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

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PROPOSED ACTION ON REGULATIONS

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

ADOPTION

MULTI-COUNTY: East Bay Regional Communications System Authority

A written comment period has been established commencing on **January 18, 2008** and closing on **March 3, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 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 or the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **March 3, 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 **Ashley Clarke**, 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 **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Article 8, Section 3963, of the regulations in Title 3 of the California Code of Regulations pertaining to South American Spongeplant Eradication Area as an emergency action that was effective on December 26, 2007. The Department proposes to continue the regulation as adopted and to complete the amendment process by submission of a Certificate of Compliance no later than June 23, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 180 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before March 3, 2008.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Additionally, whenever and wherever a new exotic pest is discovered, the Secretary shall immediately investigate the feasibility of eradication (Food and Agricultural Code Section 5321). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations, as he deems necessary, to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code Section 5322).

The amendment of Section 3963 established that Fresno and Madera counties are additional eradication areas for *Limnobium laevigatum* (South American spongeplant). The effect of the amendment is to establish the authority for the State to perform eradication activities against South American spongeplant in Fresno and Madera counties. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3963 does not impose a mandate on local agencies or school districts. The Department has also determined that the amended regulation will involve no additional costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable savings to local agencies or costs or savings to school districts under Section 17561 of the Government Code and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

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

EFFECT ON BUSINESSES

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

ASSESSMENT

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department amended Section 3963 pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3963 to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

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

In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its

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

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

TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF PROPOSED RULEMAKING

12355. Request for Approval Regarding Security Interests and Secured Transactions

The California Gambling Control Commission ("Commission") proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commission proposes to add section 12355 of Title 4 of the California Code of Regulations, concerning approval of secured transactions.

NO PUBLIC HEARING SCHEDULED AT THIS TIME

At this time, the Commission has not scheduled a public hearing. Any interested person or his or her duly authorized representative may request a hearing pursuant to Government Code section 11346.8 no later than 15 days prior to the close of the comment period.

WRITTEN COMMENT PERIOD
January 18 to March 4, 2008

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission 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., March 4, 2008.**

Requests for a public hearing or written comments for the Commission's consideration should be directed to:

Heather Hoganson, Counsel,
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833-4231;
Fax: 916-263-0452,
E-mail: hhoganson@cgcc.ca.gov

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 19800-19980. In particular, Business and Professions Code sections 19811, 19823, 19824, 19840, 19841, 19893, 19901, and 19951 provide specific authority.

The proposed regulation implements, interprets, or makes specific Business and Professions Code sections 19852, 19853, 19901, 19902, and 19904, which are included as reference citations in the proposed regulations.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

The Gambling Control Act (Business and Professions Code, section 19800 et seq.) provides the Commission jurisdiction over controlled gambling and all activity that is related to the conduct of controlled gambling. This includes licensing and reviewing secured transactions and security interests to ensure that individuals involved in the operation of controlled gambling hold the proper licenses. This proposed action outlines the procedures for requesting approval of a secured transaction or security interest and also provides exemptions from the approval process.

DISCLOSURES REGARDING THE PROPOSED ACTION

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

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

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

Impact on Business: The Commission has made an initial 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.

Significant effect on housing costs: The Commission has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small business: Some cardrooms may be small businesses; to the extent that Small Business Loans are exempted from approval, this proposed regulation may have a beneficial effect on small businesses who obtain small business loans from a federally regulated or state regulated lending institution.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), 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.

ASSESSMENT REGARDING CREATION OR ELIMINATION OF JOBS IN CALIFORNIA

The Commission 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 PERSONS

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

Heather Hoganson, Counsel,
California Gambling Control Commission,
2399 Gateway Oaks Drive, Suite 100,
Sacramento, CA 95833-4231;
Telephone: 916-263-0490,
Fax: 916-263-0452,
E-mail: hhoganson@cgcc.ca.gov.

Requests for a copy of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other technical information upon which the rulemaking is based should be directed to:

Gina Luna,
California Gambling Control Commission,
2399 Gateway Oaks Drive, Suite 100,
Sacramento, CA 95833-4231;
Telephone: 916-263-4600,
Fax: 916-263-0499.

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

The Commission 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 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 Gina Luna at the address or telephone number listed above or accessing the Commission's website at <http://www.cgcc.ca.gov>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Regulations Coordinator or viewed on the website.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the comment period, the Commission 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 Commission adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Gina Luna at the address indicated above.

The Commission will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**TITLE 5. COMMISSION OF TEACHER
CREDENTIALING**

**Division VIII of Title 5 of the California Code of
Regulations**

**Proposed Amendments to 5 California Code of
Regulations Section 80021 Pertaining to Multiple
Subject, Single Subject or Education Specialist
Short-Term Staff Permit**

Notice of Proposed Rulemaking

The Commission on Teacher Credentialing proposes to amend regulatory action described below after considering all comments, objections and recommendations regarding the proposed action.

Public Hearing

A public hearing on the proposed actions will be held:

**March 5, 2008
1:30 p.m.
California Commission on Teacher
Credentialing
1900 Capitol Avenue
Sacramento, California 95814**

Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail on the proposed action. The written comment period closes at 5:00 p.m. on March 3, 2008. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the California Commission on Teacher Credentialing, attn. Terri H. Fesperman, 1900 Capitol Avenue, Sacramento, California 95814-4213; or submit an email at tfesperman@ctc.ca.gov.

Any written comments received 18 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

Authority and Reference

Education Code Section 44225 authorizes the Commission to promulgate rules and regulations which will implement, interpret or make specific sections 44225(b), 44225(d), 44225(l) of the Education Code and govern the procedures of the Commission.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Summary of Existing Laws and Regulations

On December 4, 2003, the Commission took action to discontinue the issuance of multiple subject, single subject and education specialist emergency permits with the understanding that there would be a continuing need for a document that addressed unanticipated staffing needs. With the assistance of stakeholders representing districts, county offices of education, colleges, universities and professional organizations, it was determined that there are two distinct types of staffing needs.

In 2005, the Commission approved regulations to establish two teaching permits. One document is to meet immediate teacher vacancies (Short-Term Staff Permit) and another to staff classrooms when, after a diligent search, no appropriately credentialed teacher could be found (Provisional Internship Permit). The two permits are issued in the area of multiple subject, single subject, and education specialist and replaced the Emergency Multiple Subject, Single Subject and Education Specialist Permits.

There continues to be a need for a document to address unanticipated staffing needs. In the two years of implementation of the two teaching permits, questions have been raised about the definition of ‘acute staffing’ for the Short-Term Staff Permit. As originally established, the short-term staff permit may be requested by an employing agency for acute staffing needs such as the teacher of record is unable to finish the school year due to approved leave/illness, enrollment adjustments or as a bridge document when an individual has completed subject matter competency but is unable to enroll in a teacher preparation internship program.

In addition, due to changes in statute, there has been an increase in the number of pre-service hours required for internship programs. On occasion, school districts are not able to employ prospective intern teachers in time to receive pre-service preparation and therefore the individual cannot be issued an internship credential but needs an authorization to teach. Once the candidate completes the pre-service preparation, an internship credential may be issued.

The proposed regulations update the definition of ‘acute staffing’ to provide specific examples and direction to our stakeholders of appropriate ‘acute staffing’ needs. In addition to clarifying the definition of ‘acute staffing’, staff is recommending updating the basic skills requirement and also clarifying the definition for ‘end of the school year’.

Proposed Changes to Regulation

§80021(a)(2) The proposed change is to update the basic skills requirement in alignment with recent changes in statute.

§80021(b) Clarification of the definition for “end of the school year” will allow for appropriate dating of the credential aligned with the type of school year in which the individual is serving.

§80021(f)(2) The expanded definition of “acute staffing” will clarify for the stakeholders the justification for when the permit may be requested and to correct a typo to add quotation marks.

Documents Incorporated by Reference: None

Documents Relied Upon in Preparing Regulations: None

Disclosures Regarding the Proposed Actions

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

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

Cost or savings to any state agency: None.

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

Significant effect on housing costs: None.

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

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with Section 17500) of the Government Code.

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

Assessment regarding the creation or elimination of jobs in California [Govt. Code §11346.3(b)]: The Commission has made an assessment that the proposed amendments to the regulation would not (1) create nor eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: The Commission has determined that the proposed amendment to the regulations does not affect small businesses. The regulations are not mandatory but an option that affects school districts and county offices of education.

Consideration of Alternatives

The Commission must determine that no alternative considered will be more effective in carrying out the purpose for which the action is proposed or will be as effective and less burdensome to affected private persons or small businesses than the proposed action. These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with Section 17500) of the Government Code.

Contact Person/Further Information

General or substantive inquiries concerning the proposed action may be directed to Terri H. Fesperman by telephone at (916) 323-5777 or Terri H. Fesperman, California Commission on Teacher Credentialing, 1900 Capitol Ave, Sacramento, CA 95814. General question inquiries may also be directed to Janet Bankovich at (916) 323-7140 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission’s web site at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

Availability of Statement of Reasons and Text of Proposed Regulation

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission 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 regulations, and the initial statement of reasons.

Modification of Proposed Action

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

Availability of Final Statement of Reasons

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. When it is available, it will be placed on the Commission’s web site at www.ctc.ca.gov or you may obtain a copy by contacting Terri H. Fesperman at (916) 323-5777.

Availability of Documents on the Internet

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Commission’s web site at www.ctc.ca.gov.

TITLE 16. BOARD OF BARBERING AND COSMETOLOGY

NOTICE IS HEREBY GIVEN that the Board of Barbering and Cosmetology (hereinafter referred to as the “Board”) is proposing to take action as described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at the hearing to be held at 2420 Del Paso Road, Sequoia Room, Sacramento, California 95834 from 10:00 a.m. to 11:00 a.m., on March 4, 2008. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under the contact person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on March 4, 2008 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 7312, 7362 and 7365, of the Business and Professions Code, and to implement, interpret or make specific Sections 7316, 7326, 7362, 7365 and 7389 of said Code, the Board is considering changes to Division 9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 950.4

Business and Professions Code, Section 7312 grants the Board authority to adopt regulations relating to the practice of barbering and cosmetology.

Business and Professions Code, Section 7316 establishes the beauty services that fall under a skin care license.

Business and Professions Code, Section 7326 establishes the requirements for manicuring applicants.

Business and Professions Code, Section 7362 authorizes the Board to determine the required subjects of instruction to be completed by students, including the minimum number of practical and technical instruction hours.

Business and Professions Code, Section 7365 establishes the minimum number of practical training and technical instruction hours for manicuring students.

Business and Professions Code, Section 7389 authorizes the Board to develop a health and safety course to be taught by Board-approved schools.

The Board is proposing to revise its current manicuring (also referred to as nail care) curriculum. This revision is necessary to ensure that manicuring students are up-to-date on current and upcoming trends in the beauty industry.

**FISCAL IMPACT ON PUBLIC AGENCIES
INCLUDING COSTS OR SAVINGS TO STATE
AGENCIES OR COSTS/SAVINGS IN FEDERAL
FUNDING TO THE STATE**

The proposed regulatory action has no cost impact in terms of increased expenses and/or savings to state agencies and/or federal funding.

**NONDISCRETIONARY COSTS/SAVINGS
TO LOCAL AGENCIES**

None

LOCAL MANDATE

None

**COST TO ANY LOCAL AGENCY OR
SCHOOL DISTRICT FOR WHICH
GOVERNMENT CODE SECTION 17561
REQUIRES REIMBURSEMENT**

None

BUSINESS IMPACT

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

IMPACT ON JOBS/NEW BUSINESSES

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

**COST IMPACT ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS**

The Board has determined that schools may see an increase in costs to conduct their manicuring program as a result of the proposed 25 percent increase in hours required for the manicuring curriculum. As a result, students may see an increase in fees charged by schools to attend their manicuring program.

EFFECT ON HOUSING COSTS

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations may affect small businesses.

CONSIDERATION OF ALTERNATIVES

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Barbering and Cosmetology at 2420 Del Paso Road, Suite 100, Sacramento, California 95834.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

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

Name: April Oakley
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 575-7102
Fax No.: (916) 575-7281
E-Mail Address: April_Oakley@dca.ca.gov

The backup contact person is:

Name: Stacy Meza
Address: 2420 Del Paso Road, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 575-7108
Fax No.: (916) 575-7281
E-Mail Address: Stacy_Meza@dca.ca.gov

WEB SITE ACCESS

Materials regarding this proposal can be found at www.barbercosmo.ca.gov.

**TITLE 19. OFFICE OF THE STATE
FIRE MARSHAL**

NOTICE OF PROPOSED RULEMAKING

**OFFICE OF THE STATE FIRE MARSHAL
California Code of Regulations Title-19**

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.

WRITTEN COMMENT PERIOD

The State Fire Marshal will accept written comments regarding this regulatory action until 5 pm on March 3, 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

ProposedGasolineContainers@fire.ca.gov

Or you may fax your comments to:

Attention: Diane Arend
(916) 445-8459

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Sections: 13132.7 and 13129 with reference to 13132.7 and 13139, Health and Safety Code.

INFORMATIVE DIGEST — POLICY
STATEMENT OVERVIEW

Proposed Title 19 Modified Sections

The State Fire Marshal proposes to: amend Title 19 CCR, Chapter 1.5, Sections 200, 203, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, and 217 to address State Fire Marshal approval and listing of wood roof covering materials and “child-resistant” portable gasoline containers.

The State Fire Marshal utilized the recommendations of an ad hoc committee to analyze and review the proposed portable gasoline container requirements. The ad hoc committee consisted of representatives from the fuel container industry and container manufacturers.

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 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 business, 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.
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.
8. Significant effect on housing costs: **None**

SMALL BUSINESS EFFECTS

The State Fire Marshal has made the initial determination that the amendments to 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 amendments to these regulations clarify the requirements for listing of portable gasoline containers and wood roof covering materials for purposes of establishing the criteria by which these items will be included into the State Fire Marshal's listing program.

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

CONSIDERATION OF ALTERNATIVES

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

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations 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, or other information upon which the rulemaking is based may be directed to:

Diane Arend
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:

Francis Mateo
CDF/Office of the State Fire Marshal
Fire Engineering Division
P.O. Box 944246
Sacramento, Ca 94244-2460
Telephone: (916) 324-0232
Fax: (916) 445-8458
E-mail: francis.mateo@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 the date this notice is published in the Notice Register the State Fire Marshal rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons for the proposed action. The full text of the regulations, along with the final 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.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the 45-day comment period, 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 before the State Fire Marshal adopts (amends or repeals) the regulations as revised. 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 web-site at <http://osfm.fire.ca.gov>.

TITLE 24. BUILDING STANDARDS COMMISSION

NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING THE 2007 CALIFORNIA BUILDING STANDARDS ADMINISTRATIVE CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1 HAZARDS U.S. (HAZUS) — ASSESSMENT OF HOSPITAL BUILDINGS

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Office of Statewide Health Planning and Development (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. The OSHPD is proposing building standards related to the adoption of Hazards U.S. (HAZUS) earthquake loss estimation methodology for reassessment of hospital buildings that are rated as Structural Performance Category-1 (SPC-1).

WRITTEN COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from January 18, 2008 until 5:00 pm on March 4, 2008. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Section 130005. The Office of Statewide Health Planning and Development is proposing this regulatory action based on Health and Safety Code Section 18929 and 130005 and Government Code Section 11152.5.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 130005 authorizes the Office to develop definitions of earthquake perfor-

mance categories for earthquake ground motion for existing hospitals that are potentially at significant risk of collapse and that represent a danger to the public as it deems necessary to meet the intent of Health and Safety Code, Sections 130000 through 130025 regarding seismic safety in hospitals. Additionally, the Office is authorized to develop regulations as they apply to the administration of seismic standards.

Health and Safety Code, Section 18929 mandates that building standards or administrative regulations that directly apply to the implementation or enforcement of building standards must be submitted by the adopting agency to the California Building Standards Commission for the Commission’s approval and must be adopted pursuant to Section 18930 and the Government Code (commencing with Section 11346).

Government Code 11152.5 authorizes a state department to adopt regulations pursuant to the Government Code. Regulations which are building standards must be adopted pursuant to State Building Standards Law of the Health and Safety Code (commencing with 18901).

Summary of Existing Regulations

Pursuant to SB 1953 (Chapter 740, Statute 1994), all general acute care hospitals in service prior to January 1, 2000, were required to evaluate each hospital building to determine the structural and nonstructural performance categories based on their expected seismic performance. Hospital buildings were evaluated to specific structural performance categories (SPC) and these categories are described in Table 2.5.3 of Title 24, Part 1, Chapter 6. Hospital buildings rated SPC–1 were constructed pre–1973, prior to the Alfred E. Alquist Hospital Facilities Seismic Safety Act, and are at risk of collapse in an earthquake. These hospital buildings must be retrofitted, replaced or removed from acute care service by January 1, 2008, or 2013, if an extension has been granted. The SPC–2 hospital buildings were also constructed pre–1973, and may not be operational or repairable following an earthquake but do not significantly pose a risk to life. These buildings must be retrofitted or replaced by January 1, 2030. The SPC–3 and SPC–4 buildings were built to the HSSA requirements, but because of certain features, may not be operational or repairable after an earthquake. Hospital buildings rated as SPC–3, SPC–4, or highest rated SPC–5 can be used through January 1, 2030 and beyond.

Title 24, Part 2, Volume 2 provides structural requirements for hospital buildings. The basic regulations for the SB 1953 were implemented in the mid–1990’s. The structural regulations were based on the 1995 California Building Code (CBC), which was the 1994 Uniform Building Code with California amendments. The requirements were essentially identical for retrofit, renovations and new construction. The adoption of the 2007

CBC, which is based on the 2006 International building code, changed the structural design requirements extensively and reduced the design forces for most areas away from active seismic faults. This change is consistent with the methodology proposed in this rulemaking.

Summary of Effect

The proposed regulations will provide a new method to reclassify SPC–1 buildings to SPC–2 based on collapse probability assessment. Collapse probability assessment will be based on Multi–Hazard Loss Estimation Methodology, Earthquake Module (HAZUS–MH MR–2) developed by the Federal Emergency Management Agency/National Institute of Building Sciences. Building specific performance parameters in the AEBM of the HAZUS software, as modified by OSHPD, will be used for the collapse probability assessment. This is an optional method for hospital buildings to assess the seismic risk for hospital buildings slated to be removed from service or retrofitted by 2013. The proposed regulations will provide the same level of seismic safety as the buildings rated SPC–2 based on prescriptive SB 1953 evaluations. This will ensure uniformity in seismic performance of hospital buildings and provide significant economic benefit to the impacted hospitals.

Comparable Federal Statute or Regulations

There are no federal statutes or regulations that are comparable to these proposed regulations.

Policy Statement Overview

The policy objective of these regulations is to reevaluate the SPC–1 hospital buildings with the goal of re-prioritizing these buildings based on seismic risk.

**MATTERS PRESCRIBED BY STATUTE
APPLICABLE TO THE AGENCY OR TO
ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

There are no matters to be identified.

**MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS**

The OSHPD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

**FISCAL IMPACT STATEMENT
(attached Form 399)**

- A. Cost or Savings to any state agency: **Yes. The proposed regulations would result in a savings to University of California hospitals.**

- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No**
- D. Other nondiscretionary cost or savings imposed on local agencies: **Yes. The proposed regulations would result in a savings to county and district hospitals.**
- E. Cost or savings in federal funding to the state: **Yes. Unknown savings or expenditure to Medicaid (Medi-Cal) program.**

Estimate: The proposed regulations would result in a savings of more than \$3.3 billion and deferred expenditures of more than \$1.3 billion for general acute care hospitals subject to SB 1953 (Chapter 740, Statute of 1994) seismic requirements. Savings to individual hospitals will depend on many factors including:

1. Current condition of the building,
2. Building type,
3. Seismic design level,
4. Structural deficiencies,
5. Quality of construction, and
6. Site seismicity and soil type.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The OSHPD has made an initial determination that the adoption/amendment/ repeal of these regulations will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The OSHPD has not relied on any other facts in evidence, documents, testimony or other evidence to make its initial determination of no statewide adverse economic impact. The proposed regulations are technical and editorial amendments that will provide clarification and consistency with nationally recognized standards and statute.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

A report pursuant to Government Code § 11346.3(c) is not required by the proposed regulations.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The OSHPD 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 EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The OSHPD has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.
The proposed action would have no effect on the creation or elimination of jobs within the State of California.
- The creation of new businesses or the elimination of existing businesses within the State of California.
The proposed action would have no effect on the creation of new businesses or elimination of existing businesses within the State of California.
- The expansion of businesses currently doing business with the State of California.
The proposed action would have no effect on the expansion of businesses currently doing business with the State of California.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

OSHPD has made an initial determination that this proposal will not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the

person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Russ Frank, Associate Architect Russell.Frank@dgs.ca.gov
or back-up Jane Taylor, Senior Architect
jane.taylor@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833**

**Telephone No.: (916) 263-0916
Facsimile No.: (916) 263-0959**

**PROPOSING STATE AGENCY CONTACT
PERSON FOR SUBSTANTIVE AND/OR
TECHNICAL QUESTIONS ON THE PROPOSED
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Duane Borba, Supervisor, Health Facilities Review
Office of Statewide Health and Development
Facilities Development Division
1600 Ninth Street, Room 420
Sacramento, CA 95814

regsunit@oshpd.ca.gov
(916) 654-3139
FAX (916) 653-2973

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication January 18, 2008

**CESA CONSISTENCY DETERMINATION
REQUEST FOR**

**Lake Forest Drive and Bake Parkway Extension
Projects (2080-2008-001-05)
Orange County**

The Department of Fish and Game (Department) received a notice on January 02, 2008 that The Irvine Company proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the construction of a northwest extension of Lake Forest Drive from its existing terminus with Laguna Canyon and the construction of an 875-foot southwest extension of Bake Parkway from its existing terminus with Lake Forest Drive to the proposed extension of Lake Forest Drive in the City of Irvine, in Orange County, CA (Project). Both extensions in the Project are designed as six-lane arterial highways. The Lake Forest Drive extension includes two bridges with a maximum span of 140 feet over Veeh and Needlegrass Creeks. The Bake Parkway extension includes one 140-foot bridge span over San Diego Creek. Project activities associated with construction and maintenance will result in temporary impacts to approximately 0.83 acres of habitat suitable for the least Bell's vireo (*Vireo bellii pusillus*) and permanent impacts to approximately 4.7 acres of habitat suitable for the least Bell's vireo.

The U.S. Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion (1-6-07-F-2261.50)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers on December 28, 2007 which considered the effects of the project on the Federally and State endangered least Bell's vireo. Pursuant to California Fish and Game Code Section 2080.1, The Irvine Company is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, The Irvine Com-

pany will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF FISH AND GAME

**CALIFORNIA DEPARTMENT OF
FISH AND GAME
CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
CESA No. 2080-2007-031-06**

PROJECT: Varner Harbor Channel Dredging and Repair
LOCATION: Riverside County
NOTIFIER: David Lawhead, California Department of Parks and Recreation

BACKGROUND

Varner Harbor, located on the northeastern shore of the Salton Sea at the Salton Sea State Recreation Area, is currently closed to boating recreation because an excessive buildup of sediment in the harbor channel is preventing access to the Harbor. Because of the current impassibility of the channel, along with anticipated future effects to sea levels at Salton Sea with implementation of the Quantification Settlement Agreement, the California Department of Parks and Recreation (CDPR) proposes to dredge approximately 7,000-8,000 cubic yards of sediment from the Varner Harbor channel, rebuild the north jetty, and reinforce the south jetty. The north jetty will be reconstructed, using offsite and native materials, on the previous jetty's footprint prior to dredging to allow equipment access for dredging operations. When complete, the reconstructed north jetty will protect Varner Harbor channel from the Salton Sea and help to maintain safe navigable depths in the channel. Dredged material will be spread over approximately 2 acres of beach behind berms along the northern shoreline to minimize sedimentation in the Salton Sea. Once dredging is complete the southern jetty will be reinforced with approximately 300 cubic yards of offsite and native material (Phase 1). CDPR is additionally proposing to dredge up to an additional 4,000 cubic yards of sediment within the same footprint as Phase 1 dredging in the Varner Harbor channel sometime in the next 5 years for purposes of maintaining the harbor channel (Phase 2). Collectively, these activities are hereafter referred to as the "Project."

Implementation of the Project will result in disturbance to desert pupfish (*Cyprinodon macularius macu-*

larius) and desert pupfish habitat within Varner Harbor channel and the adjacent shoreline. The desert pupfish is listed as endangered pursuant to both the Federal Endangered Species Act (ESA) (16 U.S.C, § 1531 *et seq.*) and the California Endangered Species Act (CESA) (Fish and Game Code § 2050 *et seq.*). Because the Project has the potential to take a species listed under the ESA, the U.S. Army Corps of Engineers consulted with the United States Fish and Wildlife Service (Service), and on November 19, 2007 the Service issued Biological Opinion (FWS-ERIV-08B0063/08F0022) for the Project which describes the Project and sets forth measures to minimize and mitigate impacts to the desert pupfish. The Service estimates that there could be take of approximately 27 desert pupfish during trapping and relocation with one mortality as a result of direct effects of the Project. Indirect effects will be minimized with implementation of measures proposed by CDPR and described in the biological opinion. Additionally, the Service anticipates the restoration of the harbor channel will be a long-term benefit to the local pupfish population by ensuring pupfish will continue to have access to the harbor and its refugia habitat and potential spawning habitat. On November 30, 2007 the Director of the Department of Fish and Game (Department) received a request from CDPR for a determination pursuant to section 2080.1 of Fish and Code that the biological opinion, including its incidental take statement (ITS), is consistent with CESA.

DETERMINATION

The Department has determined that the biological opinion, including its ITS, is consistent with CESA, because the mitigation measures therein meet the conditions set forth in Fish and Game Code section 2081, subparagraphs (b) and (c), for authorizing the incidental take of CESA-listed species. Specifically, the Department finds that take of the desert pupfish will be incidental to an otherwise lawful activity (*i.e.*, dredging and repair of the harbor channel), the mitigation measures identified in the biological opinion and required by the ITS will minimize and fully mitigate the impacts of the authorized take of the desert pupfish, and the Project will not jeopardize the continued existence of the species. The mitigation measures in the biological opinion include, but are not limited to, the following:

1. Pupfish net barriers would be placed across each entrance to the channel before any construction operations begin and shall remain in place until the water is free of turbidity caused by the dredging. These barriers will ensure pupfish cannot access dredging and deposition areas from either the harbor side or the Salton Sea side.

2. A trapping program will be instituted by qualified and permitted personnel before dredging begins to remove any pupfish within the harbor channel and proposed north jetty areas once the pupfish netting/barriers have been installed. Trapping will be conducted for a minimum of five consecutive days at each site. If no pupfish are caught, dredging and/or jetty construction may commence. If pupfish are caught, then trapping will continue until no pupfish have been captured for five consecutive days. All trapped pupfish will be transferred immediately to the Salton Sea side of the fish barriers and released. Specific trapping protocols (standardized and approved in 2003) required by the USFWS and the Department, and described in the biological opinion, will be followed.
3. The Department will conduct training on methods of properly trapping and identifying pupfish prior to implementation of the trapping protocol. All trainees will be tested and qualified by Sharon Keeney, a Department fish biologist who has years of experience trapping, identifying, and handling desert pupfish. Ms. Keeney will be on site for the first 4 days of the pupfish removal efforts to provide direction in all aspects of the removal effort, and thereafter, a Department fisheries biologist will be on-call during trapping.
4. If the channel pupfish barrier is dislodged, damaged, or ripped such that desert pupfish passage is possible, then dredging and project construction shall cease. The desert pupfish trapping protocol shall be reinitiated, and trapping will be conducted every day until no pupfish are captured for 5 days in a row.
5. Varner Harbor is considered to have favorable habitat attributes for desert pupfish, including a sand-silt substrate, rooted aquatic plants, shallow water, and littoral shoreline. The loss of access to these habitat features and food resources, and the loss of wave action entering the harbor due to excessive siltation in the harbor channel are likely having ongoing negative effects on desert pupfish use of the harbor and would continue to worsen without implementation of the Project. While Project activities could have short-term, temporary impacts on desert pupfish, the restoration of passage access and wave action to the harbor through harbor channel dredging activities will result in a net long-term benefit to the local pupfish population by assuring the continued access to the harbor and its refugia habitat and potential spawning habitat.

Based on this consistency determination, CDPR does not need to obtain authorization from the Department under CESA for take of the desert pupfish that occurs in carrying out the Project, provided CDPR complies with the mitigation measures and other conditions described in the biological opinion and ITS. However, if the Project as described in the biological opinion, including the mitigation measures therein, changes after the date of the biological opinion, or if the Service amends or replaces that biological opinion, CDPR will need to obtain from the Department a new Consistency Determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081).

DEPARTMENT OF FISH AND GAME

CALIFORNIA DEPARTMENT OF FISH AND GAME INCONSISTENCY DETERMINATION Fish and Game Code Section 2080.1 Tracking Number 2080-2007-034-03

PROJECT: Interstate 680 Sunol Grade
Southbound Project

LOCATION: Alameda and Santa Clara Counties,
California

NOTIFIER: California Department of
Transportation

BACKGROUND

The proposed action described in the federal biological opinion (U.S. Fish and Wildlife Service #1-1-07-F-0358)(BO) includes construction of a southbound HOV lane, auxiliary lane, ramp metering, and related improvements along a 21.7 mile stretch of I-680. The project includes a pilot Smart lane concept that will be incorporated into the HOV lane and will allow solo drivers to use the HOV lane for a fee along with the carpool drivers. The Smart lane is also known as a High Occupancy Toll lane. The overall project area begins at the interchange of I-680 with Calaveras Road/SR 237 in the City of Milpitas in Santa Clara County. It then passes through the City of Fremont in Alameda County, and ends at the Stoneridge Drive interchange in the City of Pleasanton, also in Alameda County.

According to the BO, the proposed I-680 Sunol Grade Southbound HOV Widening Project will likely result in a number of adverse effects to the Alameda whipsnake (*Masticophis lateralis euryxanthus*), a federal and state threatened species and will impact

approximately 3.64 acres of Alameda whipsnake habitat. The BO sets forth a series of conservation measures to mitigate the impacts of construction of the project on the Alameda whipsnake. California Department of Transportation (Caltrans) will compensate for effects to the Alameda whipsnake, through one of the options listed below:

- a. Contribute to the purchase of habitat acquisition which must comply with FHWA policy. Caltrans would contribute the equivalent of 22.41 acres of the total acquisition and location of the acreage would be determined later in cooperation with the Service and the purchasing entity.
- b. An in lieu fee agreement, which must comply with FHWA policy for Federal aid participation. Caltrans would contribute the equivalent of 22.41 acres of the total acquisition and the location of the acreage would be determined later in cooperation with the Service and the purchasing entity; or
- c. Caltrans will purchase 10.92 acres (credits) of habitat for all three species and 11.49 acres (credits) for CTS and CRLF from a Service approved bank.

On December 7, 2007, the Director of the Department of Fish and Game (Department) received a request from Mr. Jeffrey G. Jensen, Office Chief, Caltrans District 4, pursuant to section 2080.1 of the Fish and Game Code, requesting a determination that the BO, including its incidental take statement (ITS) is consistent with the California Endangered Species Act (CESA) regarding impacts to and mitigation for the Alameda whipsnake.

DETERMINATION

After review and consideration of the above-referenced federal BO, including its ITS, the Department has determined there is substantial evidence to conclude the BO and ITS are **not consistent** with CESA because the project and mitigation measures do not meet the requirements set forth in Fish and Game Code section 2081(b) and (c) for authorization of incidental take of species listed under CESA. This determination is based on the following considerations:

1. There is no timeline for Caltrans to meet any of the above requirements and work is allowed to begin prior to performance of the mitigation. Performance Security (ensured funding) is not required. CESA requires that sufficient funding be ensured to carry out all required mitigation.

2. The Department is not included in the approval process for habitat acquisition and location, or the in lieu fee amount. Since the Department is not a party to the decisions implementing these items, the Department cannot find that the impacts have been minimized and fully mitigated.
3. Neither measure (a) nor measure (b) require an easement over the property to ensure its maintenance in perpetuity, they do not require a management plan for the property, nor do they describe the requirement for management funding (endowment) of the property. In addition, they do not provide funding assurances for the purchase of the property (“Security”), all of which are required under CESA.
4. It is unclear what the limitation of the FHWA policy is regarding this activity.

For these reasons, the Department has determined there is substantial evidence that the BO (1-1-07-F-0358), including its ITS, is not consistent with CESA as it pertains to incidental take of Alameda whipsnake by Caltrans during construction activities because it does not ensure that the impacts to Alameda whipsnake will be minimized and fully mitigated. Pursuant to section 2080.1(c) of the Fish and Game Code, with this determination a section 2081(b) incidental take permit must be obtained for any incidental take of Alameda whipsnake as a result of the activities proposed under the Project.

DEPARTMENT OF FISH AND GAME

CALIFORNIA DEPARTMENT OF FISH AND GAME

INCONSISTENCY DETERMINATION

Fish and Game Code section 2080.1

CESA No. 2080-2007-035-03

- PROJECT:** Uvas Creek Scour Mitigation Project
- LOCATION:** Highway 152, west of Gilroy, Santa Clara County
- REQUESTER:** Mr. Jeffrey G. Jensen for Caltrans District 4

BACKGROUND

The California Department of Transportation (Caltrans) is proposing to replace the existing Uvas Creek Bridge on State Route 152 (SR 152) which is located

immediately west of the City of Gilroy between post-mile markers 6.1 and 6.68. The existing bridge was constructed in 1957 and now has substantial structural instabilities including erosion of the pier walls. Scouring has exposed 0.6 meters (2 ft) of bridge pilings that would normally extend below the grade of the creek bed. Caltrans proposes to begin construction of the new bridge in the summer of 2008 and demolition of the old bridge the following year. Caltrans anticipates that construction will take place over a two year period based upon June 15 to October 15 work seasons. The entire project will cause 0.24 acre temporary impacts to creek bed and riparian habitat and 1.11 acres of permanent impact to riparian vegetation.

On June 27, 2006, the U.S. Fish and Wildlife Service issued a Biological Opinion (1-1-06-F-0159)(BO) and incidental take statement (ITS), which describes the project and sets forth measures to mitigate the impacts of the bridge replacement and associated activity on aquatic and terrestrial species. On December 7, 2007, the Director of the Department of Fish and Game (Department) received a notice from Mr. Jeffrey G. Jensen of Caltrans, seeking a determination pursuant to section 2080.1 of the Fish and Game Code that the federal BO is consistent with the California Endangered Species Act (CESA) regarding the impacts to and mitigation for the least Bell's vireo (*Vireo bellii pusillus*).

DETERMINATION

After review and consideration of the above-referenced federal BO, including its ITS, the Department has determined there is substantial evidence to conclude the BO and ITS are **not consistent** with CESA because the project and mitigation measures do not meet the requirements set forth in Fish and Game Code section 2081(b) and (c) for authorization of incidental take of species listed under CESA. This determination is based on the following considerations:

1. The BO requires mitigation for impacts that are described by criteria rather than based on a specific proposal, and the drafting and approval of documents essential to mitigating impacts are put off to an uncertain future date. The Department is not listed as an entity that has approval oversight on the form or location of the final mitigation strategy and location, or the funding and easements proposed for protection and management of those lands in perpetuity. Since this strategy is effective only if the final details are acceptable and the Department is not a party to the decisions implementing these items, the Department cannot find that the impacts have been minimized and fully mitigated.

2. The avoidance measures for least Bell's vireo include direction on what procedures to follow should the bird be present in areas affected by vegetation clearing. There do not appear to be corresponding contingencies should least Bell's vireo be discovered in proximity to other work areas and stages. Without these, we cannot say that the impacts have been minimized and fully mitigated.

For these reasons, the Department has determined there is substantial evidence that the BO (1-1-06-F-0159) for the Uvas Creek Scour Mitigation Project is not consistent with CESA because it does not ensure that the impacts to the State listed species will be minimized and fully mitigated. Pursuant to section 2080.1(c) of the Fish and Game Code, a section 2081(b) incidental take permit must be obtained for any incidental take of the least Bell's vireo as a result of the activities described in the federal biological opinions.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

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

NOTICE TO INTERESTED PARTIES January 18, 2008

Announcement of Chemicals Selected by OEHHA for Consideration for Listing by the Developmental and Reproductive Toxicant Identification Committee and Request for Relevant Information on the Developmental and Reproductive Toxicity of These Chemicals

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of

1986¹ (Proposition 65). The Developmental and Reproductive Toxicant Identification Committee (DART-IC) of OEHHA's Science Advisory Board serves as the State's qualified experts for rendering an opinion whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity. The chemicals identified by the DARTIC are added to the Proposition 65 list, which must be updated annually.

OEHHA has selected five chemicals for the Committee's review for possible listing under Proposition 65 and is initiating the development of hazard identification materials on these chemicals. The chemicals are listed in Table 1 below.

Table 1. Chemicals Selected for Preparation of Reproductive Toxicity Hazard Identification Materials and Review for Possible Listing by the Developmental and Reproductive Toxicant Identification Committee

Chemical	CASNo.
Bisphenol-A	80-05-7
Chlorpyrifos	2921-88-2
Chromium (hexavalent)	18540-29-2
DDE	72-55-9
Sulfur dioxide	7446-09-5

These chemicals were selected using the procedure described in the document entitled: "Process for Prioritizing Chemicals for Consideration under Proposition 65 by the State's Qualified Experts," adopted in 2004, and available on the Internet at www.oehha.ca.gov.

Following this prioritization process, OEHHA identified eight chemicals through application of an epidemiology data screen and a preliminary compilation and review of the toxicological evidence related to their reproductive toxicity. On this basis OEHHA proposed these chemicals for Committee review and consultation. On September 7, 2007, OEHHA released for public comment the eight chemicals proposed for Committee review, along with a summary of the available scientific information on each chemical's potential to cause reproductive toxicity. These materials were also provided to the Committee and made available on OEHHA's Web site at www.oehha.ca.gov. The Committee met to consider these materials at a public meeting on December 10, 2007. In consideration of the DARTIC's recommendations and the totality of the discussion at the meeting, OEHHA will begin preparation of hazard identification materials for the five chemicals identified in Table 1. These hazard identification materials will be presented at a subsequent meeting for Committee review for possible listing of the chemical under

Proposition 65. More information on the DARTIC's recommendations is available on OEHHA's Web site at www.oehha.ca.gov.

By this notice, OEHHA is providing the public an opportunity to provide information relevant to the assessment of the evidence of developmental and reproductive toxicity for any of the chemicals listed in Table 1. Interested parties or members of the public wishing to provide such information should send it to the address given below.

The publication of this notice marks the start of a 60-day data call-in period. This period will end on **Tuesday, March 18, 2008**. The information received during this data call-in period will be reviewed and considered by OEHHA as it prepares the reproductive toxicity hazard identification materials on these chemicals. This request for information is the next step in the process described in the 2004 prioritization procedure.

Notification of the availability of the hazard identification materials and of the time, date, location, and agenda of the meetings of the Developmental and Reproductive Identification Committee where these chemicals will be considered will be provided in subsequent notices published in the *California Regulatory Notice Register* and will also be posted on OEHHA's website. It is anticipated that the hazard identification materials will be made available for a 60-day comment period prior to the Committee meetings at which these chemicals will be considered.

Relevant information on these chemicals should be submitted to:

Cynthia Oshita
 Office of Environmental Health Hazard Assessment
 Proposition 65 Implementation
 P.O. Box 4010
 1001 I Street, 19th Floor
 Sacramento, California 95812-4010
 FAX: (916) 323-8803
 Or via e-mail to coshita@oehha.ca.gov

It is requested that all hard-copy materials be submitted in triplicate.

Submissions may also be delivered in person or by courier to the above address. In order to be considered, the relevant information must be received at OEHHA (if delivered in person or sent by FAX) by 5:00 p.m. on Tuesday, March 18, 2008.

**OFFICE OF ENVIRONMENTAL
 HEALTH HAZARD ASSESSMENT**

California Environmental Protection Agency
 Office of Environmental Health Hazard Assessment

¹ Health and Safety Code section 25249.5 et seq.

NOTICE TO INTERESTED PARTIES

January 18, 2008

**PROPOSITION 65
REGULATORY UPDATE PROJECT
2008 Project List**

The Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for implementation of Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.5, et. seq., hereafter referred to as Proposition 65 or the Act). As part of its responsibilities related to Proposition 65, OEHHA maintains the regulations implementing the Act. These regulations can currently be found in Title 22 of the California Code of Regulations, sections 12000–14000 inclusive.

Over the years, OEHHA has identified updates that could be made to clarify existing regulatory provisions, add new provisions dealing with emerging issues, or delete provisions that may no longer be necessary. On November 2, 2007, OEHHA held a public workshop for the purpose of gathering input from interested parties concerning the relative importance of these regulatory actions and to gather input on items that should be added to the list or removed. Stakeholders were also encouraged to provide their suggestions in writing. Several interested parties sent in suggestions concerning needed actions. These are posted on the OEHHA website.

OEHHA has considered the public input received at the workshop and in the written comments and also its available resources, and will focus on the following regulatory actions in 2008. This list may change based on resource constraints, emerging issues or stakeholder input.

1. **Propose a non-substantive general reorganization of the existing “clear and reasonable” warning regulations in Title 22, Cal. Code of Regs., section 12601.** This is a non-substantive change that would group certain provisions together, such as definitions of terms, and would add sub-sections and descriptive headings to the existing regulations to make them more user-friendly and will facilitate future substantive changes to the regulation.
2. **OEHHA will move all the Proposition 65 regulations out of the Department of Health Services series (Title 22) and into the Cal/EPA series of the California Code of Regulations (Title 27).**

3. **Propose a regulation that would provide a narrow exemption from the warning requirements of the Act for certain exposures to necessary or essential nutrients in foods.**
4. **Propose a change to the existing regulation in Title 22, Cal. Code of Regulations, section 12204, that would make OEHHA’s “safe use determinations” (SUDs) binding.**
5. **Propose a change to the existing regulations that describe the methods for calculating maximum allowable dose levels (MADLs) in Title 22, Cal. Code of Regs., sections 12801 and 12803, the “safe harbor” levels for chemicals known to the State to cause reproductive toxicity.** The existing regulations provide guidance in calculating MADLs. OEHHA proposes to clarify certain issues by adding default body weights for specific age groups and clarify other language in the regulation.
6. **Initiate a discussion of possible approaches to providing warnings for exposures to listed chemicals in foods.** This would be the first step in a process that may lead to proposed changes to the existing safe harbor warning regulations in Title 22, Cal. Code of Regs., section 12601. OEHHA will convene a scoping workshop to gather ideas for such a regulatory proposal.

OEHHA will provide separate notice of each of these actions as they are initiated and remains committed to working with stakeholders throughout the course of the project.

Questions or comments should be directed to:

Fran Kammerer
Staff Counsel
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95812
916-445-4693
Or via e-mail to fkammerer@oehha.ca.gov

Or

Carol Monahan-Cummings
Chief Counsel
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95812
(916) 322-0493
Or via e-mail to cmcumings@oehha.ca.gov

**RULEMAKING PETITION
DECISIONS**

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION**

**NOTICE OF DECISION ON PETITION TO
AMEND REGULATIONS**

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Adult Institutions, Programs and
Parole**

PETITIONER

Edmund Carolan.

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Timothy M. Lockwood, Chief, Regulation and Policy

Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Petitioner contends that the California Department of Corrections and Rehabilitation (CDCR) adopt regulations pertaining to personnel and hiring practices as defined by its Department Operations Manual (DOM). California Government Code 19836 authorizes the California Department of Personnel (sic) to allow an individual, as part of the civil service hiring and employment process, to be eligible for an above the minimum salary for a given classification based on several scenarios. This process is commonly referred to as a "Hiring-Above-Minimum" (HAM). CDCR DOM Chapter 3, Article 13, Sections 31130.6 Hiring-Above-Minimum (HAM) Salary Rates for Extraordinary Qualifications, 31130.6.2 Approval and 31130.6.3 Standards addresses some of the "rules" that CDCR uses to administer a HAM. Petitioner contends that the above cited sections of the DOM contain rules as defined by the California Administrative Procedure Act (APA). The petitioner was unable to find a regulation in California Code of Regulations (CCR), Title 15 that would give CDCR the authority to enforce these sections in the DOM which therefore the petitioner contends constitutes the enforcement of an underground regulation.

DEPARTMENT DECISION

The Secretary of the CDCR declines the petition in its entirety.

The Secretary of the CDCR does not have the statutory authority to regulate HAM policy. The CDCR agrees that generally a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. The DOM is an accumulation of the Departments operational policies. Regulations as they pertain to those policies are contained in the California Code of Regulations (CCR), Title 15. When CDCR determines it must amend or adopt a particular policy, that policy is reviewed to evaluate its regulatory impact. If regulations are required, they are reviewed and approved by the Secretary of the CDCR prior to being forwarded to the Office of Administrative Law to comply with the APA. Once the public comment period is complete and the regulations have been filed with the Secretary of State, the field is noti-

fied that the regulations are in effect and the corresponding DOM policy is distributed for implementation.

Chapter 3, Article 13, Section 31130.6 of the DOM states that the Department of Personnel Administration (DPA) may authorize payment above the minimum step in the salary range in order to bring a person who has extraordinary qualifications into state service. Current state employees shall not be considered for these rates.

Chapter 3, Article 13, Section 31130.6.2 of the DOM states the Personnel Operations Section analysts and institutional personnel officers are the approval authority for delegated classifications. Their authority is limited in accordance with the DPA memorandum and any subsequent guidelines published by DPA. HAM's for other classifications require DPA approval.

HAM requests shall be received:

- By the Personnel Operations Section or institution personnel officer at least five working days before the proposed reporting date for delegated classification.
- By the Personnel Operations Section at least ten working days before the proposed reporting date for classifications requiring DPA approval.

Chapter 3, Article 13, Section 31130.6.3 of the DOM states extraordinary qualifications should provide to the work of the Department a significant contribution beyond that which other applicants offer, for example:

- Expertise in a particular area of the Department's program. This expertise must be well beyond the normal requirements of the class.
- Unique talent, ability, or skill as demonstrated by previous job experience. The scope and depth of such experience is more significant than its length.

The degree to which a candidate exceeds minimum qualifications shall be a guiding factor, rather than a determining one. When a number of candidates offer considerably more than minimum qualifications, it may not be necessary to pay above the minimum to acquire an unusually well qualified person.

The qualifications of state employees already in the same or closely related classes shall be carefully considered since questions of salary equity may arise. Inequity adjustments shall not result from use of this delegation.

On December 7, 1990, the Department of Personnel Administration, Classification and Compensation Division, published Memorandum 90-07A regarding

Hiring-Above-Minimum Standards for Extraordinary Qualifications (HAM). The purpose of this memorandum was to correct a typographical error found on page 2 of Management Memorandum 90-07 issued on November 16, 1990. Both of these memorandums outlined a change to HAM's, specifically current state employees. The change gave Appointing authorities the ability to request extraordinary qualifications HAM's for state employees under certain circumstances as outlined below:

- a. There must be a verifiable competing offer from another prospective non-State employer.
- b. A promotional relationship cannot exist between the employee's current class and the prospective class.
- c. Hires made under these standards represent a career change for the individual.
- d. It is typically necessary to offer an extraordinary HAM to recruit candidates for the class. DPA approval is required in all cases. Delegated HAM authority does not apply.

On September 25, 2007, the Department of Personnel Administration, Classification and Compensation Division, published Memorandum 2007-026 regarding Delegation of Personnel Management Functions Update. On page 2 under Hire Above Minimum (HAM) it states current practice requires departments to submit HAM requests in order to hire employees with extraordinary qualifications that do not meet the HAM requirements to DPA for review/approval. Departments are now delegated the authority to approve exceptions to the HAM criteria for extraordinary qualifications without prior review/approval by Personnel Services Branch (PSB), for all new State employees. Departments are still required to submit HAM approval for current State employees to PSB in all cases. Departments must document the basis for each HAM request and retain the documentation for DPA program review.

Petitioner notes California Government Code 19836 which empowers DPA to set rules on HAM's. As outlined in the above sections of the DOM, as well as memorandums published by DPA, the CDCR does not have the authority to adopt regulations regarding HAM's. The authority governing HAM's is under the jurisdiction of the DPA. The CDCR must comply with the rules adopted by DPA which are noted in the References section of the DOM article.

**OAL REGULATORY
DETERMINATIONS**

OFFICE OF ADMINISTRATIVE LAW

**ACCEPTANCE OF PETITION TO REVIEW
ALLEGED UNDERGROUND REGULATIONS**

(Pursuant to title 1, section 270, of the
California Code of Regulations)

**DEPARTMENT OF PERSONNEL
ADMINISTRATION**

Agency being challenged:

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Peggy Gibson, Counsel
Office of Administrative Law
300 Capitol Mall, Ste. 1250
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Shelley Alarid
128 Mesquite Court
Folsom, CA 95630

Agency contact:

Casey L. Chapanian
Department of Personnel Administration
1515 S Street, North Building, Ste. 400
Sacramento, CA 95811-7258

**PETITION TO THE OFFICE OF
ADMINISTRATIVE LAW
RE: Alleged Underground Regulation
FROM: Shelley Alarid (Petitioner)
DATE: November 6, 2007**

1. Identifying Information:

Your name: **SHELLEY ALARID**
Your address: **128 MESQUITE COURT, FOLSOM,
CA 95630**

Your telephone number (if you have one): **(916) 983-7152**

Your email (if you have one):
IDAMAY27@COMCAST.NET

2. **State agency or department being challenged: DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)**
3. **Provide a complete description of the purported underground regulation. Attach a written copy of it. If the purported underground regulation is found in an agency manual, identify the specific provision of the manual alleged to comprise the underground regulation. Please be as precise as possible.**

On August 9, 2005 DPA Benefit's Division issued Personnel Management Liaison Memorandum (PML) Reference Number 2005-024 (See *Attachment 1*). The subject of PML 2005-024 is, Six Month Limitation of Retroactive Dental Premium Reimbursements. According to this PML, "effective January 1, 2006, retroactive premiums for mandatory cancellations and/or deletions to employees' dental coverage will be reimbursed for a maximum period of six months."

This rule is also found in DPA's Benefits Administration Manual, Section 511 which reads. "Retroactive processing is limited to six months for reimbursement of dental premiums for mandatory cancellations and/or deletions to employees' dental coverage." (See *Attachment 2*)

According to DPA's website located at (<http://www.dpa.ca.gov/personnel-policies/pmls.htm>), "PML memos are the official documents used to transmit information, policy, and procedures from DPA to California state government departments and agencies."

4. **Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation.**

DPA has denied my request for reimbursement of retroactive dental benefits dating back to July 2005 when my son turned 23. According to DPA, this denial is based on the rule issued in PML 2005-024 stating retroactive processing is limited to six month for reimbursement of dental premiums. (See *Attachment 3* for detailed letter from me to DPA requesting reimbursement and *Attachment 4* for a copy of the denial).

In the denial, DPA suggested that I file a Board of Control claim. However, according to the meeting minutes of the State Controllers Office Personnel/Payroll Review Committee (September 2005 and May 2007), it is stated the DPA is recommending denial of these claims. It should be known that there is a fee of \$25 to file a claim with Board of Control. This demonstrates

that State Controller’s Office and Board of Control are both enforcing this underground regulation distributed by DPA.

Excerpts from State Controllers Office Personnel/ Payroll Review Committee:

SEPTEMBER 2005 (*Attachment 5 –Page 2*) states, “The change in the period of retroactivity for dental is being reduced to 6–months effective January 1, 2006. PML 2005–024 with employee letter announced this change. If an employee is tardy in reporting a change DPA Benefits Division will recommend denial of BOC claims, if the employee wants to recover retroactive premiums for more than six months.”

MAY 2007 (*Attachment 6– Page 2*) states, “Guest Speaker: William Page, DPA Benefits Division, provided clarification and reiteration of the 6–month limitation of dental retroactive adjustments. Per DPA PML 2005–024 dated 08–09–05, adjustment and or refund will be processed only for the prior 6 months of premiums. This is important to your employees who are late in requesting deletion of a dependant. DPA is receiving Board of Control claims requesting adjustment for pay periods prior to the new limitation. When dental forms are submitted, you will show the actual date of deletion/cancellation, but SCO will only adjust the 6 months.”

5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code AND that no express statutory exemption to the requirements of the APA is applicable.

The DPA PML 2005–024 states in part, “. . . *in accordance with the recent regulation amendments which limit reimbursement of health premiums (See CalPers Circular Letter, 600–215–05, dated April 29, 2005). The following changes will impact all mandatory cancellations and/or deletions to employees’ State–sponsored dental coverage. . . .*”

The California Public Employees’ Retirement System (CalPers) regulation that DPA is referring to is found in California Code of Regulations, sections 599.502(f)(2) and 599.506(C)(1) and is regarding retroactive reimbursement liability for health premiums, not dental premiums (*See Attachment 7*).

It is my belief that DPA cannot implement a rule based upon a regulation adopted by CalPers. DPA PML 2005–024 constitutes an underground regulation, as that term is defined in California Code of Regulations, title 1, section 250, since this DPA procedures and its applicability to all state employees constitute standards

of general application that are regulations as defined in Section 11342.600 of the Government Code, but have not been adopted as regulations and filed with the Secretary of State pursuant to the Administrative Procedures Act (APA) and are not subject to an express statutory exemption from adoption pursuant to the APA.

6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.

DPA represents the Governor as the “employer” in all matters pertaining to California State personnel employer–employee relations, and their actions affect all California State Employees.

DPA is not representing the Governor adequately by implementing statewide rules that have not been promulgated properly into law. State employees have been adversely affected financially by PML 2005–024 and must not be held accountable if they have no knowledge of the rule being imposed on them. When a rule is promulgated properly into law, then the people are held to the law of the land.

7. Certifications:

I certify that I have submitted a copy of this petition and all attachments to:

Name: Dave Gilb, Director
 Agency: Department of Personnel Administration (DPA)
 Address: 1515 S Street, Sacramento, CA 95811
 Telephone number: 916–324–0455

I certify that all of the above information is true and correct to the best of my knowledge.

**Department of Personnel
 Administration
 Memorandum**

TO: Personnel Management Liaisons (PML)

SUBJECT: Six Month Limitation of Retroactive Dental Premium Reimbursements	REFERENCE NUMBER: 2005–024
DATE ISSUED: 08/09/05	SUPERSEDES:

This memorandum should be forwarded to:

**Personnel Officers
 Personnel Transaction Supervisors
 Personnel Transactions Staff**

FROM: Department of Personnel Administration
 Benefits Division

CONTACT: William Page, Staff Personnel Program Analyst
 (916) 445-9801
 Fax: (916) 322-3769
 Email: WilliamPage@DPA.CA.GOV

This memo provides information regarding a limitation of retroactive dental premium reimbursements, in accordance with the recent regulation amendments which limit reimbursement of health premiums (See CalPERS Circular Letter, 600-215-05, dated April 29, 2005). The following changes will impact all mandatory cancellations and/or deletions to employees' State-sponsored dental coverage.

Effective January 1, 2006, retroactive premiums for mandatory cancellations and/or deletions to employees' dental coverage will be reimbursed for a maximum period of six months. Personnel Offices should communicate the importance of submitting dental enrollment changes to their departments in a timely manner. Personnel Offices may also want to refer employees to the Dental Benefits Handbook for Active and Retired Employees on DPA's Web site at www.dpa.ca.gov (click on Benefits, then click on Dental Insurance, under Related Publications). To assist you in communicating information regarding the limitation of retroactive dental premium reimbursements, we have provided you with a memo (Attachment II) that should be distributed to all your employees.

COMPLETING THE DENTAL PLAN ENROLLMENT AUTHORIZATION (STD. 692)

When completing the Dental Plan Enrollment Authorization (STD. 692) for mandatory cancellations and/or deletions of coverage, the Personnel Office should continue to reflect the actual permitting event date that caused the loss of eligibility and the mandatory effective date/pay period, and forward the form to the State Controller's Office (SCO) for processing. When the form is processed by SCO, the premiums will be adjusted for a maximum period of six months.

The following example of how SCO will process a retroactive transaction is based on an employee who had a divorce (mandatory deletion of spouse) on 08/04/04, but did not report the divorce to the Personnel Office until 08/05/06.

Example: STD. 692 signed by Personnel Office:	08/05/06
STD. 692 received at SCO:	08/11/06
Effective date shown in Section E-14 on STD. 692:	09/01/04
Six month retroactive effective date on SCO records:	Ex-spouse deleted 03/01/06 (02/06 pay period)

The department and employee will not be able to recover any premiums paid prior to the 03/01/06 retroactive effective date (02/06 pay period). Additionally, the employee may be responsible for any dental services that have been incurred by the ex-spouse from 03/01/06 through 09/01/06 and any services incurred after the deletion is processed (if the ex-spouse continues to use this coverage).

DENTAL PROGRAM PERMITTING EVENT CODES IMPACTED BY CHANGE

Attachment I lists the dental program permitting event codes that will have a six month limitation of retroactive dental premium reimbursements when the STD. 692 is processed by SCO.

IMPACT ON VISION ENROLLMENT

State employees' vision coverage is automatically established for eligible employees and their eligible dependents and no form is required to delete ineligible dependents. Therefore, employees need to continue to ensure that only eligible dependents are provided services under their State-sponsored vision plan.

PERSONNEL OFFICES

Please ensure that your employees are made aware of this change and the importance of making timely deletions of ineligible dependents to their dental coverage. Thank you for your cooperation. If you have any questions regarding this information, you may contact William Page, Staff Personnel Program Analyst, at (916) 445-9801.

/s/Debbie Endsley

Debbie Endsley, Division Chief
 Benefits Division

Attachment

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# 2007-1119-04

BOARD OF EQUALIZATION

Place of Sale & Use of Purposes of Bradley-Burns Uniform Local Sales and Use Tax Law

The State Board of Equalization (BOE) seeks to amend Title 18, section 1802(d) regarding use tax transactions of \$500,000 or more. Section 1802 explains how sales and use tax revenues derived from local sales under the Bradley-Burns Uniform Local Sales and Use Tax (Local Tax) Law are allocated. Specifically, BOE seeks to remove the requirement contained in section 1802(d) for transactions that meet the \$500,000 threshold that allows allocation directly to the jurisdiction of first functional use only when the order is made directly with and shipped directly from retailers outside of California.

Title 18

California Code of Regulations

AMEND: 1802

Filed 01/02/2008

Effective 02/01/2008

Agency Contact: Mira Tonis (916) 445-6464

File# 2007-1119-03

BOARD OF EQUALIZATION

Construction Contractors

With respect to construction contracts, the State Board of Equalization (BOE) amends Title 18, section 1521 regarding the classification of solar cells, solar panels and solar modules as materials or fixtures, depending upon the circumstances, for purposes of Sales and Use Taxation.

Title 18

California Code of Regulations

AMEND: 1521

Filed 01/04/2008

Effective 02/03/2008

Agency Contact: Mira Tonis (916) 445-6464

File# 2007-1120-05

BOARD OF EQUALIZATION

Rules for Tax Appeals

This regulatory action establishes a comprehensive set of procedural regulations that cover all of the Board's administrative review functions with regard to Board-administered tax and fee programs and the Board's appellate duties with regard to appeals from the actions of the Franchise Tax Board. This is a complete restructuring of the procedures applicable to the Board's appeals processes, organizing them by tax and

fee program, and providing common procedures for taxpayers to follow where practicable. This reorganization is designed to consolidate into a more useful framework all of the Board's procedures for reviewing petitions, applications, claims for refund, and requests for relief for all of the tax and fee programs administered by the Board, and the procedures for hearing appeals from the Franchise Tax Board to provide taxpayers and tax professionals with a single, well-organized source for all of the procedural information they need to know, from the initiation of the appeals process to the final Board decision.

Title 18

California Code of Regulations

ADOPT: (new Division 2.1) 5000, 5200, 5201, 5202, 5210, 5210.5, 5211, 5212, 5212.5, 5213, 5214, 5215, 5215.4, 5215.6, 5216, 5217, 5218, 5219, 5220, 5220.4, 5220.6, 5221, 5222, 5222.4, 5222.6, 5223, 5224, 5225, 5226, 5227, 5228, 5229, 5230, 5231, 5231.5, 5232, 5232.4, 5232.6, 5232.8, 5233, 5234, 5234.5, 5235, 5236, 5237, 5238, 5239, 5240, 5241, 5242, 5243, 5244, 5245, 5246, 5247, 5248, 5249, 5249.4, 5249.6, 5250, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5267, 5268, 5270, 5271, 5310, 5311, 5312, 5321, 5322, 5322.5, 5323, 5323.2, 5323.4, 5323.6, 5323.8, 5324, 5324.2, 5324.4, 5324.6, 5324.8, 5325, 5325.4, 5325.6, 5326, 5326.2, 5326.4, 5326.6, 5327, 5327.4, 5327.6, 5328, 5328.5, 5331, 5332, 5332.4, 5332.6, 5333, 5333.4, 5333.6, 5334, 5334.4, 5334.6, 5335, 5335.4, 5334.6, 5336, 5336.5, 5337, 5337.4, 5337.6, 5338, 5338.4, 5338.6, 5340, 5341, 5342, 5343, 5344, 5345, 5410, 5411, 5412, 5420, 5421, 5422, 5423, 5424, 5430, 5431, 5432, 5435, 5440, 5441, 5442, 5443, 5444, 5450, 5451, 5452, 5454, 5460, 5461, 5462, 5463, 5464, 5465, 5510, 5511, 5512, 5521, 5521.5, 5522, 5522.2, 5522.4, 5522.6, 5522.8, 5523, 5523.1, 5523.2, 5523.3, 5523.4, 5523.5, 5523.6, 5523.7, 5523.8, 5530, 5540, 5541, 5550, 5551, 5560, 5561, 5562, 5563, 5570, 5571, 5572, 5573, 5574, 5575, 5576 AMEND: Renumber Division 2.1 to 2.2, renumber Division 2.2 to 2.3, renumber Division 2.3 to 2.4, 5090 (amend and renumber to 5600), 5091 (amend and renumber to 5601), 5092 (amend and renumber to 5602), 5093 (amend and renumber to 5603), 5094 (amend and renumber to 5604), 5095 (amend and renumber to 5605), 5200 (amend and renumber to 5700) REPEAL: 5010, 5011, 5012, 5020, 5021, 5022, 5023, 5024, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5040, 5041, 5042, 5043, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5070, 5071, 5072, 5073, 5074, 5074.5, 5075, 5075.1, 5076, 5076.1, 5077, 5078, 5079, 5080, 5081, 5081.2, 5082, 5082.1, 5082.2,

5083, 5085, 5086
 Filed 01/07/2008
 Effective 02/06/2008
 Agency Contact: Mira Tonis (916) 445-6464

File# 2007-1127-01
 DEPARTMENT OF AGING
 Allocation and Transfer of Federal Funds

This regulatory action requires that unexpended funds allocated to area agencies on aging (AAAs) for ongoing program services are not permitted to be rolled over to use as a cash reserve or for other purposes. Instead, all but 5% of its baseline allocation will revert back to the Department to be re-allocated among AAAs in the next fiscal year.

Title 22
 California Code of Regulations
 ADOPT: 7107, 7118 AMEND: 7314
 Filed 01/08/2008
 Effective 02/07/2008
 Agency Contact:
 Chisorom U. Okwuosa (916) 419-7508

File# 2007-1218-01
 DEPARTMENT OF CORRECTIONS AND
 REHABILITATION
 Inmate Confidential Telephone Calls

This regulatory action deals with inmate confidential telephone calls. (Prior OAL file 07-0911-04S; DOCR File 06-0092.)

Title 15
 California Code of Regulations
 AMEND: 3282
 Filed 01/08/2008
 Effective 02/07/2008
 Agency Contact: Kelly Medina (916) 341-7390

File# 2007-1120-01
 DEPARTMENT OF FOOD AND AGRICULTURE
 Rendering Enforcement Program Fees

This rulemaking action increases the annual fees for transporters of inedible kitchen grease (IKG) for the purpose of funding and expanding the enforcement program designed to prevent the theft of IKG and the contamination of animal and human food chains which can result if IKG is taken out of regulated channels.

Title 3
 California Code of Regulations
 AMEND: 1180.3.1
 Filed 01/07/2008
 Effective 01/07/2008
 Agency Contact: Thami Rodgers (916) 698-3276

File# 2007-1121-05
 DEPARTMENT OF INSURANCE
 Provider Network Access Standards

This action updates the Commissioner's regulations on the adequacy and accessibility of services provided under policies of group disability insurance for basic health care furnished by exclusive providers, so that the regulations will also apply to preferred provider networks, and will require a report of information concerning the network whenever an insurer applies for approval of a policy form and thereafter on an annual basis.

Title 10
 California Code of Regulations
 ADOPT: 2240.5 AMEND: 2240, 2240.1, 2240.2, 2240.3, 2240.4
 Filed 01/08/2008
 Effective 02/07/2008
 Agency Contact: Bruce Hinze (415) 538-4392

File# 2007-1214-03
 FAIR POLITICAL PRACTICES COMMISSION
 Treatment of Debts Outstanding After an Election

This regulatory action makes changes to the existing provisions on the treatment of debts outstanding after an election.

Title 2
 California Code of Regulations
 AMEND: 18531.61
 Filed 01/07/2008
 Effective 02/06/2008
 Agency Contact:
 Virginia Latteri-Lopez (916) 324-3854

File# 2007-1121-07
 FISH AND GAME COMMISSION
 Prohibition Against Feeding Big Game Mammals

The action concerns the repeal of a provision which requires Regional Managers to provide a cease and desist notice by certified mail seven days prior to finding a person to be in violation of the regulation that prohibits knowingly feeding big game mammals.

Title 14
 California Code of Regulations
 AMEND: 251.3
 Filed 01/08/2008
 Effective 02/07/2008
 Agency Contact: Sherrie Koell (916) 653-4899

File# 2007-1120-02
 SAN FRANCISCO BAY CONSERVATION AND
 DEVELOPMENT COMMISSION
 San Francisco Bay Plan, Suisun Marsh Protection Plan

This regulatory action amends the San Francisco Bay Plan to update the managed wetlands findings and poli-

cies and amend the Plan Map 1 and 2 and amends the Suisun Marsh Protection Plan to update findings and policies regarding managed wetlands.

Title 14
 California Code of Regulations
 ADOPT: 11970 AMEND: 11900
 Filed 01/04/2008
 Effective 01/04/2008
 Agency Contact: Caitlin Sweeney (415) 557-8794

File# 2007-1120-06
 STATE ALLOCATION BOARD
 Leroy F. Greene School Facilities Act of 1998; Transfer of Special Education

This action implements the provisions of AB 2947 (Stats. 2006, Chap. 585) by adopting the mechanism for adjusting classroom capacity and baseline eligibility resulting from a special education program transfer.

Title 2
 California Code of Regulations
 AMEND: 1859.2, 1859.43, 1859.50, 1859.51, 1859.81, 1859.106
 Filed 01/07/2008
 Effective 02/06/2008
 Agency Contact: Robert Young (916) 445-0083

File# 2007-1116-02
 STATE PERSONNEL BOARD
 Cost Savings Personal Services Contracts

Section 19130 of the Government Code permits state agencies to enter into personal services contracts when the contract will result in cost savings to the state. Section 19131 of the Government Code requires a state agency proposing to enter into a contract pursuant to section 19130 of the Government Code to first notify the State Personnel Board (Board) of its intention to do so. The Board is then required to notify any employee organization effected by the proposed contract, which organization may request the Board to review the contract for compliance with the requirements of Section 19130 of the Government Code. This regulatory action specifies the content of this notice and the procedures that follow.

Title 2
 California Code of Regulations
 ADOPT: 547.69, 547.70, 547.71 AMEND: 547.69 renumbered as 547.72, 547.70 renumbered as 547.74, 547.71 renumbered as 547.73
 Filed 01/03/2008
 Effective 02/02/2008
 Agency Contact: Bruce Monfross (916) 653-1456

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN AUGUST 8, 2007 TO
 JANUARY 9, 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.

- Title 2**
- 01/07/08 AMEND: 1859.2, 1859.43, 1859.50, 1859.51, 1859.81, 1859.106
 - 01/07/08 AMEND: 18531.61
 - 01/03/08 ADOPT: 547.69, 547.70, 547.71
 AMEND: 547.69 renumbered as 547.72, 547.70 renumbered as 547.74, 547.71 renumbered as 547.73
 - 12/26/07 AMEND: div. 8, ch. 54, sec. 54300
 - 12/19/07 ADOPT: 18413
 - 12/18/07 ADOPT: 1859.324.1, 1859.330
 AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329
 - 12/17/07 AMEND: 58700
 - 12/17/07 AMEND: 18351
 - 12/13/07 ADOPT: 18531.2
 - 12/13/07 AMEND: 18530.4
 - 12/13/07 AMEND: 18421.2
 - 12/06/07 AMEND: 649, 649.1 (Renumbered to 649.15), 649.1.1 (Renumbered to 649.16), 649.2 (Renumbered to 649.12), 649.3 (Renumbered to 649.24), 649.7 (Renumbered to 649.35), 649.8 (Renumbered to 649.36), 649.9 (Renumbered to 649.7), 649.10 (Renumbered to 649.22), 649.11 (Renumbered to 649.8), 649.12 (Renumbered to 649.9), 649.13 (Renumbered to 649.23), 649.14 (Renumbered to 649.27), 649.15 (Renumbered to 649.11), 649.16 (Renumbered to 649.30), 649.17 (Renumbered to 649.31), 649.18 (Renumbered to 649.26), 649.20, 649.21, 649.22 (Renumbered to 649.10), 649.71 (Renumbered to 649.25), 649.72

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(Renumbered to 649.4),	650.1	09/20/07	REPEAL: 18530.9
(Renumbered to 649.6),	651.1	09/11/07	ADOPT: 18440
(Renumbered to 649.1),	651.2	09/10/07	AMEND: 1183.13
(Renumbered to 649.14),	651.3	09/04/07	ADOPT: 54700
(Renumbered to 649.13),	651.4	08/31/07	ADOPT: 1859.180, 1859.181, 1859.182, 1859.183, 1859.184, Form SAB 50–11
(Renumbered to 649.34),	651.5		AMEND: 1859.2, 1859.51, 1859.61, 1859.75.1, 1859.81, 1859.81.1, 1859.81.2, 1859.103, 1859.104, 1859.202, 1866, Form SAB 50–04, Form SAB 50–06
(Renumbered to 649.5),	652.1		
(Renumbered to 649.39),	652.2		
(Renumbered to 649.40),	653.1		
(Renumbered to 649.42),	653.2		
(Renumbered to 649.2),	653.3		
(Renumbered to 649.41),	653.4	08/31/07	AMEND: 18109, 18204.5, 18208.5, 18215.2, 18228, 18236, 18241, 18306, 18315, 18323, 18325, 18350, 18404.2, 18410, 18416, 18429, 18432, 18438, 18457, 18500, 18502, 18502.1, 18502.2, 18519.4, 18522, 18526.1, 18530.1, 18531.1, 18531.3, 18531.4, 18532, 18536.1, 18536.2, 18538, 18538.2, 18541, 18564, 18573, 18580, 18585, 18586, 18587, 18588, 18590, 18616.5, 18618, 18619, 18620, 18621, 18622, 18626, 18650, 18700.1, 18702.6, 18704.3, 18707.3, 18720, 18725, 18726, 18726.1, 18726.2, 18726.3, 18726.4, 18726.5, 18726.6, 18726.7, 18726.8, 18727, 18760, 18902, 18930.1, 18931, 18935, 18940.1, 18950.2, 18954
(Renumbered to 649.37),	653.5		
(Renumbered to 649.38),	653.6		
(Renumbered to 649.61),	654.1		
(Renumbered to 649.3),	654.2		
(Renumbered to 649.43),	654.3		
(Renumbered to 649.46),	654.4		
(Renumbered to 649.44),	654.5		
(Renumbered to 649.45),	654.6		
(Renumbered to 649.47),	655.1		
(Renumbered to 649.51),	656.1		
(Renumbered to 649.52),	656.2		
(Renumbered to 649.54),	656.3		
(Renumbered to 649.55),	656.4		
(Renumbered to 649.53),	656.5		
(Renumbered to 649.56),	656.6		
(Renumbered to 649.50),	656.7		
(Renumbered to 649.58),	656.8		
(Renumbered to 649.57),	657.1		
(Renumbered to 649.59),	657.2		
(Renumbered to 649.60),	657.3		
(Renumbered to 649.62)			
10/31/07	ADOPT: 18200		
10/30/07	AMEND: 1138.10, 1138.30, 1138.72, 1138.90		
10/17/07	ADOPT: 2970		
10/15/07	ADOPT: 2291, 2292, 2293, 2294, 2295, 2296		
10/09/07	AMEND: 1896.98, 1896.99.100, 1896.99.120		
10/03/07	ADOPT: 1859.167.2, 1859.167.3 AMEND: 1859.2, 1859.163.3, 1859.167 REPEAL: 1859.167.1		
10/01/07	ADOPT: 1859.71.6, 1859.77.4 AMEND: 1859.2		
09/24/07	ADOPT: 18420.5		
09/24/07	ADOPT: 18361 AMEND: 18360, 18361.7		
09/20/07	ADOPT: 18466		
		Title 3	
		01/07/08	AMEND: 1180.3.1
		12/26/07	AMEND: 3433(b)
		12/26/07	AMEND: 3963
		12/21/07	AMEND: 3434(b)
		12/20/07	ADOPT: 606
		12/19/07	AMEND: 3700(c)
		12/19/07	AMEND: 3433(b)
		12/10/07	AMEND: 3406(b)
		12/06/07	AMEND: 3589
		12/03/07	AMEND: 3434(b)
		11/29/07	AMEND: 3434(b)
		11/29/07	AMEND: 3591.2
		11/27/07	AMEND: 3406(b)
		11/27/07	AMEND: 3433(b)
		11/21/07	AMEND: 3433(b)
		11/16/07	AMEND: 3417(b)
		11/15/07	AMEND: 3434
		11/14/07	AMEND: 3589
		11/14/07	AMEND: 3591.20
		11/09/07	AMEND: 3434(b)

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11/06/07 AMEND: 3406(b) 17650 AMEND : 17600, 17601, 17602,
 11/01/07 AMEND: 1380.19, 1437.12 17603, 17604, 17605, 17606, 17607,
 10/29/07 AMEND: 3433(b) 17608, 17609, 17625, 17626, 17627,
 10/29/07 AMEND: 3406(b) 17628, 17629, 17630.2, 17631, 17632,
 10/25/07 AMEND: 3591.20(a & b) 17640, 17641, 17642, 17646, 17648
 10/15/07 AMEND: 3406(b) REPEAL: 17633, 17634, 17645, 17647,
 10/03/07 AMEND: 3433(b) 17649
 09/28/07 AMEND: 3434(b) 09/10/07 ADOPT: 19828.2, 19829.5, 19830.1,
 09/25/07 AMEND : 3591.2(a) 19837.1, 19838, 19846 AMEND: 19816,
 09/24/07 ADOPT : 3591.20 19816.1, 19828.1, 19830, 19837, 19854
 09/19/07 AMEND: 3700(c) 08/27/07 ADOPT: 9517.2
 09/17/07 AMEND: 3406(b) 08/23/07 AMEND: 42000, 42002, 42003, 42005,
 09/12/07 AMEND: 3700(c) 42006, 42007, 42008, 42009, 42010,
 09/11/07 AMEND: 3591.5(a) 42011, 42012, 42013, 42018, 42019
 09/11/07 AMEND: 3433(b) 08/16/07 ADOPT: 18096 AMEND: 18078, 18081,
 09/10/07 ADOPT: 1391, 1391.1 18084, 18085, 18089, 18090, 18100,
 09/05/07 ADOPT: 820.2, 820.7 AMEND: 820, 18107
 820.3, 820.4, 820.5, 820.6, 820.7
 REPEAL: 820.6
 08/21/07 AMEND: 3434 08/13/07 ADOPT: 17660, 17661, 17662, 17663,
 08/10/07 ADOPT: 3152 17664, 17665, 17666, 17667
 08/09/07 AMEND: 80124, 80125

Title 4

12/26/07 AMEND: 12002, 12122, 12202,
 12203.2, 12222
 11/21/07 ADOPT: 12347
 11/09/07 AMEND: 1371
 10/25/07 ADOPT: 1747, 1748
 10/24/07 AMEND: 1486
 09/20/07 AMEND: 1844
 09/04/07 AMEND: 12205.1, 12225.1

Title 5

12/20/07 ADOPT: 1202 AMEND: 1200, 1204,
 1204.5, 1205, 1207, 1207.1, 1207.2,
 1207.5, 1209, 1210, 1211, 1211.5, 1215,
 1215.5, 1216, 1217, 1218, 1219, 1225
 11/19/07 ADOPT: 11981.3, 11984.5, 11984.6,
 11985, 11985.5, 11985.6 AMEND:
 11981 (renumber to 11980), 11982
 (renumber to 11981), 11985 (renumber
 11981.5), 11980 (renumber to 11982),
 11986 (renumber to 11982.5), 11983,
 11983.5, 11984
 11/05/07 ADOPT: 18134
 10/29/07 ADOPT: 24010, 24011, 24012, 24013
 10/24/07 ADOPT: 11996, 11996.1, 11996.2,
 11996.3, 11996.4, 11996.5, 11996.6,
 11996.7, 11996.8, 11996.9, 11996.10,
 11996.11
 10/02/07 AMEND: 80001
 10/01/07 AMEND: 43726
 09/24/07 ADOPT: 17604.1, 17605.1, 17624,
 17630.1, 17638, 17639, 17643, 17644,

Title 8

12/31/07 AMEND: 3650
 12/28/07 AMEND: 1604.24
 12/11/07 ADOPT: 9767.16, 9813.1, 9813.2
 AMEND: 9767.1, 9810, 9811, 9812,
 9813
 12/10/07 ADOPT: 13800
 12/04/07 AMEND: 3214, Figure E-1 of 3231,
 Plate B-17
 11/29/07 ADOPT: 33485 AMEND: 32135, 32166,
 32500, 32630, 32700, 32781, 32784,
 32786, 33480, 61020, 61450, 61470,
 61480, 81020, 81450, 81470, 81480,
 91020, 91450, 91470, 91480
 11/26/07 ADOPT: 392.4 AMEND: 347, 350.1,
 355, 359, 359.1, 371.2, 374, 385, 392.5
 11/05/07 AMEND: 4324
 10/31/07 AMEND: 1704
 10/30/07 AMEND: 1532.2, 5203, 5206, 8359
 10/23/07 ADOPT: 3324
 10/10/07 ADOPT: 5349, 5350, 5351, 5352, 5353,
 5354, 5355.1 AMEND: 5355, 5356,
 5357, 5358
 10/10/07 AMEND: 4884
 10/09/07 AMEND: 2320.2
 10/03/07 ADOPT: 3458.1
 08/22/07 AMEND: 14300.10, 14300.12,
 14300.29, 14300.46
 08/21/07 AMEND: 1740

Title 9

12/10/07 AMEND: 13035

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12/06/07	AMEND: 9100	2105.14, 2105.15, 2105.16, 2105.17,
08/27/07	AMEND: 7128	2105.18, 2105.19
08/23/07	ADOPT: 3100, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210, 3200.220, 3200.230, 3200.240, 3200.250, 3200.260, 3200.270, 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415	08/13/07 ADOPT: 5357, 5357.1, 5357.2, 5358, 5358.1 AMEND: 5350, 5352
Title 11		
12/19/07	ADOPT: 2021	
12/11/07	AMEND: 300	
12/10/07	AMEND: 1005, 1007, 1008	
10/15/07	AMEND: 1053, 1054, 1055, 1058, 1070	
09/28/07	AMEND: 51.19	
08/08/07	AMEND: 1005, 1007, 1008	
Title 13		
12/10/07	AMEND: 553.70	
12/05/07	ADOPT: 2166, 2166.1, 2167, 2168, 2169, 2170, 2171, 2172, 2172.1, 2172.2, 2172.3, 2172.4, 2172.5, 2172.6, 2172.7, 2172.8, 2172.9, 2173, 2174 AMEND: 1956.8, 1958, 1961, 1976, 1978, 2111, 2122, 2136, 2141, Incorporated Test Procedures	
11/09/07	AMEND: 1968.2, 1968.5, 2035, 2037, 2038	
11/08/07	AMEND: 423.00	
10/23/07	AMEND: 156.00	
10/22/07	AMEND: 1090	
10/17/07	AMEND: 811, 813	
10/16/07	AMEND: 425.01	
10/15/07	AMEND: 2023.1, 2023.3, 2023.4	
10/12/07	AMEND: 1201, 1212, 1212.5, 1213, 1234	
09/18/07	AMEND: 125.02, 125.04, 125.08, 125.12, 125.16, 125.20	
09/11/07	AMEND: 1956.1, 1956.8	
08/22/07	ADOPT: 1300, 1400, 1401, 1402, 1403, 1404, 1405 REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310, 1311, 1312, 1313, 1314, 1315, 1320, 1321, 1322, 1323, 1324, 1325, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1339.1, 1339.2, 1339.3, 1339.4, 1339.5, 1339.6, 1340, 1341, 1342, 1343, 1344, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1370, 1371, 1372, 1373, 1374, 1375, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1414, 1415,	
Title 10		
01/08/08	ADOPT: 2240.5 AMEND: 2240, 2240.1, 2240.2, 2240.3, 2240.4	
12/27/07	ADOPT: 1436, 1950.314.8	
12/19/07	AMEND: 2698.82(b), 2698.84, 2698.87, 2698.89.1	
11/30/07	AMEND: 2699.6611	
11/30/07	ADOPT: 2699.6603, 2699.6604 AMEND: 2699.6603 (renumbered to 2699.6602), 2699.6605, 2699.6607, 2699.6608, 2699.6611, 2699.6625	
11/15/07	AMEND: 2498.6	
11/07/07	AMEND: 1409, 1422, 1423	
11/02/07	AMEND: 2498.6	
10/31/07	AMEND: 2318.6, 2353.1	
10/10/07	AMEND: 2498.6	
10/10/07	AMEND: 2218.63(b)	
10/09/07	AMEND: 5.2001	
09/19/07	ADOPT: 2538.1, 2538.2, 2538.3, 2538.4, 2538.5, 2538.6, 2538.7, 2538.8	
09/17/07	AMEND: 2498.6	
08/29/07	ADOPT: 2842 AMEND: 2848	
08/29/07	ADOPT: 3007.05, 3007.2 AMEND: 2805, 2809.3, 2840, 2849.01, 3005, 3006, 3007.3, 3011.4 REPEAL: 2840.1	
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