



California Regulatory Notice Register

REGISTER 2008, NO. 43-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

OCTOBER 24, 2008

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z2008-1014-05 1859

AMENDMENT

MULTI-COUNTY: Central Basin Municipal Water District
Contra Costa Water District
Northern California Power Agency

TITLE 2. STATE PERSONNEL BOARD

Hearings and Appeals — Notice File No. Z2008-1007-06 1860

TITLE 4. HORSE RACING BOARD

Provisional Exercise Rider — Notice File No. Z2008-1014-06 1862

TITLE 9. DEPARTMENT OF MENTAL HEALTH

MHSA Workforce Education and Training — Notice File No. Z2008-1014-02 1866

TITLE 11. BUREAU OF GAMBLING CONTROL

Gaming Activity Review (Tournaments) — Notice File No. Z2008-1008-02 1868

TITLE 13. AIR RESOURCES BOARD

Aftermarket Parts Highway Motorcycles 2008 — Notice File No. Z2008-1014-10 1871

TITLES 13 and 17. AIR RESOURCES BOARD

Truck/Bus Rule 2008 — Notice File No. Z2008-1014-07 1875

TITLE 14. FISH AND GAME COMMISSION

Upland Game Bird/Wild Turkey — Notice File No. Z2008-1014-01 1888

TITLE 17. AIR RESOURCES BOARD

Gasoline Dispensing Facility Hoses 2008 — Notice File No. Z2008-1014-08 1890

(Continued on next page)

***Time-
Dated
Material***

TITLE 17. AIR RESOURCES BOARD	
<i>Greenhouse Gas Emissions from Heavy-Duty Vehicles — Notice File No. 2008-1014-09</i>	1893
TITLE 19. STATE FIRE MARSHAL	
<i>Automatic Fire Extinguishing Systems (Type L) — Notice File No. Z2008-1014-03</i>	1898
GENERAL PUBLIC INTEREST	
DEPARTMENT OF HEALTH CARE SERVICES	
<i>Medi-Care Benefits, Waiver Analysis, and Rates Division</i>	1900
DEPARTMENT OF REAL ESTATE	
<i>Notice of Public Hearing Concerning Fees</i>	1900
OAL REGULATORY DETERMINATION	
DEPARTMENT OF CORRECTIONS AND REHABILITATION	
<i>Kern Valley State Prison Memo Affecting Inmate Pay as an Underground Regulation</i>	1902
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with the Secretary of State	1903
Sections Filed, May 14, 2008 to October 15, 2008	1905

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 \$302.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. "Periodicals Postage Paid in Saint Paul, MN." **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: CENTRAL BASIN
MUNICIPAL WATER DISTRICT
CONTRA COSTA WATER DISTRICT
NORTHERN CALIFORNIA POWER AGENCY

A written comment period has been established commencing on **October 24, 2008**, and closing on **December 8, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention Sarah Olson, 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 **December 8, 2008**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Sarah Olson, Fair

Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES**

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

TITLE 2. STATE PERSONNEL BOARD

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

**California Code of Regulations
Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1. General Civil Service Regulations
Article 4. Hearings and Appeals**

DATE: October 7, 2008
TO: ALL INTERESTED PARTIES
SUBJECT: PROPOSED AMENDMENTS TO
REGULATION CONCERNING AS-
SIGNMENT OF APPEAL TO AP-
PROPRIATE REVIEW PROCESS

AUTHORITY

Under authority established in Government Code (GC) sections 18701 and 18675, the State Personnel Board (SPB or Board) proposes to amend Title 2 of the California Code of Regulations (2 CCR), section 51.3, which sets forth the review process assigned to appeals and complaints filed with the SPB. Pursuant to GC sections 18211 and 18214, these regulations are subject to review by the Office of Administrative Law in accordance with those review provisions set forth in GC 18214.

REFERENCE

These regulations are amended to implement, interpret, and/or make specific GC section 18675.

PUBLIC HEARING

Date and Time: January 14, 2009, from
9:45 a.m.–10:15 a.m.
Place: State Personnel Board
First Floor Auditorium
801 Capitol Mall
Sacramento, CA 95814
Purpose: To receive written and/or oral com-
ments about this action.

WRITTEN PUBLIC COMMENT PERIOD

The written public comment period will close Monday, December 1, 2008, at 5:00 p.m. Any person may submit written comments about the proposed amendments. To be considered by the Board, the appropriate person identified below must receive written comments before the close of the written public comment period.

Written comments may be submitted to:

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

or to: degel@spb.ca.gov or faxed to her attention at:
(916) 653-4256.

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

Copies of the express terms of the proposed action, the Statement of Reasons, and all of the information upon which this proposal is based are available for review upon request to Dorothy Bacskai Egel. The rule-making file is available for review during normal business hours at SPB, 801 Capitol Mall, Sacramento, CA 95814. Additional information or questions regarding the substance of the proposed action should be directed to Dorothy Bacskai Egel, as specified above. Questions regarding the regulatory process in conjunction with this regulation should be directed to Dorothy Bacskai Egel at SPB, 801 Capitol Mall, MS 53, Sacramento, CA 95814, or by telephone at (916) 653-1403 or TDD (916) 653-1498. In the alternative, inquiries may be directed to Elise S. Rose at SPB, 801 Capitol Mall, MS 53, Sacramento, CA 95814, or by telephone at (916) 653-1403 or TDD (916) 653-1498.

**AVAILABILITY OF CHANGES
TO PROPOSED TEXT**

If any substantial and sufficiently related changes are made to the text as a result of comments received during

the public comment period, SPB will make the full text of the changed regulations available for at least 15 days before the date the regulations are permanently amended.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

GC section 18670 vests with the SPB jurisdiction and responsibility of holding hearings and conducting investigations concerning all matters related to the enforcement of the State Civil Service Act (GC § 18500 *et seq.*).

GC section 18675 authorizes the SPB to establish rules of practice and procedure to conduct hearings and investigations concerning all matters related to the enforcement of the State Civil Service Act.

2 CCR section 51.3 currently sets forth the appropriate review process for each type of appeal, as follows: (1) The general merit system appeals process shall be used for those types of appeals described in 2 CCR section 53; (2) The hearing office process shall be used for appeals described in 2 CCR section 52, or when any portion of an appeal is described in 2 CCR section 52; (3) The discrimination complaint process described in 2 CCR section 54 shall be used for appeals of appointing power actions other than those covered by parts (1) and (2); and (4) The board reserved the right to recall any appeal for hearing or investigation by it.

The purpose of the proposed amendment is to assign those types of appeals or complaints described in 2 CCR section 53 to the hearing office process, as opposed to the general merit system appeals process, and to assign those types of appeals and complaints described in 2 CCR sections 51.9 and 211 to the general merit system appeals process.

IMPACT ON SMALL BUSINESSES

It is anticipated that the proposed amendments will have no impact on small businesses, as the regulations apply strictly to the employment of civil service employees.

LOCAL MANDATE

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

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies:

The proposed regulations may involve additional costs to state agencies, as the SPB will bill those agencies on a pro rata basis for investigations or hearings conducted for those types of appeals or complaints described in 2 CCR section 53.

Impact on Housing Costs:

No impact.

Costs or Savings in Federal Funding to the State:

No impact.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed in accordance with Government Code Sections 17500 through 17630:

No impact.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies:

No impact.

Cost Impact on Private Persons or Businesses:

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

ASSESSMENT OF POTENTIAL ADVERSE
ECONOMIC IMPACT ON BUSINESS

The proposed action will 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.

ASSESSMENT REGARDING THE EFFECT
ON JOBS/BUSINESSES

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

ALTERNATIVES STATEMENT

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

FINAL STATEMENT OF REASONS

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law pursuant to GC section 18214, and shall include a Final Statement of Reasons for the amendments. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

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

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

STATEMENT OF REASONS

The amended regulation provides greater flexibility in the designation of cases to improve timeliness and quality of decisions rendered in appeals and complaints filed at the State Personnel Board. The amended regulation will also enable the State Personnel Board to more readily recoup its costs incurred for those hearings and investigations it conducts concerning those types of appeals and complaints set forth in 2 CCR § 53.

**TITLE 4. CALIFORNIA HORSE
RACING BOARD**

**DIVISION 4, CALIFORNIA CODE OF
REGULATIONS
NOTICE OF PROPOSAL TO AMEND
RULE 1481. OCCUPATIONAL LICENSES
AND FEES
RULE 1486. TERM OF LICENSE
AND
ADD RULE 1504.5. PROVISIONAL
EXERCISE RIDER**

The California Horse Racing Board (Board) proposes to amend and add the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1481, Occupational Licenses and Fees, to add the license class of "provisional exercise rider." The Board proposes to amend Rule 1486, Term of License, to set the term of license of a provisional exercise rider at one year. The

Board proposes to add Rule 1504.5, Provisional Exercise Rider, to provide the terms and conditions for license as a provisional exercise rider.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, December 11, 2008**, or as soon after that as business before the Board will permit, at the **Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California**. At the hearing, any person may present statements or arguments orally or in writing about 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.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on December 8, 2008**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-Mail: haroldc@chrb.ca.gov

AUTHORITY AND REFERENCE

Rule 1481: Authority cited: Sections 19440, 19510, 19520 and 19704, Business and Professions Code. Reference: Sections 19510, 19520 and 19704, Business and Professions Code.

Business and Professions Code sections 19440, 19510, 19520 and 19704 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19510, 19520 and 19704, Business and Professions Code.

Rule 1486: Authority cited: Sections 19440 and 19704, Business and Professions Code. Reference: Sections 19510, 19520, 19521 and 19704, Business and Professions Code.

Business and Professions Code sections 19440 and 19704 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19510, 19520, 19521 and 19704, Business and Professions Code.

Rule 1504.5: Authority cited: Sections 19420, 19440 and 19520, Business and Professions Code. Reference: Sections 19440, 19460 and 19520, Business and Professions Code.

Business and Professions Code sections 19420, 19440 and 19520 authorize the Board to adopt the proposed regulations, which would implement, interpret or make specific sections 19420, 19440 and 19520, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides that jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held and or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with pari-mutuel wagering. Business and Professions Code section 19460 provides that all licenses granted under this Chapter shall contain such conditions as are deemed necessary or desirable by the Board for the purposes of this chapter. Business and Professions Code section 19510 states no person required to be licensed pursuant to this article may participate in any capacity in any horse race meeting without a valid and unrevoked license. Business and Professions Code section 19520 provides that every person required to be licensed under Article 4 (commencing with section 19480) who participates in, or has anything to do with, the racing of horses, shall be licensed by the Board pursuant to rules and regulations that the Board may adopt, and upon the payment of a license fee fixed and determined by the Board. Business and Professions Code section 19521 states an original license issued pursuant to this article shall be issued for a period of the calendar year in which it is issued, and shall be renewable for a period, not to exceed three years, which the Board may, by regulation, establish. The Board may establish a license fee schedule consistent with the different period for which the license may be granted. The license shall be valid at all horse racing meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of the period. Business and Professions Code section 19704 provides that the Board shall issue a license for owners, trainers, jockeys, and other partici-

pants in mule racing. The license shall be limited to mule races only.

The Board proposes to amend Rule 1481 to add the license classification of provisional exercise rider to subsection 1481(c). A provisional exercise rider is an individual who has not been/is not currently licensed as an exercise rider, jockey or apprentice jockey in California or another racing jurisdiction. The provisional exercise rider license allows an inexperienced rider to be on a racetrack under specific circumstances, and is a precursor to the exercise rider license. It is necessary to amend Rule 1481 so individuals who wish to obtain a provisional exercise rider license will know how much a new or a renewal license will cost. The fee for an original provisional exercise rider license is \$35 and an annual renewal of the license would cost \$20. These fees are consistent with existing backstretch occupational licenses that are listed under subsection 1481(c) and that have a term of one year.

The proposal to amend Rule 1486 would add provisional exercise rider as a class of license whose term is one year. As with the other classes of occupational licenses under Rule 1486, the initial provisional exercise rider license would expire on the last day of the year in which it is issued; this conforms to Business and Professions Code section 19521. The license expiration date is automatically extended to the last day of the birth month of the licensee in the following year. This allows each subsequent one-year license renewal of such licenses to expire on the last day of the birth month of the licensee. All CHRB one-year licenses follow this pattern, as it spreads the expiration dates throughout a calendar year, which avoids an end-of-the-year backlog of license renewals.

The Board proposes to add Rule 1504.5, Provisional Exercise Rider. The industry proposed the creation of a provisional exercise rider license to provide a training period to allow aspiring exercise riders to gain racetrack experience. The industry contends California is losing experienced and professional exercise riders. This is occurring because there is no venue where an inexperienced rider can learn to ride a thoroughbred racehorse in a setting that duplicates the conditions at California racetracks. If an inexperienced applicant is able to get a license as exercise rider, he is often thrown into the system without supervision and can become a danger on the racetrack. Rule 1504.5 provides that no person may be licensed as an exercise rider who is not currently licensed in good standing as a provisional exercise rider, or unless such person was or is currently licensed in as an exercise rider, jockey or apprentice jockey in good standing in California or another racing jurisdiction. This ensures that only experienced riders receive such licenses and does not penalize experienced out-of-state applicants, or persons who may wish to renew a lapsed

California license. All other persons must obtain a provisional exercise rider license.

Subsection 1504.5(a) states that an applicant for license as provisional exercise rider must submit a notarized Provisional Exercise Rider Agreement, CHRB–213 (New 10/08), as proof that he or she is employed by a CHRB licensed trainer. The CHRB–213 states the conditions of employment of the provisional exercise rider, and must be signed by the trainer and license applicant and acknowledged by a notary. The notary acknowledgement is not necessary if the document is signed before an employee of the CHRB. The notary acknowledgement or the CHRB employee witness ensures the document is valid, and is consistent with current practice.

Working for a single trainer provides the structure around which the provisional exercise rider will gain experience on the track. Such employment will ensure the provisional exercise rider is covered by worker's compensation insurance, as trainers are required to maintain worker's compensation insurance under Board Rule 1501, Worker's Compensation Insurance Required. Employment by a trainer is also meant to prevent provisional exercise riders from seeking to exercise horses on a freelance basis, as provisional exercise riders may ride only horses trained by their employer. A benefit of this provision is that the trainer/employer will have a better understanding of the temperament of the horse his employee can handle on the track. A trainer who hires an unfamiliar exercise rider on a freelance basis may not provide a horse the rider can handle. This is especially true if the rider is inexperienced.

Subsection 1504.5(b)(1) states the provisional exercise rider may not enter the track without the permission of the outrider, and must be accompanied on the track by his mounted trainer/employer, or an assistant trainer, unless the outrider states otherwise. The outrider is an official who is present when horses are exercised on the track. The outrider monitors the activity on the track to ensure the safety of the horse and rider. Subsection 1504.5(b)(1) allows the outrider to determine if track conditions are such that it is safe for an inexperienced provisional exercise rider to be on the track. Requiring the trainer or assistant trainer to accompany the provisional exercise rider on the track allows the trainer to monitor the provisional exercise rider's performance and to give guidance where needed. The outrider may allow a provisional exercise rider on the track without the trainer or assistant trainer if he feels the provisional exercise rider has the necessary skills.

Subsection 1504.5(b)(2) states that while on the track the provisional exercise rider shall wear a helmet cover and vest cover of a distinctive color as determined by the outrider. Helmet and vest covers are readily available from tack and saddle shops at moderate prices. The

outrider may choose the color of the helmet and vest covers. This allows the outrider to determine which colors would be the most visible in accordance with the particular track conditions. The distinctive color would give the outrider and others on the track a clear view of the provisional exercise rider if he or she is in trouble or the weather is bad. The distinctive colors would also tell others using the track that an inexperienced rider is amongst them.

Subsection 1504.5(c) states a provisional exercise rider may apply for license as exercise rider 60 days after the date of issue of his or her provisional exercise rider license. Although the term of a provisional exercise rider is one year, there may be individuals who demonstrate before the end of the term of the license that they have the ability to work as an exercise rider. Subsection 1504.5(c) provides a reasonable period of time for the trainer/employer and the outrider and starter to observe the provisional exercise rider's skills and to make a determination regarding his or her ability to work an exercise rider. Subsection 1504.5(c)(1) states that at the time of application for license as exercise rider, the provisional exercise rider shall submit a recommendation card form California Horse Racing Board CHRB–59, which is incorporated by reference in the regulation. The outrider, the starter and the stewards must sign the CHRB–59. The recommendation card serves as proof that the outrider has determined the provisional exercise rider has the horsemanship skills and knowledge of track rules to work as an exercise rider, and that the outrider's determination is endorsed by the stewards.

Subsection 1504.5(c)(1)(A) requires that the provisional exercise rider who applies for a license as an exercise rider must be observed riding one or more horses on the track to the extent that the outrider and starter may determine the applicant can safely navigate and respond to racetrack conditions, and demonstrate a knowledge of starting gate procedures. The outrider is a mounted track employee who monitors and supervises the morning workouts. The outrider also keeps horses in order during the post parade, catches runaways and assists unseated jockeys. Among the starter's duties is schooling horses to the starting gate. While there is no objective criterion by which the outrider and starter may rate a provisional exercise rider's performance, the individuals who are employed by racing associations as outriders and starters have enough experience to know when an applicant may need additional training. The Board currently requires the outrider's signature on the CHRB–59 before an applicant may receive a license as an exercise rider. The signature of the starter was added at the request of the industry, as it wanted to ensure an applicant was familiar with the starting gate.

Subsection 1504.5(c)(1)(B) provides that an applicant must pass a written examination prescribed by the Board and administered by its agents. The written examination will test an applicant's knowledge of the track itself, and basic racetrack procedures. In addition, it will provide an objective look at the applicant's knowledge, which will balance the subjective requirements of subsection 1504.5(c)(1)(A). A score of 80 percent shall constitute a passing grade on the written examination. This is in keeping with the Board testing procedures, such as the written test under Rule 1503, Qualifications for License as Trainer or Assistant Trainer, and Rule 1504, Qualifications for License as Farrier.

Subsection 1504.5(c)(1)(B)(ii) provides that an applicant who fails the horsemanship or the written examination, may reapply for a license as an exercise rider after a period of one month, but not more than six months, and retake the failed portion. After a six-month period the applicant must demonstrate horsemanship and pass the written portion. The one to six-month period lets the applicant know how soon they may reapply and complete only the failed portion. The Board wishes an applicant to reapply within a reasonable period of time. Within six months of the original application it will be likely that persons familiar with the applicant's abilities will be present. There have been instances when an applicant (for another class of license) has returned more than one year after failing a test, and the racetrack official responsible for signing the CHR-59 has refused because they were not present when the applicant first applied. Setting reasonable parameters for retesting prevents such conflicts.

Subsection 1504.5(d) states persons working at harness meetings may not sign the CHR-59 for flat racing. The skills required for harness racing are not the same as those for flat racing. This will prevent applicants who will work with thoroughbred horses from attempting to get an exercise rider license with the signatures of officials who might not be as familiar with flat racing.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed amendment of Rule 1481 and 1486, and addition of Rule 1504.5 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1481 and Rule 1486, and addition of Rule 1504.5 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1481 and Rule 1486, and addition of Rule 1504.5 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be as effective and less burdensome on 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 at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: haroldc@chr.ca.gov

If the person named above is not available, interested parties may contact:

Andrea Ogden, Regulation Analyst
Telephone: (916) 263-6033
E-mail: andreao@chr.ca.gov

**TITLE 9. DEPARTMENT OF MENTAL
HEALTH**

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed texts of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the modified texts, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

NOTICE OF PROPOSED RULEMAKING

**SUBJECT: MHSA WORKFORCE
EDUCATION AND TRAINING**

The California Department of Mental Health (DMH) proposes to adopt the regulatory action described below after considering all comments, objections, or recommendations regarding the proposed regulatory action.

PUBLIC HEARING

DMH will hold a public hearing starting at 10:00 a.m. on **December 10, 2008, at the Department of Water Resources Auditorium, 1416 Ninth Street**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Information Digest. DMH requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

Reasonable accommodation or sign language interpreting services at the public hearing will be provided upon request. Such request should be made no later than 21 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action described in this notice. The written comment period will close at **5:00 p.m. on December 10, 2008**. DMH will only consider comments received at the Department by that time. Submit comments to the Office of Regulations, California Department of Mental Health, 1600 Ninth Street, Room 435, Sacramento, CA 95814.

Comments may also be submitted by facsimile at 916-651-9919 or electronic mail DMH.Regulations@dmh.ca.gov and must be received before 5:00 p.m. on the last day of the public comment period. All comments, including electronic mail or facsimile transmissions, should include the author's name and U.S. Postal Service mailing address in order for DMH to provide copies of any notices for proposed changes in the regulation text on which additional comments may be solicited.

AUTHORITY

Welfare and Institutions Code section 5898

REFERENCE

Sections 5610, 5612, 5664, 5801, 5813.5, 5820, 5821, 5822, 5847, 5848, 5860, 5892, 5897 of the Welfare and Institutions Code; Section 3, MHSA; Title IV–E, Social Security Act.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The California voters approved Proposition 63 during the November 2004 General Election. Proposition 63 became effective on January 1, 2005 as the Mental Health Services Act (MHSA). The MHSA expands mental health services to children/youth, adults and older adults who have serious mental illness or serious emotional disturbance and whose service needs are not being met through other funding sources. The MHSA seeks to establish prevention and early intervention programs as well as to develop innovative programs. Through imposition of a 1% tax on personal income in excess of \$1 million, the MHSA provides the opportunity for the Department of Mental Health (DMH) to offer increased funding, personnel and resources to support county mental health programs and monitor progress toward statewide goals for children/youth, adults, older adults and families.

The MHSA directs the county mental health programs to develop and submit a three-year plan to DMH, which DMH has called the Three-Year Program and Expenditure Plan (Plan). The Plan is comprised of five components of activities and/or services for which the funding established under the MHSA can be spent. The components are Community Services and Supports for children, transition-age youth, adults and older adults; Capital Facilities and Technological Needs; Workforce Education and Training; Prevention and Early Intervention; and Innovative Programs.

Given the scale of each component, DMH is implementing each component on a sequential and/or phased-in approach. Accordingly, regulations related to each component are being drafted through a concurrent process as the MHSA components are developed. This Informative Digest accompanies the draft regulations for California Code of Regulations Title 9, Division 1, Chapter 14, Article 8, Workforce Education and Training, which expands on the MHSA regulations currently in effect.

The Workforce Education and Training component of the MHSA addresses the shortage of mental health service providers in California. California was already facing a significant shortage of public mental health workers prior to the passage of the Mental Health Services Act. High vacancy rates exist in certain occupational classifications. The Public Mental Health System suffers from a lack of diversity in the workforce, poor distribution of existing mental health workers, and under-representation of individuals with consumer and family member experience in the provision of services and supports. There are critical shortages of mental health practitioners with skills to work effectively with such groups as children, older adults and diverse ethnic/cultural populations heretofore unserved or under-served. Particularly severe shortages exist in rural areas.

Adoption of these regulations for the Workforce Education and Training component of the MHSA will allow California counties to begin to build on and establish the workforce needed to carry out the provisions of the MHSA and provide much needed services to California’s mentally ill population. As DMH implements each component of the Act, additional regulations will be filed with the OAL.

MATERIALS RELIED UPON IN
PROMULGATING THIS RULEMAKING

There are no materials that the Department relied upon in promulgating these regulations.

FISCAL IMPACT ESTIMATES

A. Fiscal Effect on Local Government: Proposition 63, which expands mental health services, was passed by the voters in November 2004. Counties may choose to participate in the program; it is not a mandated program. If a county chooses to participate in the program, the State will provide funding to the county based on its approved Three-Year Program and Expenditure Plan.

There are no other non-discretionary costs or savings imposed upon local agencies.

There are no costs to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code.

B. Fiscal Effect on State Government: The funding and expenditures are authorized in the MHSA.

C. Fiscal Effect on Federal Funding of State Programs: None.

- D. Fiscal Effect on Private Persons or Businesses Directly Affected:** 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. Effect on Housing Costs:** None.

DETERMINATIONS

DMH has determined that the proposed regulatory action imposes mandates on county government only if the county chooses to apply for MHSA funds.

DMH has determined that the regulations would not have a significant, statewide economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

DMH 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.
4. DMH has determined that these regulations may impact small businesses.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

DMH will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons. These documents are available on the DMH web site. Copies of these documents are also available upon request to the Office of Regulations at the address noted above. In addition, a copy of the final statement of reasons, upon completion, will be available on the DMH web site or upon request to the Office of Regulations.

AVAILABILITY OF CHANGED OR MODIFIED REGULATION TEXT

After holding the hearing and considering all timely and relevant comments received, DMH may adopt the regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with

changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which DMH adopts the regulations as revised. Any modifications will also be posted on the DMH web site. Copies of any modified regulations are also available upon request to the Office of Regulations.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.2(b)(3)(A), DMH must determine that no reasonable alternative considered by the DMH, or that has been otherwise identified and brought to the attention of DMH, would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations during the written comment period.

WEB SITE

This public notice, the proposed regulation text, the initial statement of reasons, and other related documents, are available from the DMH on its web site at http://www.dmh.ca.gov/Laws_and_Regulations/Regulations.asp.

CONTACT

Inquiries concerning the rulemaking process described in this notice may be directed to Susan Ichiho, Office of Regulations, by electronic mail DMH.Regulations@dmh.ca.gov or telephone 916-651-1446. The backup contact is the Office of Legal Services at 916-653-2319. Inquiries concerning the substance of the rulemaking may be directed to Irene Borgfeldt at 916-654-2617.

Hearing impaired persons wishing to utilize the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 800-735-2929, if you have a TDD; or 800-735-2922, if you do not have a TDD.

TITLE 11. BUREAU OF GAMBLING CONTROL

NOTICE OF PROPOSED RULEMAKING

“Gaming Activity Review (Tournament Series) Procedures and Requirements, and Required Forms”

The California Bureau of Gambling Control (Bureau) proposes to adopt the regulations described below

after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Bureau proposes to add to sections 2010 of Title 11, Article 2, 2038 of Title 11, Article 4 and adopt 2073 of Title 11, Article 7 of the California Code of Regulations, concerning gaming activity review (tournament series) procedures and requirements, and required forms.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Bureau at any time during the 45-day public comment period. To be considered for summary and response, all written comments must be received no later than 5:00 p.m., December 12, 2008. The Bureau has not scheduled a public hearing, however, if the Bureau receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comments period, the Bureau will honor the request and schedule a hearing.

Written comments for the Bureau's consideration should be directed to:

Michelle Abe, Bureau Regulations Coordinator
 Bureau of Gambling Control
 1425 River Park Drive, Ste. 400
 Sacramento, CA 95815
 Telephone: (916) 263-5775
 E-mail: michelle.abe@doj.ca.gov
 FAX: (916) 263-0928

AUTHORITY AND REFERENCE

Authority for the proposed regulations is provided by various provisions of the Gambling Control Act, which may be found in Business and Professions Code sections 19800 et seq. In particular, Business and Professions Code section 19826.

The proposed regulations implement, interpret, or make specific the following reference citations: Business and Professions Code sections 19801, 19826, 19866 and 19920.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Chapter 5 of Division 8 of the Business and Professions Code. Section 19800 et seq. Existing regulations require a gambling establishment to submit an application to the Bureau, for review and approval, to authorize gaming activity for use in a gambling establishment. Once approved, gaming activities cannot be modified without Bureau approval.

The proposed regulation changes will establish a new initial application process for the review and approval of one type of gaming activity, specifically a tournament series, whereby the Bureau can generally approve a tournament structure with an allowable range of variations during the initial gaming activity review process.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Bureau has made the following initial determinations:

Required Determinations

LOCAL MANDATE

These regulations do not impose a mandate on local agencies or school districts.

IMPACT ON PRIVATE PERSONS/BUSINESSES

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

IMPACT ON BUSINESS

The Bureau has made a determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

IMPACT ON SMALL BUSINESS

The Bureau has made a determination that the proposed regulatory changes may affect small business.

SIGNIFICANT EFFECT ON HOUSING COSTS

The Bureau has made an initial determination that the proposed regulatory action would not affect housing costs.

COST OR SAVINGS TO ANY STATE AGENCY

None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT THAT MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 17561

None.

OTHER NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES

None.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

None.

CONSIDERATION OF ALTERNATIVES

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

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

ASSESSMENT REGARDING CREATION OR ELIMINATION OF JOBS IN CALIFORNIA

The Bureau has made an assessment and determined that the adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONTACT PERSON

Inquiries concerning this rulemaking should be directed to:

Michelle Abe, Bureau Regulations Coordinator
Bureau of Gambling Control
1425 River Park Drive, Ste. 400
Sacramento, CA 95815
Telephone: (916) 263-5775
E-mail: michelle.abe@doj.ca.gov
FAX: (916) 263-0928

Requests for a copy of the proposed text of the regulation or Initial Statement of Reasons, should be directed to:

Penny Brown, Associate Governmental Program Analyst
Bureau of Gambling Control
1425 River Park Drive, Ste. 400
Sacramento, CA 95815
Telephone: (916) 263-5820
E-mail: penny.brown@doj.ca.gov
FAX: (916) 732-7959

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Bureau Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the office at the above address. As of the date of this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting the Bureau Regulations Coordinator at the address or telephone number listed above or by accessing the Bureau's website at <http://caag.state.ca.us/gambling/index.htm>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Bureau Regulations Coordinator or viewed on the website.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following receipt of public comment, the Bureau may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Bureau adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of the Bureau Regulations Coordinator at the address indicated above. The Bureau will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**TITLE 13. CALIFORNIA AIR
RESOURCES BOARD**

**NOTICE OF PUBLIC HEARING TO
CONSIDER PROPOSED CALIFORNIA
EVALUATION PROCEDURES FOR
AFTERMARKET CRITICAL EMISSION
CONTROL PARTS ON HIGHWAY
MOTORCYCLES**

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider the adoption of new California evaluation procedures for aftermarket critical emission control parts on highway motorcycles.

DATE: December 11, 2008

TIME: 9:00 a.m.

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

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 11, 2008, and may continue at 8:30 a.m., December 12, 2008. This item may not be considered until December 12, 2008. Please consult the agenda for the meeting, which will be available at least ten days before December 11, 2008, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodations/Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>.

If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at 916-323-7053.

**INFORMATIVE DIGEST OF PROPOSED ACTION
AND POLICY STATEMENT OVERVIEW**

Sections Affected:

Proposed adoption to California Code of Regulations, title 13, new subsection 2222(j), Add-On Parts and Modified Parts, and proposed adoption of the incorporated document, "California Evaluation Procedures

for Aftermarket Critical Emission Control Parts on Highway Motorcycles."

Background:

ARB has been regulating emissions from highway motorcycles since 1978. Beginning with the 2004 model year, ARB's highway motorcycle emission standards became more stringent (an exhaust emission standard of 1.4 grams/kilometer for hydrocarbons plus oxides of nitrogen, the first major reduction since the 1988 model year.) The standard applicable to 2008 and subsequent model year motorcycles was further increased in stringency compared to the 2004 standard (0.8 grams/kilometer for hydrocarbons plus oxides of nitrogen). Motorcycle manufacturers have been able to comply with these increasingly more stringent standards by using cost-effective technologies in engine design, fuel injection, closed-loop control systems, and catalytic converters. Generally, this has meant the increased integration of critical emission control parts, such as oxygen sensors and catalytic converters for exhaust emissions compliance, and hydrocarbon adsorbers for evaporative emissions compliance, into motorcycle exhaust systems. Certification sales data indicates that the use of catalytic converters alone in highway motorcycles increased by almost five times percentage-wise between the 1996 and 2008 model years (from 18 to 87 percent.)

Health and Safety Code section 43100 et seq. requires that new motor vehicles comply with emission standards. Manufacturers, through new vehicle certification, must demonstrate that their vehicles will comply with applicable emission standards throughout the vehicle's useful life. Modifying a certified vehicle may be considered tampering and could result in excess emissions.

California Vehicle Code sections 27156 and 38391 prohibit the sale, offer for sale, advertisement, or installation of any device that alters the design or performance of any required motor vehicle pollution control device or system. ARB has the statutory authority to exempt add-on and modified parts from this prohibition if it finds that such modifications will not reduce the effectiveness of any required pollution control device or will not cause vehicle emissions to exceed applicable standards. Pursuant to this authority, ARB has adopted regulations applicable to aftermarket parts, and has recently adopted provisions specifically applicable to aftermarket catalytic converters. However, ARB's aftermarket converter regulations were developed to address issues raised in the context of passenger cars and light-duty and medium-duty vehicles; catalytic converters to control motorcycle emissions have not been previously addressed. Consequently, ARB's existing aftermarket converter provisions are not directly applicable to non-original equipment manufacturer after-

market catalytic converters for highway motorcycles. These parts are considered aftermarket critical emission control parts (defined as parts that are primarily designed to reduce emissions and are necessary for vehicles to comply with emission standards). Other examples of aftermarket critical emission control parts for highway motorcycles include oxygen sensors and hydrocarbon adsorbers.

In the past, submitted applications for exemption of motorcycle aftermarket parts in general have been low. Part of the reason for this has been the lack of consistent enforcement at the dealer/retailer level to ensure that legal aftermarket parts were being sold. ARB has increased these efforts in recent years, and is actively assessing monetary penalties on manufacturers and dealers for noncompliance. Still, ARB inspections do not confirm that motorcycle owners are indeed installing legal aftermarket parts. Ultimately, it is anticipated that an Inspection and Maintenance program (i.e., Smog Check) will provide necessary oversight of ARB's aftermarket parts program.

Unlike cars whose exhaust systems are rarely modified until a repair is needed, a recent survey by ARB staff showed that 85 percent of motorcycle owners modify their motorcycles while relatively new. A frequent modification is to replace the original exhaust system, which may likely include a catalytic converter, with an aftermarket exhaust system that does not. This type of modification increases emissions and is illegal under state law. Unfortunately, it is a widespread practice.

As ARB staff investigated this practice, manufacturers of motorcycle aftermarket exhaust systems suggested that ARB develop an aftermarket exhaust system approval process that would result in the legal sale of aftermarket exhaust systems that did not degrade emissions given the high rate of modifications occurring. Staff agreed and developed the proposed regulation.

The proposed regulatory procedures were developed after considering the issues unique to highway motorcycles, and the procedures therefore allow exempted parts to replace fully functional original equipment manufacturer (OEM) emission control systems within the original emission warranty period. The procedures also incorporate safeguards to ensure that any exempted parts do not reduce the effectiveness of any required pollution control device or cause motorcycles to exceed applicable emission standards, as required by Vehicle Code sections 27156 and 38391. Such safeguards essentially mirror the requirements applicable to OEM motorcycle manufacturers.

The absence of exemption procedures for aftermarket critical emission control parts for highway motorcycles may cause motorcycle owners to use aftermarket parts that have not received ARB's approval and are

therefore likely to cause increased emissions. ARB's current emissions inventory includes the emissions contribution of catalyst, non-catalyst, fuel injected, carbureted, tampered and non-tampered motorcycles. As part of the 1998 motorcycle rulemaking, staff estimated the impact of tampering on motorcycles. Although the impact of tampering on the benefits of the rulemaking was estimated to be small overall, the impact on an individual motorcycle may be significant. As an example, a 2008 motorcycle with fuel injection and a catalytic converter that has been tampered will emit approximately ten times the hydrocarbon emissions of a non-tampered motorcycle.¹ Establishing a process for evaluating and approving aftermarket critical emission control parts will help reduce the effects of tampering by allowing emission compliant aftermarket parts to be sold and installed on highway motorcycles in California.

PROPOSED REGULATORY ACTION

Staff is proposing new evaluation procedures that would establish criteria for aftermarket critical emission control parts on highway motorcycles in California. Because these parts will likely be installed on relatively new highway motorcycles that are still within the coverage of the original manufacturer's warranty, the proposed procedures incorporate many certification provisions applicable to new highway motorcycles to help ensure that exempted parts will be as reliable and durable as the original emission controls in certified highway motorcycles.

The proposed procedures would require manufacturers to demonstrate that their aftermarket critical emission control parts, when installed and aged on a designated test vehicle, would not cause the vehicle to exceed applicable exhaust or evaporative emission standards over the useful life of the motorcycle.

The procedures would also require manufacturers to warrant their aftermarket critical emission control parts are free from defects for up to the full useful life of the highway motorcycle if the part is installed within four years of the date that the motorcycle is first acquired by an ultimate purchaser. Shorter warranty periods apply if parts are installed on older motorcycles. Manufacturers or installers would also be required to provide an installation warranty for two years or 7,456 miles, whichever occurs first.

The proposed procedures also establish warranty reporting requirements, labeling requirements, and audit

¹ EMFAC2007, Technical Support Document Section 4.11 On-road Motorcycle Activity, Technology Groups, and Emission Rates, http://www.arb.ca.gov/msei/onroad/doctable_test.htm Appendix 4.11-D, comparing FTP Bag 1 HC emission zero mile emission rates.

reporting and testing and recall procedures that essentially mirror requirements applicable to manufacturers of new motorcycles.

COMPARABLE FEDERAL REGULATIONS.

The United States Environmental Protection Agency (U.S. EPA) has adopted regulations applicable to after-market parts in Code of Federal Regulations, title 40, part 85. However, these regulations only establish a voluntary self-certification program. In contrast, ARB's aftermarket parts regulations require aftermarket part manufacturers to receive and obtain an exemption before they can sell parts in California.

Aftermarket catalytic converters are legal for sale federally under an enforcement policy established by U.S. EPA in 1986, but the policy does not constitute a regulation. Moreover, U.S. EPA's policy was established to address issues regarding aftermarket converters for light-duty vehicles and light-duty trucks, not highway motorcycles. Since issuing its enforcement policy, U.S. EPA has thus far decided not to issue regulations specific to aftermarket converters, and has not announced any plans to do so in the near future.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Public Hearing to Consider Proposed California Evaluation Procedures for Aftermarket Critical Emission Control Parts on Highway Motorcycles."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on December 11, 2008.

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

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Dean Hermano, Staff Air Pollution Specialist, at (626) 459-4487 or ehermano@arb.ca.gov, or Ms. Rose Castro, Manager, Aftermarket

Parts Section, at (626) 575-6848 or rcaastro@arb.ca.gov.

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

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at www.arb.ca.gov/regact/2008/amhmc08/amhmc08.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

Pursuant to Government Code sections 11346.5(a)(5), the Executive Officer has determined that the proposed amendments would not impose a mandate on local agencies or school districts. The Executive Officer has further determined pursuant to Government Code section 11346.5(a)(6) that the proposed regulatory action would result in some additional costs to ARB to implement and enforce the proposed regulatory action. In addition, the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the State, will not create costs or savings to local agencies or school districts that are required to be reimbursed under the Government Code, title 2, division 4, part 7 (commencing with section 17500), and will not result in other nondiscretionary savings to State or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. Manufacturers of aftermarket critical emission control parts for highway motorcycles would incur additional costs resulting from this regulation only if they choose to enter the existing California market for those parts. Therefore, costs that a part manufacturer may pay related to the regulation's specific provisions for durability emission testing, warranty, audit testing, and recall are not accounted for since they are considered normal costs that

any part manufacturer would be required to pay in order to legally sell aftermarket critical emission control parts in the State. Part manufacturers voluntarily make a decision to comply with the regulation based on their ability to generate satisfactory profits and to compete with motorcycle OEMs that may already be selling similar, compliant parts in California. The only applicable costs then attributable to the regulation would be those associated with the preparation and submittal of exemption applications that demonstrate compliance with the provisions. ARB staff estimates that this cost would be approximately \$100 per application. Over a five year regulatory life, the 60 potentially affected part manufacturers could be expected to spend up to \$58,000 for those applications. The proposal is not expected to affect the ability of California part manufacturers to compete with part manufacturers in other states since it applies to all manufacturers that choose to sell parts in California.

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

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action could affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Jobs are not expected to be lost as, a result of the proposed regulatory action, but rather some jobs may be created in order to perform the exemption provisions. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to the California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. Recordkeeping costs would be borne by retailers and installers to document their sales of aftermarket critical emission control parts for highway motorcycles. Proposed recordkeeping would require maintenance of basic information about each sold part and its purchaser for a period of five years at a cost of about \$60 per year per retailer or installer. Over that five year period, the overall cost to the 1,000+ part retailers and installers in California to comply with this requirement is estimated to be \$300,000.

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

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

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

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, December 10, 2008**, and addressed to the following:

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

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

Facsimile submittal: (916) 322-3928

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

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, 43000, 43000.5, 43011, and 43107, and Vehicle Code sections 27156, 38391, and 38395. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39002, 39003, 39500,

43000, 43000.5, 43009.5, 43011, 43107, 43204, 43205, 43205.5, and 43644, and Vehicle Code sections 27156, 38391, and 38395.

HEARING PROCEDURES

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

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

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

TITLES 13 AND 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PROPOSED REGULATION TO REDUCE EMISSIONS FROM IN-USE ON-ROAD DIESEL VEHICLES, AND AMENDMENTS TO THE REGULATIONS FOR IN-USE OFF-ROAD VEHICLES, DRAYAGE TRUCKS, MUNICIPALITY AND UTILITY VEHICLES, MOBILE CARGO HANDLING EQUIPMENT, PORTABLE ENGINES AND EQUIPMENT, HEAVY DUTY ENGINES AND VEHICLE EXHAUST EMISSIONS STANDARDS AND TEST PROCEDURES AND COMMERCIAL MOTOR VEHICLE IDLING

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting a regulation to reduce emissions of diesel particulate matter (diesel PM), oxides of nitrogen (NOx), and greenhouse gases from in-use on-road diesel vehicles that operate in California. The proposed regulation would also establish requirements for any

in-state or out-of-state motor carrier, California-based broker, or any California resident who hires or dispatches vehicles subject to the regulation. The Board will also consider amendments to several existing regulations to ensure that these regulations and the proposed regulation work together effectively, to clarify a number of issues with the existing regulations to provide additional compliance flexibility, and to improve enforceability in general. Specifically, the proposal would amend existing regulations for in-use off-road diesel vehicles, mobile cargo handling equipment at ports and intermodal rail yards, in-use on-road diesel-fueled heavy-duty drayage trucks, on-road heavy-duty diesel-fueled vehicles owned or operated by public agencies and utilities, reducing idling emissions from new and in-use trucks, heavy duty engines and vehicle exhaust emissions standards and test procedures, the airborne toxic control measure (ATCM) for portable diesel-engines rated at 50 horsepower and greater, and the portable equipment registration program.

This notice summarizes the proposed regulatory action, including the regulation proposed for adoption and the regulations proposed for amendment. The staff report (Initial Statement of Reasons) and a technical support document present the proposed regulations and information supporting the adoption or amendment of the regulations in greater detail.

DATE: December 11, 2008

TIME: 9:00 a.m.

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

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 11, 2008, and may continue at 8:30 a.m., December 12, 2008. This item may not be considered until December 12, 2008. Please consult the agenda for the meeting, which will be available at least ten days before December 11, 2008, to determine the day on which this item will be considered.

During the course of the Board's consideration of this proposal, it may adjourn to allow the public and interested parties to view new and emerging technologies that are being developed for use in complying with the proposed rulemaking.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodations/Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to

place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>.

If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at 916-323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

A. Sections Affected: Proposed adoption to California Code of Regulations (CCR), title 13, new section 2025, entitled "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles;" Proposed amendments to CCR, title 13, section 2020, "Purpose and Definitions of Diesel Particulate Matter Control Measures;" Proposed amendments to CCR, title 13, sections 2022 and 2022.1, "Diesel Particulate Control Measure for Municipality or Utility On-Road Heavy-Duty Diesel-Fueled Vehicles;" Proposed amendments to CCR, title 13, section 2027, "Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks;" Proposed amendments to CCR, title 13, sections 2449 and 2449.3, "Regulation for In-Use Off-Road Diesel-Fueled Fleets;" Proposed amendments to CCR, title 13, sections 2451, 2452, 2453, 2455, 2456, 2458, 2461, and 2462 of the "Statewide Portable Equipment Registration Program;" Proposed amendments to CCR, title 13, section 2479, "Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Railyards;" Proposed amendments to CCR, title 13, section 2485, "Airborne Toxic Control Measure to Limit Diesel Fueled Commercial Motor Vehicle Idling;" Proposed amendments to CCR, title 13, section 1956.8, "Exhaust Emissions Standards and Test Procedures — 1985 and Subsequent Model Heavy-Duty Engines and Vehicles;" and Proposed amendment to CCR, title 17, sections 93116.1, 93116.2 and 93116.3 of the "Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Rated at 50 Horsepower and Greater."

B. Background: Proposed Regulation to Reduce Emissions of Diesel PM and NOx from In-Use On-Road Diesel Vehicles

Over the past 30 years, as part of its mission to protect public health, the Board has established requirements to reduce emissions from new and in-use on-road motor vehicles and engines, and other sources. Since 1990, ARB and the United States Environmental Protection Agency (U.S. EPA) have worked together to harmonize emission control requirements for new heavy-duty diesel engines. In 2001, ARB adopted amendments that

aligned the California exhaust emission standards for heavy-duty diesel engines with those promulgated by the U.S. EPA for 2007 and subsequent model year engines. The standards represented a 90 percent reduction of NOx emissions, 72 percent reduction of non-methane hydrocarbon, and 90 percent reduction of particulate matter (PM) emissions compared to 2004 model year standards. When fully implemented, it is anticipated that the emissions reductions from the new emissions standards will only be achieved with diesel particulate filters and NOx exhaust aftertreatment.¹ Because of the long useful lives of diesel engines, through normal replacement of older vehicles, these newer lower emitting engines will be introduced into the state and national fleets relatively slowly. Consequently, contribution of these emissions reductions in meeting national ambient air quality standards (NAAQS) for fine particulate matter (PM2.5) and ozone will be slow to materialize. The proposed regulation would provide the necessary emissions reductions by the mandatory deadlines for meeting the NAAQS for PM2.5 and ozone by requiring the installation of retrofits for PM exhaust emissions control on existing engines and by accelerating the introduction of cleaner engines into fleets operating in California.

Control of Toxic Air Contaminants

The California Toxic Air Contaminant Identification and Control Program (Air Toxics Program), established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code (HSC) sections 39650 through 39675, requires ARB to identify and control toxic air contaminants (TAC) in California. The identification phase of the Air Toxics Program requires ARB, with the participation of other state agencies, such as the Office of Environmental Health Hazard Assessment, to evaluate the health impacts of, and exposure to, substances, and to identify those substances that pose the greatest health threat as TACs. ARB's evaluation is made available to the public and is formally reviewed by the Scientific Review Panel (SRP) established under HSC section 39670. Following ARB's evaluation and the SRP's review, the Board, pursuant to section 39662, may formally identify a TAC at a public hearing. Following identification, HSC sections 39658, 39665, 39666, and 39667 require ARB, with the participation of the air pollution control and air quality management districts (districts), and in consultation with affected sources and interested parties, to prepare a report on the need and appropriate degree of regulation for that substance and to adopt airborne toxic control measures (ATCM).

In 1998, the Board identified particulate matter emitted from diesel engines (diesel PM) as a TAC and in

¹ NOx is a precursor to both PM2.5 and ozone.

2001, adopted the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel Risk Reduction Plan or diesel RRP). The diesel RRP identified ATCMs and regulations that would set more stringent exhaust emission standards for new diesel-fueled engines and vehicles, establish retrofit requirements for existing engines, vehicles, and equipment, and require the sulfur content of diesel fuel to be reduced to no more than 15 parts per million by weight (ppmw). The new sulfur standard was needed to enable the performance of the emission control technologies. The scope of the Diesel RRP was broad, addressing all categories of engines, both mobile and stationary, and included control measures for private and public fleets of on-road and off-road diesel vehicles. The ultimate goal of the Diesel RRP was to reduce California's diesel PM emissions and associated cancer risks from 2000 baseline levels by 85 percent by 2020.

Attainment of Ambient Air Quality Standards

The federal Clean Air Act (CAA) requires U.S. EPA to establish NAAQS for pollutants considered harmful to public health, including fine particulate matter (PM_{2.5}) and ozone. The standards are based on a review of health studies by experts and a public process and are set at levels which are protective of public health. Ambient PM_{2.5} is associated with premature mortality, aggravation of respiratory and cardiovascular disease, asthma exacerbation, chronic and acute bronchitis and reductions in lung function. Ozone is a powerful oxidant and exposure to this pollutant can result in reduced lung function, increased respiratory symptoms, increased airway hyper-reactivity, and increased airway inflammation. Exposure to ozone is also associated with premature death, hospitalization for cardiopulmonary causes, and emergency room visits for asthma.

The existing fleets of heavy-duty diesel trucks are among the largest contributors to PM_{2.5} and ozone forming emissions. The vehicles affected by the proposed regulation produce approximately 40 percent of the statewide emissions of oxides of nitrogen (NO_x) and about 32 percent of the statewide PM emissions generated by diesel mobile sources.

Fifteen areas in California are designated nonattainment of the federal ozone standard, including the South Coast Air Basin, the San Joaquin Valley, the Sacramento region, San Diego, Ventura, and a number of air districts downwind of urban areas. In addition, the South Coast Air Basin and the San Joaquin Valley are designated nonattainment of the federal PM_{2.5} standard. Federal law mandates the development of State Implementation Plans documenting the actions the state will

take to attain the federal air quality standards in these areas.

In September 2007, ARB adopted a State Implementation Plan (SIP) committing the State to develop measures to achieve emission reductions from sources under State regulatory authority. The reductions are needed to attain the NAAQS for ozone and PM_{2.5}. While multiple areas across the State exceed federal air quality standards, the air quality in the South Coast and the San Joaquin Valley poses the greatest challenge and defines the amount of reductions needed. Reductions are needed by 2014 to meet the PM_{2.5} attainment deadline and by 2023 to meet the ozone attainment deadline. An interim target date of 2017 was adopted by ARB for the San Joaquin Valley to meet the ozone NAAQS as part of an effort to accelerate progress toward attainment before 2023.

The largest share of new emission reductions in the 2007 SIP is expected from trucks. In 2014, reductions from both NO_x and PM_{2.5} are needed to meet the federal air quality standard for PM_{2.5}. To meet the emission reduction targets necessary to meet the ozone NAAQS in 2017 and 2023, the focus of emission reductions is on NO_x. Accordingly, in its SIP submittals to U.S. EPA, ARB has adopted 2014 reduction commitments for both NO_x and PM_{2.5}, and further NO_x reduction commitments in 2017, 2020 and 2023. As part of the overall SIP commitment, ARB staff is also obligated to bring measures to the Board for its consideration. This rule is one of these commitments. ARB staff has used the targeted reductions estimated in the SIP as the goal for this rulemaking.

The California Global Warming Solutions Act of 2006

The California Global Warming Solutions Act of 2006 established requirements for a comprehensive program of regulatory and market mechanisms to achieve real, quantifiable, cost-effective reductions of greenhouse gases (GHG).² The legislation gave ARB responsibility for monitoring and reducing GHG emissions. The statute requires ARB to adopt regulations and other requirements that would reduce by 2020 statewide GHG to the equivalent of 1990 levels.

C. Background: The Proposed Amendments to Existing Regulations

Purpose and Definitions of Diesel Particulate Matter Control Measures: This regulation (section 2020 of title 13, CCR) defines terms that apply generally to the regu-

² Established under California law by Assembly Bill 32 (Stats. 2006, ch. 488) and set forth in HSC § 38500 et seq. Greenhouse gases are those that tend to increase average global temperatures through absorption of infrared radiation or other mechanisms. These include, but are not limited to, carbon dioxide (CO₂) and methane (CH₄).

lations that control diesel PM emissions from on-road vehicles. It was adopted by the Board in July 2003 and modified in February 2005.

Municipality or Utility On-Road Heavy-Duty Diesel-Fueled Vehicles: ARB adopted this regulation in December 2005 to reduce public exposure to diesel PM emissions from on-road heavy-duty diesel fueled vehicles owned or operated by public agencies or utilities. The regulation requires municipalities and utilities to apply best available control technology (BACT) to on-road heavy-duty diesel-fueled vehicles with a 1960 to 2006 model year medium heavy-duty or heavy heavy-duty engine having a manufacturer's gross vehicle weight rating (GVWR) greater than 14,000 pounds. BACT can be an alternative fuel engine, a diesel engine certified to a 0.01 grams per brake horsepower-hour (g/bhp-hr) PM standard, or application of the highest level ARB verified diesel emission control strategy (DECS) to a diesel engine. A municipality or utility may receive credit toward their BACT requirement by retiring a vehicle.

The rule divides these engines into three model year groups: Group 1 (1960–1987), Group 2 (1988–2002), and Group 3 (2003–2006). BACT must be applied according to a specified implementation schedule that sets compliance deadlines and the percentage of the fleet that must be equipped with BACT by each deadline.

Regulation for In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks: In December 2007, ARB adopted a regulation to reduce emissions from diesel-fueled drayage trucks — described as trucks that transport containers, bulk, and break-bulk goods to and from ports and intermodal rail yards. The regulation applies to owners and operators of diesel-fueled drayage tractors having a GVWR greater than 33,000 pounds that operate at California ports, intermodal rail yards, or both. There are approximately 100,000 drayage tractors of which nearly 20,000 frequently service ports and rail yards.

The requirements of the regulation will be implemented in two phases. In Phase 1, by December 31, 2009, all drayage trucks must be equipped with a 1994 to 2003 model year engine and a level 3 verified DECS for PM emissions or they must be equipped with a 2004 model year or newer engine. In Phase 2, all drayage tractors are required to meet the 2007 model year engine standard by December 31, 2013. All drayage trucks involved in work at affected ports and rail yards must be registered in the ARB's drayage truck registry (DTR) by late 2009.

Regulation for In-Use Off-Road Diesel Vehicles: In July 2007, ARB adopted a regulation to reduce diesel PM and NOx emissions from in-use off-road heavy-duty diesel-fueled engines with maximum power of 25 horsepower (hp) or greater. These engines are used to

provide motive power in a workover rig or any other motor vehicle that cannot be registered and driven safely on-road, and is not an implement of husbandry or recreational off-highway vehicle. The regulation applies only to engines that drive self-propelled vehicles (that is, it does not apply to stationary equipment or portable equipment like generators). Examples include loaders, crawler tractors, skid steers, backhoes, forklifts, and airport ground support equipment.

The regulation establishes fleet average emission rate targets for PM and NOx for all off-road vehicles operating in the State. By the applicable compliance date for each year, the regulation requires each fleet to meet the fleet average emission rate targets for PM or apply the highest level verified DECS to 20 percent of its horsepower. Each year, the regulation also requires large and medium fleets to meet the fleet average emission rate targets for NOx or to turn over a certain percent of their horsepower (8 percent in early years, and 10 percent in later years). "Turn over" means repowering with a cleaner engine, rebuilding the engine to a more stringent emissions configuration, retiring a vehicle, replacing a vehicle with a new or used piece, or designating a dirty vehicle as a low-use vehicle. If retrofits that reduce NOx emissions become available, they may be used in lieu of turnover as long as they achieve the same emission benefits.

Large fleets are subject to the PM and NOx requirements beginning in 2010. Medium fleets are subject to the PM and NOx requirements beginning in 2013. Small fleets are subject only to the PM requirements beginning in 2015.

Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards: In December 2005, ARB adopted the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards to reduce emissions of diesel PM and NOx from these vehicles. Mobile cargo handling equipment includes any motorized vehicle equipped with a diesel-cycle engine that is used primarily off road at a port or intermodal rail yard to handle cargo or to perform scheduled or predictable maintenance or repair activities. The regulation includes requirements, based on BACT, for equipment newly added to a fleet on or after January 1, 2007, as well as for in-use equipment. Vehicles such as mobile cranes and sweepers were required to comply beginning December 31, 2007, for the oldest engines, and compliance is phased in through 2013, depending on the number of vehicles in the fleet and the age of a vehicle's engine.

Statewide Portable Equipment Registration Program: In March 1997, the Board adopted a regulation establishing the Statewide Portable Equipment Registration Program (PERP) which became effective on September 17, 1997. The Board has since approved

amendments to the Statewide Regulation on December 11, 1998, February 26, 2004, June 22, 2006, and March 22, 2007. The regulation includes record keeping and reporting requirements and sets fee schedules for registration and inspection of the portable engines and equipment that have registered in the program. Most of the engines associated with portable equipment are diesel fueled, making these engines also subject to the requirements of the Portable Engine ATCM.

Portable Engine ATCM: In February 2004, ARB adopted an ATCM that requires a phase-in of cleaner technologies that would result in the reduction and eventual elimination of high-emission engines. The ATCM requires most portable engines larger than 50 hp that were permitted by local air quality management or air pollution control districts (air districts) or registered in PERP as of December 31, 2005, to be certified to Tier 1, 2, or 3 U.S. EPA/ARB new off-road engine emission certification standards by January 1, 2010. Uncertified diesel engines that are designated as emergency use or low use may operate beyond 2010 if they will be replaced with Tier 4 engines within two years of such engines becoming available. In addition, starting in 2013, all fleets of portable engines would have to meet diesel PM emission averages that become progressively more stringent in 2017 and 2020. In March 2007, the ATCM was amended to allow statewide registration and district permitting of Tier 1 and Tier 2 engines that had been operating in California between March 1, 2004 and October 1, 2006. These amendments also allowed local air districts to permit resident uncertified engines at their discretion. In order to be registered in PERP after January 1, 2010, the ATCM requires that the engines must be certified to the most stringent ARB or U.S. EPA off-road emission certification standards in effect at the time of application. The current ATCM does not have a time limit for when a district must stop issuing new permits for uncertified engines.

ATCM to Limit Diesel-Fueled Commercial Motor Vehicle Idling: The ARB adopted the Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling in July 2004 and amended it in October 2005. The ATCM requires diesel-fueled vehicles over 10,000 pounds GVWR to comply with a five-minute idling restriction at all times and at any location. Starting with the 2008 model year, new truck engines are also required to either be equipped with a non-programmable and tamper-resistant engine shutdown system that automatically shuts down the engine after 5 minutes of idling or optionally to meet a NOx idling standard of 30 grams per hour. The engine shutdown system could be overridden when the engine is operating power take-off (PTO) equipment. Operators of pre-2008 model year trucks are required to manually

shut down the vehicle's engine after five minutes of continuous idling. The idling limitations would not apply when idling is necessary to perform work for which the vehicle was designed.

Exhaust Emissions Standards and Test Procedures — 1985 and Subsequent Model Heavy-Duty Engines and Vehicles: Section 1956.8 of the CCR specifies exhaust emissions standards and test procedures applicable to 1985 and subsequent model year heavy-duty engines and vehicles. With the adoption of the sleeper berth idling provisions of the Commercial Motor Vehicle Idling ATCM, section 1956.8 was modified to add new engine requirements for new 2008 and subsequent model year on-road diesel engines with a GVWR greater than 14,000 pounds to be equipped with an engine shutdown system that automatically shuts down the engine after five minutes of continuous idling. In lieu of the engine shutdown system requirement, manufacturers may optionally certify their engines to a NOx idling emission standard of 30 grams per hour under loaded, low and high idle operating conditions. The engine requirements of section 1956.8 would have to be amended as necessary to be consistent with any modifications to the Commercial Motor Vehicle Idling ATCM.

D. DESCRIPTION OF THE PROPOSED REGULATORY ACTION — PROPOSED REGULATION TO REDUCE EMISSIONS OF DIESEL PM AND NOX FROM IN-USE ON-ROAD DIESEL VEHICLES

Applicability

The proposed new regulation would apply to any person, business, or federal government agency that owns or operates affected vehicles in California. Affected vehicles include heavy-duty diesel-fueled vehicles with a GVWR greater than 14,000 pounds, yard trucks with off-road certified engines and diesel-fueled shuttle vehicles of any GVWR that have a capacity of 10 or more passengers and routinely drive an average of 10 trips per day to or from airport terminals, marine terminals, and rail based stations. Drayage trucks and utility owned vehicles would be subject to the regulation beginning January 1, 2021. The proposed regulation would be applicable regardless of where the vehicle is registered. The proposed regulation would also establish requirements for any in-state or out-of-state motor carrier, California-based broker, or any California resident who hires or dispatches vehicles subject to the regulation. California sellers of a vehicle subject to the proposed regulation would have to disclose the regulation's potential applicability to buyers of the vehicles. The proposed regulation would not apply to military tactical support vehicles, authorized emergency vehicles, and private motor homes not used for commercial purposes.

Performance Requirements

In general, the regulation would require owners to reduce PM and NOx emissions from their fleet by upgrading the vehicles to meet BACT standards for PM and NOx. The BACT standard for PM is an engine equipped with the highest level verified DECS for PM or an engine originally equipped with a diesel particulate filter by the engine manufacturer. The BACT standard for NOx is an engine newly manufactured in 2010 or later or a 2010 emissions equivalent engine.

A fleet may meet these performance requirements by retrofitting a vehicle with a verified DECS³ that will achieve PM or NOx reductions or both as required, replacing an engine with a newer cleaner one, or replacing a vehicle with one having a cleaner engine.

The regulation provides three options for complying with the performance requirements. First, a fleet would be able to comply with a prescribed BACT schedule that would determine the number of verified DECS that must be installed and the required vehicle replacements based on the vehicle's engine model year. Second, a fleet could meet a BACT percent limit option that sets the minimum number of verified DECS to be installed and the minimum number of engines required to meet the 2010 engine requirements each year. Third, a fleet could meet a fleet average option. The owner would use PM and NOx emission factors established by the regulation to calculate the average emissions of the fleet. By the applicable compliance date each year, the owner would have to demonstrate that the fleet met the PM and NOx fleet average emission rate targets set by the regulation. The targets would decline over time, requiring fleets to reduce their emissions further as time goes on.

During the first two years of the regulation, starting January 1, 2011, fleets would be required to install PM verified DECS for certain engine model years. The regulation would then require owners to reduce both PM and NOx emissions from the fleet by accelerating engine or vehicle replacement between January 1, 2013 and the end of 2022 so that by January 1, 2023, all engines would be the cleanest available — that is, having a 2010 or later model year engine or be retrofitted to achieve equivalent emission reductions.

In coordination with changes being made to other regulations regarding dual engine street sweepers, the auxiliary engine on the street sweepers would be required to meet the PM performance requirements on the same schedule as that of the propulsion engine. The operation of Tier 0 auxiliary engines on dual engine street sweepers would be limited to a maximum of 250 hours

per year until January 1, 2014 and then lowered to a maximum of 100 hours per year thereafter.

Special Provisions for Small Fleets

Fleets with one to three vehicles would be exempt from the 2010 and 2011 PM exhaust retrofit requirements. By January 1, 2013, small fleets would need to show they consist of at least one vehicle equipped with a 2004 model year or newer engine and a PM exhaust retrofit. By January 1, 2018 that vehicle would need to meet the PM and NOx performance requirements. The second vehicle in a fleet with two vehicles would be required to meet the PM and NOx performance requirements by January 1, 2014. A fleet of three vehicles could comply in one of two ways: (1) by having its two remaining vehicles meet the PM and NOx performance requirements by January 1, 2014 or (2) electing to have its second vehicle meet the 2010 engine emissions requirements by January 1, 2014 and the third vehicle meet the PM and NOx performance requirements by January 1, 2016.

Exemptions, Compliance Extensions and Special Circumstances

The proposed regulation would exempt all vehicles operated less than 1000 miles and 100 hours per year (low-use vehicles) from the regulation's PM and NOx performance requirements. These vehicles would still, however, be subject to the regulation's reporting requirements.

Schoolbuses would be exempt from any NOx performance requirements. The regulation would also exempt the following vehicles from the NOx performance requirements until the dates listed below:

- January 1, 2018
 - Cab-over-engine truck tractors exclusively pulling 57 foot trailers
- January 1, 2021
 - Unique vehicles;
 - Vehicles that operate exclusively in counties that the regulation identifies as attainment of the federal ozone and PM ambient air quality standards and do not contribute to downwind exceedances of the state ozone standard;
 - Vehicles with a GVWR less than 33,000 pounds that are operated less than 5000 miles. Those using power take off (PTO) to perform work while stationary must also operate the engine less than 175 hours per year; and
 - Truck tractors and vehicles with a GVWR greater than 33,000 pounds that are operated less than 7500 miles. Those using PTO to perform work while stationary must also operate less than 250 hours per year;

³ A retrofit device that has been verified under ARB's Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines, title 13, CCR, sections 2700 et seq.

- Yard tractors that operate less than 250 hours per year.

The regulation would also provide a compliance extension for fleets that take action to comply early. If a fleet installs the highest level verified DECS on one or more vehicles by January 1, 2010, the vehicle would be exempt from the NOx performance requirements until January 1, 2014 for each of those vehicles.

The proposed regulation would also allow a fleet to use hybrid vehicles for credit toward compliance with the fleet average as long as the fleet can demonstrate that the fuel economy of the hybrid vehicle is at least 20 percent better than an equivalent vehicle. The credit would expire January 1, 2018. The proposed regulation would allow the fleet to double count the number of hybrid vehicles in the fleet that may be used to calculate the PM and NOx indices and fleet average target rates or for determining the percent limit requirements.

Credit would also be granted for fleets using vehicles equipped with alternative fuel or heavy-duty pilot ignition engines in calculating the NOx and PM fleet average target rates for determining compliance with the fleet average option. The PM emission factor would be zero and the NOx emission factor would be based on the engine model year to which the engine has been certified.

The proposed regulation would also provide fleets with effective compliance extensions if the retrofits, re-powers, or new engines needed for compliance with the regulation are not available because of manufacturer delays.

Special Provisions for Agricultural Vehicles

The proposed regulation would provide certain heavy-duty on-road diesel vehicles used in agricultural operations (agricultural vehicles) with additional time to meet the PM and NOx performance requirements. Agricultural vehicles are those vehicles that are used exclusively in agricultural and forest operations, those used exclusively to transport agricultural products to the first point of processing after harvest, and certain heavy-duty vehicles that exclusively deliver fertilizer or crop protection products from a distribution center to farms.

The regulation would allow agricultural vehicles that operate below specified mileage thresholds to delay compliance with the performance requirements provided they remain below the specified thresholds. Agricultural vehicles that operate over the thresholds would be required to meet the same requirements as other on-road vehicle fleets. The mileage thresholds to qualify for exemption and the period of exemption are as follows:

- for vehicles that operate below 10,000 miles annually until January 1, 2023;

- for vehicles with engine model year 1995 and older that operate up to 15,000 miles annually until January 1, 2017;
- for vehicles with engine model year 1996 through 2005 that operate below 20,000 miles until January 1, 2017;
- for vehicles with engine model year 2006 and newer that operate below 25,000 miles until January 1, 2017.

The regulation would also define a limited number of specialty agricultural vehicles that would be exempt from the NOx and PM performance requirements until January 1, 2023.

By January, 2010, the proposed regulation would require an agricultural vehicle fleet owner to designate the agricultural vehicles in its fleet that qualify for exemption. Once the fleet owner has identified and designated the agricultural vehicles in its fleet that qualify for compliance under a specific mileage threshold category, it cannot add any further vehicles to that category. By January 1, 2023 all heavy-duty on-road diesel agricultural vehicles would be required to meet 2010 model year engine emissions requirements regardless of annual mileage driven.

Record Keeping and Reporting Requirements

Fleet owners who chose the BACT compliance schedule would not be required to report on their fleets. Under the proposed regulation, all other fleets would be required to report their affected vehicles and associated engine data annually to ARB starting in 2010. These fleets would also be required to keep records of all data reported, as well as any changes made to their respective fleets since the last report filed until December 31, 2022, or as long as the owner owns the vehicles.

At the hearing, the Board may consider other elements that may provide additional flexibility to affected vehicles.

Penalties

Under the proposed regulation, fleets that fail to comply with the regulation's requirements would be subject to penalties consistent with the penalty provisions set forth in the Health and Safety Code.

E. Effect of Proposed Regulation to Reduce Emissions Of Diesel PM and NOx from In-Use On-Road Diesel Vehicles

The proposed regulation would provide diesel PM and NOx emissions reductions that would have a substantial positive air quality impact throughout California. By reducing emissions of pollutants that contribute to elevated ambient levels of particulate matter and ozone, the regulation would help achieve attainment of the NAAQS for PM and ozone. Significant additional health benefits would also be obtained with the reductions of ambient levels of diesel PM.

The proposed regulation would not achieve the 2010 or the 2020 goals set forth in the 2000 Diesel RRP of reducing diesel PM by 75 percent and 85 percent, respectively from 2000 baseline levels. Staff projects that the proposed regulation would reduce in-use on-road vehicle diesel PM emissions from the 2000 baseline by 16 percent in 2010 and 80 percent in 2020. However, the proposed regulation would achieve the maximum achievable reductions of diesel PM emissions from in-use on-road diesel vehicles.

The regulation would also reduce diesel PM and NOx emissions that contribute to exceedances in the State of the NAAQS for both PM2.5 and ozone. In 2020, the regulation is expected to reduce diesel PM emissions by 5.6 tons per day and NOx emissions by about 79 tons per day statewide, which represents a 43 percent reduction in diesel PM and a 23 percent reduction in NOx from emission levels that would be anticipated in the absence of the regulation.

The proposed regulation would meet or exceed the combined NOx and PM2.5 SIP fleet rule targets in both the South Coast and San Joaquin Valley air basins for all years. In 2014, in the South Coast Air Basin, the SIP target would be met by achieving slightly more PM2.5 reductions and slightly less NOx than expected. The proposed regulation would also help achieve the SIP reduction goals in 2020 for attainment in regions downwind of the South Coast and the San Joaquin Valley air basins.

The emission reductions from the regulation are expected to prevent approximately 9400 premature deaths over the course of the regulation (2800 to 17000, 95 percent confidence interval), and would result in about 150,000 fewer asthma-related cases and 950,000 fewer lost work days. The economic valuation of the health impacts are estimated to range from \$48 to \$68 billion.

The net climate change effect of the proposed regulation would be slightly positive. Staff's analysis of the climate change impact of the proposed regulation addresses only the direct emissions from the affected vehicles. Some actions to comply with the proposed regulation could increase carbon dioxide (CO₂) emissions by increasing fuel consumption, whereas other actions would reduce fuel consumption. For example, a vehicle owner who complies with the regulation by retrofitting the vehicle with a diesel particulate filter (DPF) could potentially experience a decrease in the vehicle's fuel economy of about 2 percent. However, as the fleet is modernized to comply with the regulation, selective catalytic reduction (SCR) is expected to replace exhaust gas recirculation (EGR) as the primary NOx emissions control technology. SCR for 2010 model year engines permits operation of the engine at more optimal combustion temperatures to provide better power and fuel efficiency improvements as well as lower PM genera-

tion. The expected improvements in fuel economy of 3 to 5 percent would offset the potential climate change impacts of the widespread installation of DPFs on the overall fuel economy of the fleet. The proposed regulation would also reduce emissions of black carbon — a component of diesel PM and a likely contributor to global warming — which would further reduce climate change impacts attributed to the overall impact on fuel economy.

E. DESCRIPTION AND EFFECT OF PROPOSED AMENDMENTS TO EXISTING REGULATIONS

The staff is proposing amendments to the regulations identified above in section C. to clarify a number of issues with the existing regulations, to provide additional compliance flexibility as it relates to the existing regulations and to the proposed new regulation for in-use on-road diesel vehicles, and to generally improve enforceability of the existing regulations. For example, the amendments will clarify that mobile cranes are not subject to multiple regulations with different compliance dates and requirements.

Purpose and Definitions of Diesel Particulate Matter Control Measures: The proposed amendment would modify the definition of "municipality". Under the current definition, agencies of the United States of America are subject to the regulation for municipality and utility heavy-duty diesel vehicles. The proposed amended definition would exclude federal agencies and consequently fleets owned by the federal government would not be subject to the municipality and utility fleet regulation. This modification became necessary after it was determined that CAA section 118 did not require federal fleet operators to comply with the municipality and utility fleet regulation because the regulation did not generally apply to nongovernmental entities. Tribal reservations and rancherias would also be excluded in the revised definition of "municipality". Fleets owned and operated by these entities would be subject to the proposed regulation for heavy-duty diesel vehicles.

Municipality and Utility Diesel-Fueled Vehicles: Staff is proposing modifications that would expand the scope of this regulation and would add new language to address ambiguities and omissions in the regulation when initially adopted. Among other things, the proposed amendments would add requirements to ensure that retirement credit is properly granted to fleets. Staff is also proposing changes for utility fleets to improve compatibility with actions needed to comply with the In-Use On-Road Heavy-Duty Vehicle regulation.

Staff's proposed revision of section 2022(a) would expand the scope and applicability of the regulation to include light heavy-duty engines that were inadvertently omitted from the original scope of the regulation. Staff is also proposing to expand the scope to include

2007 model year and newer engines certified under Averaging Banking and Trading (ABT) provisions at PM levels greater than the 2007 model year standard of 0.01 g/bhp-hr. This revision is consistent with the original intent of the regulation to require upgrades of all engines that did not meet the PM BACT standard of 0.01 g/bhp-hr.

A proposed compliance extension provision (section 2022.1(d)(7)) would allow municipalities and utilities to apply for a one-year extension of the intermediate 2009 compliance deadline for light heavy-duty engines. The municipality or utility would be required to document that the addition of light heavy-duty engines to the scope of the regulation would have prevented the fleet from meeting the 2009 compliance deadline.

Staff is proposing an optional extension for privately-owned utilities (utility) that would provide a two-year delay of the intermediate and final BACT PM deadlines, accompanied by requirements that, by December 31, 2013, thirty percent of a utility's vehicles meet the 2010 engine emission standards, and an additional twenty percent meet the 2007 or newer engine emission standards.

Staff is proposing amendments that would also provide a means of ensuring that owners get BACT credit for vehicles sold out of state and vehicles sold out of state for retirement credit could not be re-sold in California unless they met the BACT requirements. The proposed new language in section 2022.1(f)(1)(k) would establish a process for qualifying a vehicle that requires the municipality or utility to obtain a Department of Motor Vehicle (DMV) registration hold or "VIN Stop". Proposed language in section 2022.1(h) establishes contract requirements for out-of-state sales through a third party vehicle seller. The contract language would ensure that the seller informs buyers of the prohibitions against re-registering or operating retired vehicles in the State.

Staff is also proposing to modify the definition of "retirement" in section 2022(b)(8) to grant credit for the sale within California of dual-engine street sweepers with 2004–2006 model year engines, provided that, in the case of private-sector buyers, they comply with the newly proposed on-road diesel vehicles regulation described in section D. above. This would make used street sweepers available for purchase by private fleets and help to reduce the cost of the proposed regulation for these private fleets.

The proposed amendments would add new definitions for "lease", "operate", "sold outside of the State of California", "third party vehicle seller", and "VIN stop" to support the changes being proposed. The definition of "total fleet" was revised to make it consistent with the revised scope of the regulation.

Drayage Trucks: Staff is proposing modifications to the drayage truck regulation to add a phase one requirement for drayage trucks with 2004–2006 model year engines, a change in liquefied natural gas (LNG) fueled truck applicability, and clarifications on the applicability of alternative and dual-fueled diesel trucks.

Staff is proposing to require that 2004 model year engines be equipped with the highest level verified DECS for PM by January 1, 2012, and that 2005 model year–2006 model year engines be equipped with the highest level verified DECS for PM by January 1, 2013. This requirement would align the drayage truck regulation with the proposed in-use on-road diesel vehicle regulation. This would help meet the State's PM emission reduction commitments, and would ensure uncontrolled trucks won't cycle into the drayage fleet to avoid the in-use on-road diesel vehicle regulation requirements.

Staff is also proposing additional changes to be consistent with the proposed In-Use Heavy Duty Diesel Vehicle Regulation. Staff is proposing to define pilot injection LNG fueled trucks consistent with the Alternative Fueled vehicle definition. The proposed change would exempt subject pilot injected LNG fueled trucks from the emission requirements. Staff also is proposing to include "alternative diesel-fueled and dual-fueled" trucks in the applicability section (b)(1).

Finally, staff is proposing to add or modify the following definitions: "Dual-Fueled Engine", "Alternative Diesel Fuel", "Compression Ignition Engine", and "Diesel-Fueled". All definition additions or changes would not modify the applicability or intent of the drayage truck regulation.

In-Use Off-Road Diesel Fueled Fleets: Staff is proposing to change the scope of the regulation for in-use off-road diesel fueled vehicles to include both the drive engine and the secondary engine of all two-engine cranes operated in California. The drive engine would be included regardless of whether it is certified as an on-road engine or as an off-road engine. Two-engine cranes are currently subject to a number of regulations. The upper engine is subject to the requirements of the portable engine registration program and ATCM for portable engines. The drive engines are subject to the in-use off-road diesel vehicle and would be potentially subject to the proposed in-use heavy-duty diesel vehicle regulation. The drive engine on cranes operating at ports or intermodal rail yards are subject to the requirements of the mobile cargo handling equipment regulation.

Staff is also proposing to modify section 2449.3(b)(2)(c) to exclude the horsepower in two-engine cranes from a fleet's maximum horsepower. This would be consistent with the intent of the existing in-

use off-road diesel-fueled regulation that two engine cranes, which were never previously a part of the regulation and never considered that they would be used in determining fleet size and eligibility for the Surplus Off-Road Opt-in for NO_x (SOON) program.

New language is proposed in section 2449(e)(15) that would clarify the repower requirements for workover rigs. The regulation would require that any replacement engine must be an on-road engine if the workover rig is to be registered and driven on public roadways.

Staff is proposing to modify section 2449(e)(7) to clarify the exemption provision for low-use vehicles. The current regulatory language in the section exempts the low-use vehicles from all of the performance requirements in section 2449(d). The proposed modifications would require low-use vehicles to comply with the requirements for adding vehicles to the fleet and with the idling requirement.

Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards: Staff is proposing to exclude sweepers and mobile cranes from the scope of the regulation. No changes would be made regarding rubber-tired gantry cranes. This change would provide consistency for owners and operators who would only be required to comply with one regulation. This proposal in combination with other changes to address cranes would also address other issues such as safety certification, and would provide more compliance flexibility. Many owners of these vehicles only provide service to the ports on a limited basis and, if not excluded from the mobile cargo handling regulation would have to segregate their vehicles into two separate groupings — those required to comply with the mobile cargo handling regulation and those that would be required to comply with either the in-use off-road regulation or the proposed in-use on-road regulation.

Portable Engine ATCM: Staff is proposing amendments to the Portable Engine ATCM as it applies to two-engine cranes and dual-engine street sweepers. Until now, the auxiliary engines on these vehicles have been registered in PERP or permitted by local air districts. Under the Portable Engine ATCM, these engines must be replaced by December 31, 2010, if they do not meet U.S. EPA or ARB emission certification standard. In many cases, it is infeasible, if not impossible, to re-power these vehicles with new engines; the only alternative would be to replace the entire vehicle, with a new vehicle having a certified engine. To address this, staff is proposing to amend the portable engine ATCM to exclude the secondary engines on two-engine cranes and privately owned sweepers from the requirements of the ATCM. The ATCM would also be amended to delete the diesel PM standards and fleet requirements of title 17, CCR, section 93116.3(b)(4) for lattice boom cranes. Lattice boom cranes would be included in the proposed

definition of two-engine cranes that would be added to the in-use off-road diesel-fueled vehicles regulation.

Additionally, staff is proposing that two new sections be added to the Portable Engine ATCM. New section 93116.1(b)(8), would require the secondary engine on a two-engine crane to comply with the requirements of the regulation for in-use off-road diesel-fueled vehicles, and new section 93116.1(b)(9) would require the secondary engine on a dual-engine sweeper to comply with the requirements of the proposed regulation for in-use on road diesel vehicles.

Staff is also proposing to amend the portable engine ATCM by adding a new definition for “crane” which would cross-reference to the proposed definition of “two-engine crane,” which staff is proposing to add to the regulation for in-use off-road diesel vehicles at title 13, CCR, section 2449(c)(56). The portable engine ATCM adds a new definition “street sweeper” which would cross-reference to the proposed definition of “dual-engine street sweeper,” which staff is proposing to add to title 13, CCR, section 2022(b)(2) of the regulation for municipality and utility vehicles.

Statewide Portable Equipment Registration Program: Staff is proposing an amendment of the PERP regulation that would be consistent with the proposed changes to the portable engine ATCM. As with the ATCM, staff is proposing to add new definitions for “crane” and “street sweeper” that would respectively cross-reference to the in-use off-road diesel-fueled vehicles regulation and the municipality and utility fleets regulation.

The proposed amendments would also exempt the secondary engines on two-engine cranes and dual-engine street sweepers from all of the emission requirements of the PERP regulation, except the limits on opacity specified in section 2456(f)(5). Proposed new language would require that the secondary engine on a crane comply with the applicable requirements of title 13, CCR, section 2449 of the regulation for in-use off-road diesel-fueled vehicles, and that the secondary engine on dual-engine street sweepers comply with the applicable requirements of title 13, CCR, section 2025 of the regulation proposed for in-use on-road diesel vehicles.

Under the proposed amendments, if the secondary engine of a crane or street sweeper is registered in PERP, it would be exempt from the recordkeeping and reporting requirements of the PERP regulation, but would be respectively required to comply with the applicable recordkeeping, reporting and other administrative requirements of the regulation for in-use off-road diesel vehicles and those proposed for the regulation for in-use on-road diesel vehicles.

Secondary engines on cranes and sweepers registered under the statewide PERP would remain subject to the

inspection requirements and fees listed in the PERP regulation.

Regulations to Limit Motor Vehicle Idling: Staff is proposing changes to title 13, CCR, section 2485 (Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling) and section 1956.8 (Exhaust Emissions Standards and Test Procedures — 1985 and Subsequent Model Heavy-Duty Engines and Vehicles) to exempt armored cars and workover rigs from the vehicle idling limits. When an armored car is at a pick-up location at least one guard must stay onboard. Since the environment inside of an enclosed armored car can become extremely uncomfortable, idling of the engine for climate control is essential to the health and safety of the guard onboard. For this reason, staff is proposing to add new section 2485(d)(2)(M) to exempt armored cars idling while providing services for which the vehicle was designed.

Staff is also proposing that the idling requirements for workover rigs be amended. Typically, in vehicles with power take off (PTO), the engine shutdown system is normally overridden when in PTO mode. For most vehicles this occurs when a truck's engine is idling and the engine's power is used to perform certain specialized non-mobile functions. However, unlike other vehicles, workover rigs use PTO to propel the vehicle and do not use PTO to power the specialized work while stationary. Staff is proposing to add a new provision in section 2485(d)(2)(N) to exempt workover rigs from the motor vehicle idling limit while they are performing the work for which the vehicle was specially designed. This proposal would allow a workover rig to carry out its specialized function when the vehicle is stationary and the engine is working.

Staff is proposing to modify the engine requirements of title 13, section 1956.8 of the CCR to be consistent with the change proposed to the Commercial Vehicle idling limit ATCM for workover rigs and armored cars. The proposed changes to these engine requirements would add armored cars and workover rigs to the list of exempted vehicles in section 1956.8(a)(6)(B).

G. COMPARABLE FEDERAL REGULATIONS

Pursuant to its authority under CAA section 202(a), U.S. EPA has established emission standards for new diesel, alternative fuel, and gasoline on-road heavy-duty engines (Title 40, Code of Federal Regulations, Part 86). U.S. EPA, however, does not have authority to establish emission standards for in-use on-road motor vehicles. Although California must obtain a waiver of federal preemption under CAA section 209(b) before implementing new engine emission standards for new motor vehicles sold in California, no federal preemption exists for requirements regarding in-use motor vehicles and engines adopted by the State.

CAA section 209(e)(2) allows California, upon obtaining authorization from U.S. EPA, to adopt and enforce emission standards and other requirements related to the control of emissions for new and in-use off-road engines not expressly preempted (i.e., as set forth in CAA section 209(e)(1), new off-road engines under 175 hp used in farm and construction equipment and vehicles and new locomotives and locomotive engines). To the extent that the amendments to ARB's off-road regulations require authorization, ARB will request that U.S. EPA grant such authorization.

There are no federal regulations comparable to the proposed regulation to reduce emissions of diesel PM and NO_x from in-use on-road diesel vehicles that operate in California. Similarly, there are no federal regulations comparable to the existing California on-road regulations that are being proposed to be amended: the regulations to reduce diesel PM emissions from diesel engines owned by municipal and utility fleets, emissions of diesel PM and NO_x from drayage trucks that operate at ports and intermodal rail yards in California, and that portion of the mobile cargo handling regulation that applies to vehicles that may operate on road.

Presently, there are also no comparable federal on-road regulations to California's heavy-duty vehicle idling requirements. The amendments to the California idling requirements do not require a waiver in that the amendments modify an in-use operational control for which states are not preempted. (See CAA section 209(d).) This exception has also been applied to off-road engine idling requirements. (See *Engine Manufacturers Association v. EPA* (D.C. Cir. 1996) 88 F.3d 1075.)

There are also no federal regulations comparable to California's in-use off-road regulations that are being proposed to be amended. Those regulations include the mobile cargo handling regulation, the in-use off-road diesel regulation, the portable ATCM and PERP proposed amended regulation to reduce emissions of diesel PM and NO_x from in-use off-road diesel engines that operate in California, including those that operate at ports and intermodal rail yards.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared two documents for the proposed regulatory action: a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposed action and a Technical Support Document (TSD) that describe the basis of the proposed action in more detail. The Staff Report is entitled: "Staff Report: Initial Statement of

Reasons for Proposed Rulemaking — Regulation to Control Emissions from In–Use On–Road Diesel Vehicles.” The Technical Support Document is entitled: “Technical Support Document: Proposed Regulation to Control Emissions from In–Use On–Road Diesel Vehicles.” Together with the needs assessment (i.e., the Diesel RRP), these two documents serve as the report on the need and appropriate degree of regulation for in-use on–road diesel vehicles operating in California.

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

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

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Tony Brasil, Manager of the In–Use Control Measures Section, at (916) 323–2927, or Gloria Lindner, from the Heavy Duty Diesel In–Use Strategies Branch, at (916) 323–2803.

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

This notice, the ISOR, TSD, and all subsequently issued regulatory documents, including the FSOR, when completed, are and will be available on the ARB website for this rulemaking at www.arb.ca.gov/regact/2008/truckbus08/truckbus08.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

Costs to State Government and Local Agencies

Pursuant to Government Code sections 11346.5(a)(6), the Executive Officer has prepared an estimate in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Government Code, title 2, division 4, part 7 (commencing with section 17500), other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

The Executive Officer has determined that while ARB would incur costs to implement and enforce the proposed new regulation to reduce emissions from in-use on–road diesel vehicles, and the amendments to the existing regulations, the adopted regulatory actions will not affect federal funding to the State.

The proposed regulation would also impose additional costs to ARB. ARB staff has identified a need for additional staff and other resources for outreach and education and for the implementation, and enforcement of the proposed regulation. The Executive Officer has further determined that the proposed regulatory action would not create any additional costs or savings for other state agencies. Vehicles owned by state agencies would not be subject to the proposed regulation. State agency vehicles are subject to the existing regulation for municipality or utility fleets. One of the proposed changes to the regulation for municipality or utility fleets would add light heavy–duty engines to the engines currently subject to the regulation. State agencies have already counted these engines in their fleets as was the original intent of the regulation when it was adopted, and had already accounted for them in the cost of compliance with the regulation for municipality and utility fleets. Therefore, State agencies are not expected to incur additional cost as a result of the proposed regulatory action.

Pursuant to Government Code sections 11346.5(a)(5) and (6), the Executive Officer has further determined that the proposed regulatory action would create costs for school districts, and may impose a mandate that would not be reimbursable by the State, pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500). The mandate which would require schoolbus engines to be retrofitted engines with the best available verified diesel emission control strategy is not reimbursable because the costs would apply to all schoolbus owners, not just school districts, as well as all other heavy–duty vehicles that operate in the State. To the extent that the proposed regulation would require school districts to remove all schoolbuses manufactured before April 1, 1977, that requirement also applies to all schoolbus owners and not

to school districts alone. Additionally, school districts qualify for public funding grants under the California Clean School Bus Program (HSC section 4299.90) for replacement of all pre-1997 school buses that were in operation as of December 31, 2005. It is estimated that the direct regulatory cost of the proposed regulation for public school districts is \$27 million from 2010 through 2017 based on 2008 dollars.

Costs to Businesses and Private Individuals

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The determinations of the Board's Executive Officer, pursuant to Government Code section 11346.5(a)(9), concerning the costs or savings necessarily incurred by representative private persons and businesses in reasonable compliance with the proposed regulations are presented below.

The total cost of the regulation is expected to be \$5.5 billion in 2008 dollars. Approximately \$4.5 billion is attributable to California based vehicles and approximately \$1.0 billion is attributable to vehicles registered out of state. The cost would be spread over the years 2010 to 2030, with the highest costs occurring in the years 2012 and 2013 and the lowest costs occurring in 2014. The total cost is the result of early replacement with newer, cleaner vehicles, cost of retrofit devices, and other annual costs. The cost impact of the in-use on-road heavy-duty diesel vehicle regulation would vary with the different business sectors. A detailed analysis is available in the Staff Report.

Costs to individual fleet owners would vary depending on the size of the fleet, the vehicle types, vehicle age, and normal vehicle replacement practices. Costs also would vary depending on the compliance strategy chosen by each fleet. The average increased cost for in-state heavy-duty vehicles is \$15,800 per vehicle.

Staff has determined that the regulatory action would not have a significant cost impact on a representative private person, above and apart, from a person's occupation as a fleet owner.

Pursuant to Government Code section 11346.5(a)(7)(C), the Executive Officer has made an initial determination that the proposed regulatory action may have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

ARB staff has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submission may include the following approaches for consideration:

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

Alternatives that staff considered are described in more detail in the Staff Report.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would likely have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

Because of the potential cost imposed by this regulation, it is possible that some businesses with affected fleets would be eliminated. It is also possible that some businesses would choose to consolidate (or merge), change owners, rent vehicles (rather than own), or relocate due to this regulation. It is also very likely that additional businesses would be created or existing businesses expanded to aid in the making, distribution, cleaning, and maintenance of these verified DECS through the duration of the regulation. Overall, staff expects that most affected businesses would be able to absorb or pass on the costs of the proposed regulation with no significant adverse impacts on their profitability.

This regulation would increase the use of verified DECS and accelerate vehicle modernization. It is therefore likely that the regulation would cause many jobs to be created due to this increase in demand for verified DECS, newer engines, and newer vehicles. Staff expects new jobs to be created for the production, sales, installation, and maintenance of verified DECS. Staff estimates that over its course, the regulation would require the installation of over 150,000 verified DECS. Additional businesses could be created to aid in the manufacture, distribution, and maintenance of verified DECS through the duration of the regulation.

The Executive Officer has also determined, pursuant to CCR, title 1, section 4, that the proposed regulatory action would affect small businesses. The proposed regulation defines a small fleet as three or fewer vehicles and allows additional time for compliance. Staff has estimated that 48 percent of all medium heavy-duty and heavy heavy-duty vehicles registered in California are

in small fleets. Staff expects that small fleets will, in general, be small businesses. Some small fleets would experience no increased costs while other would experience higher costs. The total estimated cost over the lifetime of regulation for small fleets is approximately \$1.7 billion in 2008 dollars.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California. The reporting requirements are necessary for the enforcement of the regulation. Without effective enforcement, the emission reductions and public health benefits associated with the proposed regulation cannot be achieved.

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

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, December 10, 2008**, and addressed to the following:

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

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

Facsimile submittal: (916) 322-3928

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

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all

written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

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

HEARING PROCEDURES

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

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

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, First Floor, Sacramento, California, 95814, (916) 322-2990.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 203, 203.1, 205, 206, 208, 215, 220, 240, 355, 3000, and 3270, of the

Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 215, 220, 355, 356, 3000, 3270, 3500 and 4304 of said Code, proposes to amend Subsection 300(a)(1)(G), Title 14, California Code of Regulations, relating to Upland Game Birds—Wild Turkeys.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations specify the conditions under which upland game species in California may be hunted. A principal mandate and objective of the Department is to provide for public use and enjoyment of wildlife including hunting. Within the framework of existing regulations, the Commission may modify season dates, bag limits, and other regulations to both conserve wildlife species while providing for their public use.

The proposed regulatory change modifies the regulations to add a 2-day Spring Junior Hunt (16 years of age and younger) period the weekend prior to the normal Spring turkey season. In Spring 2009, the turkey season begins the last Saturday in March and extends for 37 consecutive days. The proposed change would add the Saturday and Sunday preceding the opening day as a 2-day hunt period for juniors.

The purpose is to provide additional recreational opportunity to young hunters for the abundant turkey populations in the State.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the City of Huntington Beach, City Council Chambers, 2000 Main Street, Huntington Beach, California, on Friday, November 14, 2008 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 9th Street, Sacramento, California, on Friday, December 12, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before December 12, 2008 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 9, 2008.** All comments must be received no later than December 12, 2008, at the hearing in Carpinteria, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Jon Snellstrom at the preceding address or phone number. **Dr. Eric Loft, Chief Wildlife Branch, Department of Fish and Game, phone (916) 445-3406, and Assistant Chief Rob Allen, Enforcement Branch, Department of Fish and Game, phone (916) 653-4094, have been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

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

Impact of Regulatory Action

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Considering the small number of permits issued over the entire state, this proposal is economically neutral to business.

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

Effect on Small Business

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

Consideration of Alternatives

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

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER REGULATIONS FOR GASOLINE DISPENSING FACILITY HOSES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to regulations and certification procedure, and adoption of test procedures for gasoline dispensing facility hoses.

DATE: December 11, 2008
 TIME: 9:00 a.m.
 PLACE: California Environmental Protection Agency
 Air Resources Board
 Byron Sher Auditorium
 1001 I Street
 Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 11, 2008, and may continue at 8:30 a.m., December 12, 2008. This item may not be considered until December 12, 2008. Please consult the agenda for the meeting, which will be available at least ten days before December 11, 2008, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodations/Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>.

If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at 916-323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to California Code of Regulations, title 17, section 94011. Proposed amendments to the incorporated "CP-201 Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities," as last amended May 26, 2006, and adoption of "TP-201.8 Determination of the Permeation Rate from a Gasoline Dispensing Facility Hose."

Background: ARB staff is proposing a regulation (Appendix A) to control reactive organic gases (ROG) emitted from gasoline dispensing facility (GDF) hoses. These hoses are used for dispensing gasoline to vehicles and equipment at GDFs. The proposed regulation would reduce gasoline permeation emissions from GDF hoses. By 2014, the proposed regulation will require that existing hoses be replaced with hoses that reduce permeation. Technology to control hose permeation will be similar to those used to control permeation emissions from small off-road engines (SORE) and portable outboard marine tanks (OMT).

If left uncontrolled, 1.5 tons per day (tpd) of gasoline vapors or ROG will be emitted from GDF hoses in California in 2014. This is equivalent to 172,000 gal-

lons of gasoline evaporating into the air each year. Assuming \$3.50 per gallon of gasoline, the amount of fuel lost through permeation has a value of \$600,000 per year. The proposed regulation would reduce 2014 hose permeation emissions by 1.4 tpd of ROG, a reduction of over 90 percent. The cost effectiveness of implementing the regulation will be \$1.08 per pound of ROG reduced, based on 168,000 GDF hoses being replaced at a net cost of \$1.1 million.

There currently is no permeation standard for reducing emissions from GDF hoses at either the State or federal level. Staff has been working with fuel hose manufacturers, material manufacturers, the United States Environmental Protection Agency (U.S. EPA) and Underwriters Laboratories (UL) to develop the proposed performance standard. ARB staff proposes permeation emissions from GDF hoses to be limited to 10 grams per meter squared per day ($\text{g}/\text{m}^2/\text{day}$) when tested at a constant temperature of 38°C (100.4°F) with test fuel (CE-10).

The proposed regulation affects GDF hoses that are part of an ARB certified vapor recovery system, pursuant to CP-201 (*Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities*). Staff is proposing an effective date for the regulation of January 1, 2010. The effective date starts the four-year-clock for all existing GDFs, not undergoing major modification of their facilities, to replace existing GDF hoses with ARB certified low permeation GDF hoses no later than January 1, 2014.

Staff is proposing an operative date of January 1, 2011. The operative date is the date on which new GDFs, or existing GDFs undergoing major modifications, are required to use ARB certified low permeation GDF hoses. The reason for the difference is to allow balance GDF hose manufacturers an extra year to develop and certify low permeation GDF hoses. It should be noted that current regulations require existing facilities to use low permeation hoses upon replacement whenever ARB determines that such hoses are compatible and commercially available.

The proposed regulation includes amendments to the certification procedure, CP-201, that specifies the criteria and test procedures to be used by ARB staff to evaluate and certify GDF hoses.

ARB staff conducted three public workshops for stakeholders to address technical and policy issues. The workshops were held between November 2003 and July 2008. Also, since April 2007, ARB staff has been working with stakeholders, including U.S. EPA, in a UL sponsored focus group to develop the proposed permeation test procedures. This group conducted over 20 meetings. ARB staff chaired the focus group and the meetings offered an additional forum to address stakeholder concerns. In working with the various stakehold-

ers, ARB staff believes that the most significant issues raised by stakeholders have been resolved.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify low permeation GDF hoses; however, changes to ARB Enhanced Vapor Recovery (EVR) certification requirements may have national and international impacts. ARB certification is required by most other states and some countries that mandate the installation of vapor recovery systems at GDFs.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The ISOR also includes the Performance Standard, Certification Procedures, and Test Procedures for Gasoline Dispensing Facility Hoses.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and ~~strikeout~~ format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on December 11, 2008.

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

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Jason McPhee, by phone at (916) 322-8116 or by e-mail at jmcphee@arb.ca.gov, or Mr. Dennis Goodenow, by phone at (916) 322-2886 or by e-mail at dgoodeno@arb.ca.gov.

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

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are

available on the ARB website for this rulemaking at www.arb.ca.gov/regact/2008/gdfh2008/gdfh2008.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

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

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. ARB is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Manufacturers of GDF hoses are expected to pass cost increases on to GDF owners who will then pass the cost to consumers. Cost to the consumers will be partially offset by fuel savings realized from reduced fuel losses. As a result, staff anticipates a representative individual may incur small additional costs (as discussed in the ISOR) because of additional manufacturing costs.

Further, ARB staff has estimated possible costs of compliance for affected businesses. These estimates, and the bases for them, are also discussed in the ISOR.

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

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

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the regulation would affect manufacturers that are located outside California and are currently providing low permeation hoses for other source categories that are compliant with similar performance standards for about half of the hose population. Any costs to small business that operate GDFs are expected to be offset by savings or recouped as described in the ISOR.

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

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written submissions not physically submitted at the meeting must be received **no later than 12:00 noon, December 10, 2008**, and addressed to the following:

Postal mail: Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814

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

Facsimile submittal: (916) 322-3928

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

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in sections 25290.1.2, 38560, 38560.5, 39600, 39601, 39607, 41954 of the Health and Safety Code. The action is proposed to implement, interpret and make specific sections 25290.1.2, 38560, 38560.5, 39515, 41952, 41954, 41956.1, 41959, 41960 and 41960.2 of the Health and Safety Code.

HEARING PROCEDURES

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

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

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

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A REGULATION TO REDUCE GREENHOUSE GAS EMISSIONS FROM HEAVY-DUTY VEHICLES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting a regulation to reduce greenhouse gas (GHG) emissions from heavy-duty vehicles (HDVs). HDVs are commonly used for freight transport and typically consist of a heavy-duty tractor (tractor), the power unit, and a trailer, the towed unit. The proposed regulation affects 53-foot or longer box-type trailers and the tractors that pull them, when operating on California highways.

This notice summarizes the proposed regulatory action. The staff report document presents the proposed regulation and information supporting the adoption of the regulation in greater detail.

DATE: December 11, 2008

TIME: 9:00 a.m.

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

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 11, 2008, and may continue at 8:30 a.m., December 12, 2008. This item may not be considered until December 12, 2008. Please consult the agenda for the meeting, which will be available at least ten days before December 11, 2008, to determine the day on which this item will be considered.

During the course of the Board's consideration of this proposal, it may adjourn to allow the public and interested parties to view new and emerging technologies that are being developed for use in complying with the proposed rulemaking.

For individuals with sensory disabilities, this document and other related material can be made available in Braille, large print, audiocassette, or computer disk. For assistance, please contact ARB's Reasonable Accommodations/Disability Coordinator at 916-323-4916 by voice or through the California Relay Services at 711, to place your request for disability services, or go to <http://www.arb.ca.gov/html/ada/ada.htm>.

If you are a person with limited English and would like to request interpreter services to be available at the Board meeting, please contact ARB's Bilingual Manager at 916-323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption to California Code of Regulations (CCR), title 17, new sections 95300, 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95308, 95309, 95310, 95311, and 95312.

Background

In 2006 the legislature passed and Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (AB 32; Stats. 2006, chapter 488). In AB 32 the Legislature declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The Legislature further declared that global warming will have detrimental effects on some of

California's largest industries including agriculture and tourism, and will increase the strain on electricity supplies. While national and international actions are necessary to fully address the issue of global warming, the Legislature recognized that action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act.

AB 32 creates a comprehensive, multi-year program to reduce GHG emissions in California, with the overall goal of restoring emissions to 1990 levels by the year 2020. AB 32 requires ARB to do many things, including:

- Establishing a statewide GHG emissions cap for 2020, based on 1990 emissions;
- Adopting a scoping plan by January 1, 2009, indicating how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms and other actions;
- By June 30, 2007, adopting a list of discrete, early action GHG emission reduction measures that can be implemented and enforced no later than January 1, 2010; and
- By January 1, 2010, adopting regulations to implement the measures identified on the list of discrete early action measures.

In 2007 the Board approved a list of nine discrete early action measures. The list includes a measure entitled: "SmartWay Truck Efficiency." The proposed regulation is designed to implement this measure.

Description of the Proposed Regulatory Action

The proposed regulation would reduce GHG emissions by requiring some of the new and existing on-road tractors, and trailers operating on California highways to be equipped with technologies that would result in improved fuel efficiency, and thus reduce GHG emissions. The proposed regulation references a federal voluntary program, called the United States Environmental Protection Agency (U.S. EPA) SmartWay Partnership Program, which is designed to improve the environmental performance associated with the ground freight delivery system in the United States. In particular, the SmartWay program approves technologies, such as aerodynamic equipment and low-rolling resistance tires, and certifies tractors and trailers that incorporate these technologies. The proposed regulation relies on the SmartWay program to establish mandatory California tractor and trailer requirements. More specifically, the proposed regulation requires the use of

SmartWay certified tractors and trailers, SmartWay approved aerodynamic technologies and low-rolling resistance tires. Examples of aerodynamic technologies include integrated roof fairings on sleeper-cab tractors; and side skirts, gap fairings, and rear trailer fairings on box-type trailers.

The proposed regulation would provide GHG and oxides of nitrogen (NOx) emission reductions throughout California. Tractors and trailers that comply with the proposed regulation by proper use of aerodynamic equipment and low-rolling resistance tires are expected to achieve a fuel efficiency improvement ranging from 7 to 10 percent. Staff estimates that this improvement in fuel efficiency will result in a reduction in tailpipe GHG emissions of approximately 1 million metric tons of CO₂-equivalents (MMT CO₂e) statewide in 2020 and approximately 6.7 MMT CO₂e nationwide. Staff estimates that the cumulative GHG reductions in California from 2010 to 2020, as new fuel efficient tractors and trailers are introduced and in-use tractors and trailers are retrofitted with fuel efficient technologies, will be reduced by a cumulative total of approximately 7.8 MMT CO₂e statewide and approximately 52.1 MMT CO₂e nationwide. Staff also estimates NOx reductions in California of 4.3 and 1.4 tons per day in 2014 and 2020 respectively. These reductions will help with progress toward attainment of National and State ambient air quality standards for particulate matter and ozone.

The proposed regulation focuses on long-haul tractors, because the required technologies offer the most efficient improvements at highway speeds. Thus, the proposed regulation would establish requirements for new and existing 53-foot or longer box-type trailers and the tractors that pull them. The proposed regulation would apply to both California-registered and out-of-state-registered tractors and trailers. For purposes of the proposed regulation, a box-type trailer is a dry-van trailer or a refrigerated-van trailer. As proposed, the regulation would not apply to tractors pulling other types of trailers (e.g., box-type trailers of lengths shorter than 53 feet, or tractors pulling flatbed trailers, logging trailers, drop-frame trailers, curtain side trailers, or chassis trailers hauling shipping containers). Authorized emergency vehicles and military tactical support vehicles, as well as short-haul and drayage tractors that have been provided an express exemption by ARB, would also be exempt from the requirements under the regulation as proposed.

The proposed regulation includes the following compliance schedules:

- Beginning January 1, 2010, a 2011 model year or subsequent model year tractor with a sleeper berth that pulls a 53-foot or longer box-type trailer on a California highway would be required to be a U.S. EPA certified SmartWay tractor. SmartWay does not currently certify a daycab tractor (without a sleeper berth), so daycab tractors would not be required to be SmartWay certified. Low-rolling resistance tires that meet U.S. EPA SmartWay specifications would be required, beginning January 1, 2010, for all affected 2011 and subsequent model year tractors, regardless of whether they have sleeper berths or not.
- Beginning January 1, 2012, any tractor with or without a sleeper berth that pulls a 53-foot or longer box-type trailer on a California highway would be required to be equipped with SmartWay approved low-rolling resistance tires. This would be the only retrofit requirement for tractors with model years 2010 and earlier, and would allow most 2010 or earlier model year tractors to use their existing tires for the remainder of their useful life before replacing them with low-rolling resistance tires.
- Beginning January 1, 2010, a 2011 model year and subsequent model year 53-foot or longer box-type trailer, including a refrigerated trailer, that is pulled by a tractor on a California highway would be required to be either a U.S. EPA certified SmartWay trailer or fitted with the SmartWay approved technologies described in the proposed regulation. Currently only dry-van trailers are U.S. EPA SmartWay certified. U.S. EPA has not developed specifications for refrigerated trailers, although they may do so in the future. Thus, at present, new, 2011 model year refrigerated trailers will be required to be retrofitted with SmartWay approved components as specified in the regulation.
- Beginning January 1, 2013, 2010 model year and earlier model year 53-foot or longer box-type trailers would be required to be retrofitted with the SmartWay approved technologies described in the regulation. In lieu of meeting the January 1, 2013, compliance date, the trailer owner could choose to comply with an optional trailer fleet compliance schedule.

There are two proposed optional trailer fleet compliance schedules that would be based on size of the trailer fleet. These would allow fleets until 2015 or 2016 to retrofit all trailers that are subject to the proposed regulation. A separate optional schedule is proposed for refrigerated-van trailers with diesel-fueled transport refrigeration units; this schedule provides additional

years for compliance because owners of these vehicles will be subjected to another ARB regulation, the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.

The proposed regulation would expressly apply to owners of tractors pulling 53-foot or longer box-type trailers and owners of 53-foot or longer box-type trailers, drivers of tractors pulling 53-foot or longer box-type trailers, motor carriers and California-based brokers that dispatch 53-foot or longer box-type trailers, and California-based shippers that ship freight in 53-foot or longer box-type trailers.

COMPARABLE FEDERAL REGULATIONS

There are no comparable mandatory federal regulations to control GHG emissions from motor vehicles. As described above, the proposed regulation is based on a voluntary federal program, the U.S. EPA SmartWay Partnership Program.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposed regulation. The Staff Report is entitled: Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider Adoption of the Regulation to Reduce Greenhouse Gas Emissions from Heavy-Duty Vehicles.

Copies of the ISOR with the full text of the proposed new regulatory language may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on December 11, 2008.

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

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Daniel Hawelti, Air Resources Engineer, On-Road Heavy-Duty Diesel Section, at (626) 450-6149, or by email at dhawelti@arb.ca.gov, or Alex Santos, Staff Air Pollution Specialist, On-Road Heavy-Duty Diesel Section, at (626) 575-6682, or by email at asantos@arb.ca.gov.

Further, the agency representatives and designated back-up contact persons, to whom nonsubstantive in-

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

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at www.arb.ca.gov/regact/2008/ghghdv08/ghghdv08.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create: costs or savings in federal funding to the State; or costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to the Government Code, title 2, division 4, part 7 (commencing with section 17500); or other nondiscretionary cost or savings to state or local agencies. The Executive Officer has determined that the proposed regulatory action would create costs to a State agency in the form of costs to ARB to implement and enforce the regulation and to contract with the California Highway Patrol and air quality management districts and air pollution control districts (Districts) for enforcement. No costs or savings affecting other State agencies were identified.

Staff estimates that the total costs to the ARB for implementation and enforcement of the regulation, including contract costs to Districts and CHP for enforcement, would be approximately \$68 million (2008 dollars) for the period from 2010 through 2020. Annual costs are expected to be about \$6.5 million per year.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by private persons and businesses in reasonable compliance with the proposed regulations are presented below.

In general, the owners of tractors and 53-foot or longer box-type trailers subject to the proposed regulation would incur capital costs associated with the initial purchase and installation of aerodynamic technologies and low-rolling resistance tires. Staff estimates that the cost for a SmartWay tractor-trailer combination is approximately \$5,000. However, the industry average trailer-to-tractor ratio is estimated to be 2.5 to 1 per owner. This translates into an average cost of \$9,200 per owner. A state guarantee loan program will be available to help finance early compliance with these requirements.

Operating cost savings resulting from the fuel efficiency improvement associated with operating compliant tractors and trailers will be substantial. For example, in 2010, assuming that most compliant tractors and trailers would realize an 8 percent fuel economy gain when operating at highway speeds, and that diesel fuel is priced at \$3.14 per gallon, the net savings would be approximately \$4,200 per year for a tractor and trailer combination. The fuel savings would fully offset the initial cost of the SmartWay equipment in 1.5 years. This net savings, realized by fleet operators and owner operators of compliant tractors and trailers, is directly attributed to operating cost savings associated with improved fuel economy. Overall, the benefits of this proposed regulation are approximately two times greater than the cost.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. As explained above, individual businesses affected by the proposed regulation may suffer an initial adverse impact due to the up-front costs associated with acquisition of aerodynamic technologies and low-rolling resistance tires. These initial costs are expected to be recouped through savings from reduced fuel use, and the proposed regulation is expected to result in a substantial net savings for the businesses that operate tractors with SmartWay devices and tires and that pull trailers also equipped with these. Businesses that are required to equip trailers with aerodynamic technologies and low-rolling resistance tires but that do not own or operate tractors — including owners of trailer fleets and certain shippers — may not directly recoup initial costs if they do not directly pay for fuel costs. But ARB staff anticipates that at least some of the fuel savings from trailers equipped with SmartWay devices and tires will be indirectly shared by trailer owners through price structures that reflect fuel savings associated with these trailers.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would affect the creation or

elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

Because of the potentially large up-front capital cost imposed by this regulation on larger fleets where the trailer-to-tractor ratio is high, some businesses with affected fleets will not experience a full return on investment in required equipment for several years. It is also possible that some businesses will choose to consolidate (or merge), change owners, rent vehicles (rather than own), or relocate due to this regulation. It is also very likely that additional businesses will be created or existing businesses expanded to aid in the manufacturing, distribution, installation, and maintenance of aerodynamic technologies and low-rolling resistance tires as a result of the regulation. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to CCR, title 1, section 4, that the proposed regulatory action would affect small businesses. Staff assumes a small business owner does not own any trailers, but contracts with companies to haul compliant trailers. A detailed assessment of the economic impacts of the proposed regulatory action on small businesses and other businesses can be found in the ISOR.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California. The reporting requirements are necessary for the enforcement of the regulation. Without effective enforcement, we cannot achieve the emission reductions and public health benefits associated with the proposed regulation.

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

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and by email or other writing before the meeting. To be considered by the Board, written comment submissions not physically submitted at the meeting must be received

no later than 12:00 noon, December 10, 2008, and addressed to the following:

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

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

Facsimile submittal: (916) 322-3928

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

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code sections 38510, 38560, 38560.5, 39600, and 39601. This action is proposed to implement, interpret and make specific Health and Safety Code sections 38560, 38560.5, 38580, and 39600.

HEARING PROCEDURES

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

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

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

TITLE 19. OFFICE OF THE STATE FIRE MARSHAL

The State Fire Marshal proposes to adopt the proposed regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PUBLIC HEARING

The State Fire Marshal has not scheduled a public hearing on this proposed action. However, The State Fire Marshal will hold a public hearing if a written request is received from any interested party or their authorized representative no later than 15 days before the end of the 45-day comment period ending on December 8, 2008.

If a written request for a hearing is received the State Fire Marshal will hold a public hearing as scheduled below:

Wednesday, December 10, 2008:

**Resources Building
First Floor Auditorium
1416 Ninth Street
Sacramento, CA 95814
From 2:30 p.m. to 5 p.m.**

The public hearing facilities are accessible to persons with mobility impairments. If any special assistance is required (i.e. interpreter), please notify the contact person named in this notice at least 15 days prior to the public hearing.

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 at the hearing.

WRITTEN COMMENT PERIOD

The State Fire Marshal will accept written comments regarding this regulatory action for 45 days beginning October 24, 2008 until 5:00 p.m. on December 8, 2008.

Send mailed comments to:

OFFICE OF THE STATE FIRE MARSHAL
Attention: Diane Arend
P.O. Box 944246
Sacramento, CA 94244-2460

Or by e-mail to

ProposedAESLimitedLicense@fire.ca.gov

Or you may fax your comment to:

Attention: Diane Arend
(916) 445-8459

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Section(s): 13195, 13196.5 and 13197 with reference to 13195, 13196.5, 13197 and 13198 Health and Safety Code.

INFORMATIVE DIGEST — POLICY STATEMENT OVERVIEW

The State Fire Marshal proposes to adopt: Title 19 CCR, Division 1, Chapter 5, Section(s) 901, 905 and 905.2 Automatic Fire Extinguishing Systems. The State Fire Marshal proposes to adopt these regulations pursuant to Health and Safety Code Sections 13195, 13196.5 and 13197 that requires the State Fire Marshal to develop regulations and establish fees for the protection and preservation of life and property to control the servicing, testing and maintaining of automatic fire suppression systems. These proposed regulations will establish an "A" license (Type L) and establish \$135 fee for the primary location of the Type L license and \$100 fee for additional locations with an inspection made by the local fire authority. These proposed regulations will establish an "A" license (Type L) and establish \$335 fee for the primary location of the Type L license and \$100 fee for additional locations with an inspection made by the State Fire Marshal. These proposed regulations will also establish a \$200 licensing re-inspection fee for the second and each subsequent re-inspection. There is no fee for the first re-inspection. State law authorizes the State Fire Marshal to establish fees to support the operation of the State Fire Marshal's Automatic Extinguishing System Program which includes inspections, re-inspections and investigations. The funds are deposited into a separate State Fire Marshal Licensing and Certification Fund pursuant to Health and Safety Code Section 13137.

The State Fire Marshal utilized the recommendations of the State Fire Marshal Automatic Extinguishing Systems Advisory Committee in developing the proposed regulations and license fees.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following determinations:

1. Mandate on local agencies and school districts: **None**
2. Cost or savings to any other State agency: **None**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Section 17561: **None**
4. Other non-discretionary cost or savings imposed upon local agencies: **None**
5. Cost or savings in federal funding to the State: **None**
6. Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other States: **None**
7. Cost impact on representative private persons or affected businesses: The State Fire Marshal is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. Adoption of these regulations **will not**:
 - a) create or eliminate jobs within California;
 - b) create new businesses or eliminate existing businesses within California; or
 - c) affect the expansion of businesses currently doing business within California.
9. Significant effect on housing costs: **None**

SMALL BUSINESS EFFECTS

The State Fire Marshal has made the initial determination that the fees proposed in these regulations will have no substantial effect to small businesses and the State Fire Marshal has not identified any alternatives that would lessen any adverse impact, if any, on small businesses. The State Fire Marshal amendment to these regulations does not have an impact on small business in that these regulations will allow public and private entities that have trained personnel on staff to conduct certain annual testing and maintenance of wet sprinkler systems, standpipe systems and private fire service mains providing a license cost savings.

The express terms of the proposed action are written in plain English and are available from the agency contact person.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

Inquiries concerning the proposed regulatory action or requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based may be directed to:

Diane Arend, Senior Deputy State Fire Marshal
 P.O. Box 944246
 Sacramento, California 94244-2460
 Telephone: (916) 324-9592
 Fax: (916) 445-8459
 E-mail: diane.arend@fire.ca.gov

Alternate Contact:

James Parsegian
 P.O. Box 944246
 Sacramento, California 94244-2460
 Telephone: (916) 445-8415
 E-mail: James.Parsegian@fire.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office of the State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, shown above. As of this date, this notice is published in the Notice Register. The State Fire Marshal has prepared a statement of reasons for the proposed action. The full text of the regulations, along with the statement of reasons upon which the changes are based is available from the contact person as shown. Copies may be obtained by contacting Diane Arend at the address or telephone number listed above or through our website at <http://osfm.fire.ca.gov>.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the hearing, the State Fire Marshal may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes indicated — shall be made available to the public for at least 15 days prior to the date which the State Fire Marshal adopts, amends or repeals the regulations. Requests for copies of any modified regulations should be sent to Diane Arend at the address indicated above. The State Fire Marshal will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF
REASONS**

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

**AVAILABILITY OF DOCUMENTS ON THE
INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of proposed regulations, highlighted in underline and strikeout, can be accessed through our website at <http://osfm.fire.ca.gov>.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF HEALTH CARE
SERVICES**

NOTICE OF GENERAL PUBLIC INTEREST

**THE CALIFORNIA DEPARTMENT OF
HEALTH CARE SERVICES QUALITY
ASSURANCE FEE ON SKILLED NURSING
FACILITIES FOR THE 2008–09 RATE YEAR**

This notice provides updated information concerning the Quality Assurance (QA) Fee on each skilled nursing facility for the rate year August 1, 2008, to July 31, 2009. California Health and Safety Code sections 1324.20 through 1324.30, and Welfare and Institutions Code section 14105.06, authorize the Department of Health Care Services (DHCS) to collect a QA Fee from all nonexempt Freestanding Skilled Nursing Facilities

and Freestanding Skilled Adult Subacute Nursing Facility Level–Bs (FS/NF–Bs). The purpose of this fee is to enhance federal financial participation in the Medi–Cal program, provide additional reimbursement to, and support quality improvement efforts in, licensed FS/NF–Bs providing services for the Medi–Cal program.

**QA FEE IMPOSED FOR THE 2008–09
RATE YEAR**

Effective August 1, 2008, for the rate year 2008–2009, DHCS will begin collecting the 6 percent QA Fee authorized by Assembly Bill (AB) 1629 on the total net revenue of all FS/NF–Bs, subject to the fee.

DHCS will collect the following QA Fee on a monthly basis:

FS/NF–Bs with total annual resident days equal to or greater than 100,000 — \$8.05 per resident day.

FS/NF–Bs with total annual resident days less than 100,000 — \$9.05, per resident day.

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

PUBLIC REVIEW AND COMMENTS

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

John McCraw, Chief
Long Term Care System Development Unit
Long Term Care Section
Department of Health Care Services
1501 Capitol Avenue, Suite 71.4001
MS 4612
P.O. Box 997417
Sacramento, CA 95899–7417

**CALIFORNIA DEPARTMENT OF
REAL ESTATE**

NOTICE OF GENERAL PUBLIC INTEREST

Notice of Public Hearing Concerning Fees

Jeff Davi, Real Estate Commissioner, proposes to consider whether the fees charged by the Department should be lower than the maximum amount allowed pursuant to California Business and Professions Code (hereinafter the “Code”) Sections 10209.5, 10210,

10214.5, 10215, 10250.3 and 11011. The Commissioner's consideration will include all comments, objections and recommendations regarding such fees.

PROPOSED REGULATORY ACTION

Sections 10226 and 11011 of the Code require, among other things, that the Commissioner hold at least one regulation hearing each calendar year to determine if fees lower than those authorized under Section 10226.5(b) of the Code should be prescribed. The hearing referred to below shall serve as the regulation hearing for the purpose of satisfying the requirement of Sections 10226(a) and 11011(a) of the Code. The Department of Real Estate may present, at this hearing, relevant data compiled by the Department, and other sources, if appropriate, that have been used or which the Commissioner may use in making the determination if fees should be lower. The Commissioner does not propose to adopt, amend and/or repeal any sections of the California Code of Regulations (CCR) at this time. However, he wishes to consider all comments, objections and recommendations regarding such fees.

PUBLIC HEARING

The Commissioner or his representative will hold a public hearing starting at 10:00 a.m., on December 8, 2008, 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. 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 action to the Commissioner. The written comment period closes on December 8, 2008. All written comments must be received by 5:00 p.m. on that date at the Department's Sacramento Office as follows:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
Sacramento, CA 95818

Telephone: (916) 227-0791

AUTHORITY AND REFERENCE

Business and Professions Code Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

No regulations are proposed to be adopted, amended or repealed.

EFFECT ON SMALL BUSINESS

There are no proposed regulatory actions to affect small business.

DISCLOSURES REGARDING THE PROPOSED ACTION

There are no proposed regulatory actions requiring disclosures.

CONSIDERATION OF ALTERNATIVES

There are no proposed regulatory actions requiring consideration of alternatives.

CONTACT PERSON

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

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P.O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

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

There is no Statement of Reasons or text of proposed regulations.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

There is no changed or modified text.

COMPLIANCE WITH GOVERNMENT CODE
SECTION 11346(A)(1) THROUGH (4)

The Department of Real Estate will mail or deliver a copy of this Notice of Proposed Action by the Real Estate Commissioner to the Department's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with the Department.
2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency).
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be affected by any fee adjustment. The Department has no way of knowing which are small businesses.
4. The California Association of Realtors, a real estate licensee trade organization and the California Building Industry Association, a home builders trade organization.
5. A substantial number of land developers. Not small businesses by definition, they may, nevertheless, be affected by any fee adjustment.

DATED: 10-9-08

Jeff Davi
Real Estate Commissioner

/s/

**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)**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

Date: October 8, 2008

To: Kevin Mardis

From: Chapter Two Compliance Unit
Subject: **2008 OAL DETERMINATION NO. 30 (S)
(CTU2008-0702-01)**
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging Kern Valley State Prison memo affecting inmate pay as an underground regulation.

On July 2, 2008, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether a memo affecting inmate pay at Kern Valley State Prison constitutes an underground regulation. On August 27, 2008, OAL notified you that your petition was incomplete, and on September 19, 2008, you submitted the documents needed for a complete petition. The memo challenged in your petition, Inmate Pay Changes/Education Protocol Implementation, was issued by the warden of Kern Valley State Prison on December 31, 2007.

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

Generally, a rule that meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA.

Penal Code section 5058(c) establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

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.

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), 845 [79 Cal.Rptr.2d 357], the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

. . . .

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the December 31, 2007 memo challenged by your petition applies solely to the inmates of the Kern Valley State Prison. A. Hedgreth, Warden of Kern Valley State Prison, issued the memo. Inmates housed at other institutions are controlled by those other institution’s criteria for inmate pay. Therefore, the challenged memo is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1).³

³ 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.)

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/
Richard L. Smith
Staff 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.

File# 2008-0930-01
CALIFORNIA STATE UNIVERSITY
Paid Administrative Leave

The California State University is adopting section 42729, title 5, California Code of Regulations, entitled “Paid Administrative Leave”. This adoption is exempt from review by the Office of Administrative Law pursuant to Education Code section 89030.1.

Title 5
California Code of Regulations
ADOPT: 42729
Filed 10/14/2008
Effective 10/14/2008
Agency Contact:
Cassandra M. Andrews (562) 951-4500

File# 2008-0903-03
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Training Specifications for the Investigation and Trial Preparation Course

This rulemaking modifies the content of training materials for District Attorney’s Office Investigators and Inspectors. The training materials are known as “Train-

ing Specifications for the Investigation and Trial Preparation Course” and are incorporated by reference into section 1005 of title 11 of the California Code of Regulations (CCR). The rulemaking: 1) redistributes, somewhat, the 80 training course hours among the required courses, deletes several courses and adds others; 2) adds active verbs to learning objectives; 3) revises design and delivery to adopt adult learning methods used in other peace officer training; 4) adds and modifies content to reflect contemporary changes in job functions and emerging training needs; and 5) modifies language to improve clarity, accuracy, and readability. The rulemaking also makes applicable changes to references to these training materials in Section D-14 of the Peace Officer Standards and Training Administrative Manual, which is incorporated by reference into Title 11 CCR Section 1005, and to section 1005 itself.

Title 11
California Code of Regulations
AMEND: 1005
Filed 10/14/2008
Effective 11/13/2008
Agency Contact: Connie A. Paoli (916) 227-4854

File# 2008-0917-01
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Parole Violation Decision-Making Instrument Pilot Program

Pursuant to Penal Code Section 5058.1, the California Department of Corrections and Rehabilitation is having printed in title 15 of the California Code of Regulations, at section 3999.6, an instructional memorandum and related forms, appendices, and an attachment which together constitute the Pilot Program for the Parole Violation Decision-Making Instrument. The purpose of the pilot program is to implement and evaluate an instrument and process which will enable staff to uniformly apply objective criteria to violations of parole in order to identify the appropriate category of response.

Title 15
California Code of Regulations
ADOPT: 3999.6
Filed 10/15/2008
Effective 10/15/2008
Agency Contact: Randy Marshall (916) 341-7328

File# 2008-1008-01
DEPARTMENT OF FOOD AND AGRICULTURE
Diaprepes Root Weevil Interior Quarantine

This emergency regulatory action specifies an area of approximately one square mile in Laguna Beach as be-

ing under quarantine for the pest *Diaprepes abbreviatus* (Diaprepes root weevil).

Title 3
California Code of Regulations
AMEND: 3433(b)
Filed 10/15/2008
Effective 10/15/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-1007-02
DEPARTMENT OF FOOD AND AGRICULTURE
Oriental Fruit Fly Interior Quarantine

This regulatory action extends the quarantine area into Orange County in the Lakewood area. This is due to the fact that a fruit fly was trapped near the current epicenter of the quarantine area on September 26, 2008 and another was trapped on October 2, 2008 one mile to the southeast of the epicenter of the original infestation. The expansion of the quarantine area provides for the necessary buffer zone extending 4 and 1/2 miles from each detection site.

Title 3
California Code of Regulations
AMEND: 3423(b)
Filed 10/14/2008
Effective 10/14/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-1007-01
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

The proposed emergency amendment will expand the existing quarantine area in the Alameda/Contra Costa area by approximately eleven square miles with respect to the light brown apple moth (LBAM; *Epiphyas postvittana*) pursuant to the finding of new pests and the existing quarantine protocol.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 10/14/2008
Effective 10/14/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0826-02
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT
RV Repeal: Design and Construction Standards for Recreational Vehicles

Effective January 1, 1999, Chapter 293, Statutes of 1998, repealed the Department's authority to review and approve plans, conduct inspections, and issue insignias of approval to recreational vehicles to indicate compliance with applicable standards. These enforce-

ment activities by the Department as to recreational vehicles ceased on and after January 1, 1999. This regulatory action revises existing regulations to delete regulatory provisions for which statutory authority has been repealed.

Title 25
California Code of Regulations
AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A REPEAL: 4021, 4031.5, 4047, 4047.3, 4047.6, 4550, 4560, 4570, 4580, 4600, 4603, 4605, 4619, 4624, 4626, 4665, 4670, 4680, 4800, Appendix RV-P-1
Filed 10/08/2008
Agency Contact: Jim McGowan (916) 327-2658

File# 2008-0905-01
EMPLOYMENT DEVELOPMENT DEPARTMENT
Verification Criteria

The Employment Development Department (“EDD”) proposes to amend their regulation to incorporate new and changing “forms” that are acceptable as verification of federal eligibility for employment. They are repealing the outdated list of acceptable Employment Authorization Document forms and want to replace it with a reference to the federal laws that contain the types of acceptable documentation. The employment verification provisions are contained in the Immigration and Nationality Act Section 274A (8 U.S.C. section 1324a) and Title 8 Code of Federal Regulations part 274a.2.

Title 22
California Code of Regulations
AMEND: 2051-3
Filed 10/15/2008
Effective 11/14/2008
Agency Contact: Laura Colozzi (916) 654-7712

File# 2008-0902-02
OFFICE OF SPILL PREVENTION AND RESPONSE
Certificates of Financial Responsibility

This action amends specifications regarding and application forms for California Certificates of Financial Responsibility (COFR) required of all vessels and marine facility owner/ operators transporting oil or operating a marine facility which transfers oil to or from a vessel in California. This action is the resubmittal of previously withdrawn OAL file number 2008-0610-02S.

Title 14
California Code of Regulations
AMEND: 791, 791.7, 795
Filed 10/09/2008
Effective 11/08/2008
Agency Contact:
Joy D. Lavin-Jones (916) 327-0910

File# 2008-0916-01
STATE WATER RESOURCES CONTROL BOARD
TMDL for Metals in the Los Angeles River and its Tributaries

On September 6, 2007, the Los Angeles Regional Water Quality Control Board adopted an amendment to the Los Angeles Water Quality Control Plan, Resolution R2007-014, which readopts a Total Maximum Daily Load (“TMDL”) for metals in the Los Angeles River and its impaired tributaries. Several cities filed a petition for a writ of mandate challenging several aspects of this TMDL as well as the TMDL for Ballona Creek. On May 24, 2007, the Los Angeles County Superior Court rejected all but one of the challenges to the TMDL. According to the Los Angeles County Superior Court ruling, the State and Regional Water Boards should have adopted and circulated an alternatives analysis pursuant to Public Resources Code section 21080.5 and 23 Cal. Code of Regs. section 3777. The new administrative record includes this analysis. Both the Regional Water Quality Control Board and the State Water Resources Control Board held subsequent hearings to re-adopt the TMDL. The Los Angeles Regional Water Quality Control Board adopted Resolution No. R2007-014 on September 6, 2007. The State Water Resources Control Board adopted resolution No. 2008-046 on June 17, 2008.

Title 23
California Code of Regulations
AMEND: 3939.19
Filed 10/14/2008
Effective 10/14/2008
Agency Contact: Nick Martorano (916) 341-5980

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN May 14, 2008 TO
October 15, 2008**

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.

CALIFORNIA REGULATORY NOTICE REGISTER 2008, VOLUME NO. 43-Z

Title 2

09/04/08 ADOPT: 18530.45
 09/04/08 AMEND: 18946.4
 08/14/08 AMEND: 1859.2, 1859.121, 1859.122, 1859.127, 1859.129
 08/08/08 ADOPT: 21905.5 AMEND: 21903, 21905
 07/16/08 ADOPT: 18946.6
 07/10/08 AMEND: 1859.76, 1859.83, 1859.104.3
 07/10/08 AMEND: 1859.71
 07/08/08 AMEND: 2271
 06/26/08 AMEND: 554.2, 554.3
 06/17/08 ADOPT: div. 8, ch. 112, sec. 59570
 06/11/08 AMEND: 18360, 18361
 06/11/08 ADOPT: 18421.7 AMEND: 18401
 06/11/08 ADOPT: 18944.2 REPEAL: 18944.2
 05/21/08 ADOPT: 59580
 05/14/08 ADOPT: 18413

Title 3

10/15/08 AMEND: 3433(b)
 10/14/08 AMEND: 3434(b)
 10/14/08 AMEND: 3423(b)
 10/01/08 AMEND: 3434(b)
 09/24/08 AMEND: 810.1 REPEAL: 810
 09/23/08 AMEND: 3591.20(a)
 09/23/08 AMEND: 3434(b)
 09/18/08 AMEND: 3591.20(a)
 09/17/08 AMEND: 3435(b)
 09/11/08 AMEND: 3591.20(a)
 09/10/08 AMEND: 3434
 09/05/08 ADOPT: 3435
 09/03/08 AMEND: 6452.2
 09/02/08 AMEND: 3433(b)
 09/02/08 AMEND: 3591.6(a)
 08/26/08 AMEND: 3434(b)
 08/25/08 AMEND: 3423(b)
 08/18/08 AMEND: 6738, 6739
 08/18/08 AMEND: 3434(b)
 08/13/08 AMEND: 3434(b)
 08/12/08 AMEND: 3406(b)
 08/11/08 AMEND: 3406(b)
 08/01/08 AMEND: 3589(a)
 08/01/08 ADOPT: 3591.22
 07/28/08 AMEND: 3434(b)
 07/25/08 AMEND: 902.9
 07/24/08 ADOPT: 3591.21
 07/22/08 AMEND: 3417(b)
 07/16/08 AMEND: 3700
 07/16/08 AMEND: 3406
 07/14/08 AMEND: 3963
 07/11/08 AMEND: 3434(b)
 07/09/08 AMEND: 3434(b)
 06/30/08 AMEND: 3589(a)
 06/24/08 AMEND: 3963
 06/24/08 AMEND: 3060.3

06/23/08 AMEND: 3591.5(a)
 06/17/08 AMEND: 2751
 06/16/08 AMEND: 3434(b)
 06/11/08 AMEND: 3434(b)
 06/09/08 AMEND: 3700
 06/04/08 AMEND: 3434(b)
 05/23/08 AMEND: 3434(b)
 05/23/08 AMEND: 1438.7, 1438.17

Title 4

10/03/08 ADOPT: 12008 AMEND: 12122, 12200.14, 12200.20, 12202, 12203A, 12203.2, 12205.1, 12218.13, 12220.14, 12220.20, 12220.20A, 12222, 12237, 12301, 12342, 12343, 12344, 12345
 09/29/08 AMEND: 1843.2
 09/02/08 AMEND: 1850
 08/25/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101
 08/21/08 ADOPT: 1634 AMEND: 1420
 08/12/08 ADOPT: 4180, 4181
 08/08/08 AMEND: 12002, 12100, 12101, 12120, 12122, 12128, 12130, 12140, 12200, 12200.3, 12200.7, 12200.9, 12200.10A, 12200.10B, 12200.10C, 12200.11, 12200.13, 12200.14, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12201, 12202, 12203, 12203A, 12203.1, 12203.2, 12203.3, 12203.5, 12204, 12205, 12205.1, 12218, 12218.1, 12218.5, 12218.7, 12218.11, 12220, 12220.3, 12220.13, 12220.14, 12220.16, 12220.18, 12220.20, 12220.20A, 12220.21, 12220.23, 12221, 12222, 12223, 12224, 12225, 12225.1, 12233, 12234, 12235, 12236, 12300, 12301, 12301.1, 12302, 12303, 12304, 12305, 12306, 12308, 12309, 12310, 12335, 12341, 12342, 12343, 12344, 12345, 12347, 12358, 12359, 12360, 12370, 12400, 12401, 12402, 12403, 12404, 12405, 12460, 12463, 12464, 12466, 12550, 12552, 12554, 12556, 12558, 12560, 12562, 12564, 12566, 12568, 12590
 08/04/08 AMEND: 1843.2
 07/14/08 AMEND: 8070, 8072, 8073
 07/10/08 AMEND: 1481, 1783, 1784
 06/24/08 ADOPT: 12335, 12340, 12357 AMEND: 12342, 12343, 12344, 12345, 12358, 12359
 05/23/08 ADOPT: 1843.3 AMEND: 1843.2

Title 5

10/14/08 ADOPT: 42729
 09/10/08 AMEND: 41000
 09/09/08 ADOPT: 19828.3, 19837.2 AMEND:
 19816, 19816.1, 19828.2, 19837.1,
 19846
 08/11/08 AMEND: 41000
 08/04/08 ADOPT: 15575, 15576, 15577, 15578
 07/16/08 AMEND: 18272
 06/24/08 AMEND: 80021
 06/19/08 AMEND: 4600(l)
 06/13/08 ADOPT: 55185, 57017 AMEND: 55180,
 57001.7, 58003.4, 58770, 58771, 58774
 06/10/08 AMEND: 30910, 30911, 30912, 30913,
 30914, 30916
 06/10/08 AMEND: 30920, 30921, 30922, 30923,
 30924, 30925, 30927
 06/09/08 ADOPT: 19828.3, 19837.2 AMEND:
 19816, 19816.1, 19828.2, 19837.1,
 19846
 05/28/08 ADOPT: 18085.5, 18086.1 AMEND:
 18086, 18087, 18088, 18091, 18101,
 18102, 18104
 05/21/08 ADOPT: 6105 AMEND: 6100, 6104

Title 7

06/10/08 ADOPT: 236.1

Title 8

10/01/08 AMEND: 3412, 3413, 3414, 3416
 09/23/08 AMEND: 5155
 09/22/08 ADOPT: 1530.1
 09/17/08 AMEND: 1512
 08/26/08 AMEND: 5168, 6775
 08/25/08 ADOPT: 9721.11, 9721.12, 9721.13,
 9721.14, 9721.21, 9721.33 AMEND:
 9720.1, 9720.2, 9721.1, 9721.2, 9721.31,
 9721.32, 9722, 9722.1, 9722.2, 9723
 08/08/08 AMEND: 1532.1
 08/04/08 AMEND: 3649
 08/04/08 AMEND: Appendix C following section
 560, Appendices A, B, and C following
 section 1938, and section 5001
 07/30/08 AMEND: 1524
 07/18/08 AMEND: 290.0, 290.1, 291.0, 291.1,
 291.2, 291.5, 292.0, 294.0, 295.0, 296.0,
 296.1, 296.2, 296.3, 296.4
 07/18/08 AMEND: 2500.7
 07/17/08 AMEND: 4885, 4924, 5004
 07/17/08 AMEND: 1604.24, 1604.26
 07/14/08 AMEND: Appendix B following 1541.1
 06/30/08 ADOPT: 4300.1 AMEND: 4297, 4300
 06/06/08 AMEND: 1710(k)(2)
 05/19/08 AMEND: 1529, 5208, 8358
 05/19/08 AMEND: 1710

05/19/08 AMEND: 797, 1604.10, 1601.21, 1662

Title 9

07/11/08 ADOPT: 1810.207.5, 1810.220.5
 AMEND: 1830.220
 07/02/08 AMEND: 9515(d), 10522(b)

Title 10

09/22/08 AMEND: 2699.6500, 2699.6803,
 2699.6805
 09/15/08 AMEND: 2699.6619, 2699.6700,
 2699.6703, 2699.6705, 2699.6709,
 2699.6711, 2699.6713, 2699.6715,
 2699.6717, 2699.6721, 2699.6723,
 2699.6725
 09/11/08 AMEND: 2330.1
 08/15/08 ADOPT: 2844 AMEND: 2840, 2842
 08/14/08 AMEND: 2699.100, 2699.201,
 2699.205, 2699.207, 2699.209, 2699.400
 08/04/08 AMEND: 5000, 5110, 5111, 5112, 5113,
 5114, 5116, 5117 REPEAL: 5119
 07/30/08 AMEND: 2498.6
 07/24/08 AMEND: 2498.4.9
 07/23/08 AMEND: 2498.4.9
 07/23/08 AMEND: 2498.4.9
 07/21/08 ADOPT: 2330.1, 2330.3, 2330.4, 2330.5
 07/17/08 AMEND: 2498.6
 07/10/08 REPEAL: 2191
 07/10/08 AMEND: 2699.6611
 07/07/08 ADOPT: 2699.6602, 2699.6604
 AMEND: 2699.6603, 2699.6605,
 2699.6607, 2699.6608, 2699.6611,
 2699.6625
 06/24/08 ADOPT: 2232.45.1, 2232.45.2,
 2232.45.3, 2232.45.4, 2232.45.5
 AMEND: 2536.2
 06/16/08 AMEND: 2318.6, 2353.1
 06/02/08 ADOPT: 10.190202
 05/27/08 AMEND: 2249.2-2249.9, 2249.12,
 2249.15
 05/16/08 ADOPT: 2642.8, 2644.28 AMEND:
 2642.6, 2642.7, 2644.2, 2644.3, 2644.6,
 2644.7, 2644.8, 2644.12, 2644.16,
 2644.17, 2644.19, 2644.20, 2644.21,
 2644.23, 2644.25, 2644.27

Title 11

10/14/08 AMEND: 1005
 10/02/08 AMEND: 1003, 9040, 9041, 9073(b)
 10/02/08 AMEND: 1081
 09/23/08 ADOPT: 44.3
 07/08/08 ADOPT: 30.14
 06/17/08 AMEND: 1005, 1007, 1008, 1080
 05/28/08 AMEND: 2000, 2001, 2010, 2020, 2030,
 2037, 2038, 2050, 2051, 2052, 2053,
 2060, 2070, 2071, 2072, 2140

CALIFORNIA REGULATORY NOTICE REGISTER 2008, VOLUME NO. 43-Z

Title 13

10/07/08 AMEND: 935
 10/02/08 AMEND: 423.00
 10/02/08 AMEND: 15.00, 15.03
 09/08/08 AMEND: 2449
 08/29/08 ADOPT: 2660(a)(0.5), 2260(a)(0.7),
 2260(a)(6.9), 2260(a)(7.5), 2260(a)(8.5),
 2260(a)(10.5), 2260(a)(10.7),
 2260(a)(19.7), 2260(a)(19.8),
 2260(a)(23.5), 2260(a)(23.7),
 2260(a)(37), 2260(a)(38), 2260(a)(39),
 2262.3(d), 2264.2(a)(3), 2264.2(b)(5),
 2264.2(d), 2265(c)(4), 2265.1, 2265.5,
 2266(b)(3), 2266(b)(4), 2266(b)(5)
 AMEND: 2261, 2262, 2262.3, 2262.4,
 2262.5, 2262.9, 2263, 2263.7, 2264.2,
 2265, 2266, 2266.5, 2270, 2271, 2273
 08/13/08 ADOPT: 619.2 AMEND: 615, 615.1,
 616, 617, 618, 619, 619.1
 07/15/08 AMEND: 440.04
 06/16/08 ADOPT: 156.01
 06/16/08 AMEND: 1961, 1965
 06/10/08 AMEND: 2222
 06/02/08 AMEND: 1141
 05/16/08 ADOPT: 2449, 2449.1, 2449.2, 2449.3

Title 13, 17

07/02/08 AMEND: 2299.1, 93118

Title 14

10/09/08 AMEND: 791, 791.7, 795
 09/22/08 AMEND: 4900 REPEAL: 4901, 4902,
 4903, 4904
 09/15/08 AMEND: 502
 09/11/08 AMEND: 10310, 10360, 10810, 10820,
 Appendix D, Appendix F
 09/09/08 ADOPT: 17987, 17987.1, 17987.2,
 17987.3, 17987.4, 17987.5, 17987.6
 09/04/08 AMEND: 670.2
 08/27/08 AMEND: 300
 08/25/08 ADOPT: 27.32 AMEND: 27.20(f),
 27.25, 27.30, 28.26, 28.27, 28.28, 28.29,
 28.48, 28.49, 28.51, 28.52, 28.53, 28.54,
 28.55, 28.56, 28.57, 28.58
 08/18/08 AMEND: 749.3
 08/14/08 ADOPT: 3950, 3951, 3952, 3953, 3954,
 3955, 3956, 3957, 3958, 3959, 3960,
 3961, 3962, 3963, 3964, 3965
 08/12/08 ADOPT: 124
 08/11/08 AMEND: 503
 08/06/08 AMEND: 815.05, 818.02, 825.05,
 827.02
 07/28/08 AMEND: 702
 07/23/08 AMEND: 7.50
 07/15/08 ADOPT: 4860

07/08/08 ADOPT: 124.1 AMEND: 122, 125,
 149.1, 150, 150.02, 150.03, 150.05, 163,
 163.5, 164, 174, 180.3
 07/02/08 AMEND: 7.50
 07/01/08 AMEND: 27.80
 06/30/08 AMEND: 120.7
 06/23/08 AMEND: 18660.23, 18660.24,
 18660.25, 18660.33, 18660.34
 06/20/08 AMEND: 360, 361, 362, 363, 364, 551,
 708, 712
 06/18/08 ADOPT: 355
 06/16/08 AMEND: 10602, 10800
 05/15/08 AMEND: 353, 475

Title 15

10/15/08 ADOPT: 3999.6
 09/15/08 ADOPT: 3269
 09/03/08 AMEND: 2253
 08/29/08 AMEND: 3000, 3261.1, 3261.2, 3261.4,
 3261.5, 3261.7, 3267
 08/04/08 AMEND: 2041
 08/04/08 AMEND: 3000, 3005, 3006, 3008, 3009,
 3011, 3012, 3013, 3015, 3016, 3290,
 3310, 3313, 3314, 3315, 3317, 3318,
 3320, 3323, 3327, 3328
 07/30/08 ADOPT: 3503, 3505, 3506, 3507, 3508,
 3509, 3510, 3511, new Article 2 and title,
 3520, 3521, 3521.1, 3521.2, 3521.3,
 3521.4, 3521.5, 3521.6, 3522, 3523,
 3524, 3525, 3526, 3527, new Article 3
 and title, 3540, 3541, 3542, 3543, 3544,
 3545, 3546, 3547, 3548, 3549, new
 Article 4 and title, 3560, 3561, 3562,
 3563, 3564, new Article 5 and title, 3570,
 3571, new Article 6 and title, 3580,
 3581, 3582, new Article 7 and title, new
 Article 8 and title, new Article 9 and title,
 new Article 10 and title, new Article 12
 and title, 3640, new Article 13 and title,
 3650, 3651, 3652, 3652.1, 3653, 3654,
 new Article 14 and title, 3700, 3701,
 3702, 3703, 3704, 3705, 3706, 3707, new
 Article 15 and title, 3720, 3721, 3721.1,
 3722, 3723, new Article 16 untitled,
 3730, new Article 17 and title, new
 Article 18 and title, 3750, 3751, 3752,
 3753, 3754, 3755, 3756, new Article 19
 and title, 3760, 3761, 3762, 3763, 3764,
 3765, 3766, new Article 20 and title,
 3770, 3771, and 3772. AMEND: 3604,
 3605, 3605.5, 3701.1, 3705, 3706, 3801,
 3802, renumber old Article 2 with title,
 and 3815.

07/17/08 ADOPT: 3134.1 AMEND: 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147
 07/14/08 ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792
 07/08/08 ADOPT: 3334 AMEND: 3000
 06/23/08 ADOPT: 2275
 06/04/08 AMEND: 3190, 3191
 05/23/08 ADOPT: 1417 AMEND: 1029, 1206, 1248, 1357, 1358, 1461

Title 16

10/07/08 AMEND: 832.47
 10/02/08 AMEND: 3351.2
 09/29/08 AMEND: 2522, 2524, 2579, 2579.10 REPEAL: 2522.5, 2579.1
 09/22/08 AMEND: 4154, 4155
 09/19/08 AMEND: 11.5, 12, 12.5, 37, 87.1
 09/10/08 ADOPT: 1028.2, 1028.3, 1028.4, 1028.5 AMEND: 1021
 08/27/08 AMEND: 2250 REPEAL: 2274, 2277
 08/25/08 AMEND: 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, 1399.489.1
 08/15/08 AMEND: 1361
 08/13/08 AMEND: 3394.6
 08/12/08 AMEND: 3394.4
 08/07/08 AMEND: 4161
 07/30/08 AMEND: 2649
 07/23/08 AMEND: 1399.152.2, 1399.153, 1399.153.3
 07/18/08 AMEND: 134 REPEAL: 135
 07/09/08 ADOPT: 1984
 07/08/08 AMEND: 1399.540
 07/03/08 AMEND: 1568
 07/02/08 AMEND: 390, 390.1, 390.3, 390.4, 390.5, 390.6 REPEAL: 390.2
 06/30/08 ADOPT: 119.7
 06/26/08 AMEND: 109, 116
 06/17/08 ADOPT: 4580
 06/16/08 ADOPT: 4400, 4402, 4404, 4406, 4420, 4422, 4424, 4426, 4428, 4500, 4520, 4522, 4540, 4542, 4560, 4562
 06/11/08 REPEAL: 1399.664
 06/04/08 AMEND: 931
 05/21/08 AMEND: 4141
 05/20/08 AMEND: 905
 05/19/08 ADOPT: 4440, 4442, 4443, 4444, 4446, 4448, 4450, 4452, 4470, 4472, 4474, 4476, 4478, 4480, 4482, 4484

05/16/08 AMEND: 1399.696, 1399.697

Title 17

09/24/08 AMEND: 52082, 56103, 56104, 58670
 09/18/08 ADOPT: 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, 94809, 94810
 09/05/08 ADOPT: 98100 REPEAL: 96100
 08/06/08 AMEND: 94006
 07/14/08 AMEND: 57310, 57332
 07/14/08 ADOPT: 100120
 07/08/08 AMEND: 95005
 07/02/08 AMEND: 2299.1, 93118
 06/12/08 ADOPT: 94016, 94168 AMEND: 94010, 94011
 05/30/08 AMEND: 100080, 100085, 100090, 100100

Title 18

09/24/08 AMEND: 1574
 09/24/08 AMEND: 1599
 08/11/08 AMEND: 1807, 1828
 08/05/08 AMEND: 3000
 07/16/08 AMEND: 5216, 5310, 5311, 5326.4, 5326.6, 5333, 5333.4, 5333.6, 5523.4
 06/23/08 AMEND: 19503
 06/10/08 ADOPT: 2558, 2559, 2559.1, 2559.3, 2559.5
 06/04/08 AMEND: 23038(b)-2, 23038(b)-3

Title 19

09/24/08 AMEND: 560
 09/24/08 AMEND: 906.3
 08/07/08 ADOPT: 1980.00, 1980.01, 1980.02, 1980.03, 1980.04, 1980.05, 1980.06, 1980.07, 1990.00, 1990.01, 1990.02, 1990.03, 1990.04, 1990.05, 1990.06, 1990.07, 1990.08, 1990.09, 1990.10, 1990.11, 1990.12, 1990.13
 06/06/08 AMEND: 200, 203, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217

Title 20

05/20/08 AMEND: 2323(a), 2323(b), 2323(c), 2323(d), 2323(e), 2323(f), 2325(a), 2329(c), 2329(e), 2330(a), 2332(d), 2333(a), 2335(b)

Title 21

06/30/08 ADOPT: 111, 112, 113, 114, 121, 131, 132, 133, 134, 135, 136, 141, 151, 152, 153

Title 22

10/15/08 AMEND: 2051-3
 09/26/08 AMEND: 3258-1, 3267-1, 3267-2
 08/07/08 AMEND: 51098.5, 51202.5, 51309.5, 51503.3

CALIFORNIA REGULATORY NOTICE REGISTER 2008, VOLUME NO. 43-Z

06/26/08 AMEND: 100140, 100141, 100163, 100172, 100174
 06/23/08 AMEND: 12805
 06/17/08 ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040

Title 22, MPP

07/09/08 ADOPT: 88054, 89318 AMEND: 80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2, 86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405
 07/09/08 ADOPT: 88054, 89318 AMEND: 80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2, 86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405
 06/30/08 AMEND: 63-300, 63-504, 63-505, 63-601

Title 22, 27

07/07/08 AMEND: Title 22, 67450.11; Title 27, Div. 3, subd. 1, Chapter 4C. and Chapter 6

Title 23

10/14/08 AMEND: 3939.19

10/06/08 AMEND: 3939.20
 09/17/08 ADOPT: 3919.4
 07/01/08 AMEND: 3935
 06/27/08 ADOPT: 3949.5
 06/26/08 ADOPT: 2918

Title 25

10/08/08 AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A
 REPEAL: 4021, 4031.5, 4047, 4047.3, 4047.6, 4550, 4560, 4570, 4580, 4600, 4603, 4605, 4619, 4624, 4626, 4665, 4670, 4680, 4800, Appendix RV-P-1
 08/29/08 ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
 07/14/08 AMEND: 2002, 4004, 5002, 5511

Title 27

09/05/08 AMEND: 25601
 08/08/08 AMEND: 25705(b)
 06/17/08 ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040

Title 28

09/15/08 ADOPT: 1300.71.39

06/30/08 AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-812

Title MPP

09/29/08 ADOPT: 14-611, 14-915, 14-916
AMEND: 14-610

06/26/08 ADOPT: 40-037, 70-101, 70-102, 70-103, 70-104, 70-105 AMEND: 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201, 69-202, 69-205

09/18/08 AMEND: DSS MPP 63-102, 63-504

06/30/08 AMEND: 63-300, 63-504, 63-505, 63-601

06/04/08 AMEND: 63-301