that the federal biological opinion is consistent with CESA, CDPR will not be required to obtain an incidental take permit under CESA for the proposed project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game – Public Interest
Notice

For Publication July 7, 2006

**CESA CONSISTENCY DETERMINATION FOR
Ten Mile River Bridge Replacement Project
Mendocino County**

The Department of Fish and Game (Department) received notice on June 16, 2006 that the California Department of Transportation (Caltrans) 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 replacement of the Ten Mile River Bridge over the Ten Mile River along Route 1 between Kilometer Post 111.7 and 112.9 in Mendocino

County. The activities include construction of temporary roads and support structures on land as well as pile driving and other activities in the water, which will impact approximately 13 acres of habitat, including aquatic and land, along the River.

The National Marine Fisheries Service (NMFS), on June 9, 2006, issued to the Federal Highway Administration (FHWA), a no jeopardy federal biological opinion (151422SWR2004SR8263:GRS) which considers the Federally and State endangered Central California Coast coho Salmon (*Oncorhynchus kisutch*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, Caltrans is requesting a determination on whether the federal biological opinion 151422SWR2004SR8263:GRS is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, Caltrans will not be required to obtain an incidental take permit under CESA for the proposed project.

DEPARTMENT OF FISH AND GAME

**CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
CESA No. 2080–2006–012–03**

- Project:** Relocation of U.S. Highway 101 at Confusion Hill
- Location:** South Fork Eel River on U.S. Highway 101 at Post Miles 98.9 and 100.8 in Mendocino County
- Notifier:** California Department of Transportation

BACKGROUND

The California Department of Transportation (“Caltrans”), in cooperation with the Federal Highway Administration (“FHWA”), proposes to construct a new two-lane highway to bypass a rockslide at Confusion Hill on U.S. Highway 101 between post miles 98.9 and 100.8 in Mendocino County (“project”). The highway will bypass the rockslide by crossing and re-crossing the South Fork Eel River to the west of the existing highway. The new highway will be 1.7 miles in length and be comprised of two new bridges across the South Fork Eel River and a through-cut of a ridge on the west side of the river. The bridges will be constructed from two of three temporary trestles that will cross the river. Wet channel crossings, the placement of piles, and blasting and excavation work will be required to construct the new highway. Caltrans anticipates field construction to begin in March 2007 and end in December 2009.

The project could result in the take of Southern Oregon/Northern California Coast (“SONCC”) coho salmon (*Oncorhynchus kisutch*); California Coastal chinook salmon (*O. tshawytscha*); and Northern California steelhead (*O. mykiss*). SONCC coho salmon is listed as threatened under both the federal Endangered Species Act (“ESA”) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (“CESA”) (Fish & G. Code, § 2050 *et seq.*). California Coastal chinook salmon and Northern California steelhead are listed as threatened under the ESA.

Because the project has the potential to take species listed under the ESA, FHWA consulted with the National Oceanic and Atmospheric Administration National Marine Fisheries Service (“NMFS”). On November 4, 2005, NMFS issued to FHWA a “no jeopardy” biological opinion (151422SWR04SR9151) for the project. The biological opinion describes the project and sets forth measures to mitigate project impacts to SONCC coho salmon, California Coastal chinook salmon, and Northern California steelhead. Thereafter, the Department issued Caltrans a consistency determination for the project (CESA No. 2080–2005–034–03). Since that time, the project has been modified. Specifically, the project now includes water drafting and the height of the access trestles has been reduced.

In response to the changes made to the project, on April 10, 2006, and again on May 17, 2006, NMFS amended the biological opinion (151422SWR2006SR00125:DJL and 151422SWR2006SR00247:EJS, respectively) by changing the project description and removing the prohibition on water drafting. On May 19, 2006, the Director of the Department of Fish and Game (“Department”) received a notice from Caltrans requesting a determination that the amended biological opinion, as it pertains to SONCC coho salmon, is consistent with CESA.

DETERMINATION

The Department has determined that the biological opinion, as amended, is consistent with CESA. The mitigation measures in the opinion meet the conditions set forth in Fish and Game Code section 2081, subparagraphs (b) and (c), which, when met, authorize the incidental take of CESA-listed species. Specifically, the Department finds that the take of SONCC coho salmon will be incidental to an otherwise lawful activity (i.e., the relocation of U.S. Highway 101 at Confusion Hill) and the mitigation measures identified in the amended biological opinion will minimize and fully mitigate the impacts of the authorized take on SONCC coho salmon.

The mitigation measures in the amended biological opinion include, but are not limited to, the following:

1. Construction in and immediately adjacent to the channel of the South Fork Eel River may occur only between May 15 and October 31 of each year. Water drafted from the South Fork of the Eel River shall be limited to 14,000 gallons of water per day at a maximum rate of 250 gallons per minute.
2. A qualified biologist shall monitor the placement and removal of instream cofferdams, in-channel activities, and the performance of sediment control or detention devices.
3. Prior to any work within the 100-year floodplain of the South Fork Eel River or any blasting-related activity, Caltrans and FHWA shall implement a hydroacoustic monitoring plan developed in consultation with NMFS and the Department.
4. Caltrans shall implement a fish passage enhancement project on Red Mountain Creek at Highway 101 in Mendocino County near the project site. This project will improve fish passage and the quality and availability of critical spawning and rearing habitat above the culvert.
5. Prior to any work within the 100-year floodplain of the South Fork Eel River, Caltrans and FHWA shall ensure and provide funding for implementation of minimization and mitigation measures and for monitoring compliance and effectiveness of those measures in a form acceptable to and approved in writing by NMFS and the Department.

Based on the Department’s consistency determination, Caltrans does not need to obtain authorization from the Department under CESA for take of SONCC coho salmon that occurs in carrying out the project, provided Caltrans complies with the mitigation measures and other conditions described in the amended biological opinion. However, if the project as described in the amended biological opinion, including the mitigation measures therein, changes after the date of the opinion, or if NMFS again amends or replaces that opinion, Caltrans will need to obtain from the Department a new consistency determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081). This consistency determination supersedes the Department’s previous consistency determination for the project (CESA No. 2080–2005–034–03).

DEPARTMENT OF HEALTH SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE CALIFORNIA DEPARTMENT OF
HEALTH SERVICES QUALITY ASSURANCE
FEE ON SKILLED NURSING FACILITIES
FOR THE 2006-07 RATE YEAR

This notice provides updated information concerning the Quality Assurance (QA) Fee on each skilled nursing facility for the rate year August 1, 2006 to July 31, 2007. California Health and Safety Code sections 1324.20 through 1324.30, and Welfare and Institutions Code section 14105.06, authorize the California Department of Health Services (CDHS) to collect a QA Fee from all non-exempt Freestanding Skilled Nursing Facilities and Freestanding Skilled Adult Subacute Nursing Facility Level-Bs (FS/NF-Bs). The purpose of this fee is to enhance federal financial participation in the Medi-Cal program, provide additional reimbursement to, and to support quality improvement efforts in licensed FS/NFBs providing services for the Medi-Cal program.

QA FEE IMPOSED FOR THE
2006-07 RATE YEAR

Effective on August 1, 2006, for the rate year 2006-2007, CDHS will begin collecting the six (6) percent QA Fee authorized by the legislature on the total net revenue of all FS/NF-Bs, subject to the fee. CDHS will collect the following QA Fee on a monthly basis:

FS/NF-Bs with **100,000 or more** total annual resident days — \$6.81, per resident day.

FS/NF-Bs with **less than 100,000** total annual resident days — \$7.79, per resident day.

CDHS will send quarterly notices to each facility with three (3) monthly payment forms. Payments are due on or before the last day of the month following the month for which the fee is imposed.

PUBLIC REVIEW AND COMMENTS

A copy of the California Health and Safety Code sections 1324.20 through 1324.30, and Welfare and Institutions Code section 14105.06 may be requested from, and any comments may be sent to:

Cecilia Keiser, Acting 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.

**RULEMAKING PETITION
DECISIONS**

DEPARTMENT OF HEALTH SERVICES

June 21, 2006

Mr. Mark N. Todzo
Lexington Law Group, LLP
1627 Irving Street
San Francisco, CA 94122

Re: Petition for Regulations

Dear Mr. Todzo:

The Petition you filed on May 17, 2006, pursuant to Government Code section 11340.6 has been carefully reviewed by the Department of Health Services (Department).

Your petition included requests that the Department, within ten days of the date of your petition,

- (1) issue proposed regulations pursuant to Section 1276.65 of the Health and Safety Code (HSC) that comply with that statute;
- (2) rescind the policy issued on November 8, 2005, regarding the computation of nursing hours per patient day in nursing homes;
- (3) issue proposed regulations pursuant to Section 1426 of the HSC; and
- (4) provide you with documentation sufficient to demonstrate the Department's compliance with these requests.

The Department has given consideration to your Petition in accordance with Government Code section 11340.7 and has determined to grant (1), except for the portion of the request that the regulations be issued within ten days of your request, and to deny (2), (3), and (4).

Regarding (1), the regulations are already being developed and will be promulgated in accordance with the Administrative Procedure Act. With respect to request (2), when the Department issues the above-referenced proposed regulations in accordance with HSC 1276.65,

this issue will be addressed. Regarding request (3), HSC section 1426 only requires specific acts to be included in regulation if feasible. The Department has determined that listing specific acts in regulation is not feasible, and does not intend to issue such regulations.

Request (4) is denied because some of the requests are being denied and all are being denied within the ten-day time frame you specified. The Department will, however, place your name on the list of interested parties who are to receive the Notice of Proposed Rulemaking.

In conclusion, it is the Department's decision to grant, in part, and to deny, in part, your Petition for update of regulations as stated above. You should be aware that pursuant to Government Code section 11340.7(c), you, or any other interested person, may request reconsideration of any part or all of the Department's decision regarding this Petition no later than 60 days after the date of this letter.

A copy of this letter will be sent to the Office of Administrative Law for publication in the California Regulatory Notice Register, pursuant to Government Code section 11340.7(d).

If you, or any other interested person, would like copies of the Petition or wish to discuss this matter further, please contact Barbara Dayvault, Senior Counsel, at (916) 440-7820.

Thank you for bringing this matter to our attention.

Sincerely,

/s/

Robert D. Tousig
Deputy Director and Chief Counsel

cc:

Chuck Smith, Chief
Office of Regulations
Department of Health Services
P.O. Box 997413, MS 0015
Sacramento, CA 95899-7413

Brenda Klutz, Deputy Director
Licensing and Certification
Department of Health Services
P.O. Box 997416, MS 3000
Sacramento, CA 95899-7413

Barbara Dayvault, Senior Staff Counsel
Office of Legal Services
Department of Health Services
P.O. Box 997413, MS 0010
Sacramento, CA 95899-7413

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Board of Administration California Public Employees' Retirement System

Decision on Request for Reconsideration of Denial of Petition California Government Code Section 11340.7

INTRODUCTION

On March 1, 2006, Mr. James McRitchie filed, under Government Code section 11340.6, a petition to the Board of Administration of the California Public Employees' Retirement System (CalPERS). The petition requested that CalPERS amend California Code of Regulations, title 2, sections 554 and 554.6. On March 29, 2006, CalPERS denied Mr. McRitchie's petition, as published in the April 14, 2006 California Regulatory Notice Register, pages 474-475. If adopted, the proposed amendments would make these changes:

1. Section 554¹ currently prohibits CalPERS staff "directly involved in conducting a CalPERS election" from using his/her official position to favor one candidate over another. The proposed amendment would delete the phrase "directly involved in conducting a CalPERS election."
2. Section 554.6 currently provides for a runoff election process when no candidate receives 50% plus one vote as a result of the initial CalPERS election. The proposed amendment would provide for "instant runoff" voting.

On May 26, 2006, Mr. McRitchie submitted, under Government Code section 11340.7(c), a request for reconsideration of the denial of his March 1, 2006 petition. In this request, Mr. McRitchie asserts the amendments are necessary because:

1. Section 554 is in conflict with Government Code section 19990 and therefore in violation of Government Code section 11342.2.
2. Use of the "instant runoff" method of voting in board elections will assure board members will be elected by the greatest possible majority of CalPERS members using a single ballot.

After carefully considering the request for reconsideration of CalPERS' denial of the petition to amend sections 554 and 554.6, for the reasons set forth below, CalPERS hereby affirms its denial of the petition for amendment of regulations dated March 1, 2006.

¹ All further section references are to sections in the California Code of Regulations, title 2, unless otherwise indicated.

DECISION

1. California Code of Regulations, title 2, section 554 does not conflict with Government Code section 19990, as the petition asserts. Instead, section 554 is entirely consistent with and supportive of Government Code section 19990 which sets forth general prohibitions of state officers or employees engaging in incompatible activities, and requires all appointing powers, including CalPERS, to adopt rules governing its application. Section 554 is one of the regulations CalPERS adopted and it prohibits improper influence in Board elections. Section 554 also supplements section 558, the regulation which specifically sets out CalPERS' Incompatible Activities Statement. The petition ignores the principle that administrative regulations may not override state legislation. Both sections 554 and 558 were properly promulgated under the Administrative Procedure Act (APA), and section 554 does not violate Government Code section 11342.2, which is part of the APA. Adopting a regulation such as section 554, which prohibits improper influence of Board elections, does nothing to undermine or contradict state law generally prohibiting conflicts of interest and undue influence.
2. California Code of Regulations, title 2, section 554.6 provides for ballot counting and runoff elections in Board elections. The proposed amendments to section 554.6 regarding an "instant runoff" election were addressed in the rulemaking process that amended that section in 2001 to provide for a runoff election if no candidates garnered a 50% plus one vote majority of the votes cast. Public comments suggesting that CalPERS adopt an "instant runoff" procedure for Board elections are on record in the rulemaking file and Final Statement of Reasons. (See Office of Administrative Law Notice File # Z00-1212-05, Final Statement of Reasons, p. 4.)

Furthermore, subsequent to CalPERS' initial denial of the March 1, 2006 petition to amend sections 554 and 554.6, the CalPERS Benefits and Program Administration Committee (BPAC) at its May 2006 meeting considered these issues along with numerous other items regarding the process of elections to membership of the CalPERS Board. BPAC took no action at that meeting to recommend that the Board amend the regulations, but instead directed the Chair of BPAC to work with the President of the Board to form an ad hoc committee and bring back recommendations to BPAC at a later time.

Accordingly, after careful reconsideration, CalPERS respectfully affirms its denial of the March 1, 2006 petition.

CONTACT PERSON

Interested parties may obtain a copy of the request for reconsideration and petition by contacting CalPERS.

CalPERS Contact: Carol McConnell,
Deputy General Counsel
CalPERS
Lincoln Plaza North
400 Q Street, Suite 3340
Sacramento, California 95814

**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.

BOARD OF EQUALIZATION

Property Tax — Welfare Exemption Requirements

In this regulatory action, the Board of Equalization adopts regulations pertaining to the Property Tax "welfare exemption" (Revenue and Taxation Code section 214), including (1) regulations pertaining to the exemption for low-income housing properties as set forth in section 214, subdivision (g), and (2) a regulation setting forth the requirements for irrevocable dedication clauses and dissolution clauses in the organizational documents of organizations seeking qualification of properties for the welfare exemption.

Title 18
California Code of Regulations
ADOPT: 140, 140.1, 140.2, 143
Filed 06/23/06
Effective 07/23/06
Agency Contact: Diane G. Olson (916) 322-9569

**BOARD OF FORESTRY AND FIRE PROTECTION
SRA Classification System, 2006**

This rulemaking updates a procedural publication which is used to classify SRAs. An SRA is an area of the

state in which the financial responsibility of preventing and suppressing fires has been determined by the Board of Forestry and Fire Protection to be the responsibility of the state. This rulemaking also updates the procedure the Board uses to classify the lands.

Title 14
California Code of Regulations
AMEND: 1220
Filed 06/23/06
Effective 07/23/06
Agency Contact:
Christopher Zimny (916) 653-9418

CALIFORNIA ENERGY COMMISSION
Amendments to Appliance Efficiency Regulations

These amendments change the implementation date for minimum efficiency standards of single voltage external power supplies, exclude specific medical devices from the regulations and remove the requirements for single voltage external power supplies to meet the minimum efficiency requirements at 230 volts @ 50 Hz. The Commission determined that manufacturers could not meet the deadline of July 1, 2006 to meet the minimum energy efficiency level specified in the regulations. These dates have now been pushed to January 1, 2007 for external power supplies used with laptop computers and other computer based electronics and July 1, 2007 for external power supplies used with wireline phones and all other electronics. These amendments originally included moving the compliance deadline for consumer audio and video equipment from January 1, 2007 to January 1, 2008. However, the Commission decided to pursue that change in a separate administrative action.

Title 20
California Code of Regulations
AMEND: 1601, 1602, 1604, 1605.3, 1607
Filed 06/22/06
Effective 06/22/06
Agency Contact: Jim Holland (916) 654-4091

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Segregated Program Housing Units

The Department of Corrections and Rehabilitation is amending section 3341.5, Title 15, California Code of Regulations, in order to provide for an internal change. The Psychiatric Management Unit was renamed the Psychiatric Services Unit.

Title 15
California Code of Regulations
AMEND: 3341.5
Filed 06/27/06
Effective 07/27/06
Agency Contact:
Claudia Hernandez (916) 358-2477

DEPARTMENT OF FOOD AND AGRICULTURE
Diaprepes Root Weevil Interior Quarantine

This emergency regulatory action will add approximately three (3) square miles in the Carlsbad area of San Diego County to areas already under quarantine in the county for the *Diaprepes abbreviatus* (West Indian sugarcane root borer or *Diaprepes* root weevil).

Title 3
California Code of Regulations
AMEND: 3433(b)
Filed 06/28/06
Effective 06/28/06
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF JUSTICE
Repealing and Renumbering

This action without regulatory effect repeals and renumbers Department of Justice Firearms Regulations.

Title 11
California Code of Regulations
ADOPT: 4016, 4017, 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4030, 4031, 4032, 4034, 4035, 4036, 4037, 4038, 4039, 4040, 4041, 4045, 4047, 4048, 4049, 4050, 4051, 4052, 4053, 4054, 4055, 4056, 4057, 4058, 4059, 4060, 4061, 4062, 4063, 4064, 4065, 4066
Filed 06/28/06
Effective 07/28/06
Agency Contact: Nathaniel Barrell (916) 227-0163

DEPARTMENT OF MANAGED HEALTH CARE
Outpatient Prescription Drug Copayments, Coinsurance, Deductibles, Limitations and Exclusions

The proposed regulation will implement Health and Safety Code section 1342.7, subdivision (e), by creating standards for review and approval of a health care service plan's proposed plan for outpatient prescription drug benefits, including required copayments, deductibles, limitations and exclusions.

Title 28
California Code of Regulations
ADOPT: 1300.67.24, REPEAL: 1300.67.24
Filed 06/26/06
Effective 07/26/06
Agency Contact:
Suzanne Chammout (916) 323-2472

DEPARTMENT OF SOCIAL SERVICES
 Adult Programs — Protective Supervision and Variable Assessments

These statutorily mandated emergency regulations change sections 30–757 and 30–761 of the Department’s Manual of Policies and Procedures consistent with Welfare and Institutions Code sections 12301.1 and 12301.21 regarding when and how often assessments of individuals receiving protective services occur. Welfare and Institutions Code section 12301.21 requires the adoption of a form to collect certain information about the individuals.

Welfare and Institutions Code sections 12301.1 and 12301.21 both specify that “The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law.” (Welfare & Institutions Code sections 12301.1(e)(2) and 12301.21(d)(2).) The regulations are all within the scope of the cited Welfare and Institutions Code sections. The regulations must be formally adopted within 180 days of the adoption of the emergency regulations.

Title MPP
 California Code of Regulations
 AMEND: 30–757, 30–761
 Filed 06/26/06
 Effective 06/26/06
 Agency Contact: Alison Garcia (916) 657–2586

EMPLOYMENT TRAINING PANEL
 MEC/New Hire

This regulatory action provides for multiple employer contracts, in-kind contributions, new hire training, and start dates.

Title 11
 California Code of Regulations
 ADOPT: 4400(II), 4400(mm), 4401.1, 4406
 AMEND: 4440.3 REPEAL: 4400(1), 4406
 Filed 06/28/06
 Effective 07/28/06
 Agency Contact: Maureen Reilly (916) 327–5422

MEDICAL BOARD OF CALIFORNIA
 Precedent Decisions

Under the Administrative Adjudication Bill of Rights, an administrative adjudication decision of a state agency may not be relied upon as precedent unless it is designated as a precedent decision by the state agency. Government Code section 11425.60 provides that an agency may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur and that such designation is not rule-making. This regulatory action adopts new section

1304.5 of title 16 of the California Code of Regulations which provides for the issuance of precedent decisions by the Division of Licensing of the Medical Board of California.

Title 16
 California Code of Regulations
 ADOPT: 1304.5
 Filed 06/26/06
 Effective 07/26/06
 Agency Contact: Kevin A. Schunke (916) 263–2368

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Petroleum Safety Orders

This regulatory action amends the state’s Petroleum Safety Orders to reflect changes in national standards. These national standards include a number of incorporated by reference documents published by the American Petroleum Institute (API), the American National Standards Institute (ANSI), the National Board Inspection Code (NBIC) and the American Society of Mechanical Engineers (ASME). The regulatory amendments update existing references and add new codes and standards pertaining to pipelines, fittings and valves, which had been introduced or revised since the last update of the Petroleum Safety Orders.

Title 8
 California Code of Regulations
 ADOPT: 6858
 AMEND: 6505, 6533, 6551, 6552, 6755, 6845, 6657 REPEAL: 6846
 Filed 06/26/06
 Effective 07/26/06
 Agency Contact: Marley Hart (916) 274–5721

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN JANUARY 25, 2006 TO JUNE 28, 2006

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

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

Title 2
 06/20/06 AMEND: 18537

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06/08/06 AMEND: 18526
 05/26/06 ADOPT: 18438.5 AMEND: 18438.8
 05/25/06 AMEND: 18942
 05/24/06 AMEND: 433.1
 05/24/06 ADOPT: Div. 8, Ch. 111, Sec. 59560
 05/17/06 ADOPT: 22610.1, 22610.2, 22610.3, 22610.4
 05/15/06 AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, Form SAB 50-04
 05/08/06 AMEND: 18537.1
 04/24/06 AMEND: 20108.70, Division 7
 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
 04/04/06 ADOPT: 18215.1 AMEND: 18225.4, 18428
 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
 03/08/06 AMEND: 56, 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8
 02/28/06 AMEND: 57.1, 57.2, 57.3, 57.4
 02/21/06 ADOPT: 18371
 02/21/06 AMEND: 2320(a) (2)
 02/21/06 ADOPT: 18361.10
 02/21/06 REPEAL: 2550, 2551, 2552, 2553, 2554, 2555, 2556
 02/16/06 AMEND: Div. 8, Ch. 58, Sec. 54700
 01/30/06 AMEND: Div. 8, Ch. 103, Sec. 59150

Title 3

06/28/06 AMEND: 3433(b)
 06/12/06 AMEND: 3433(b)
 05/23/06 ADOPT: 6580, 6582, 6584
 05/23/06 ADOPT: 3424
 05/19/06 AMEND: 3433(b)
 05/18/06 AMEND: 3591.12(a)
 05/18/06 ADOPT: 1472.7.2 AMEND: 1472, 1472.4
 05/11/06 AMEND: 3591.19
 04/28/06 AMEND: 1380.19, 1420.10
 04/27/06 AMEND: 3406(b)
 04/13/06 AMEND: 1446.4, 1454.10, 1462.10
 04/11/06 AMEND: 3700(c)
 04/11/06 AMEND: 3700(c)
 04/10/06 AMEND: 3406(b)

03/30/06 AMEND: 3406(b)
 03/28/06 AMEND: 3406(b)
 03/23/06 ADOPT: 6310 AMEND: 6170
 03/07/06 AMEND: 3700(c)
 03/01/06 AMEND: 3406(b)
 02/22/06 AMEND: 3406(b)
 02/21/06 AMEND: 3433(b)
 02/21/06 ADOPT: 3591.19(a)(b)(c) AMEND: 3591.19(a)
 02/21/06 AMEND: 3700(c)
 02/16/06 ADOPT: 3433
 02/07/06 AMEND: 6502
 02/02/06 AMEND: 3700(c)

Title 4

06/20/06 AMEND: 1472
 06/01/06 AMEND: 8070(d), 8071(a)(9), 8072, 8073(c), 8074(b), 8076(c)(1)
 05/18/06 ADOPT: 12358
 05/05/06 AMEND: 150
 03/24/06 ADOPT: 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, 10190, 10191
 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)
 02/28/06 AMEND: 4143
 01/25/06 ADOPT: 12002, 12004, Appendix A AMEND: 12100, 12200, 12220, 12300

Title 5

06/12/06 ADOPT: 19833.5, 19833.6 AMEND: 19815, 19816, 19816.1, 19819, 19824, 19828.1, 19831
 06/09/06 ADOPT: 19827 AMEND: 19812, 19813, 19814, 19814.1, 19815, 19816, 19817, 19817.1, 19826, 19826.1, 19836, 19851, 19853
 05/25/06 AMEND: 1074
 05/16/06 ADOPT: 51025.5
 05/15/06 ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7
 05/12/06 AMEND: 19819, 19851
 04/28/06 AMEND: 51026, 53206, 54024, 54100, 54616, 54700, 54706, 55005, 55160, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55403, 55404, 55512, 55522, 55530, 55605,

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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	04/28/06	ADOPT: 2670.1, 2670.2, 2670.3, 2670.4, 2670.5, 2670.7, 2670.8, 2670.9, 2670.10, 2670.11, 2670.12, 2670.13, 2670.14, 2670.15, 2670.17, 2670.18, 2670.19, 2670.20, 2670.21, 2670.22, 2670.23, 2670.24
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