



California Regulatory Notice Register

REGISTER 2010, NO. 33-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

AUGUST 13, 2010

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

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

PROPOSED ACTION ON REGULATIONS

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TITLE 2. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations regarding the proposed actions.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend Sections 561 through 561.14 of Title 2, California Code of Regulations to update the governance of CalPERS Member Home Loan Program to reflect the current mortgage industry environment while clarifying the program's administration.

II. WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on September 27, 2010. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via facsimile at (916) 795-4607, email at veronica_mora@calpers.ca.gov or mailed to the following address:

Veronica Mora
 Regulations Coordinator
 California Public Employees' Retirement System
 PO Box 942707
 Sacramento, CA 94229-2707

Telephone: (916) 795-0713

III. AUTHORITY AND REFERENCE

The CalPERS Board of Administration (Board) has general authority to take regulatory action under Government Code Section 20121. This action would inter-

pret and make specific Government Code Section 20200, referred to as the Dave Elder Public Employees' Retirement System Member Home Loan Program Act.

**IV. INFORMATIVE DIGEST/
 POLICY STATEMENT OVERVIEW**

Government Code Section 20200 establishes a home loan program to help CalPERS members secure purchase money and refinance loans. Since the inception of the program, more than 136,500 real estate loans have been made, providing over \$22.7 billion in real estate financing to eligible members.

The Board proposes to revise Sections 561 through 561.14 of Title 2, California Code of Regulations. Amended regulations would:

- a) Expressly permit loan modifications and extend the allowable loan term beyond 360 months to facilitate loan modifications.
- b) Clarify that the program is for all eligible members.
- c) Clarify that loans are available for both purchase and refinance transactions.
- d) Define that interest rates are being set consistent with market rates rather than set by the Investment Committee.
- e) Adjust program and loan guidelines so that they are more consistent with mortgage industry standards.
- f) Update references from specific government agencies to "government-sponsored entities that guarantee loans" to allow for changes in federal governing agencies.
- g) Clarify that correspondent lenders are bound by their agreement with CalPERS rather than a specific Board approved document.
- h) Provide for Board delegation of the program's administration beyond ministerial duties consistent with other CalPERS programs.

V. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to public employee retirement.

**VI. DISCLOSURES REGARDING THE
 PROPOSED REGULATORY ACTION**

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.

- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action does not impact costs or savings for any state agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code Section 17500 et seq.
- D. **NON-DISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action does not impact any federal funding to the state.
- F. **ADVERSE ECONOMIC IMPACT:** CalPERS has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of businesses in California to compete with businesses in other states.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** The CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. **IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA:** The proposed regulatory action 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.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no significant effect on housing costs.

VII. CONSIDERATION OF ALTERNATIVES

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

alternatives to the proposed regulation during the written comment period.

VIII. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Geraldine Jimenez, CFA
Division Chief
Affiliate Investment Programs Division
California Public Employees Retirement System
PO Box 942707
Sacramento, CA 94229-2707

Email: geraldine_jimenez@calpers.ca.gov

Telephone: (916) 795-3407

Please direct requests concerning the processing of this regulatory action to Veronica Mora, Regulations Coordinator, at the address shown above in Section II, or call her at (916) 795-0317.

IX. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENTS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation as amended, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons (FSOR) can be obtained, once it has been prepared, by written request to Veronica Mora, Regulations Coordinator, at the address shown above.

For immediate access, the regulatory material regarding this action is available at CalPERS On-Line (www.calpers.ca.gov) under About CalPERS> Legislation, Regulations & Statutes>Regulatory Actions.

X. PUBLIC HEARING

The Board has not scheduled a hearing, however, any interested person, or his or her duly authorized representative, may request a public hearing pursuant to Government Code Section 11346.8. The request must be in writing and must be submitted to the Regulations Coordinator, at the address shown above, no later than 15 days prior to the close of the written comment period.

XI. ACCESS TO HEARING ROOM

If a hearing is scheduled, the hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed text of the regulations as amended after the written comment period has closed. It may further amend Sections 561 through 561.14 if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action. If a public hearing is held, the modified text will also be mailed to all persons who submitted oral or written comments at the hearing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT OF INTEREST CODE

AMENDMENT

State: Department of Mental Health

A written comment period has been established commencing on **August 13, 2010** and closing on **September 27, 2010**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **September 27, 2010**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Section 3558, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Insects Which May Be Imported or Shipped Within California Without a Permit.

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.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before September 27, 2010.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law establishes that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of the California Food and Agricultural Code which he is directed or authorized to administer or enforce and prevent the spread of injurious pests (Food and Agricultural Code, Section 407). Existing

law provides that the Secretary may make and enforce such regulations as he deems necessary to prevent any plant or thing which is, or is liable to be, infested or infected by, or which might act as a carrier of, any pest, from passing over any quarantine line which is established and proclaimed pursuant to this division (Food and Agricultural Code Section 5302). Existing law also establishes, except for certain exemptions, that it is unlawful for any person to willfully import into, or ship or transport within, the state any live insect or any pest as such, unless the shipment or transportation and subsequent use and handling is authorized prior to shipment under written permit and the regulations of the Secretary or the United States Department of Agriculture (Food and Agricultural Code Section 6305).

The proposed amendment of Section 3558(a) would identify additional types of beneficial or useful insects that do not require a permit authorized by the Secretary or the United States Department of Agriculture to move into or within the State. The effect of the proposed amendment is to remove the requirement for persons to obtain a permit from the Secretary or the United States Department of Agriculture for the additional listed beneficial or useful insects; thus reducing an unnecessary regulatory burden upon such persons moving such insects. 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 3558 does not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the 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 will result from the proposed action.

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 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.

ASSESSMENT

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

ALTERNATIVES CONSIDERED

The Department 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 amended Section 3558, subsection (a) pursuant to the authority vested by Sections 407 and 5302 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3558, subsection (a) to implement, interpret and make specific Section 6305 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 Susan McCarthy at (916) 654-1017. Questions regarding the substance of the proposed regulations 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 regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on March 15, 2010. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 4, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on April 5, 2010. The Department proposes to

continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 4, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on April 22, 2010. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 4, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on May 4, 2010. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 4, 2010.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on May 18, 2010. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than October 4, 2010.

This notice is being provided to be in compliance with Government Code Section 11346.4. 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 action proposed to the agency officer named below on or before September 27, 2010.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the

probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

March 15, 2010

This amendment expanded the contiguous quarantine area in the counties of Marin and Sonoma counties by approximately 50 square miles. A new quarantine area of approximately 21 square miles was established in the Stockton area of San Joaquin County. A new quarantine area of approximately 16 square miles was established in the Woodland area of Yolo County. The Los Osos area of San Luis Obispo County was expanded by approximately four square miles. The quarantine area in Kenwood, Sonoma County was expanded by approximately eight square miles.

This resulted in a total of approximately 4,530 square miles under regulation within the State. The effect of this proposed change to the regulation was to establish authority for the State to perform quarantine activities against LBAM (*Epiphyas postvittana*) in these additional quarantine areas.

April 5, 2010

This amendment expanded a portion of the contiguous quarantine area in Monterey County by approximately 14 square miles. The Gonzales area of Monterey County was expanded by approximately eight square miles. This resulted in a total of approximately 4,552 square miles under regulation within the State. The effect of this proposed change to the regulation was to establish authority for the State to perform quarantine activities against LBAM (*Epiphyas postvittana*) in these additional quarantine areas.

April 22, 2010

A portion of contiguous quarantine area in the counties of Contra Costa, San Benito, Solano and Sonoma counties was expanded by approximately 25 square miles. A new quarantine area of approximately 17 square miles was established in the Allendale area of Solano County. The Long Beach area of Los Angeles County was expanded by approximately seven square miles. The quarantine area in Kenwood, Sonoma County was expanded by approximately five square

miles. The Healdsburg area of Sonoma County was expanded by less than one half of a square mile.

This resulted in a total of approximately 4,606 square miles under regulation within the State. The effect of this proposed change to the regulation was to establish authority for the State to perform quarantine activities against LBAM (*Epiphyas postvittana*) in these additional quarantine areas.

May 4, 2010

A portion of contiguous quarantine area in the counties of Contra Costa, Monterey, San Benito and Sonoma counties was expanded by approximately 62 square miles. This resulted in a total of approximately 4,668 square miles under regulation within the State. The effect of this proposed change to the regulation was to establish authority for the State to perform quarantine activities against LBAM (*Epiphyas postvittana*) in these additional quarantine areas.

May 18, 2010

A portion of the contiguous quarantine area in the counties of Alameda, Contra Costa, Monterey, San Joaquin and Sonoma counties was expanded by approximately 32 square miles. A new quarantine area was established in the west Tracy area of Alameda and San Joaquin counties of approximately 31 square miles. The Kenwood area of Sonoma County was expanded by approximately one square mile. The Davis area of Yolo County was expanded by approximately 12 square miles. This resulted in a total of approximately 4,744 square miles under regulation within the State. The effect of this proposed change to the regulation was to establish authority for the State to perform quarantine activities against LBAM (*Epiphyas postvittana*) in these additional quarantine areas.

There is no existing, comparable federal regulation or statute regulating the intrastate movement.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3434 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 3434. No reimbursement is required for Section 3434 under Section 17561 of the Government Code because all of the affected county agricultural commissioners 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 actions will not affect housing costs.

EFFECT ON BUSINESSES

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

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to \$0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current requirements of Section 3060.2, Standards of Cleanliness, California Code of Regulations (CCR), and cannot be sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

ASSESSMENT

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

ALTERNATIVES CONSIDERED

The Department 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 actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3434 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 proposed 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 actions, location of the rulemaking files, and request for a public hearing may be directed to 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 Susan McCarthy 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 Web site (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 actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of

reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

NOTICE IS HEREBY GIVEN

The Commissioner (“Commissioner”) of the Department of Real Estate (“Department”) proposes to adopt rules within Chapter 6, Title 10, of the California Code of Regulations (“Regulations”) entitled, “Bar Order Implementation Regulations.” The proposed regulatory action clarifies the application of Business and Professions Code Section 10087, and adds specific requirements relating to delegation of a broker’s supervision duties. In this rulemaking action the Commissioner proposes to amend Article 4 (amendment of Section 2725, adoption of Section 2725.5), to amend Article 18.7 (amendment of Section 2930), and adopt Article 20 (Sections 2960, 2961, 2962, and 2963).

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing on this and four other regulatory proposals on Wednesday, September 29, 2010, starting at 9:30 a.m., at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

WRITTEN COMMENT PERIOD

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

Regular Mail

Department of Real Estate
 Attn: Daniel E. Kehew, Sacramento Legal Office
 2201 Broadway
 Sacramento, CA 95818

Electronic Mail

DRERegulations@dre.ca.gov

Facsimile

(916) 227-9458

**Comments may be submitted until 5:00 p.m.,
 Wednesday, September 29, 2010.**

INFORMATIVE DIGEST/PLAIN ENGLISH
 OVERVIEW

Section 10087 of the Business and Professions Code (“Code”) was added by Chapter 286 of the Statutes of 2008. The section authorizes the Real Estate Commissioner (“Commissioner”) to suspend or bar a person from a position of employment, management, or control for a period not exceeding 36 months. This level of discipline may be imposed where Commissioner finds that the suspension or bar is in the public interest and that the person has committed or caused a violation of the Real Estate Law (Section 10000 et seq. of the Code) or a rule or order of the commissioner, as specified in the section. The section also authorizes the commissioner to impose suspension or bar (1) if the person has been convicted of, or pleaded nolo contendere to, a crime or (2) if the person has been held liable in a civil action by final judgment, or any administrative judgment by any public agency. In either of these instances (crime or civil or administrative judgment), that offense must also involve dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the real estate business.

The Department of Real Estate (“Department”) is proposing the following additions and amendments to the Regulations in order to clarify and implement the discipline level authorized by section 10087 of the Code.

Also, the Department is proposing specific rules regarding delegation of a broker’s supervision responsibilities.

Sec. 2725. Broker Supervision.

While section 10087 is addressed to the activities of the person barred or suspended, the effectiveness of this prohibition is in practice reliant on the diligent attention and cooperation of the community of licensees. The Commissioner is empowered by section 10080 to adopt regulations in order to enforce the Real Estate Law.

Section 2725 of the Regulations sets standards for supervision of real estate salespersons by the broker licensee who employs those salespersons.

This proposal would amend this section to include a subsection specifying that the duties of a supervising broker includes the establishment of policies, rules, procedures, and systems to review, oversee, inspect, and manage their brokerage’s salespersons’ activities in order to prevent employment or real estate related business activities with debarred persons.

Separate from the proposal relating to the bar order responsibilities, this proposal also addresses a broker’s delegation of supervision duties in all circumstances. The proposal adds language to require that such delegation be made in writing, and limits those persons to whom supervision may be delegated.

Purpose: The amendment of Regulations section 2725 expands the enforceable duties and responsibilities of supervising brokers. The added requirement ensures establishment and management of salesperson policies and procedures that prevent the brokerage from enabling a debarred person to violate Code section 10087. The proposal also ensures that where a broker delegates duties relating to supervision of licensed activity, that the delegation is in writing and that persons within certain categories that present risk to the public are not permitted to accept these duties.

Rationale: The first requirement, tied to the requirement of the proposed 2725.5, is necessary to ensure that real estate broker licensees plan and monitor their brokerage’s activities, thereby protecting the public from violations of Code section 10087. The second requirement ensures that, where a broker delegates duties relating to the supervision of licensed activity within a firm, that such delegation is documented for enforceability. Further, the second requirement is needed to ensure that categories of persons unfit to perform supervision are prevented from taking that role; current law has no such clear prohibition.

Sec. 2725.5. Broker Responsibility Regarding Debarred Persons.

While section 10087 is addressed to the activities of the person barred or suspended, the effectiveness of this prohibition is in practice reliant on the diligent attention and cooperation of the community of licensees. The Commissioner is empowered by section 10080 to adopt regulations in order to enforce the Real Estate Law.

While the above-described proposal for amendment of Regulations section 2725 addresses a broker’s responsibility specifically regarding salesperson supervision, this proposal would adopt section 2725.5 to address a broker’s broader real estate practice, including where the broker does not employ other licensees. This requirement also specifically imposes a regular pattern

of broker review of the list of debarred persons, in order to ensure ongoing awareness on the part of brokers. The proposal includes specific imposition of enforceable duty regarding reporting by brokers of violations of Code section 10087.

Purpose: The adoption of Regulations section 2725.5 expands the enforceable duties and responsibilities of brokers. The added requirement protects the public by ensuring that brokers remain abreast of the current list of debarred persons, and aware of their responsibility to prevent debarred persons from engaging in the real estate business.

Rationale: This requirement, tied to the requirement of the amended 2725, is necessary to ensure that real estate broker licensees plan and monitor their brokerage's activities, thereby protecting the public from violations of Code section 10087.

Sec. 2930. Standard Proposed Decision Language.

Regulations section 2930 is a lengthy section that provides text to be used in Proposed Decisions and Decisions of the Commissioner in the disciplinary process applicable to real estate licensees.

This proposal includes an amendment of section 2930 to add a subsection, giving language to an order of debarment. The language specifies the activities from which a debarred person must refrain.

Purpose: The amendment of Regulations section 2930 expands the standard language of Proposed Decisions and Decisions of the Commissioner to include standard language for a debarment order.

Rationale: Standard language for debarment orders will ensure that all debarment orders are complete, including all the necessary prohibitions.

Sec. 2960. General Definitions and Short Form References.

The text of Code section 10087, authorizing imposition of suspension and bar orders, and the regulations proposed for addition to implement this section (specifically, the proposed Regulations sections 2961, 2962, and 2963) use a variety of terms that require additional definition in order to be practically understood and to minimize the need for subsequent interpretation. Regulations section 2960 is proposed for adoption in order to provide those definitions.

The Commissioner particularly calls the reader's attention to the breadth of activities specifically included in the definition of "business activities," while that list is not exclusive of other activities that may also be considered business activities. It is the intent of the Commissioner to signify via this definition the wide breadth of activities that fall within this definition, and from which a debarred person is prohibited. The Commissioner intends this meaning: When an individual is debarred from real estate practice, the debarred individ-

ual must stay well away from all real estate business, with the sole exception of a role as a principal to a transaction.

Purpose: The adoption of Regulations section 2960 provides the definitions of terms necessary for understanding of the Code section 10087 and its associated regulations.

Rationale: The language of Code section 10087 and its associated regulations includes phrases that are subject to interpretation. These definitions express the Department's interpretation of this language.

Sec. 2961. Grounds for Issuing an Order of Suspension or Debarment.

Code section 10087(a)(1) and (2) set out the statutory grounds for the Commissioner to order suspension or debarment of an individual. Departmental staff and interested persons have expressed concern that the language of these subsections presents the possibility of confusion regarding specific grounds being cited by the Department when seeking this level of discipline.

This proposal adopts Regulations section 2961 to enumerate the specific grounds, including all elements necessary within each, for a finding that substantiates the imposition of a suspension or bar order under Code section 10087.

Purpose: The adoption of Regulations section 2961 clarifies the specific bases for imposition of discipline under Code section 10087.

Rationale: The language of Code section 10087 is subject to confusion regarding the elements necessary for imposition of a suspension or bar order. This regulation lists four subsections that are the specific categories of grounds for imposition of a suspension or bar order.

Sec. 2962. Effect of Receipt of Notice of Intention to Issue Order.

Code section 10087(c) sets out the effect of a person's receipt of a notice of intention to issue an order under the section. The person is subject to *immediate* prohibition from real estate business activities, a strong effect that will likely result in equally strong reactions and disbelief from recipients. This consequence is intended to protect the public by instantly halting their exposure to the person subject to suspension or bar. Because persons subject to a suspension or bar order are those the Commissioner has found to present the greatest risk to the public, this strong and instant restriction is well warranted.

Regulations section 2962 is intended to reinforce and clarify the strong prohibition effect of section 10087(c). Recipients of a notice will find the strong prohibition language whether they turn to the statute or regulations for explanation. The Commissioner intends that the re-

recipient be left in no doubt that their real estate business activities must halt, immediately, with no exceptions.

Purpose: The adoption of Regulations section 2962 reinforces and further explains the strong and immediate prohibition against real estate business activities triggered by a person's receipt of a notice of intent to suspend or bar him or her.

Rationale: The suspension or bar order was adopted for use in cases where an individual subject to discipline presents a significant risk to the public, and/or has shown a particular disregard for the real estate law or regulation. For this reason, the prohibition against business activities imposed via receipt of a notice of intent to suspend or bar, pursuant to Code section 10087, is intentionally strong. That very strength is likely to result in a level of disbelief on the part of the recipient. By reinforcing that strong language, this regulatory section will help ensure that notice recipients obey the prohibition rather than seek excuse for continuation of prohibited activities.

Sec. 2963. Effect of Issuance of Order.

Code section 10087(d) sets out the effect of the actual issuance of an order under the section. In addition to the business activities prohibition that is already in effect upon the person's receipt of the notice of intent to issue an order, the actual issuance of the order triggers additional prohibitions.

Regulations section 2963 is intended to clarify and reinforce the strong prohibition effects of section 10087(d). The section lists the broad categories of activities from which a suspended or debarred person must refrain. These extend beyond the business activities prohibition, and the reinforcing description of the additional categories is intended to ensure that a subject of discipline is well aware of the breadth of the order.

Purpose: The adoption of Regulations section 2963 reinforces and further explains the strong prohibition against real estate business activities and related activities triggered by issuance of an order to suspend or bar.

Rationale: The suspension or bar order was adopted for use in cases where an individual subject to discipline presents a significant risk to the public, and/or has shown a particular disregard for the real estate law or regulation. For this reason, the prohibition against business activities and other related activities imposed via issuance of an order to suspend or bar, pursuant to Code section 10087, is intentionally strong. By reinforcing that strong language, this regulatory section will help ensure that notice recipients obey the broad prohibition in its entirety.

AUTHORITY

Sections 10080 and 10170.4, Business and Professions Code.

REFERENCE

Sections 10087, 10148, 10153.4, 10177, and 10201, Business and Professions Code; Section 11425.50, Government Code.

AVAILABILITY OF MODIFIED TEXT

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

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

The express terms of the proposed action may be obtained upon request from the Sacramento offices of the Department. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. These documents are also available at the Department's website at www.dre.ca.gov. As required by the Administrative Procedure Act, the Department's Sacramento Legal Office maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Real Estate, 2201 Broadway, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

The Department has determined that there is no substantial economic impact on any party from this proposal.

DETERMINATIONS

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

- Does not create a cost or savings to any state agency. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost nor impose a mandate (nondiscretionary cost or savings) on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. (Statements of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost or savings regarding federal funding to the state. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department has determined that any costs associated with this action would be minor and would not have an adverse economic impact on broker licensees, especially since brokers already have an obligation to properly supervise employees and to determine if employed individuals are correctly licensed. This proposal reinforces and adds specificity, but not beyond the existing “best practices” that follow from the existing burden.

EFFECT ON SMALL BUSINESS

The Department has determined that there is no substantial cost to small business in California because this proposal is a restatement and clarification of existing

law, adding no new requirements relating to small business that exceed current “best practices.”

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 227-0425, or via email at DRERegulations@dre.ca.gov. The backup contact person is Mary Clarke at (916) 227-0780.

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

NOTICE IS HEREBY GIVEN

The Commissioner (“Commissioner”) of the Department of Real Estate (“Department”) proposes to adopt rules relating to the management of trust funds by licensed real estate brokers. In this rulemaking action the Commissioner proposes to adopt Section 2830 within Article 15 of Chapter 6, Title 10 of the California Code of Regulations (“Regulations”).

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing on this and four other regulatory proposals on Wednesday, September 29, 2010, starting at 9:30 a.m., at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

WRITTEN COMMENT PERIOD

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

Regular Mail
Department of Real Estate
Attn: Daniel E. Kehew, Sacramento Legal Office
2201 Broadway
Sacramento, CA 95818

Electronic Mail
DRERegulations@dre.ca.gov

Facsimile

(916) 227-9458

**Comments may be submitted until 5:00 p.m.,
Wednesday, September 29, 2010.**

INFORMATIVE DIGEST/PLAIN ENGLISH
OVERVIEW

Under common law, and reflected throughout the Real Estate Law (Section 10000 et seq. of the Business and Professions Code (“Code”)), the relationship between a real estate broker and that broker’s client is an agency relationship and involves a fiduciary duty of the broker/agent to that broker’s client. Where the broker holds the client’s funds in trust, as codified under Section 10145 of the Code, existing principles of agency establish that the broker “stands in the shoes of the client” and may not take benefit from the action unless that benefit is granted by the client.

Real estate industry leadership recently brought to the attention of the Department of Real Estate (“Department”) an increased incidence of financial institutions offering benefits or incentives to brokers for the placement of trust funds, and particularly large trust funds, with the soliciting institution. Some of the benefits or incentives described inure directly to the trust fund itself, as with discounts or waivers of fees for the trust fund specifically. Other benefits or incentives are less amenable to transfer to the benefit of the trust, such as event tickets. Still other benefits or incentives may include discounts or waivers on other business accounts of the broker, not readily recognizable as an asset that rightfully belongs to the trust. Even so, the value of such tickets or corresponding account fee waivers does, rightfully, belong to the trust and not to the broker. The experienced brokers who communicated this situation to the Department were concerned that an unwary or inexperienced broker may fail to fully understand the implications of the marketing that is directed at them by financial institutions: a broker’s responsibility is to pass along the complete benefit of such incentive schemes, or at a minimum to disclose such benefit to all beneficiaries of the involved trust fund.

The Department’s proposal of Section 2830 of the Regulations of the Real Estate Commissioner (Chapter 6, Title 10 of the California Code of Regulations) (“Regulations”) is designed to highlight this issue for licensees. The Department asserts that this section in no way alters the existing duties of a licensee/agent. Rather, the section is designed to provide an enforceable guideline to licensees regarding the breadth of the duty to one’s client regarding the benefits a financial institution may offer.

The list of prohibited activities within subsection (c) of the proposal is adapted from Insurance Code section 12404, a listing of incentives that insurers may not offer to prospective clients, as amended by the Legislature in 2008. While the purpose of that section does not parallel the purpose here, and a portion of it was inapplicable to the broker/trust fund situation, the list itself presents a useful litany of the types of incentives offered by financial institutions.

Purpose: The purpose of this proposed regulation is to clarify and reinforce the importance of a licensee’s existing duties as an agent when holding funds in trust.

Rationale: Licensees, while already bound by the duties imposed by the principles of agency, appear to be increasingly subject to incentive offers from financial institutions seeking placement of trust funds. The Department, with input from industry leadership, seeks to reinforce and clarify the duties of agency with regard to trust fund placement.

AUTHORITY

Section 10080, Business and Professions Code.

REFERENCE

Sections 10145 and 10176, Business and Professions Code.

AVAILABILITY OF MODIFIED TEXT

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

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

The express terms of the proposed action may be obtained upon request from the Sacramento offices of the Department. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. These documents are also avail-

able at the Department's website at www.dre.ca.gov. As required by the Administrative Procedure Act, the Department's Sacramento Legal Office maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Real Estate, 2201 Broadway, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

The Department has determined that there is no substantial economic impact on any party from this proposal.

DETERMINATIONS

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

- Does not create a cost or savings to any state agency. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost nor impose a mandate (nondiscretionary cost or savings) on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. (Statements of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost or savings regarding federal funding to the state. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not have an effect on housing costs.

- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The department 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 SMALL BUSINESS

The Department has determined that there is no substantial cost to small business in California because this proposal is a restatement and clarification of existing law, adding no new requirements relating to small business.

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 227-0425, or via email at DRERegulations@dre.ca.gov. The backup contact person is Mary Clarke at (916) 227-0780.

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

NOTICE IS HEREBY GIVEN

The Commissioner ("Commissioner") of the Department of Real Estate ("Department") proposes to amend Section 3012.3 within Chapter 6, Title 10 of the California Code of Regulations ("Regulations"). The Section defines "good standing" as it appears in Section 10170.8 of the Real Estate Law (Business and Professions Code ("Code") Section 10000 et seq.). The revised definition allows for continuation of "good standing," even where a licensee has had an expired license, so long as that expiration did not exceed the period allotted by Section 10201 of the Code for late renewal.

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing on this and four other regulatory propos-

als on Wednesday, September 29, 2010, starting at 9:30 a.m., at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

WRITTEN COMMENT PERIOD

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

Regular Mail

Department of Real Estate
Attn: Daniel E. Kehew, Sacramento Legal Office
2201 Broadway
Sacramento, CA 95818

Electronic Mail

DRERegulations@dre.ca.gov

Facsimile

(916) 227-9458

Comments may be submitted until 5:00 p.m., Wednesday, September 29, 2010.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Article 2.5 of the Real Estate Law (Section 10000 et seq. of the Business and Professions Code (“Code”)) sets out the requirements for the Continuing Education of real estate licensees in the state of California. Section 10170.8 makes the following exemption from those requirements:

“The provisions of this article shall not apply to any real estate licensee who submits proof satisfactory to the commissioner that he or she has been a real estate licensee in good standing for 30 continuous years in this state and is 70 years of age or older.

“A licensee in good standing is one who holds an active license which has not been suspended, revoked, or restricted as a result of disciplinary action.”

In 2006, the Department attempted to clarify this provision through regulation in Section 3012.3 of the Regulations of the Real Estate Commissioner (Chapter 6 of

Title 10, California Code of Regulations (“Regulations”) by defining “Good Standing” to exclude any time when a license was expired, no matter what the reason for that expiration. This definition focused on the “for 30 continuous years” language that appears in the first paragraph of the statute.

Given four years’ experience with the definition, the Commissioner feels that this definition is too restrictive. This is particularly true given the significant restrictions already inherent in the provision.

Upon reconsideration, the Commissioner has determined that the proper interpretive emphasis should be placed on the language of the second paragraph of the statute: “. . .has not been suspended, revoked, or restricted as a result of disciplinary action.” The Legislature chose to emphasize active discipline as cause for interruption of “good standing,” and did not include mere expiration of a license for late renewal. Indeed, the existence of Section 10201, allowing a licensee two years to renew an expired license without retaking the license examination, indicates that brief interruptions in active practice of real estate are not viewed by the Legislature as significant interruptions in “good standing.”

With these considerations in mind, this proposal alters the definition of “good standing” to be consistent with Section 10170.8 of the Code. The revised regulatory definition allows for continuation of “good standing,” even where a licensee has had an expired license, so long as that expiration did not exceed the period allotted by Section 10201 of the Code for late renewal.

Purpose: The amendment of Regulations section 3012.3 expands the definition of “good standing” to include periods where a license was expired, so long as that expiration did not exceed the two year grace period allotted by Code section 10201.

Rationale: The prior definition of “good standing” was too restrictive. That definition failed to allow for the possibility that a licensee with no discipline might have had brief periods where their license expired, but was renewed within the statutory grace period.

AUTHORITY

Sections 10080 and 10170.4, Business and Professions Code.

REFERENCE

Sections 10170.8 and 10201, Business and Professions Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical

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

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

The express terms of the proposed action may be obtained upon request from the Sacramento offices of the Department. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. These documents are also available at the Department's website at www.dre.ca.gov. As required by the Administrative Procedure Act, the Department's Sacramento Legal Office maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Real Estate, 2201 Broadway, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

The Department has determined that there is no substantial economic impact on any party from this proposal.

DETERMINATIONS

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

- Does not create a cost or savings to any state agency. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost nor impose a mandate (nondiscretionary cost or savings) on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. (Statements of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost or savings regarding federal funding to the state. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The department 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 SMALL BUSINESS

The Department has determined that there is no substantial cost to small business in California because this proposal impacts a fraction of one percent of the real estate licensee population, and does so in a manner that implicates negligible per-year spending for each impacted individual.

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 227-0425, or via email at DRERegulations@dre.ca.gov. The backup contact person is Mary Clarke at (916) 227-0780.

**TITLE 10. CALIFORNIA DEPARTMENT
OF REAL ESTATE**

**Comments may be submitted until 5:00 p.m.,
Wednesday, September 29, 2010.**

NOTICE IS HEREBY GIVEN

The Commissioner (“Commissioner”) of the Department of Real Estate (“Department”) proposes to adopt rules highlighting and clarifying the applicability of Civil Code section 1090.5, relating to the prohibition of improper influence on real estate appraisers, to licensees under the Real Estate Law (Business and Professions Code (“Code”) Section 10000 et seq.). In this rule-making action the Commissioner proposes to adopt Section 2785 within Article 11, Chapter 6, Title 10 of the California Code of Regulations (“Regulations”). Section 2785 highlights the applicability of Civil Code section 1090.5 to real estate licensees, and provides a more detailed list than the statute of specific actions that are “improper influence” in this context.

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing on this and four other regulatory proposals on Wednesday, September 29, 2010, starting at 9:30 a.m., at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

WRITTEN COMMENT PERIOD

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

Regular Mail

Department of Real Estate
Attn: Daniel E. Kehew, Sacramento Legal Office
2201 Broadway
Sacramento, CA 95818

Electronic Mail

DRERegulations@dre.ca.gov

Facsimile

(916) 227-9458

**INFORMATIVE DIGEST/PLAIN ENGLISH
OVERVIEW**

Section 1090.5 of the Civil Code was added to the Civil Code in 2007. The statute bars a person with an interest in a real estate transaction from engaging in a variety of actions that would improperly influence or attempt to improperly influence the appraisal of the real estate. The legislation was prompted by behavior of individuals, including real estate licensees, during the “real estate bubble” that led to the current financial crisis, with the result of such improper influence being over-estimations of many real properties. The statute includes a non-exhaustive list of actions that are specifically deemed “improper influence.” The statute specifically references licensees through subsection (c): “If a person who violates this section is licensed or registered under any state licensing or registration law and the violation occurs within the course and scope of the person’s duties as a licensee or registrant, the violation shall be deemed a violation of that law.” This subsection was included in the original version of section 1090.5, with minor amendments made in 2009.

Although the Civil Code, and this section in particular, is applicable to real estate licensees in the course of their work, Department staff believe that the Real Estate Commissioner’s Regulations are more commonly referenced by licensees. Thus, section 2785 is proposed for adoption into the Regulations by the Department. Section 2785 would highlight the applicability of Civil Code section 1090.5 to real estate licensees regulated by the Department. The proposed section also includes a more extensive, but still not exhaustive, list of specific actions that are deemed, “improper influence” of an appraisal. The Department asserts that each of the behaviors listed would already subject a licensee to license discipline under Civil Code section 1090.5.

Purpose: This adoption will highlight and further clarify that real estate licensees are barred from improperly influencing the work of real estate appraisers, including specification of particular activities that are deemed improper influence.

Rationale: Where parties to a real estate transaction have struck a bargain, there is great temptation for a real estate licensee involved in that transaction to influence or attempt to influence the appraiser hired to value the property to reach the conclusion that the property is worth the price specified in the bargain. During the “real estate bubble” earlier this decade, too often the values reached in appraisals were not supported by the facts of the real property, and this was in part due to improper influence exercised by real estate licensees. Civ-

il Code section 1090.5 prohibits such improper influence. This proposed regulation highlights, and provides further specific behaviors that are barred by, Civil Code section 1090.5.

AUTHORITY

Section 10080, Business and Professions Code.

REFERENCE

Section 1090.5, Civil Code.

AVAILABILITY OF MODIFIED TEXT

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

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

The express terms of the proposed action may be obtained upon request from the Sacramento offices of the Department. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. These documents are also available at the Department's website at www.dre.ca.gov. As required by the Administrative Procedure Act, the Department's Sacramento Legal Office maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Real Estate, 2201 Broadway, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

The Department has determined that there is no substantial economic impact on any party from this proposal.

DETERMINATIONS

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

- Does not create a cost or savings to any state agency. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost nor impose a mandate (nondiscretionary cost or savings) on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. (Statements of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost or savings regarding federal funding to the state. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

sarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

The Department has determined that there is no substantial cost to small business in California because this proposal is a restatement and clarification of existing law, adding no new requirements relating to small business.

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 227-0425, or via email at DRERegulations@dre.ca.gov. The backup contact person is Mary Clarke at (916) 227-0780.

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

NOTICE IS HEREBY GIVEN

The Commissioner (“Commissioner”) of the Department of Real Estate (“Department”) proposes to adopt rules clarifying the applicability of Business and Professions Code (“Code”) Section 10140.6, relating to the requirements for use of license ID numbers. In this rule-making action the Commissioner proposes to amend Section 2770.1 within Article 9, and to amend Section 2847.3 within Article 16, both within Chapter 6, Title 10 of the California Code of Regulations (“Regulations”).

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing on this and four other regulatory proposals on Wednesday, September 29, 2010, starting at 9:30 a.m., at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

WRITTEN COMMENT PERIOD

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

proposed regulatory action to the Commissioner addressed as follows:

Regular Mail

Department of Real Estate
Attn: Daniel E. Kehew, Sacramento Legal Office
2201 Broadway
Sacramento, CA 95818

Electronic Mail

DRERegulations@dre.ca.gov

Facsimile

(916) 227-9458

Comments may be submitted until 5:00 p.m., Wednesday, September 29, 2010.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Sections 2770.1 and 2847.3 of the Regulations of the Real Estate Commissioner (Chapter 6, Title 10 of the California Code of Regulations) (“Regulations”) include citations to Section 10140.6 of the Business and Professions Code (“Code”) and its requirements. Section 2770.1 specifies terms that may be used in advertising, referring to specific license types, but not to license ID numbers. Section 2847.3(c) also specifies written descriptions of specific license types, but does not refer to license ID numbers.

Prior to July 1, 2009, Section 10140.6 consisted of two paragraphs without subsection numbering. Effective July 1, 2009, Section 10140.6 of the Code was amended to renumber the first existing paragraph as subsection (a), and the second existing paragraph as subsection (c). That amendment also inserted a new set of three paragraphs between the existing paragraphs (as subsection (b)). The new subsection (b) imposes a requirement regarding use of license ID numbers on first-point-of-contact solicitations. As noted above, license ID numbers are not related to the subjects covered by Regulations sections 2770.1 and 2847.3. Those sections of the Regulations still relate only to the portions of Code Section 10140.6 that are now labeled as subsections (a) and (c).

To preserve without change the meaning of these two Regulation sections, and to avoid possible confusion generated by the insertion of subsection (b) and the subject of license ID numbers into section 10140.6, this proposal amends the statutory reference in each of these Regulation sections. The amendment inserts the specific subsections — (a) and (c) — to which the regulation is intended to refer. No substantive change to the meaning or effect of the regulation is intended.

Purpose: These amendments will clarify that the references to Section 10140.6 that appear in Regulations

sections 2770.1 and 2847.3 are limited to the requirements of subsections (a) and (c), the same portions of Section 10140.6 that existed prior to the July 1, 2009, amendment of the Code.

Rationale: As currently written, the references within these to regulatory sections may appear to apply to the newly-added requirement within Code section 10140.6 that requires license ID numbers to appear on all first-point-of-contact solicitations. Nonsensically, the current regulatory reference implies that the use of descriptive words would apply to the license ID number requirements in the new subsection (b) of Code section 10140.6. By specifying that the regulatory requirements only apply to subsections (a) and (c) of section 10140.6, this nonsensical reading is avoided and the original intent of the regulations is preserved.

AUTHORITY

Section 10080, Business and Professions Code.

REFERENCE

Section 10140.6, Business and Professions Code.

AVAILABILITY OF MODIFIED TEXT

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

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

The express terms of the proposed action may be obtained upon request from the Sacramento offices of the Department. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. These documents are also available at the Department's website at www.dre.ca.gov. As required by the Administrative Procedure Act, the Department's Sacramento Legal Office maintains the rule-

making file. The rulemaking file is available for public inspection at the Department of Real Estate, 2201 Broadway, Sacramento, California.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

CONSIDERATION OF ALTERNATIVES

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

FISCAL IMPACT

The Department has determined that there is no substantial economic impact on any party from this proposal.

DETERMINATIONS

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

- Does not create a cost or savings to any state agency. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost nor impose a mandate (nondiscretionary cost or savings) on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. (Statements of Determination required by Government Code section 11346.5(a)(6).)
- Does not create a cost or savings regarding federal funding to the state. (Statement of Determination required by Government Code section 11346.5(a)(6).)
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The department 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 SMALL BUSINESS

The Department has determined that there is no substantial cost to small business in California because this proposal merely corrects a statutory citation within the affected regulations, avoiding confusion created by an amendment to the statute cited.

CONTACT PERSON

Inquiries concerning this action may be directed to Daniel Kehew at (916) 227-0425, or via email at DRERegulations@dre.ca.gov. The backup contact person is Mary Clarke at (916) 227-0780.

TITLE 16. COURT REPORTERS BOARD OF CALIFORNIA

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS

NOTICE IS HEREBY GIVEN that the Court Reporters Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held in the 3rd Floor Conference Room at 2535 Capitol Oaks Drive, Sacramento, California 95833, at 1:00 p.m. on Tuesday, September 27, 2010. Written comments must be received by the Board at its office (for the Board’s address, see Contact Person section on page 3) not later than September 27, 2010, at 5:00 p.m. or at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposal if such modification is suffi-

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

Authority and Reference Citations

Pursuant to the authority vested by Sections 8007 of the Business and Professions (B&P) Code, and to implement, interpret, or make specific Sections 8007, 8020, 8022, and 8027 of said Code, the Court Reporters Board of California is considering changes to Division 24 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Existing law, Section 8027 of the B&P Code, sets out the specific requirements court reporting schools must follow. The Board proposes to implement recommended changes to Title 16 of the California Code of Regulations, Sections 2411 and 2414 as follows:

Amend Section 2411 — Criteria for Recognition of Court Reporting Schools; Continued Validity; Reports.

Existing regulations set forth the requirements for a court reporting school to meet in order for that school to obtain and maintain Board recognition.

The proposed regulations would:

- Realign the number of hours required within academic areas to reflect current requirements in the field of practice.
- Allow for 100-percent online programs.
- Update terminology to reflect current practice.
- Update terminology for consistency.

Amend Section 2414 — Definitions.

Existing regulations set forth definitions used for the requirements that must be contained within a school’s court reporting curriculum.

This proposal would:

- Ensure the regulations adequately address current technology.
- Define “direct supervision.”
- Define “interactive realtime.”

Local Mandate

The proposed regulatory action does not impose a mandate on local agencies or school districts.

Fiscal Estimates per Government Code Section 11346.5(a)(6)

The proposed regulatory action does not impose any cost or savings to any state agency or federal funding to

the state or any other non-discretionary cost or savings imposed upon local agencies. In addition there is no cost to any local agency or school district requiring reimbursement pursuant to Government Code Section 17500 et seq.

Fiscal Impact on Public Agencies/STD 399

The only public agencies affected by the proposed changes to regulation would be public vocational schools and community college programs. The proposed changes would require changes to syllabi and course descriptions and perhaps a realignment of faculty to adjust for the realignment of required course hours.

Cost Impact on Affected Private Persons

As there are currently only sixteen court reporting schools in the state of California, it is a financial hardship for anyone wanting to enter the field but living outside the geographic confines of an existing court reporting school. Allowing properly qualified online programs will benefit any student who has to travel a long distance in order to attend existing schools.

Housing Costs

The proposed regulatory action will not have any effect on housing costs.

Effect on Small Business

Eight of the existing court reporting schools recognized by the Board are privately owned. Allowing court reporting programs to be delivered online may allow those schools that offer such a program to recruit from a larger market area. The proposed changes would require changes to syllabi and course descriptions and perhaps a realignment of faculty to adjust for the realignment of required course hours.

Contact Person

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

Court Reporters Board of California
2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833
Attn: Paula Bruning
(916) 263-3660
(916) 263-3664 (FAX)
Paula_Bruning@dca.ca.gov

The backup contact person is:

Court Reporters Board of California
2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833
Yvonne Fenner
(916) 263-3660
(916) 263-3664 (FAX)
Yvonne_Fenner@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Paula Bruning at (916) 263-3660.

Comment Period

Written comments must be received by the Board at the Court Reporters Board of California, 2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833 not later than September 27, 2010, at 5:00 p.m. or at the hearing to be held in the 3rd Floor Conference Room at 2535 Capitol Oaks Drive, Sacramento, CA 95833 at 1:00 p.m. on September 27, 2010.

Availability of Modifications

With the exception of technical or grammatical changes, the full text of any modified proposal will be available from the person designated in this notice as the contact person for 15 days prior to its adoption and will be mailed to those persons who submit written or oral testimony related to this proposed regulatory action or who have requested notification of any changes to the proposal.

Reference to Text and Initial Statement of Reasons

The Board has prepared an initial statement of the reasons for the proposed action, which is available to the public upon request. The express terms of the proposed action and all information upon which the proposal is based are available upon request.

Business Impact

The Board is not aware of any significant statewide adverse economic impact that the proposed regulatory action will directly have on business, including the ability of California businesses to compete with businesses in other states. This proposed regulation is expected conversely to enhance the ability of California businesses to compete with businesses in other states. Additionally, non-California based businesses could begin to offer online court reporting school programs, upon completing the Board's school recognition process.

Impact on Jobs/New Businesses

The proposed regulatory action may increase the number of students able to undertake a court reporting program, thus creating new jobs through expansion of programs brought about by increased demand. It is not known what affect the proposed regulatory action will have on the elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

Public Hearing

A public hearing will be held in the 3rd Floor Conference Room at 2535 Capitol Oaks Drive, Sacramento, CA 95833 at 1:00 p.m. on September 27, 2010.

Federal Mandate

The proposed regulatory action is not mandated by federal law nor is it identical to any previously adopted or amended federal regulation.

Consideration of Alternatives

The Board must determine that no reasonable alternative considered by the agency 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.

Availability of the Final Statement of Reasons

Interested parties 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 above.

Website Access

Materials regarding the proposed regulatory action can be found at www.courtreportersboard.ca.gov.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 17, California Code of Regulations
SUBJECT: Clinical Laboratory Personnel Standards,
DPH-08-001.

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written public proceedings during which time any interested person or such person’s duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The standards for licensure of clinical laboratory personnel are set in California Code of Regulations (CCR) Title 17, Public Health Division 1, State Department of Health Services, Chapter 2, Laboratories, Subchapter 1, Service Laboratories, Group 2, Clinical Laboratory Regulations, Article 1.5, Licensure of Clinical Laboratories. Standards were first enacted in 1939 with the licensure of clinical laboratory technologists (“medical technologists”, now clinical laboratory scientists) and bioanalysts. Training standards were enacted in the 1950s. New license categories for clinical chemists and

clinical microbiologists were added in the 1970s, and over the years the public has asked for new license categories as technology changed.

Many of the current licensing standards are outdated and difficult to administer. They serve as barriers to licensure of qualified persons, especially to those coming from outside California. Because of this, CDPH is proposing to amend the following sections of Title 17 of the CCR.

Specifically, the changes to 17CCR shall do the following:

- Section 1029, shall add definitions of “an approved NAACLS–accredited training program”, “clinical biochemical genetics”, “clinical embryology”, “critical review”, “degrees or majors in biological science, chemical science or physical science”, “official school transcript”, “tests or examinations in molecular biology”, “tests or examinations in molecular pathology” and amend the current definitions of “clinical genetic molecular biology” and of “accredited college or university”;
- Sections 1030–1030.7, shall amend and clarify licensure requirements for masters or doctorate–degree license candidates;
- Sections 1031 to 1031.5, shall clarify licensure requirements of baccalaureate–or higher–degree scientist candidates;
- Sections 1031.6 and 1031.7, shall amend requirements for license applications and renewals;
- Sections 1031.7–1031.9 shall be renumbered without other change to Sections 1031.8–1031.10;
- Section 1031.11 shall specify conditions for approval of training performed at a clinical laboratory that is not CLIA–certified;
- Section 1031.12 shall clarify how LFS administers examinations on laboratory law for candidates for licensure;
- Section 1032, shall clarify licensure requirements of baccalaureate–degree clinical laboratory scientists;
- Section 1033, shall clarify training licensure requirements for medical laboratory technicians (MLT), clinical laboratory scientists (CLS), clinical laboratory specialists, postgraduate fellows, and an articulation route for MLTs training for CLS licensure;
- Section 1034, shall amend certification standards for phlebotomists;
- Section 1035, shall specify requirements for CLS and clinical laboratory specialist training programs;

- Section 1035.1, shall amend requirements for phlebotomy training programs;
- Section 1035.2, shall specify requirements for postgraduate fellow training programs;
- Section 1035.3, shall amend requirements for MLT training programs;
- Section 1035.5, shall specify requirements for training MLTs articulating to CLS licensure;
- Section 1036, shall amend the qualification requirements for a clinical consultant;
- Section 1036.1, shall amend the qualification requirements for a general supervisor;
- Section 1038.1, shall clarify time interval for completion, and number of hours required, of continuing education requirements to maintain licensure;
- Section 1038.6, shall clarify what needs to be done to reinstate an inactive license;
- Section 1039.2, shall clarify how training or experience gained outside California can be used to meet licensing requirements in California;
- Sections 1060 to 1062, shall be repealed, the standards amended and moved to Section 1031.4.
- The California Department of Health Services was legislatively reorganized as of July 1, 2007 (SB 162, Chapter 241, Statutes of 2006) into two separate departments, the new Department of Health Care Services and the new Department of Public Health. Health and Safety Code Section 131050 transferred the duties, powers, and responsibilities of the Laboratory Field Services program to the Department of Public Health, and Health and Safety Code Section 131200 vests the Department of Public Health with rulemaking authority for the execution of its duties.

AUTHORITY

Sections 1639 and 131200, Health and Safety Code, and Sections 1208 and 1224, Business and Professions Code.

REFERENCE

Sections 119, 1202.5, 1203, 1205, 1206, 1206.5, 1207, 1208, 1209, 1209.1, 1210, 1212, 1213, 1222.5, 1225, 1242, 1242.5, 1246, 1260, 1261, 1261.5, 1262, 1263, 1264, 1265, 1269, 1270, 1271, 1280, 1282, 1285, 1286, 1288, 1288.5, 1289, 1300 and 1310, Business and Professions Code, and Sections 1639 and 131050, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on September 27, 2010, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By mail to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377 or hand-delivered to 1616 Capitol Avenue, Sacramento, CA 95814. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or,
2. By fax transmission: (916) 440-5747; or
3. By email to regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier "DPH-08-001" in the subject line to facilitate timely identification and review of the comment.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Bea O'Keefe, Laboratory Field Services, at (510) 867-9484.

All other inquiries concerning the action described in this notice may be directed to Rosalie Dvorak-Remis, Office of Regulations and Hearings, at (916) 327-4310, or to the designated backup contact person, Marylyn Willis, at (916) 440-7807.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-08-001.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the pro-

posed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Proposed Regulations.

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 327-4310 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations and Hearings at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: There is no impact on local health agencies for this program operation.
- B. Fiscal Effect on State Government:
Direct Cost to the State
The Personnel Licensing Section of CDPH Laboratory Field Services is supported by license fees established by statute, so there is no direct cost to the State General Fund for increased costs of program operation.
There will be no impact on the Medi-Cal program. CDPH proposes to add four new categories of licenses: clinical biochemical geneticist, clinical immunologist, clinical embryologist, and clinical

embryologist scientist. CDPH estimates that about 160 persons shall be licensed in these categories after five years. This shall generate new revenue from application and renewal fees of \$54,240 over five years. This additional workload shall not require any additional staff and shall be handled with current authorized positions.

- C. Fiscal Effect on Federal Funding of State Programs: There will be no impact on federal funds or on matching federal funds for these licensure activities.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:
There shall be a small impact on private individuals paying license application fees and examination fees to certifying organizations. This shall be offset by their employability in California once licensed. This action will not affect salaries or personnel, and will not affect fees charged to the public for tests.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: There is no impact on local health agencies for this program operation.

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

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

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8. For individuals with disabilities, should a public hearing be scheduled, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of written public hearing materials into Braille, large print, audiocassette, or computer disk. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

To request such services or copies of materials in an alternate format, please write to Rosalie Dvorak-Remis, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, or call (916) 327-4310, or use the California Relay Service by dialing 711.

TITLE 22. DEPARTMENT OF HEALTH CARE SERVICES

ACTION: Notice of Emergency Rulemaking
Title 22, California Code of Regulations
SUBJECT: Quality Assurance Fee (QAF) Program and the Medi-Cal Long-Term Care (LTC) Reimbursement Act, DHCS-06-012E

The Department of Health Care Services (Department) has adopted the regulations described in this notice on an emergency basis and they are now in effect.

PUBLIC PROCEEDINGS

Notice is hereby given that the Department will conduct a public hearing commencing at 10 a.m. on September 27, 2010 in the auditorium, 1500 Capitol Avenue, Sacramento, CA, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

At the public hearing, attendees wishing to speak will be heard on a first-come, first-serve basis. Speakers may be limited to ten minutes or less, depending on the number of attendees requesting to speak. The hearing will close after all attendees present and wishing to speak have provided their testimony or at 5:00 p.m., whichever comes first. Comments will not be discussed or debated by the Department, nor will speakers be cross-examined. A certified court reporter will be present to record the proceedings. Written comments of any length may be submitted for the record at the public hearing. The Department shall consider all comments received regarding the proposal equally, whether submitted in writing or through oral testimony at a public hearing.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Title XIX of the Social Security Act provides for the federal Medicaid Program, administered in California by the California Department of Health Care Services (Department), as the California Medical Assistance (Medi-Cal) program. The Medi-Cal program provides qualified low-income persons (primarily families with children and the aged, blind, or disabled) with health care services. Under the authority of federal statutes, and regulations, and state law, each State adopts regulations: 1) establishing eligibility standards; 2) determining the type, amount, duration, and scope of services; 3) setting the rate of payment for services; and 4) administering the program.

Assembly Bill (AB) 1629 (Statutes of 2004, Chapter 875) added Health and Safety (H&S) Code, Sections 1324.20 through 1324.30, which establishes the Quality Assurance Fee (QAF) Program that requires the Department collect funds from licensed skilled nursing facilities as means to enhance federal financial participation for the Medi-Cal program as well as to provide higher reimbursement to support quality improvement efforts in these facilities.

Also, AB 1629 added Welfare and Institutions (W&I) Code, Sections 14126 through 14126.035, the Medi-Cal Long-Term Care (LTC) Reimbursement Act for skilled nursing facilities, which mandates that the Department establish a facility-specific rate setting system that reflects the costs and staffing levels associated with quality care for residents in skilled nursing facilities. Establishing a facility-specific rate more effectively ensures individual access to appropriate LTC services, promotes quality resident care, advances wages and benefits for facility staff, supports provider compliance with all applicable state and federal requirements, and encourages administrative efficiency.

The Department was granted authority to implement the provisions under AB 1629 through use of Provider Bulletins, which has been the practice.

AB 1183 (Chapter 758, Statutes of 2008) extended the Department's authority to implement the QAF Program and the Medi-Cal LTC Reimbursement Act through Provider Bulletins until July 31, 2010. The legislature directed that emergency regulations be adopted on or before July 31, 2010.

This regulatory action is set forth as an emergency as a result of the following: H&S Code Section 1324.23(b), which allows the Department to adopt emergency regulations to implement Article 7.6, Skilled Nursing Facility Quality Assurance Fee; W&I Code, Section 14105, which requires the Department adopt emergency regulations to set rates that reflect legislative budgeting decisions; and W&I Code, Section 14126.027(b)(1), which authorizes the adoption of regulations to implement Article 3.8, Medi-Cal LTC Reimbursement Act and specifies such an adoption is deemed necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action proposes to adopt Article 9, Sections 52000, 52100 through 52104, 52500 through 52516, and 52600 in Title 22, of the California Code of Regulations.

This emergency regulatory action will impact licensed Freestanding Nursing Facility, Level-Bs and Freestanding Subacute Nursing Facility, Level-Bs by establishing the QAF Program and the Medi-Cal LTC reimbursement methodology, and will specifically accomplish the following:

- Define terms relevant to the QAF Program and the Medi-Cal LTC reimbursement methodology.
- Set forth uniform requirements and procedures for the QAF Program including provisions pertaining to: the facilities affected and determination of the amount due; the payment process, including incorporation by reference of the Freestanding Nursing Facility, Level-B (FS/NF-B) and Freestanding Subacute Nursing Facility, Level-B (FSSA/NF-B) Quality Assurance Fee Payment Invoice form DHCS 9116 (Rev. 03-10); the exemption qualification; and change of ownership.
- Set forth uniform standards, requirements and procedures for the Medi-Cal LTC reimbursement methodology including provisions pertaining to: the facilities affected; the facility-specific rate methodology (cost categories, peer groups and related data and calculations); rate setting for

state-owned, newly certified and de-certified facilities; and audits and audit adjustments.

AUTHORITY

Sections 20, 1324.20, 1324.21, and 1324.23, Health and Safety Code; and Sections 10725, 14105, 14124.5, 14126.027, 14170, and 14171, Welfare and Institutions Code.

REFERENCE

Sections 14105, 14109.5, 14110.1, 14110.6, 14170, and 14171, Welfare and Institutions Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on October 1, 2010, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations, Department of Health Care Services, MS 0015, 1501 Capitol Avenue, P.O. Box 997413, Sacramento, CA 95899-7413; or
2. By fax transmission: (916) 440-5748; or
3. By email to regulations@dhcs.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "DHCS-06-012E" in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the emergency regulations described in this notice may be directed to John McCraw of the Rate Development Branch, at (916) 552-9635.

All other inquiries concerning the action described in this notice may be directed to Ben Carranco of the Of-

Office of Regulations, at (916) 440-7766, or to the designated backup contact person, Lynette Cordell, at (916) 650-6827.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DHCS-06-012E.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the emergency regulations, all the information upon which the emergency regulations are based, and the text of the emergency regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the emergency regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.dhcs.ca.gov by clicking on the Decisions Pending and Opportunity for Public Participation link (from the left menu), then selecting the Proposed Regulations link.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@dhcs.ca.gov, or write to the Office of Regulations at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the emergency action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

A. Fiscal Effect on Local Government: None

- B. Fiscal Effect on State Government: Additional Cost of \$59,192,000 GF in FY 2009-10 and \$84,400,000 GF in FY 2010-11 would have resulted, however, the Budget Act of 2009 eliminated the increases. Both increases in costs and the corresponding elimination of the increase were included in the November 2009 Estimate. Costs for previous years are now included in the ongoing Medi-Cal base expenditures.
- C. Fiscal Effect on Federal Funding of State Programs: Additional Cost of \$94,915,000 FF in FY 2009-10 and \$106,530,000 FF in FY 2010-11 would have resulted, however, the Budget Act of 2009 eliminated the increases. Both increases in costs and the corresponding elimination of the increase were included in the November 2009 Estimate. Costs for previous years are now included in the ongoing Medi-Cal base expenditures.
- D. All cost impacts, known to the agency at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: 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.
- E. Other nondiscretionary costs or savings including revenue changes imposed on State or Local Government: None.

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

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

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small business because the regulations

do not impose any additional reporting, recordkeeping, or other compliance requirements on small businesses.

The Department has determined that the regulations will have no impact on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

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

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Susan Pierson, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413, voice (916) 440-7695; and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

(MOBILEHOME PARKS AND SPECIAL OCCUPANCY PARKS)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Housing and Community Development (HCD), proposes to amend existing regulations and adopt new regulations governing Mobilehome and Special Occupancy Parks.

PUBLIC HEARING

A public hearing has been scheduled at which time any interested party may present statements, orally or in writing, about this proposed regulatory action. The

hearing will continue until all oral comments are received, and will be held as follows:

Date: **September 27, 2010**
 Location: HCD (Headquarters)
 1800 3rd Street, Room 470
 Sacramento, CA 95814
 Time: 9:00 a.m.

Pre-hearing registration will be conducted prior to the hearing. Those registered will be heard in order of their registration. Anyone else wishing to speak at the hearing will be afforded an opportunity after those registered have presented their oral comments. The time allowed for each person to present oral comments may be limited if a substantial number of people wish to speak.

Individuals presenting oral comments are requested, but not required, to submit a written copy of their statements. The hearing will be adjourned immediately following the completion of the oral comments.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to HCD. All written comments must be received by HCD at this office no later than 5:00 p.m. on **September 27, 2010**, in order to be considered. Written comments may be submitted by mail, e-mail, or facsimile as follows:

By mail to: Department of Housing and
 Community Development
 Division of Codes and Standards
 P. O. Box 1407
 Sacramento, CA 95812-1407
 ATTN: Mobilehome and Special
 Occupancy Parks Programs

By e-mail to: parkregs@hcd.ca.gov

By facsimile to: (916) 327-4712 ATTN: Ruth Ibarra

PERMANENT ADOPTION OF REGULATIONS

Following the public comment period, HCD may adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for at least 15 days prior to its adoption from the contact person(s) designated in this Notice, and will be mailed to those persons who have submitted written or oral testimony related to this proposal or who have requested notification of any changes to the proposal. HCD will accept written com-

ments on the modified regulations during the 15-day period.

AUTHORITY AND REFERENCE

Health and Safety Code section 18300 grants HCD the authority to adopt regulations governing mobile-home parks and Health and Safety Code section 18865 grants HCD the authority to adopt regulations governing special occupancy parks. These regulations implement and interpret Health and Safety Code sections 18200 through 18700 (Mobilehome Parks Act) and 18860 through 18874 (Special Occupancy Parks Act). The actual text of these statutes is available on the official California Legislative information website and at: <http://www.leginfo.ca.gov>.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

The Mobilehome Parks Act (MPA) contained in the Health and Safety Code (HSC) commencing with section 18200 and the Special Occupancy Parks Act (SOPA) commencing with HSC section 18860 were enacted for the benefit of mobilehome and special occupancy park operators, residents and users to assure their health, safety and general welfare, to provide them a decent living environment, and to protect the investments in their manufactured homes, mobilehomes, multifamily manufactured homes (MH-unit), and recreational vehicles.

Summary of Existing Regulations

Uniform statewide standards were developed to assure owners, operators, residents, and users of mobile-home and special occupancy parks, protection from risks to their health and safety. Current regulations now require amendments to meet the needs of the regulated public.

Summary of Effect of Proposed Regulatory Action

The purpose of these changes is to update the existing regulations for mobilehome parks and special occupancy parks.

Those sections within Title 25, California Code of Regulations affected by this rulemaking (see "Sections Affected," below), and the specific purpose for each adoption, amendment, or repeal contained in these proposed regulations, are set forth in the initial Statement of Reasons for this regulatory action. Other non-regulatory editorial amendments also have been made throughout the amended chapters. These proposed actions will enhance the clarity and applicability of the current regulations.

Summary of Effect of Proposed Amendments

These proposed regulatory amendments address issues and concerns which were raised by the Legislature, the general public, industry groups, local jurisdictions, other government agencies, and Department field staff. These issues include amending the reference to the applicable building code for one and two family dwellings, including manufactured home installations and their accessory structures from the California "Building" Code to the California "Residential" Code, procedures for closing a park, clarification of lot electrical service requirements, LPG tank anchoring requirements, amendments to soil ratings to align with federal standards, Federal Emergency Management Agency (FEMA) requirements for skirting in floodplains, cabana tiedowns, cabana energy requirements, handrail and ramp amendments, and clarifications related to informal hearing procedures. Also included are nonsubstantive, technical and editorial changes.

SECTIONS AFFECTED

Following are the specific sections of Chapters 2 and 2.2 affected by this proposed action:

- Add Sections 1013, 1052, 1119, 2013, 2052, and 2119
- Amend Chapter 2, Sections 1002, 1008, 1018, 1104, 1118, 1180, 1211, 1230, 1333, 1334, 1334.2, 1336.1, 1346, 1426, 1429, 1432, 1446, 1450, 1458, 1464, 1468, 1474, 1498, 1500, 1502, 1504, 1506, 1612, 1613, 1615, 1616, 1750, 1754, and 1758.
- Amend Chapter 2.2, Sections 2002, 2008, 2018, 2104, 2118, 2211, 2230, 2334, 2346, 2426, 2429, 2432, 2468, 2474, 2498, 2500, 2502, 2504, 2506, 2612, 2613, 2615, 2616, 2750, 2754, and 2756.

POLICY STATEMENT OVERVIEW

The Mobilehome and Special Occupancy Parks Programs within HCD are responsible for adopting and enforcing preemptive state regulations for the construction, use, maintenance, and occupancy of privately-owned mobilehome and special occupancy parks within California.

HCD is proposing to amend regulations relating to both the Mobilehome Parks Act and Special Occupancy Parks Act.

SMALL BUSINESS IMPACT STATEMENT

The only small business impact addressed by these regulations is by legislative mandate. Senate Bill 23 (Stats, 2009 Ch. 551) amended Health and Safety

Codes (HSC) 18603 and 18871.8, and required parks to adopt an emergency preparedness plan. The cost of this plan is minimal and only occurs once.

DISCLOSURES REGARDING
THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE.

Other non-discretionary costs or savings imposed upon local agencies: NONE.

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

Significant effect on housing costs: NONE.

BUSINESS IMPACTS

HCD has made an initial determination that the proposed amendments 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

There is a slight reduction in costs for private persons that choose to construct a small cabana (room addition) next to their home. The proposed regulations provide prescriptive standards for the insulation of cabanas less than 250 square feet. These standards allow insulation values greater than that of the adjacent home, but not as high as would be required of a larger cabana that would have a greater heat loss. The only cost impact on business from these regulations is the preparation of an Emergency Preparedness Plan for a park mandated by the legislature.

ASSESSMENT OF JOB/BUSINESS CREATION
OR ELIMINATION

HCD has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California, and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternative considered, or has otherwise been identified and brought to the attention of HCD would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. HCD invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF DOCUMENTS
AND CONTACT PERSON

HCD has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from HCD at the following location or from the contact people listed below:

Department of Housing and Community
Development
Division of Codes and Standards
1800 Third Street, Room 260
Sacramento, CA 95814
Fax (916) 327-4712

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the Department's website at the following address:

<http://www.hcd.ca.gov/codes/mp>

Questions regarding the regulatory process may be directed to:

Ruth Ibarra, Associate Governmental Program
Analyst
Telephone Number: (916) 327-2796/
Fax (916) 327-4712
E-mail: ribarra@hcd.ca.gov

Clarification regarding the substance of this regulatory proposal may be directed to:

Brad Harward, Manufactured Housing Programs
Manager
Telephone Number: (916) 324-4907/
Fax (916) 327-4712
E-mail: bharward@hcd.ca.gov

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULEMAKING

TITLE 27, CALIFORNIA CODE OF REGULATIONS

AMENDMENT TO SECTION 25805
SPECIFIC REGULATORY LEVELS:
CHEMICALS CAUSING
REPRODUCTIVE TOXICITY

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHHA) proposes to establish a specific regulatory level having a maximum allowable dose level (MADL) for Chromium (hexavalent compounds), and amend Title 27, California Code of Regulations, Section 25805¹.

PUBLIC PROCEEDINGS

Any written statements or arguments regardless of the form or method of transmission must be received by OEHHHA by 5:00 p.m. on **September 27, 2010**, the designated close of the written comment period. We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to sluong@oehha.ca.gov. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address:
Ms. Susan Luong
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, California 95812-4010
Fax:(916) 323-8803
Street Address:1001 I Street
Sacramento, California 95814

It is requested but not required that written statements or arguments be submitted in triplicate.

A public hearing to present oral comments will be scheduled only if one is requested. The request must be

submitted in writing no later than 15 days before the close of the comment period on September 27, 2010. The written request must be sent to OEHHHA at the address listed above no later than **September 10, 2010**. A notice for the public hearing, if one is requested, will be mailed to interested parties who are on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHHA web site at least ten days in advance of the public hearing date. The notice will provide the date, time, location and subject matter to be heard.

If a hearing is scheduled and you have special accommodation or language needs, please contact Susan Luong at (916) 327-3015 or sluong@oehha.ca.gov at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

CONTACT

Please direct inquiries concerning the substance and processing of the action described in this notice to Susan Luong, in writing at the address given above, or by telephone at (916) 445-6900. Ms. Cynthia Oshita is a back-up contact person for inquiries concerning processing of this action and is available at the same number.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq. and commonly known as Proposition 65 (hereinafter Proposition 65 or the Act), prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning to such individual (Health and Safety Code section 25249.6). The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water (Health and Safety Code section 25249.5).

For chemicals known to the state to cause reproductive toxicity, an exemption from the warning requirement is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which the person is responsible produces no observable reproductive effect, assuming exposure at 1,000 times the level in question (Health and Safety Code sections 25249.9, 25249.10 and 25249.11). The maximum dose level at which a chemical has no observable reproductive effect is referred to as the no observ-

¹ All further regulatory references are to Title 27 of the California Code of Regulations unless otherwise indicated.

able effect level (NOEL). The Act also provides an exemption from the prohibition against discharging a listed chemical into sources of drinking water if the amount discharged does not constitute a “significant amount,” as defined, and the discharge is in conformity with all other laws and regulatory requirements (Health and Safety Code sections 25249.9 and 25249.11). Thus, these exemptions apply when the exposure or discharge in question is at a level that does not exceed the NOEL divided by 1,000.

Regulations previously adopted by the OEHHA provide guidance for determining whether an exposure to, or a discharge of, a chemical known to cause reproductive toxicity meets the statutory exemption (Title 27, California Code of Regulations, sections 25801–25821). These regulations provide three ways by which a person in the course of doing business may make such a determination: (1) by conducting a risk assessment in accordance with the principles described in Section 25803 to derive a NOEL, and dividing the NOEL by 1,000; or (2) by application of the specific regulatory level adopted for the chemical in Section 25805; or (3) in the absence of such a level, by using a risk assessment conducted by a state or federal agency, provided that such assessment substantially complies with Section 25803(a). The specific regulatory levels in Section 25805 represent one one–thousandth of the NOEL.

This proposed regulation sets forth a maximum allowable dose level (MADL) for adoption into Section 25805 that was derived using scientific methods outlined in Section 25803.

Details on the basis for the proposed level are provided in the reference cited below, which is also included in the rulemaking record. The reference is a risk assessment document prepared by OEHHA describing and summarizing the derivation of the regulatory level listed below.

The proposed regulation would adopt into Section 25805 the following regulatory level for chromium (hexavalent compounds), chemicals known to cause reproductive toxicity:

Chemical	MADL, in units micrograms per day	Reference
Chromium (hexavalent compounds)	8.2 (oral)	OEHHA (2010)

The risk assessment which was used by the Office of Environmental Health Hazard Assessment to determine the stated level is as follows:

Office of Environmental Health Hazard Assessment (OEHHA, 2010). Proposition 65 Oral Maximum Allowable Dose Level (MADL) for Developmental and Reproductive Toxicity for Chromium (Hexavalent

Compounds). OEHHA Reproductive and Cancer Hazard Assessment Branch, California Environmental Protection Agency, Sacramento, August 2010.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

**IMPACT ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

OEHHA has determined the proposed regulatory action would not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

The OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

**EFFECT ON FEDERAL FUNDING
TO THE STATE**

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY AFFECTING
BUSINESS, INCLUDING ABILITY TO COMPETE**

OEHHA has made an initial determination that the adoption of the regulation 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.

**IMPACT ON THE CREATION, ELIMINATION,
OR EXPANSION OF JOBS/BUSINESSES**

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

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

The OEHHA 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 SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any requirements on small business. Rather, the proposed regulation will assist small businesses subject to the Act in determining whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA or that has otherwise been identified and brought to the attention of OEHHA 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.

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

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the critical information upon which the regulation is based, and the text of the regulation. A copy of the Initial Statement of Reasons, a copy of the text of the regulation and a copy of the risk assessment which was used by OEHHA to determine the MADL are available upon request from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such changes. Copies of the notice and the changed regulation will also be available at OEHHA's Web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 implementation Program at the address and telephone number indicated above. The Final Statement of Reasons will also be available at OEHHA's Web site at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

**Department of Fish and Game —
Public Interest Notice**

For Publication August 13, 2010
CESA CONSISTENCY DETERMINATION
REQUEST FOR

Cabrillo–Santa Ynez 115kV Reconductoring Project
(2080–2010–037–05)
Santa Barbara County

The Department of Fish and Game (Department) received a notice on July 29, 2010 that Pacific Gas and Electric Company (PG&E) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed action involves reconductoring approximately 14.5 miles of 115kV wood pole transmission line in order to reduce the risk of deteriorating reliability in the area. The conductor will be replaced, as will 125 wood poles (Project).

Project activities will result in the temporary loss of a minimum of 6.77 acres of upland habitat for California tiger salamander (*Ambystoma californiense*). The Proj-

ect could result in direct mortality or injury of individual California tiger salamanders in the Project disturbance area. The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal biological opinion (81440–2010–F–0273) (BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers on July 22, 2010 which considered the effects of the project on the Federally endangered and State candidate California tiger salamander.

On March 3, 2010, the California Fish and Game Commission, the California constitutionally established entity with exclusive statutory authority to designate species as protected under CESA, determined that listing California tiger salamander as a threatened species under state law is warranted. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, §§ 2070, 2075.5(2).) Consistent with the Commission’s determination, California tiger salamander will be added to the list of species designated as threatened under CESA following the completion of related formal rulemaking by the Commission under the Administrative Procedure Act (Gov. Code, § 11340 et seq.). (See also Fish & G. Code, § 2075.5(2); Cal. Code Regs., tit. 14, 670.1, subd. (j), 670.5, subd. (b).) In the interim, California tiger salamander will remain a candidate species protected under CESA. (Fish & G. Code, § 2085; Cal. Reg. Notice Register 2009, No. 8–Z, p. 284.)

Pursuant to California Fish and Game Code Section 2080.1, PG&E is requesting a determination that the BO is consistent with CESA for purposes of the proposed Project. If the Department determines the BO is consistent with CESA for the proposed Project, PG&E will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

**Department of Fish and Game —
Public Interest Notice**

For Publication August 13, 2010
CESA CONSISTENCY DETERMINATION
REQUEST FOR
Laguna de Santa Rosa Protected Lands Trails Plan
Project Phase 1
(2080–2010–036–03)
Sonoma County

The Department of Fish and Game (Department) received a notice on July 27, 2010 that the Sonoma

County Agricultural Preservation and Open Space District proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The proposed action involves extension of pedestrian–only trails, the construction of multi–use trails and two parking areas on four properties, located along a portion of the Laguna de Santa Rosa (Project).

Project activities will result in the permanent loss of approximately 0.767 acre, and temporary loss of approximately 0.473 acre of habitat for California tiger salamander (*Ambystoma californiense*). Project activities will also result in direct mortality or injury of individual California tiger salamanders in the Project disturbance area. The U.S. Fish and Wildlife Service issued a “no jeopardy” federal biological opinion (1–1–07–F–0241) (BO) and incidental take statement to the U.S. Army Corps of Engineers on April 27, 2010 which considered the effects of the project on the Federally threatened and State candidate California tiger salamander.

On March 3, 2010, the California Fish and Game Commission, the California constitutionally established entity with exclusive statutory authority to designate species as protected under CESA, determined that listing California tiger salamander as a threatened species under state law is warranted. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, §§ 2070, 2075.5(2).) Consistent with the Commission’s determination, California tiger salamander will be added to the list of species designated as threatened under CESA following the completion of related formal rulemaking by the Commission under the Administrative Procedure Act (Gov. Code, § 11340 et seq.). (See also Fish & G. Code, § 2075.5(2); Cal. Code Regs., tit. 14, 670.1, subd. (j), 670.5, subd. (b).) In the interim, California tiger salamander will remain a candidate species protected under CESA. (Fish & G. Code, § 2085; Cal. Reg. Notice Register 2009, No. 8–Z, p. 284.)

Pursuant to California Fish and Game Code Section 2080.1, the Sonoma County Agricultural Preservation and Open Space District is requesting a determination that the BO is consistent with CESA for purposes of the proposed Project. If the Department determines the BO is consistent with CESA for the proposed Project, the Sonoma County Agricultural Preservation and Open Space District will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

**Department of Fish and Game —
Public Interest Notice**

For Publication August 13, 2010
CESA CONSISTENCY DETERMINATION
REQUEST FOR
PG&E Gas Line 131 Corrosion Repair Project
Alameda and Contra Costa Counties
2080-2010-038-03

The Department of Fish and Game (Department) received a notice on July 30, 2010 that the Pacific Gas & Electric Company (PG&E) proposes to rely on a consultation 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 inspection and repair of 3 sites along the PG&E gas line 131 in Alameda and Contra Costa counties (Project).

Project activities will have adverse temporary effects on 1.594 acres of habitat suitable for the California tiger salamander (*Ambystoma californiense*) and the San Joaquin kit fox (*Vulpes macrotis mutica*). The project could also result in direct mortality, injury, or harassment of individual San Joaquin kit fox and juvenile and adult California tiger salamanders. The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal programmatic biological opinion (81420-2009-F-0784-1)(BO) and incidental take statement (ITS) to the Army Corps of Engineers (Corps) on April 28, 2010 which considered the effects of the project on the Federally threatened and State candidate California tiger salamander, and the Federally endangered and State threatened San Joaquin kit fox. On July 27, the Service issued a reinitiated BO to clarify the Project footprint and effects to San Joaquin kit fox and California tiger salamander (81420-2008-F-0784-R001).

On March 3, 2010, the California Fish and Game Commission, the California constitutionally established entity with exclusive statutory authority to designate species as protected under CESA, determined that listing California tiger salamander as a threatened species under state law is warranted. (Cal. Const., art. IV, § 20, subd. (b); Fish & G. Code, §§ 2070, 2075.5(2).) Consistent with the Commission’s determination, California tiger salamander will be added to the list of species designated as threatened under CESA following the completion of related formal rulemaking by the Commission under the Administrative Procedure Act (Gov. Code, § 11340 et seq.). (See also Fish & G. Code, § 2075.5(2); Cal. Code Regs., tit. 14, 670.1, subd. (j), 670.5, subd. (b).) In the interim, California tiger salamander will remain a candidate species protected under

CESA. (Fish & G. Code, § 2085; Cal. Reg. Notice Register 2009, No. 8-Z, p. 284.)

Pursuant to California Fish and Game Code Section 2080.1, PG&E is requesting a determination that the BO, reinitiated BO, and ITS are consistent with CESA for purposes of the Project. If the Department determines the BO, reinitiated BO, and ITS are consistent with CESA for the Project, PG&E will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

**Department of Fish and Game —
Public Interest Notice**

For Publication August 13, 2010
CESA CONSISTENCY DETERMINATION
REQUEST FOR
State Route 32 Widening Project
Butte County
2080-2010-039-02

The Department of Fish and Game (Department) received a notice on July 30, 2010 that the City of Chico (City) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project includes adding additional lanes, adding turn pockets, adding traffic signals, and modifying ramp terminal intersections of State Route 32 from the southbound State Route 99 ramps to the west and Yosemite Drive to the east (Project). Project activities will result in permanent impacts to a total of 1.612 acres of habitat suitable for the giant garter snake (*Thamnophis couchi gigas*), including 0.093 acres of aquatic habitat and 1.519 acres of upland habitat. Project activities will also result in temporary impacts to 0.227 acres of giant garter snake aquatic habitat. Additionally, project activities will directly affect 0.0001 acre (one individual) of Butte County meadowfoam (*Limnanthes floccose* ssp. *Californica*) and indirectly affect 0.183 acres of Butte County meadowfoam habitat.

The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal biological opinion (81420-2008-F-0104-2)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers (USACE) on February 3, 2009 which considered the effects of the project on the Federally and State endangered Butte County meadowfoam. The BO also serves to append the Project to the Service’s November 13, 1997, *Programmatic Consultation for U.S. Army Corps of Engineers 404 Permitted Projects with Relatively Small Effects on the Giant Garter Snake* (Service file number 1-1-97-F0149).

Pursuant to California Fish and Game Code Section 2080.1, the City is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, the City will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION NO.
2080-2010-028-02**

Project: Valley Ranch Road Crossing Project
 Location: Colusa County
 Applicant: Mr. Steve Tofft, for Vann Brothers
 Notifier: Ginger E. Fodge, Gibson and Skordal, LLC, on behalf of Vann Brothers

Background

The Valley Ranch Road Crossing Project (Project) involves the replacement of two culverted road crossings over an unnamed agricultural ditch, adjacent to Husted Road, City of Williams, Colusa County. The Project includes installation of a water main within the ditch and the removal of the two existing agricultural road crossings from the ditch.

The southernmost road crossing will allow the connection of Ella Street from the adjoining property west of the Project site to Husted Road. A 160 linear foot, 48-inch diameter reinforced concrete pipe will be placed in the agricultural ditch to serve as a culvert. The culvert will allow for passage of expected high flows in the ditch. The ditch will be over-excavated in the vicinity of the culvert 24 inches below the bottom of the ditch and then backfilled and recompactd in order to provide a stable base for the culvert. A 12-inch water main will be installed under the culvert prior to backfilling. The water main will dead-end at Husted Road, but it is being installed simultaneously with construction of Ella Street so that the ditch and road do not need to be disturbed in the future when the City of Williams extends their water system. Approximately 240 cubic yards of clean fill material will be used for backfill below and around the culvert area. A total of 0.06 acre of the ditch will be impacted by this road crossing. An existing road crossing located approximately 200 feet north of the proposed crossing which currently services agricultural equipment will be removed as part of the Project.

The second proposed road crossing associated with the Project will be constructed approximately 1,400

feet north of the Ella Street crossing. The purpose of the second crossing is to provide improved access for agricultural equipment entering and exiting the agricultural fields located immediately west of the agricultural ditch. An existing agricultural road crossing located approximately 985 feet north of the proposed crossing site will be removed. The new crossing will include a 160 linear foot, 48-inch reinforced concrete pipe. The size of this pipe will allow for the passage of expected high flows in the channel, providing a crossing wide enough for two pieces of agricultural equipment to pass each other safely. The wider road is needed since the southern agricultural crossing is being removed and replaced with Ella Street, which will not be accessible to agricultural equipment. As with the Ella Street crossing, the ditch will be over-excavated and recompactd to provide a stable base for the culvert. Approximately 250 cubic yards of clean fill material will be used for backfill below and around the culvert area. A total of 0.06 acre of the ditch will be impacted by this road crossing. The northern crossing will connect with existing dirt road which runs between the agricultural ditch and the fallow agricultural fields to the west.

The activities described above are expected to incidentally take giant garter snake (*Thamnophis gigas*) where activities would take place within the footprint for removal and construction of the two road crossings, the associated ditch along Husted Road, access routes, equipment and vehicle staging areas, and upland habitat within two hundred feet of aquatic habitat. In particular, giant garter snake could be incidentally taken as a result of crushing by construction equipment or other traffic on the Project site, or after fleeing from Project-related disturbance to adjacent lands. Additionally, indirect take of giant garter snake may result from the temporary reduction in available prey, increased sedimentation, oils or hazardous material spills on the Project site. Giant garter snake is designated as a threatened species under the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(4)(E).)

The presence of giant garter snake has been documented in several occurrence records in the Department of Fish and Game (DFG) Natural Diversity Database. These records document giant garter snake presence less than 2 miles from the Project area and there is suitable, and contiguous, giant garter snake habitat within and adjacent to the Project site. Because of the proximity of the nearest documented giant garter snake, dispersal patterns of giant garter snake, and the presence of suitable giant garter snake habitat within the Project site, the U.S. Fish and Wildlife Service (Service) determined that giant garter snake is reasonably certain to oc-

cur within the Project area and that Project activities are expected to result in the incidental take of the species.

Construction of the Project will result in the permanent loss of 0.12 acre of aquatic and 0.23 acre of upland giant garter snake habitat; the removal of the two existing crossings will restore 0.02 acre of aquatic giant garter snake habitat. Therefore, the Project will result in the permanent net loss of 0.33 acre of giant garter snake habitat. As described above, the permanent loss of giant garter snake habitat is due to Project-related repositioning and widening of the crossings and realignment and lengthening of the culverts in the canal.

Because the Project has the potential to take a species listed under the ESA, the U.S. Army Corps of Engineers (Corps) consulted with the Service as required by the ESA. On November 16, 2009, the Service issued a letter (Service file No. 81420-2010-F-0050-1) (Append Letter) to the Corps, appending the Project to the Service's Programmatic Formal Consultation for U.S. Army Corps of Engineers 404 Permitted Projects with relatively Small Effects on the Giant Garter Snake within Butte, Colusa, Glenn, Fresno, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, and Yuba Counties, California (1-1-97-F-0149)(Programmatic BO). The Append Letter describes Project actions, requires the Applicant to comply with terms in the Programmatic BO and its incidental take statement (ITS), and incorporates additional measures.

Because giant garter snake is also designated as a threatened species pursuant to CESA, on June 28, 2010, Ginger E. Fodge of Gibson and Skordal LLC, acting on behalf of the Applicant, notified the Director of DFG that the Applicant was requesting a determination, pursuant to Fish and Game Code section 2080.1, that the Append Letter, now a part of the Programmatic BO, and its ITS are consistent with CESA for purposes of the Project.

Determination

DFG has determined that the Programmatic BO, including the Append Letter and ITS, are consistent with CESA as to the Project because the mitigation measures contained in the Programmatic BO, Append Letter, and ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, DFG finds that take of giant garter snake will be incidental to an otherwise lawful activity; mitigation measures identified in the Programmatic BO, Append Letter, and ITS will minimize and fully mitigate the impacts of the authorized take; and construction of the Project will not jeopardize the continued existence of giant garter snake. The mitigation measures in the Programmatic BO, Append Letter, and ITS include, but are not limited to, the following:

Minimization, Mitigation, and Monitoring Measures

- Applicant is required to, and has already purchased, 0.99 acre of giant garter snake conservation credits.
- Applicant shall restore 0.02 acre of aquatic habitat by removing existing crossings, and shall conduct one year of monitoring of the restored habitat with a photo documentation report due one year from implementation of the restoration with pre- and post-project area photos.
- Applicant shall only conduct construction during the giant garter snake active season (May 1 and October 1).
- Construction personnel shall participate in a worker environmental awareness program.
- Preconstruction surveys shall be conducted and if giant garter snake is encountered during construction or preconstruction surveys, activities will cease until appropriate corrective measures have been completed or it has been determined that giant garter snake will not be harmed.

Financial Assurances

- Applicant has provided financial assurance consistent with CESA, having already purchased 0.99 acre of conservation credits from the Ridge Cut Giant Garter Snake Conservation Bank as documented by an April 16, 2010 Bill of Sale provided to DFG.

Take Avoidance Measures

- Applicant shall implement avoidance and minimization measures that will reduce the effects of the Project on giant garter snake, including removal of temporary fill and construction debris and restoring disturbed areas to pre-Project conditions.

Pursuant to Fish and Game Code section 2080.1, incidental take authorization under CESA will not be required for incidental take of giant garter snake resulting from the Project, provided the Applicant implements the Project as described in the Append Letter, and complies with the mitigation measures and other conditions described in the Programmatic BO, Append Letter, and ITS. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the Programmatic BO, Append Letter, or ITS, the Applicant will be required to obtain a new consistency determination or a CESA incidental take permit from DFG. (See generally Fish & G. Code, §§ 2080.1, 2081.) This determination is limited to consistency of the Programmatic BO as applied specifically to the Project, and does not cover other activities that might be appended to the Programmatic BO in the future. Separate determination(s) or take authoriza-

tion(s) must be obtained for future activities that may result in take of CESA-listed species.

DEPARTMENT OF HEALTH CARE SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

THE DEPARTMENT OF HEALTH CARE SERVICES WILL CONTINUE THE TEN PERCENT RATE REDUCTION FOR DISPROPORTIONATE SHARE HOSPITAL REPLACEMENT PAYMENTS TO PRIVATE HOSPITALS UPON ENACTMENT OF THE STATE BUDGET ACT OF 2011

This notice is to provide information of public interest with respect to a proposal to continue the reduction to disproportionate share hospital replacement payments to private hospitals.

The 2010–11 Health Care Trailer Bill contains amendments to Welfare and Institutions Code Section 14166.11 to continue the 10% reduction in disproportionate share hospital replacement payments to private hospitals for Fiscal Year (FY) 2010–11. The continuation of the reduction will take effect October 1, 2010, and will be applied to all disproportionate share hospital replacement payments to private hospitals made for FY 2010–11. These payments include interim payments, tentative adjusted monthly payments, data corrected payments, and the final adjusted payment.

PUBLIC REVIEW AND COMMENTS

A detailed description of the proposed California legislation that amends the Welfare and Institutions Code to make the changes described in this notice is available for public review at local county welfare offices throughout the State. A copy of the description may also be requested, in writing, from Ms. Jalynne Callori, Department of Health Care Services, Safety Net Financing Division, MS 4504, P.O. Box 997436, Sacramento, CA 95899–7436.

The Department of Health Care Services is also seeking comments on the continuation of the reduction in disproportionate share hospital replacement payments to private hospitals. Written comments concerning the continuation of the reduction may be mailed to Ms. Callori at the above address and must be received on or before September 13, 2010.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Notice to Interested Parties
August 13, 2010

Child-Specific Reference Dose—Notice of a Public Comments Period on the Child-Specific Reference Dose (chRD) for Paraquat for use in Assessing Health Risks at Existing and Proposed School Sites

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is making available for review and comment the Draft Report, “Development of Health Criteria for School Site Risk Assessment Pursuant to Health and Safety Code (HSC) Section 901(g): PROPOSED CHILD-SPECIFIC REFERENCE DOSE (chRD) FOR PARAQUAT.”

HSC §901(g) requires the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the appropriate entities within the California Environmental Protection Agency, to identify those chemical contaminants commonly found at school sites and determined by OEHHA to be of greatest concern based on child-specific physiological sensitivities. HSC 901(g) also requires OEHHA to annually evaluate and publish, as appropriate, numerical health guidance values (HGVs) or chRDs for those chemical contaminants.

The draft chRD for paraquat being considered at this time is 7×10^{-5} mg/kg-day. In developing the chRD, OEHHA selected two young-animal studies and two adult-animal studies. Collectively these studies paint a cohesive picture that paraquat is a neurotoxicant and impacts brain functions. The chRD is based on the lowest observed adverse effect level (LOAEL) of 0.07 mg/kg-day from one of the studies.

This public comment period follows the requirements set forth in Health and Safety Code Section 57003 for receiving public input. The initial draft was released on December 4, 2009, with a review and comment period ending on January 22, 2010. This period was extended to February 22, 2010. A public workshop was held on January 13, 2010, in Sacramento. Comments received at the workshop and during the comment period were considered during the revision of the draft document. The comments received and the response to those comments are included in the new draft report.

The new draft report can be downloaded from the OEHHA website at www.oehha.ca.gov. OEHHA requests that written comments on this draft report be submitted by 5:00 p.m., September 17, 2010. Comments can be submitted using the address, fax number, or email address below. If you would like to receive further information on this announcement or have questions, please contact our office at (916) 324-2829 or the address below.

Mr. Leon Surgeon
 Integrated Risk Assessment Branch
 Office of Environmental Health Hazard Assessment
 P.O. Box 4010
 1001 I Street, MS-12B
 Sacramento, California 95812-4010

Email: IRAB@oehha.ca.gov
 FAX: (916) 322-9705

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
 HEALTH HAZARD ASSESSMENT**

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

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

**NOTICE OF INTENT TO LIST
 S,S,S-TRIBUTYL PHOSPHOROTRITHIOATE
 (TRIBUFOS, DEF)**

August 13, 2010

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list S,S,S-tributyl phosphorotrithioate as known to the State to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ This action is being taken under the authoritative bodies listing mechanism.²

Chemical	CAS No.	Endpoint	Reference	Chemical Use
<i>S,S,S-Tributyl phosphorotrithioate (Tribufos, DEF)</i>	78-48-8	Cancer	U.S. EPA (1997)	Organophosphate insecticide used on cotton, with minor use reported on dried beans

OEHHA requested information relevant to the possible listing of S,S,S-tributyl phosphorotrithioate in a notice published in the *California Regulatory Notice Register* on May 21, 2010 (Register 2010, No. 21-Z). OEHHA received no public comments.

Background on listing via the authoritative bodies mechanism: A chemical must be listed under the Proposition 65 regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing cancer (Section 25306(d)³).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(e)).

However, the chemical is not listed if scientifically valid data which were not considered by the authorita-

tive body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(f)).

The U.S. Environmental Protection Agency (U.S. EPA) is one of several institutions designated as authoritative for the identification of chemicals as causing cancer (Section 25306(m)).

OEHHA is the lead agency for Proposition 65 implementation. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA's determination: *S,S,S-Tributyl phosphorotrithioate* meets the criteria for listing as known to the State to cause cancer under Proposition 65, based on findings of the U.S. EPA (U.S. EPA, 1997).

Formal identification and sufficiency of evidence for S,S,S-tributyl phosphorotrithioate: In 1997, the U.S. EPA published a report on S,S,S-tributyl phosphorotrithioate entitled *Memorandum: Carcinogenicity Peer Review (2nd) of Tribufos (DEFTM)*. This report concludes that the chemical causes cancer, which satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

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

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

OEHHA is relying on the U.S. EPA's discussion of data and conclusions in the report that S,S,S-tributyl phosphorotrithioate causes cancer. The section of the 1997 U.S. EPA report entitled "Classification of Carcinogenic Potential" found that "[t]ribufos should be characterized as 'likely' at high doses, based on increases in tumors in both sexes of the CD-1 mouse; the liver of male mice, in the lung of female mice, and in the small intestine (rare tumors) in both sexes of mice." The liver tumors in male mice were hemangiosarcomas, the lung tumors in female mice were alveolar/bronchiolar adenomas, and the tumors in the small intestine in male and female mice were adenocarcinomas.

Thus, the U.S. EPA (1997) has found that S,S,S-tributyl phosphorotrithioate causes increased incidences of malignant liver tumors in male mice and rare malignant tumors of the small intestine in male and female mice.

OEHHA issued a request for relevant information on this chemical in November 2000. In 2004, following review of public comments received, OEHHA withdrew the chemical from consideration for listing at that time. In light of the recent Court of Appeal decision in *Exxon Mobil Corporation v. Office of Environmental Health Hazard Assessment et al.* (2009) 169 Cal. App. 4th 1264, OEHHA has determined that it will not consider dose-response issues for this chemical during the listing phase of the process. Such issues will be addressed as necessary following a listing decision. Therefore, OEHHA reissued a request for relevant information for this chemical.

Request for comments: OEHHA is committed to public participation in its implementation of Proposition 65. OEHHA wants to ensure that its regulatory decisions are based on a thorough consideration of all relevant information. OEHHA is requesting comments concerning whether S,S,S-tributyl phosphorotrithioate meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings. In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Monday, September 13, 2010.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to coshita@oehha.ca.gov. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, California
95812-4010

Fax: (916) 323-8803

Street Address: 1001 I Street
Sacramento, California 95814

If you have any questions, please contact Ms. Oshita at coshita@oehha.ca.gov or at (916) 445-6900.

References

U.S. Environmental Protection Agency (U.S. EPA, 1997). Memorandum: Carcinogenicity Peer Review (2nd) of Tribufos (DEFTM). Office of Prevention, Pesticides and Toxic Substances. May 22, 1997.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

UPDATED
CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

NOTICE TO INTERESTED PARTIES

August 13, 2010

[Updated notice was posted on the OEHHA web site on July 30, 2010]

**Availability of Hazard Identification Materials for
Methyl Isocyanate and Announcement of the
October 21, 2010
Developmental and Reproductive Toxicant
Identification Committee
Meeting and 60-Day Public Comment Period**

****NOTE:** *This is an updated notice from the one published July 30, 2010 in the California Regulatory Notice Register (CRNR). This UPDATED Notice will be published in the CRNR on August 13. Changes include the following:*

- *The release of the hazard identification materials for sulfur dioxide is postponed.*
- *Sulfur dioxide will not be considered for Proposition 65 listing by the DARTIC at its October meeting.*
- *Sulfur dioxide will be considered at a future DARTIC meeting, likely in Spring of 2011.*
- *The Committee will only meet on Thursday, October 21, 2010.*
- *The Committee will NOT meet on October 20, 2010.*

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986¹ (Proposition 65). The Developmental and Reproductive Toxicant Identification Committee (DARTIC) advises and assists OEHHA in compiling the list of chemicals known to the State to cause reproductive toxicity as required by Health and Safety Code section 25249.8. The Committee serves as the State's qualified experts for determining whether a chemical has been "clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity."

Methyl isocyanate will be considered for possible listing under Proposition 65 by the DARTIC at its next meeting scheduled for **Thursday, October 21, 2010**. The meeting will be held in the Coastal Hearing Room at the Cal/EPA Headquarters building, 1001 I Street, Sacramento, California. Thursday's meeting will begin at 10:00 a.m. and will last until all business is conducted or until 5:00 p.m. The agenda for the meeting will be provided in a future public notice.

OEHHA announces the availability for public review of the document entitled: "Evidence on the Developmental and Reproductive Toxicity of Methyl Isocyanate." The DARTIC will consider this document in making a listing decision for this chemical. In preparing these hazard identification materials, OEHHA considered information received from its recent request for information relevant to the evidence of reproductive toxicity of methyl isocyanate. The data call-in period for methyl isocyanate opened on June 27, 2008, and closed on August 26, 2008.

Copies of the document are available from OEHHA's web site at the following address: <http://www.oehha.ca.gov/prop65.html>. The document may also be requested from OEHHA's Proposition 65 Implementation Office by calling (916) 445-6900.

This notice marks the beginning of a 60-day public comment period on this document. **OEHHA must receive comments and any supporting documentation by 5:00 p.m. on Tuesday, September 28, 2010.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to coshita@oehha.ca.gov.

¹ Health and Safety Code section 25249.5, et seq.

Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
Office of Environmental Health
Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, California
95812-4010

Fax: (916) 323-8803

Street Address: 1001 I Street
Sacramento, California
95814

OEHHA will organize and index the comments received and forward the information to the DARTIC members prior to the meeting.

DECISION NOT TO PROCEED

DEPARTMENT OF FOOD AND AGRICULTURE

**NOTICE OF DECISION NOT TO PROCEED
(Pursuant to Government Code Section 11347)**

On January 15, 2010 the Department of Food and Agriculture published a Notice of Proposed Rulemaking concerning the amendment of Section 3558(a) of the regulations in Title 3 of the California Code of Regulations pertaining to Insects Which May Be Imported or Shipped Within California Without a Permit.

Pursuant to Government Code Section 11347, the Department hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on January 15, 2010 (Register 2010, No. 3-Z, page 76, Notice File No. Z2010-0105-01).

Any interested person with questions concerning this rulemaking should contact Stephen Brown at either (916) 654-1017 or by email at: sbrown@cdfa.ca.gov.

The department will also publish this Notice of a Decision Not to Proceed on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

OAL REGULATORY DETERMINATION

**OFFICE OF ADMINISTRATIVE LAW
DETERMINATION OF ALLEGED
UNDERGROUND REGULATION
(Summary Disposition)**

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

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

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

Date: July 27, 2010
 To: Jaime Zepeda
 From: Chapter Two Compliance Unit
 Subject: **2010 OAL DETERMINATION NO.16(S)
(CTU2010-0514-02)**
 (Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Department Operations Manual sections 54030.10.6.1, 54030.17.1, 54030.18.7.1, 54030.19.7.1 and 54030.20.7.1

On May 14, 2010, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether Department Operations Manual (DOM) sections 54030.10.6.1, 54030.17.1, 54030.18.7.1, 54030.19.7.1 and 54030.20.7.1, issued by the California Department of Corrections and Rehabilitation (CDCR), constitute an underground regulation. These DOM sections deal with various types of personal property that may be possessed by inmates and are attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as

defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).²

CDCR adopted California Code of Regulations, title 15, section 3190, to govern the type and amount of personal property an inmate may possess. Section 3190 incorporates by reference the Authorized Personal Property Schedule (APPS) (revised February 1, 2008). The APPS lists the allowable personal property items an inmate may possess in each of the five mission-based regions³ of the Division of Adult Institutions.⁴ The APPS is printed in Article 43 of the DOM.

The DOM sections you challenge, sections 54030.10.6.1, 54030.17.1, 54030.18.7.1, 54030.19.7.1 and 54030.20.7.1, are in Article 43 and deal with various types of personal property. These sections of the DOM are among those that are included in the APPS.

Pursuant to California Code of Regulations, title 1, section 20(a), "incorporation by reference" is defined to mean:

. . . the method whereby a regulation printed in the California Code of Regulations makes provisions of another document part of that regulation by reference to the other document.

Section 3190 incorporates by reference the APPS (revised February 1, 2008); therefore the APPS is part of California Code of Regulations, title 15, section 3190. Section 3190 was duly adopted as a regulation pursuant to the APA and filed with the Secretary of State on March 6, 1985, and was subsequently amended several times. The amendment of section 3190 that first incorporated by reference the APPS was filed with the Secre-

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

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

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

³ The five mission-based regions are:

- Reception Centers,
- Levels I, II, III, and Male Conservation Camps,
- California Out Of State Facilities and Community Correctional Facilities,
- Levels III and IV, High Security and Transitional Housing, and
- Female Offenders Programs.

⁴ The Division of Adult Institutions is the division within CDCR responsible for the administration of California prisons.

tary of State on June 4, 2008, in accordance with the APA.

For this reason, we find that the rule challenged by your petition is not an underground regulation.⁵

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

/s/
SUSAN LAPSLEY
Director

/s/
Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

**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.

⁵ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

- (f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.
- (2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:
 - (A) The challenged rule has been superseded.
 - (B) The challenged rule is contained in a California statute.
 - (C) *The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.*
 - (D) The challenged rule has expired by its own terms.
 - (E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. (Emphasis added.)

File# 2010-0723-02
BOARD OF EDUCATION
Open Enrollment

This emergency rulemaking action establishes the process for determining the 1,000 California open enrollment schools from which students may apply to transfer to higher achieving schools within their school district or in another school district. The emergency rules specify the time by which a school district containing one of more of these 1,000 schools must notify parents of their children's rights to apply for a transfer. The emergency rules also specify that pupils enrolled in higher achieving schools as a result of transfers pursuant to these regulations need not reapply for enrollment in order to remain in attendance regardless of whether the pupil's previous school remains on the list of 1,000 open enrollment schools.

Title 5
California Code of Regulations
ADOPT: 4700, 4701, 4702
Filed 08/02/2010
Effective 08/02/2010
Agency Contact: Debra Thacker (916) 319-0642

File# 2010-0720-08
BUREAU FOR PRIVATE POSTSECONDARY
EDUCATION
Gen. Provisions, Applications, Institutional Operating
Standards, etc.

This regulatory action, pursuant to AB 48 (Chapter 310, Statutes of 2009), reestablishes the regulation of private postsecondary educational institutions in California. It provides for the application process and operating standards and provides guidelines for implementation of the Student Tuition Recovery Fund.

Title 5
California Code of Regulations
ADOPT: 70030, 70040, 71135, 71320, 71390,
71395, 71400.5, 71401, 71475, 71480, 71485,
71640, 71650, 71655, 71716, 71750, 71760, 74110,
74115, 76020, 76140, 76212, 76240 AMEND:
70000, 70010, 70020, 71100, 71110, 71120, 71130,
71140, 71150, 71160, 71170, 71180, 71190, 71200,
71210, 71220, 71230, 71240, 71250, 71260, 71270,
71280, 71290, 71300, 71310, 71340, 71380, 71400,
71405, 71450, 71455, 71460, 71465, 71470, 71500,
71550, 71600, 71630, 71700, 71705, 71710, 71715,
71720, 71730, 71735, 71740, 71745, 71770, 71810,
71850, 71865, 71920, 71930, 74000, 74002, 74004,
74006, 74120, 74130, 74140, 74150, 74160, 74170,
74190, 74200, 76000, 76120, 76130, 76200, 76210,
76215 REPEAL: 70030, 71000, 71005, 71010,
71020, 71330, 71360, 71410, 71415, 71420, 71490,
71495, 71505, 71510, 71515, 71520, 71555, 71560,

71565, 71605, 71610, 71615, 71650, 71655, 71725, 71775, 71800, 71805, 71830, 71855, 71860, 71870, 71875, 71880, 71885, 71890, 71900, 71905, 71910, 72000, 72005, 72010, 72020, 72101, 72105, 72110, 72120, 72130, 72140, 72150, 72160, 72170, 72180, 72190, 72200, 72210, 72220, 72230, 72240, 72250, 72260, 72270, 72280, 72290, 72300, 72310, 72330, 72340, 72360, 72380, 72400, 72405, 72410, 72415, 72420, 72450, 72455, 72460, 72465, 72470, 72500, 72505, 72515, 72520, 72550, 72555, 72560, 72565, 72570, 72600, 72605, 72610, 72615, 72650, 72655, 72700, 72701, 72705, 72710, 72715, 72720, 72725, 72730, 72735, 72740, 72745, 72770, 72775, 72800, 72805, 72810, 72830, 72850, 72855, 72860, 72865, 72870, 72875, 72880, 72885, 72890, 72900, 72905, 72910, 72915, 72920, 72930, 73000, 73010, 73100, 73110, 73120, 73130, 73140, 73150, 73160, 73165, 73170, 73180, 73190, 73200, 73210, 73220, 73230, 73240, 73260, 73270, 73280, 73290, 73300, 73310, 73320, 73330, 73340, 73350, 73360, 73380, 73390, 73400, 73410, 73420, 73430, 73440, 73470, 73480, 73500, 73520, 73530, 73540, 73550, 73600, 73610, 73620, 73630, 73640, 73650, 73660, 73670, 73680, 73690, 73700, 73710, 73720, 73730, 73740, 73750, 73760, 73765, 73770, 73780, 73790, 73800, 73820, 73830, 73831, 73832, 73850, 73860, 73870, 73880, 73890, 73900, 73910, 74008, 74010, 74014, 74016, 74018, 74020, 74030, 74040, 74050, 74100, 74180, 74300, 74310, 74320, 75000, 75020, 75030, 75040, 75100, 75110, 75120, 75130, 76010, 76240

Filed 07/30/2010

Effective 07/30/2010

Agency Contact: Joanne Wenzel (916) 574-7784

File# 2010-0721-05

BUREAU OF AUTOMOTIVE REPAIR

Enhanced Fleet Modernization Program

This emergency action would adopt the Bureau of Automotive Repair's component of the Enhanced Fleet Modernization Program so that there will be a mechanism for administration of the state's program for enhancing air quality through the purchase and recycling of highly polluting and inefficient older vehicles.

Title 16

California Code of Regulations

ADOPT: 3394.7 AMEND: 3394.1, 3394.4, 3394.5, 3394.6

Filed 07/30/2010

Effective 07/30/2010

Agency Contact: Steven Hall (916) 255-2135

File# 2010-0720-09

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

Allocation System to Administer the Unified Volume Ceiling (Package II)

This regulatory action creates an allocation system to administer the state unified volume ceiling and provide tax exempt private activity bond allocation to state and local agencies. It has been deemed an emergency by the Legislature pursuant to Government Code section 8869.94.

Title 4

California Code of Regulations

ADOPT: 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5560, 5570, 5571, 5572, 5573, 5580, 5590

Filed 07/29/2010

Effective 07/29/2010

Agency Contact: John Weir (916) 653-8018

File# 2010-0722-01

DEPARTMENT OF CHILD SUPPORT SERVICES

Recovery of Overpayments

The Department of Child Support Services adopts section 119900 of title 22 of the California Code of Regulations providing for the recovery of overpayments to payees by offsetting subsequent child support collections.

Title 22

California Code of Regulations

ADOPT: 119900

Filed 08/02/2010

Effective 08/02/2010

Agency Contact:

Lucila Ledesma (916) 464-5087

File# 2010-0623-01

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Inmate Credit Earning

This Certificate of Compliance makes permanent the emergency regulatory action (OAL file no. 2010-0104-02EON) that was submitted to OAL pur-

suant to Penal Code section 5058.3 as operationally necessary, dealing with the earning of inmate credit. The emergency regulatory action implemented new legislation ((SB3x 18, Stats. 2009, c. 28) that provided a number of credit-earning enhancements that will encourage the inmate population to complete approved rehabilitative programs. These regulations also incorporate by reference the Department’s Milestone Completion Credit Schedule that sets forth the approved rehabilitative programs and establishes the amount of credit reduction for successful completion of the program. The Time Credit Waiver (Pen. Code, sec. 2934) form is also incorporated by reference into these regulations.

Title 15

California Code of Regulations

ADOPT: 3042 AMEND: 3040, 3040.1, 3041, 3041.2, 3043, 3043.1, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045, 3045.1, 3045.2, 3045.3 REPEAL: 3040.2

Filed 08/04/2010

Agency Contact: Kelly Medina (916) 341-7390

File# 2010-0706-02

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Lethal Injection Process

In this regulatory action, the California Department of Corrections and Rehabilitation amends and adopts regulations in Title 15 of the California Code of Regulations to establish the procedures for execution of death sentences by lethal injection at San Quentin State Prison.

Title 15

California Code of Regulations

ADOPT: 3349.1.1, 3349.1.2, 3349.1.3, 3349.1.4, 3349.2.1, 3349.2.2, 3349.2.3, 3349.2.4, 3349.3, 3349.3.1, 3349.3.2, 3349.3.3, 3349.3.4, 3349.3.5, 3349.3.6, 3349.3.7, 3349.4.1, 3349.4.2, 3349.4.3, 3349.4.4, 3349.4.5, 3349.4.6 AMEND: 3349

Filed 07/30/2010

Effective 08/29/2010

Agency Contact: Randy Marshall (916) 255-5785

File# 2010-0719-01

DEPARTMENT OF INSURANCE

Life Settlements

This rulemaking adopts 31 new sections in Title 10 of the California Code of Regulations. These new sections implement SB 98 that establishes a comprehensive scheme for life settlements, including licensing requirements for those involved in the business as well as consumer protection provisions. These new sections also establish escrow and provider records retention re-

quirements and provisions curbing transactions involving “stranger originated life insurance.”

Title 10

California Code of Regulations

ADOPT: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8, 2548.9, 2548.10, 2548.11, 2548.12, 2548.13, 2548.14, 2548.15, 2548.16, 2548.17, 2548.18, 2548.19, 2548.20, 2548.21, 2548.22, 2548.23, 2548.24, 2548.25, 2548.26, 2548.27, 2548.28, 2548.29, 2548.30, 2548.31 REPEAL: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8

Filed 07/29/2010

Effective 07/29/2010

Agency Contact:

Jennifer Chambers (415) 538-4145

File# 2010-0621-03

DEPARTMENT OF MOTOR VEHICLES

Prisoner of War License Plates

This filing deletes from regulations setting forth the requirements applicable to the special license plates available to former prisoners of war, a single section that requires the license plates to be surrendered to DMV upon the death of the former prisoner of war.

Title 13

California Code of Regulations

REPEAL: 171.04

Filed 07/29/2010

Agency Contact: Cathy Sowell (916) 657-7970

File# 2010-0628-04

MANAGED RISK MEDICAL INSURANCE BOARD

HFP Lead Poisoning Screening

This regulatory action deals with lead poisoning screening for children enrolled in the Healthy Families Program.

Title 10

California Code of Regulations

AMEND: 2699.6700

Filed 07/30/2010

Effective 08/29/2010

Agency Contact: Dianne Knox (916) 324-0592

File# 2010-0621-02

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Rollover Protection Structures for Ride-On Power Lawn Mowers

This regulatory action addresses the requirements for using a roll-over protective structure (ROPS) and seat belt during operation of ride-on, sit-down, power lawn mowers. It also includes training requirements for operators of these types of power lawn mowers.

Title 8
 California Code of Regulations
 AMEND: 3563, 3651
 Filed 08/03/2010
 Effective 09/02/2010
 Agency Contact: Marley Hart (916) 274-5721

06/10/10 ADOPT: 429, 430 AMEND: 441
 06/10/10 ADOPT: 3024.5, 3024.6, 3024.7, and 3024.8 AMEND: 3024, 3024.1, 3024.2, 3024.3, 3024.4, and 4603
 06/09/10 AMEND: 3434(b), (c), (d), and (e)
 06/07/10 AMEND: 4500
 06/02/10 AMEND: 3435
 06/01/10 AMEND: 3437(b)
 05/24/10 AMEND: 3434(b)
 05/17/10 AMEND: 3591.5(a)
 05/17/10 ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407(e), 3407(f)
 REPEAL: 3000, 3001, 3002, 3003, 3004
 05/13/10 AMEND: 3437
 05/04/10 AMEND: 3423(b)
 05/04/10 AMEND: 3437(b)
 05/04/10 AMEND: 3434(b)
 05/03/10 AMEND: 3434(b), 3434(c) and 3434(d)
 04/22/10 AMEND: 3434(b)
 04/22/10 AMEND: 3406(b), 3406(c)
 04/20/10 AMEND: 3437(b)
 04/15/10 AMEND: 3434(b)
 04/05/10 AMEND: 3434(b)
 03/24/10 ADOPT: 3436
 03/24/10 AMEND: 3588
 03/17/10 AMEND: 3423(b)
 03/15/10 AMEND: 3434(b)
 03/10/10 AMEND: 3591.20(a)
 03/10/10 AMEND: 3434(b)
 03/04/10 AMEND: 3700(c)
 03/04/10 AMEND: 3406(b)
 03/03/10 REPEAL: 3279, 3433
 03/03/10 AMEND: 3591.20
 03/03/10 AMEND: 3406(b)
 03/03/10 AMEND: 3423(b)
 03/03/10 ADOPT: 3437

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN March 3, 2010 TO
 August 11, 2010**

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

Title 2

07/08/10 AMEND: 18313.5(c)
 07/06/10 AMEND: 51000
 07/01/10 AMEND: 1859.90.1
 06/24/10 ADOPT: 1859.90.1 AMEND: 1859.90.1 renumbered as 1859.90.2, 1859.129, 1859.197
 06/24/10 AMEND: 47000, 47001, 47002
 06/23/10 AMEND: 1859.184
 06/17/10 AMEND: 18703.3
 06/17/10 ADOPT: 18313.5
 06/09/10 AMEND: Div. 8, Ch. 64, Sec. 55300
 05/25/10 AMEND: div. 8, ch. 65, sec. 55400
 05/11/10 AMEND: 18945
 05/06/10 AMEND: 1859.2
 05/03/10 AMEND: 60040, 60045
 04/21/10 AMEND: 1859.96, 1859.148.2, 1859.166.2
 04/08/10 AMEND: 1859.76
 03/23/10 AMEND: 18351
 03/19/10 ADOPT: 59670
 03/19/10 AMEND: 18942 REPEAL: 18630
 03/11/10 AMEND: 18932.4

Title 3

07/26/10 AMEND: 3435(c)
 07/20/10 AMEND: 3437
 07/16/10 AMEND: 3434(b) and (c)
 07/13/10 AMEND: 3591.20(a)
 07/07/10 ADOPT: 3591.24
 07/01/10 AMEND: 3437
 06/30/10 AMEND: 3423(b)
 06/18/10 AMEND: 6448, 6448.1, 6449, 6449.1, 6450, 6450.1, 6450.2, 6451, 6451.1

Title 4

07/29/10 ADOPT: 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5560, 5570, 5571, 5572, 5573, 5580, 5590
 07/22/10 AMEND: 10300, 10302, 10305, 10310, 10315, 10317, 10320, 10322, 10323,

	10325, 10326, 10327, 10328, 10330, 10335, 10337		74150, 74160, 74170, 74190, 74200, 76000, 76120, 76130, 76200, 76210, 76215		REPEAL: 70030, 71000, 71005, 71010, 71020, 71330, 71360, 71410, 71415, 71420, 71490, 71495, 71505, 71510, 71515, 71520, 71555, 71560, 71565, 71605, 71610, 71615, 71650, 71655, 71725, 71775, 71800, 71805, 71830, 71855, 71860, 71870, 71875, 71880, 71885, 71890, 71900, 71905, 71910, 72000, 72005, 72010, 72020, 72101, 72105, 72110, 72120, 72130, 72140, 72150, 72160, 72170, 72180, 72190, 72200, 72210, 72220, 72230, 72240, 72250, 72260, 72270, 72280, 72290, 72300, 72310, 72330, 72340, 72360, 72380, 72400, 72405, 72410, 72415, 72420, 72450, 72455, 72460, 72465, 72470, 72500, 72505, 72515, 72520, 72550, 72555, 72560, 72565, 72570, 72600, 72605, 72610, 72615, 72650, 72655, 72700, 72701, 72705, 72710, 72715, 72720, 72725, 72730, 72735, 72740, 72745, 72770, 72775, 72800, 72805, 72810, 72830, 72850, 72855, 72860, 72865, 72870, 72875, 72880, 72885, 72890, 72900, 72905, 72910, 72915, 72920, 72930, 73000, 73010, 73100, 73110, 73120, 73130, 73140, 73150, 73160, 73165, 73170, 73180, 73190, 73200, 73210, 73220, 73230, 73240, 73260, 73270, 73280, 73290, 73300, 73310, 73320, 73330, 73340, 73350, 73360, 73380, 73390, 73400, 73410, 73420, 73430, 73440, 73470, 73480, 73500, 73520, 73530, 73540, 73550, 73600, 73610, 73620, 73630, 73640, 73650, 73660, 73670, 73680, 73690, 73700, 73710, 73720, 73730, 73740, 73750, 73760, 73765, 73770, 73780, 73790, 73800, 73820, 73830, 73831, 73832, 73850, 73860, 73870, 73880, 73890, 73900, 73910, 74008, 74010, 74014, 74016, 74018, 74020, 74030, 74040, 74050, 74100, 74180, 74300, 74310, 74320, 75000, 75020, 75030, 75040, 75100, 75110, 75120, 75130, 76010, 76240
07/13/10	AMEND: 8034, 8035, 8042, 8043				
07/12/10	ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5140, 5141, 5142, 5143, 5150, 5151, 5152, 5153, 5154, 5155, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, and 5550				
06/21/10	AMEND: 8070, 8072, 8073, 8074				
06/09/10	AMEND: 1689.1				
06/01/10	AMEND: 10020				
05/17/10	ADOPT: 12590 REPEAL: 12590				
04/29/10	AMEND: 8034, 8035, 8042, 8043				
04/13/10	ADOPT: 12350, 12351, 12352, 12353, 12354, 12355 AMEND: 12008, 12335, 12340, 12342, 12343 renumbered as and merged with amended 12342, 12344 renumbered as and merged with amended 12345, and 12348 renumbered as 12346 REPEAL: 12347				
04/06/10	ADOPT: 12372, 12395, 12396 AMEND: 12370				
03/29/10	AMEND: 1685				
03/29/10	AMEND: 1632				
03/25/10	AMEND: 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10185, 10187, 10188, 10190				
03/15/10	ADOPT: 12482				
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08/02/10	ADOPT: 4700, 4701, 4702				
07/30/10	ADOPT: 70030, 70040, 71135, 71320, 71390, 71395, 71400.5, 71401, 71475, 71480, 71485, 71640, 71650, 71655, 71716, 71750, 71760, 74110, 74115, 76020, 76140, 76212, 76240 AMEND: 70000, 70010, 70020, 71100, 71110, 71120, 71130, 71140, 71150, 71160, 71170, 71180, 71190, 71200, 71210, 71220, 71230, 71240, 71250, 71260, 71270, 71280, 71290, 71300, 71310, 71340, 71380, 71400, 71405, 71450, 71455, 71460, 71465, 71470, 71500, 71550, 71600, 71630, 71700, 71705, 71710, 71715, 71720, 71730, 71735, 71740, 71745, 71770, 71810, 71850, 71865, 71920, 71930, 74000, 74002, 74004, 74006, 74120, 74130, 74140,				
		07/23/10	AMEND: 19816, 19816.1		
		06/09/10	AMEND: 19824, 19851, 19854		
		05/27/10	ADOPT: 80048.8, 80048.8.1, 80048.9, 80048.9.1, 80048.9.2, 80048.9.3 AMEND: 800.46.5, 80047, 80047.1,		

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	80047.2, 80047.3, 80047.4, 80047.5, 80047.6, 80047.7, 80047.8, 80047.9, 80048.3, 80048.4, 80048.6 REPEAL: 80048.2	07/21/10	ADOPT: 3575, 3576, 3577 AMEND: 3500, 3522, 3523, 3524, 3526, 3527, 3528, 3529, 3530, 3582, 3681, 3702, 3703, 3721, 3724, 3726, 3728, 3731, 3741
05/20/10	ADOPT: 30730, 30731, 30732, 30733, 30734, 30735, 30736	07/19/10	ADOPT: 2274.70, 2274.71, 2274.72, 2274.73, 2274.74, 2274.75, 2274.76, 2274.77, 2274.78
04/15/10	AMEND: 19816, 19816.1	07/12/10	AMEND: 2698.600, 2698.602
04/12/10	REPEAL: 40503	07/01/10	AMEND: 2699.200, 2699.201
04/12/10	AMEND: 42002	06/29/10	ADOPT: 2756, 2758.1, 2758.2, 2758.3, 2758.4, 2758.5, 2758.6, 2758.7, 2945.1, 2945.2, 2945.3, 2945.4 AMEND: 2750, 2911
Title 7		06/24/10	AMEND: 2699.6500, 2699.6700, 2699.6707, 2699.6721
06/21/10	AMEND: 202 REPEAL: 212	06/09/10	AMEND: 2699.6600, 2699.6607, 2699.6619, 2699.6621, 2699.6705, 2699.6715, 2699.6725
Title 8		06/01/10	AMEND: 2498.6
08/03/10	AMEND: 3563, 3651	05/26/10	AMEND: 2699.6809
07/22/10	AMEND: 5278	05/19/10	ADOPT: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507
07/13/10	AMEND: 9789.70	05/04/10	AMEND: 2699.6625
07/01/10	AMEND: 4650, 4797, 4823	04/28/10	AMEND: 2318.6
06/30/10	AMEND: 10232.1, 10232.2, 10250.1	04/28/10	AMEND: 2318.6, 2353.1, 2354
06/30/10	ADOPT: 17300	04/28/10	AMEND: 2353.1
06/29/10	ADOPT: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464 AMEND: 16421, 16423, 16427, 16428, 16431, 16433, 16500	04/21/10	AMEND: 2699.202
06/21/10	AMEND: 344.30	04/21/10	AMEND: 2699.202
06/02/10	AMEND: 1590	04/13/10	ADOPT: 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, 2031.7, 2031.8, 2031.9, 2031.10
05/25/10	AMEND: 1599	04/12/10	AMEND: 2690
05/05/10	AMEND: 3308	04/06/10	ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, 2850.10
04/06/10	AMEND: 2305.2, 2340.16, 2360.3, 2405.4, 2534.8	04/01/10	ADOPT: 1409.1, 1414, 1422.4, 1422.4.1, 1422.5, 1422.6, 1422.6.1, 1422.6.2, 1422.6.3, 1422.7, 1422.7.1, 1422.9, 1422.10, 1422.11, 1422.12, 1424, 1437, 1950.122.2.1, 1950.122.4, 1950.122.4.1, 1950.122, 1950.122.5, 1950.122.5.1, 1950.122.5.2, 1950.122.5.3, 1950.122.5.4, 1950.122.6, 1950.122.7, 1950.122.8, 1950.122.9, 1950.122.10, 1950.122.11, 1950.122.12, 1950.205.1, 1950.209, 1950.307 AMEND: 1404, 1409, 1411, 1430.5, 1431, 1433, 1436, 1454, 1550, 1552, 1557, 1950.003, 1950.122.2, 1950.123, 1950.204.3, 1950.204.4, 1950.301, 1950.314.8, 1950.316, 1950.317 REPEAL: 1950.122
03/24/10	AMEND: 4301	03/29/10	AMEND: 2202, 2203
03/10/10	AMEND: 6070, 6074, 6075, 6080, 6085, 6087, 6089, 6090, 6100, 6115, 6120, Article 154, Appendix A, Appendix B		
Title 9			
07/07/10	ADOPT: 1850.350(a), 1850.350(b), 1850.350(c) AMEND: 1810.203.5(d)		
07/07/10	ADOPT: 1850.350(a), 1850.350(b), 1850.350(c) AMEND: 1810.203.5(d)		
05/07/10	REPEAL: 3520		
04/28/10	ADOPT: 4350		
04/20/10	ADOPT: 10700, 10701 AMEND: 10518, 10529 REPEAL: 10532, 10533		
Title 10			
07/30/10	AMEND: 2699.6700		
07/29/10	ADOPT: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8, 2548.9, 2548.10, 2548.11, 2548.12, 2548.13, 2548.14, 2548.15, 2548.16, 2548.17, 2548.18, 2548.19, 2548.20, 2548.21, 2548.22, 2548.23, 2548.24, 2548.25, 2548.26, 2548.27, 2548.28, 2548.29, 2548.30, 2548.31 REPEAL: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8		

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03/18/10 ADOPT: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507

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06/09/10 AMEND: 1005, 1018
 06/09/10 AMEND: 1005, 1007, 1008
 05/19/10 AMEND: 20
 04/21/10 AMEND: 1084
 03/30/10 AMEND: 1084

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07/29/10 REPEAL: 171.04
 07/23/10 ADOPT: 126.00, 126.02, 126.04, 127.00, 127.02, 127.04, 127.06, 127.08, 127.10
 AMEND: 125.00, 125.02, 125.12, 125.16, 125.18, 125.20, 125.22
 07/16/10 AMEND: 2449, 2449.1, 2449.2
 07/08/10 AMEND: 1141(b)
 06/14/10 AMEND: 440.04
 06/14/10 AMEND: 345.24, 345.40, 345.41, 345.46, 345.50 REPEAL: 345.42
 06/07/10 AMEND: 152.00, 190.03
 05/18/10 ADOPT: 1971.5 AMEND: 1968.2, 1971.1
 04/27/10 AMEND: 1160.3, 1160.4
 04/13/10 AMEND: 1201, 1212, 1213
 04/05/10 ADOPT: 2408.1 AMEND: 2401, 2403, 2404, 2405, 2406, 2408, 2409
 04/01/10 AMEND: 1961, 1961.1
 04/01/10 AMEND: 1961, 1961.1
 03/25/10 AMEND: 2480
 03/04/10 ADOPT: 205.00, 205.02, 205.04, 205.06, 205.08, 205.10, 205.12, 205.14
 03/03/10 AMEND: 423.00

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07/20/10 AMEND: 670.5
 07/19/10 AMEND: 632
 07/12/10 AMEND: 7.50
 06/24/10 AMEND: 360, 361, 362, 363, 364, 555, 708, 713
 06/23/10 AMEND: 919.9, 939.9
 05/26/10 AMEND: 7.50
 05/03/10 AMEND: 820.01
 04/30/10 AMEND: 27.80
 04/27/10 AMEND: 632
 04/20/10 AMEND: 895.1, 914.6, 934.6, 954.6, 1024, 1025, 1026, 1030, 1052, 1052.1, 1052.4, 1092, 1092.01, 1092.09, 1092.29
 03/29/10 ADOPT: 18452.1 AMEND: 18449, 18450, 18451, 18453, 18453.2, 18454, 18455, 18456, 18456.1, 18456.2, 18456.3, 18456.4, 18457, 18459, 18459.1, 18459.1.2, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18461, 18462, 18463, 18464, 18466, 18831
 REPEAL: 18456.2.1, 18460.2.1

03/10/10 AMEND: 670.5

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08/04/10 ADOPT: 3042 AMEND: 3040, 3040.1, 3041, 3041.2, 3043, 3043.1, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045, 3045.1, 3045.2, 3045.3 REPEAL: 3040.2
 07/30/10 ADOPT: 3349.1.1, 3349.1.2, 3349.1.3, 3349.1.4, 3349.2.1, 3349.2.2, 3349.2.3, 3349.2.4, 3349.3, 3349.3.1, 3349.3.2, 3349.3.3, 3349.3.4, 3349.3.5, 3349.3.6, 3349.3.7, 3349.4.1, 3349.4.2, 3349.4.3, 3349.4.4, 3349.4.5, 3349.4.6 AMEND: 3349
 07/27/10 REPEAL: 3999.2
 07/22/10 ADOPT: 3768, 3768.1, 3768.2, 3768.3 REPEAL: 3999.6
 07/13/10 ADOPT: 3505 AMEND: 3000, 3075.2, 3075.3, 3502, 3504
 07/02/10 ADOPT: 8000, 8001, 8002
 05/25/10 AMEND: 3170.1(g), 3173.2(d)
 05/25/10 AMEND: 3090, 3091, 3093, 3095
 04/26/10 ADOPT: 3720, 3721, 3721.1, 3722, 3723

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07/30/10 ADOPT: 3394.7 AMEND: 3394.1, 3394.4, 3394.5, 3394.6
 07/21/10 REPEAL: 1569
 07/21/10 ADOPT: 2262.1 AMEND: 2262, 2276
 07/09/10 AMEND: 3000, 3003, 3005, 3065 REPEAL: 3006
 07/09/10 AMEND: 411
 07/09/10 AMEND: 3340.42
 07/07/10 AMEND: 3028, 3061
 06/30/10 AMEND: 1355.4
 06/21/10 ADOPT: 1525, 1525.1, 1525.2
 06/18/10 ADOPT: 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, 48.6
 06/07/10 ADOPT: 1702
 06/03/10 AMEND: 4180
 05/27/10 AMEND: 314
 05/20/10 AMEND: 1996.3, 1997
 05/19/10 AMEND: 3340.1
 05/13/10 ADOPT: 1399.615, 1399.616, 1399.617, 1399.618, 1399.619 AMEND: 1399.571
 05/04/10 ADOPT: 4175
 04/27/10 AMEND: 1399.152, 1399.153.3, 1399.160.3, 1399.160.4
 04/12/10 ADOPT: 3340.36.1
 03/29/10 ADOPT: 1355.4
 03/16/10 ADOPT: 311.1
 03/09/10 AMEND: 1016, 1017 REPEAL: 1016.1, 1017.1
 03/08/10 AMEND: 4100

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06/29/10 AMEND: 100070, 100090

06/17/10	ADOPT: 95460, 95461, 95462, 95463, 95464, 95465, 95466, 95467, 95468, 95469, 95470, 95471, 95472, 95473, 95474, 95475, 95476, Appendix 1	Title 21	06/02/10	AMEND: 1411.1, 1411.7
06/17/10	ADOPT: 95200, 95201, 95202, 95203, 95204, 95205, 95206, 95207 AMEND: 95104	Title 22	08/02/10	ADOPT: 119900
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04/07/10	AMEND: 1031.2, 1031.3			
Title 18				
07/19/10	ADOPT: 1698.5			
06/17/10	AMEND: 25136			
05/18/10	ADOPT: 1004, 1032, 1124.1, 1249, 1336, 1422.1, 2251, 2303.1, 2433, 2571, 3022, 3302.1, 3502.1, 4106, 4903			
05/13/10	AMEND: 1584			
05/13/10	AMEND: 1602.5, 1700			
05/11/10	REPEAL: 1525.7			
04/14/10	AMEND: 192, 193, 371			
03/30/10	ADOPT: 3500 AMEND: 2300, 2401, 3502, 4041, 4500, 4508, 4701, 4702, 4703, 4901			
03/19/10	ADOPT: 25101.3 AMEND: 25137-7			
03/17/10	AMEND: 1699			
03/16/10	AMEND: 312(a)			
03/16/10	AMEND: 1597			
Title 19				
07/13/10	AMEND: 2729.7 and Appendix B of Article 4			
06/17/10	ADOPT: 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067			
Title 19, 26				
05/12/10	AMEND: Title 19: 2402, 2407, 2411, 2413, 2415, 2425, 2443, 2444, 2450, 2501, 2510, 2520, 2530, 2540, 2570.2, 2571, 2573.1, 2573.2, 2573.3, 2575.1, 2575.2, 2576, 2576.1, 2577.2, 2577.3, 2577.5, 2577.6, 2577.7, 2577.8, 2578.1, 2578.2, 2578.3, 2703, 2705, 2724, 2729.2, 2731, 2735.1, 2735.3, 2735.4, 2735.5, 2745.1, 2745.10, 2750.2, 2750.3, 2765.2, 2775.6, 2780.1, 2780.2, 2780.3, 2780.4, 2780.6, 2780.7, 2800, 2810, 2815, 2820, 2825, 2830, 2835, 2850, 2855, 2900, 2910, 2915, 2925, 2930, 2940, 2945, 2955, 2965, 2966, 2970, 2980, 2990, Title 26: 19-2510, 19-2520, 19-2530, 19-2540, 19-2703, 19-2705, 19-2724, 19-2731			
Title 20				
07/08/10	AMEND: 2401, 2402, Appendix, Subdivisions (a) and (b)			

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97321.81, 97321.83, 97321.85, 97383.7, 97383.9, 97383.11, 97383.13,
97321.87, 97321.89, 97321.91, 97383.15, 97383.17, 97383.19, 97384.1,
97321.93, 97321.95, 97321.97, 97384.3, 97384.5, 97384.7, 97385.1,
97321.98, 97321.99, 97321.101, 97385.3, 97385.5, 97390.1, 37390.3,
97321.103, 97321.105, 97231.107, 97391.1, 97392.1, 97392.3, 97392.5,
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97321.115, 97321.117, 97321.119, 97394.1, 97395.1, 97395.3, 97401.1,
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05/18/10	ADOPT: 100202.1, 100206.1, 100206.2, 100206.3, 100206.4, 100208.1, 100211.1, 100214.1, 100214.2, 100214.3 AMEND: 100201, 100202, 100203, 100204, 100205, 100206, 100207, 100208, 100209, 100210, 100211, 100212, 100213, 100214, 100215, 100216, 100217 REPEAL: 100218	Title 23 07/19/10 ADOPT: 6932 REPEAL: 6932 07/12/10 ADOPT: 3929.3 07/12/10 ADOPT: 3919.8 05/20/10 ADOPT: 2910 REPEAL: 2910 03/10/10 AMEND: 3005 03/04/10 ADOPT: 2631.2
05/12/10	ADOPT: 5300, 5400 AMEND: 5002, 5010, 5052, 5055, 5062, 5102, 5105	Title 25 07/19/10 ADOPT: 6932 REPEAL: 6932 06/11/10 AMEND: 8315 05/25/10 AMEND: 7966, 7970 03/26/10 AMEND: 10001
05/12/10	AMEND: 11-425, 22-001, 22-003, 22-009, 45-302, 45-303, 45-304, 45-305, 45-306	Title 27 07/13/10 AMEND: 25705(b) 04/09/10 ADOPT: 22100, 22101, 22103, Division 2 Form CalRecycle 114 AMEND: 20164, 21200, 21570, 21640, 21685, 21820, 21840, 21865, 21880, 22102, 22211, 22220, 22221, 22231, 22234, 22245, 22248, Division 2 Appendix 3, Division 2 form Calrecycle 100, Division 2 form Calrecycle 106 03/10/10 AMEND: 25903
05/06/10	AMEND: 66273.36	
04/08/10	AMEND: 50778	
04/05/10	AMEND: 4446.5	
03/03/10	AMEND: 70055, 70577, 70703, 70706, 70707, 70717, 70749, 70751, 70753, 71053, 71203, 71205, 71503, 71507, 71517, 71545, 71551, 71553, 72091, 72109, 72303, 72311, 72315, 72319, 72337, 72413, 72423, 72433, 72453, 72461, 72471, 72515, 72523, 72525, 72528, 72543, 72547, 73077, 73089, 73301, 73303, 73311, 73313, 73315, 73325, 73329, 73399, 73409, 73449, 73469, 73479, 73489, 73517, 73519, 73523, 73524, 73543, 73547, 79315, 79351, 79637, 79689	Title MPP 06/10/10 AMEND: 42-302, 42-712, 42-713 06/02/10 AMEND: 19-005 05/17/10 ADOPT: 31-021 AMEND: 31-003, 31-410, 31-501 05/17/10 AMEND: 44-211 05/10/10 AMEND: 11-425, 22-001, 22-003, 22-009, 45-302, 45-303, 45-304, 45-305, 45-306
Title 22, MPP		
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03/04/10	ADOPT: 89475.1, 89475.2 AMEND: 89200, 89201, 89202, 89205, 89206,	

