



# California Regulatory Notice Register

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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**

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**TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

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

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

**PUBLIC MEETING:** On **March 18, 2010**,  
at 10:00 a.m.  
in the Costa Mesa City Council Chambers,  
77 Fair Drive, Costa Mesa,  
California.

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

**PUBLIC HEARING:** On **March 18, 2010**,  
following the Public Meeting,  
in the Costa Mesa City Council Chambers,  
77 Fair Drive, Costa Mesa,  
California.

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

**BUSINESS MEETING:** On **March 18, 2010**,  
following the Public Hearing,  
in the Costa Mesa City Council Chambers,  
77 Fair Drive, Costa Mesa,  
California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE**

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

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

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

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **March 18, 2010**.

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**  
 Division 1, Chapter 4, Subchapter 4,  
 Article 10  
 Section 1590  
**Use of High Visibility Apparel—Private Roads and Off-Highway Situations**
2. **TITLE 8: CONSTRUCTION SAFETY ORDERS**  
 Division 1, Chapter 4, Subchapter 4,  
 Article 11  
 Section 1599  
**Traffic Control—Number of Flaggers**

Descriptions of the proposed changes are as follows:

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**  
 Division 1, Chapter 4, Subchapter 4,  
 Article 10  
 Section 1590  
**Use of High Visibility Apparel—Private Roads and Off-Highway Situations**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Based on recent staff discussions with representatives from the Division of Occupational Safety and Health (Division), it was determined that Section 1590 of the Construction Safety Orders (CSO) contains a reference to Section 1598 which pertains to traffic control for public streets and highways. Sections 1598 and 1599 were recently amended to require employees on foot and exposed to the hazard of vehicular traffic and flaggers to wear high visibility apparel that conforms to the requirements of the American National Standards Institute (ANSI)/International Safety Equipment Association (ISEA) 107–2004, High Visibility Safety Apparel and Headwear standard.

Section 1590 applies to the operation of haulage and earthmoving equipment on private roadways and off-highway situations where personnel on foot such as grade-checkers, surveyors and others exposed to the hazard of vehicular traffic if not visible to the equipment operator could be struck by moving vehicles. Section 1590 has not been amended since the amendments to Sections 1598 and 1599 were made, and there is outdated terminology (e.g., flagging garments) and an inaccurate reference (e.g., Index No.5–07 of the outdated California Department of Transportation Manual of Traffic Operations) which is misleading and could result in employer confusion. The proposed amendments

will address these issues and clarify to the employer that their employees are to wear high visibility apparel consistent with the requirements contained in Sections 1598 and 1599 when they are exposed to the hazards of vehicular traffic.

The following actions are proposed:

**Section 1590. Haulage and Earth Moving, General.**

This section consists of five subsections (a–e) which address the scope and application of the safety orders for private roadways and off-highway situations, vehicle travel routes, posting of signs, width of roadways, road maintenance, use of traffic controls, use of flagger garments, dust control, equipment control, exhaust, and the use of heat shields.

Existing subsection (a)(5) requires grade checkers, surveyors and other employees exposed to vehicular traffic to wear flagging garments or equivalent consistent with existing flagger requirements and references CSO Section 1598. A Note is provided which refers the reader to Index 5–07 of the Manual referenced in Section 1598.

Amendments are proposed to clarify that employees on foot exposed to vehicular traffic hazards are required to wear high visibility safety apparel as prescribed in CSO Sections 1598 and 1599 and to delete the outdated Note. The proposed amendments will provide consistent, up to date guidance regarding these high visibility apparel requirements. It is noted that the addition of the qualifier “on foot” makes the wording of this provision consistent with the wording of Section 1598(c). It is also noted that the addition of the qualifier “the hazard of” further clarifies the wording of Section 1590(a)(5) in a manner that is consistent with the intent of Section 1598 so that it is understood that employees must be on foot *and* exposed to vehicular traffic hazards to trigger the requirement for high visibility safety apparel.

COST ESTIMATES OF PROPOSED ACTION

**Costs or Savings to State Agencies**

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

**Impact on Housing Costs**

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

**Impact on Businesses**

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

**Cost Impact on Private Persons or Businesses**

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

ly incur in reasonable compliance with the proposed action.

**Costs or Savings in Federal Funding to the State**

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

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

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

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

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

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

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

The adoption of the proposed amendments to this 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.

REASONABLE ALTERNATIVES CONSIDERED

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

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**

Division 1, Chapter 4, Subchapter 4,  
Article 11  
Section 1599  
**Traffic Control—Number of  
Flaggers**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking is prompted by the September 27, 2007 decision of the Occupational Safety and Health Appeals Board in its Dockets No. 06–R1D5–767 and 768 regarding the Davey Tree Surgery Company. That decision noted, among other things, possible ambiguity as to whether Section 1599(a) requires multiple flaggers in every instance. If Section 1599(a) were read to do so, it would be in conflict with the California Manual on Uniform Traffic Control Devices for Streets and Highways, September 26, 2006, published by the State Department of Transportation (the Manual), which permits the use of one flagger under specified circumstances. This proposal would eliminate that possible ambiguity and conflict by re-wording Section 1599(a) to make it clear that one flagger may be permitted as appropriate and to make the Manual the basis for determinations regarding the number and deployment of flaggers.

**Section 1599. Flaggers.**

This provision of the Construction Safety Orders states requirements for the use of flaggers. Subsection

(a) concerns the number of flaggers required. In order to remove possible ambiguity as to whether multiple flaggers are always required and in order to remove possible conflict with the Manual, subsection (a) is proposed to be revised to include the concept of a single flagger and to state that the number and deployment of flaggers is to be determined in accordance with the Manual. The proposal thereby provides clarification to the regulated public.

The words “a flagger or” are added to subsection (b) so that the wording of this subsection is consistent with the wording of revised subsection (a).

Modifications without regulatory effect are made to subsections (c) and (g). Superfluous quotation marks are deleted from subsections (c) and (g).

#### DOCUMENTS INCORPORATED BY REFERENCE

California Manual on Uniform Traffic Control Devices for Streets and Highways, September 26, 2006, published by California Department of Transportation.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. Copies of this document are available for review Monday through Friday from 8:00 a.m.–4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### COST ESTIMATES OF PROPOSED ACTION

##### **Costs or Savings to State Agencies**

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

##### **Impact on Housing Costs**

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

##### **Impact on Businesses**

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

##### **Cost Impact on Private Persons or Businesses**

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

##### **Costs or Savings in Federal Funding to the State**

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

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

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

##### **Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

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

#### DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

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

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

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

#### EFFECT ON SMALL BUSINESSES

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

#### ASSESSMENT

The adoption of the proposed amendment to this 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.

#### REASONABLE ALTERNATIVES CONSIDERED

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

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

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

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than March 12, 2010. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on March 18, 2010, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

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

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

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

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

## TITLE 9. DEPARTMENT OF MENTAL HEALTH

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 9, CALIFORNIA CODE OF REGULATIONS ADOPT CHAPTER 16 REGARDING STATE HOSPITAL OPERATIONS

#### NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the Department of Mental Health (DMH) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal will be held on March 16, 2010, in the Auditorium at the Department of Water Resources located at 1416 Ninth Street in Sacramento, California. It will start at 9:00 a.m., and end when all comments have been received or at 5:00 p.m. whichever comes first.

Following the public hearing the Department of Mental Health may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of 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 comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 4005.1, 4015, 4027, 4101, and 5326 of the Welfare and Institutions Code, and to implement, interpret or make specific Penal Code Sections 832.5, 832.7, 2600, 2684, 2962, 2972, 1026, 1367 and 1370; Health and Safety Code

Section 7104, Welfare and Institutions Code Sections 4005.1, 4027, 4101, 4109, 4311–13, 5008, 5300, 5325, 5326, 5332, 5333, 7232, and Sections 6600, et seq.; *Keyhea v. Rushen* (1986) 178 Cal.App.3d 526; *In Re Qawi* (2004) 32 Cal.4th 1; *In Re Locks* (2000) 79 Cal.App.4th 890; *In Re Calhoun* (2004) 121 Cal.App.4th 1315, and Title 9, California Code of Regulations Section 884(b)(7), the Department of Mental Health (DMH) is seeking changes to Division 1 of Title 9 of the California Code of Regulations as follows: Adoption of Chapter 16, Article 1, Sections 4100 and 4105; Article 2, Section 4210; Article 3, Sections 4300, 4310, 4325, 4330 and 4340; Article 4, Sections 4415 and 4420; and Amendment to Title 9, California Code of Regulations Section 864.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The objective of the proposed action is to implement, interpret, or make specific the above-identified sections of the Welfare and Institutions Code, Penal Code, and Health and Safety Code, and Case Law, and to amend Title 9, California Code of Regulations Section 864 to ensure operation efficiency and compliance with all lawful requirements involving areas of safety and security, and individual patient's support services.

Existing law, in Welfare and Institutions Code Section 4005.1, states that the Department of Mental Health may adopt and enforce rules and regulations necessary to carry out its duties under Division 4 of the Welfare and Institutions Code. Welfare and Institutions Code Section 4027 states that the Department of Mental Health may adopt regulations concerning patients' rights and related procedures applicable to the treatment of mentally ill offenders. Welfare and Institutions Code Section 4101 states that all institutions under the jurisdiction of the Department of Mental Health are governed by the rule and regulation of the Department of Mental Health.

The effect of the proposed action shall be to address the important safety and security topics of visitation of individual patients, state mental hospital police services, offsite transportation, complaints against hospital police officers, counting of individual patients, and interment of unclaimed deceased individual patients. The proposed regulations also address the individual patients' well being issues regarding mail and packages, patient's rights complaints, and in-house hearing procedures regarding involuntary medication of patients.

#### LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

#### FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any costs or savings in federal funding to the state.

#### COSTS OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

#### BUSINESS IMPACT/SMALL BUSINESSES

The Department of Mental Health has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by Government Code Section 11342.610. Small businesses will not be affected because the proposed regulations only affect the internal operations of state hospital facilities.

#### ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The Department of Mental Health 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 IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

#### EFFECT ON HOUSING COSTS

None.

#### CONSIDERATION OF ALTERNATIVES

The Department of Mental Health must determine that no reasonable alternative which it has considered or

that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

#### CONTACT PERSONS

Inquiries concerning the proposed adoption of these regulations and written comments may be directed to:

Jon Cordova  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

Backup Contact:

Matthew Garber  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-3851

Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to [regulations@dmh.ca.gov](mailto:regulations@dmh.ca.gov). Comments must be submitted prior to 5:00 p.m. on March 16, 2010.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Department of Mental Health has prepared an initial statement of the reasons for the proposed action and has available all of 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 upon request from the Department of Mental Health at 1600 9th Street room 435, Sacramento, CA 95814. Some of these documents may also be viewed and downloaded from the DMH website at [www.dmh.ca.gov](http://www.dmh.ca.gov).

#### 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 above.

A copy of the final statement of reasons once it has been prepared may be obtained, by making a written request to the contact person named above.

#### WEBSITE ACCESS

Materials regarding this proposal may be found at [www.dmh.ca.gov](http://www.dmh.ca.gov).

### TITLE 13. CALIFORNIA HIGHWAY PATROL

#### NOTICE OF PROPOSED REGULATORY ACTION

**TITLE 13, CALIFORNIA CODE OF REGULATIONS  
DIVISION 2, CHAPTER 6.5, AMEND ARTICLE 1,  
DEFINITIONS AND GENERAL PROVISIONS,  
SECTIONS 1200 AND 1201 AND ARTICLE 3, GENERAL  
DRIVING REQUIREMENTS, SECTION 1217, AND  
ARTICLE 4, ADDITIONAL REQUIREMENTS FOR  
SCHOOL BUS, SPAB, AND YOUTH BUS DRIVERS,  
SECTIONS 1221, 1222, AND ARTICLE 6, CARRIER  
REQUIREMENTS, SECTION 1232, AND ADDS NEW  
SECTION 1231.2 PAB VEHICLE INSPECTION**

#### MOTOR CARRIER SAFETY PUPIL ACTIVITY BUSES (CHP-R-09-01)

California Vehicle Code (CVC) Sections 34501 and 34501.5 require the Department of the California Highway Patrol (CHP) to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in CVC Sections 545 and 34500. Those regulations are contained in Title 13, California Code of Regulations.

Assembly Bill 830, Chapter 649, 2008, effective January 1, 2009, amended CVC, Section 545 (School bus), adding new subsection (k). This new subsection exempts motor vehicles designed to carry not more than 25 persons including the driver, from the definition of school bus when operated by a charter-party carrier of passengers; transporting school pupils to or from school related activities; and will not require a contractual agreement between the school and carrier to engage in school pupil transportation.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CHP proposes to amend Title 13, California Code of Regulations, Division 2, Chapter 6.5, Article 1, Definitions and General Provisions, Sections 1200 and

1201 and Article 3, General Driving Requirements, Section 1217; Article 4, Additional Requirements for School Bus, SPAB, and Youth Bus Drivers, Sections 1221 and 1222; Article 6, Carrier Requirements, Section 1232; and add new Section 1231.2 PAB Vehicle Inspection. The CHP proposes to make clear new CVC Section 545(k).

These regulations are necessary to define the vehicle listed in new subsection 545(k), for the purpose of regulation, and to establish certain inspection criteria and the inspection fees authorized by Section 12517.45 CVC. Additionally, the proposed regulations will require application to be made using the Youth Bus, Pupil Activity Bus or General Public Paratransit Vehicle (GPPV) Inspection Application, CHP 294D, January 2010 edition, incorporated by reference.

#### PUBLIC COMMENTS

Any interested person may submit written comments on these proposed actions via facsimile to (916) 332-3154, by email to [cvsregs@chp.ca.gov](mailto:cvsregs@chp.ca.gov), or by writing to:

California Highway Patrol  
Commercial Vehicle Section  
ATTN: Mr. Lee Bretney  
P.O. Box 942898  
Sacramento, CA 94298-0001

Written comments must be received no later than 4:45 p.m., March 15, 2010.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

#### AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 332-3154 or by calling the CHP, CVS, at (916) 843-3400. Facsimile requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, CVS, 601 North 7th Street, Sacramento. Interested parties are advised to call for an appointment.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted at [www.chp.ca.gov](http://www.chp.ca.gov).

#### CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Mr. Lee Bretney, CHP, CVS, at (916) 843-3400. Inquiries regarding the substance of the proposed regulations should also be directed to Mr. Lee Bretney or Gary Ritz.

#### ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

#### FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency, school district, state agency, or federal funding to the state; however, the CHP may incur an approximate cost of \$336,409 annually associated with conducting the annual motor vehicle inspections of vehicles operated pursuant to CVC, Section 545(k) if every eligible bus based in California participated in the program. There are approximately 3,723 buses in California, as indicated by the California Public Utilities Commission (CPUC), operated by 1,079 for-hire passenger charter-party carriers, with an 11-25 passenger capacity, eligible for the pupil activity bus program; Assembly Bill 830, Chapter 649, 2008, effective January 1, 2009, authorizes the CHP to charge a charter-party carrier a reasonable fee sufficient to cover the costs incurred for conducting the annual inspections; (4) 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; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

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

The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, other than the annual vehicle inspection fee authorized by Assembly Bill 830, and the enablement of statute CVC, Section 545(k). A charter-party carrier business choosing to operate a motor vehicle pursuant to CVC, Section 545(k), will be charged a \$90 annual inspection fee for each vehicle. Businesses in California may incur an estimated total cost of \$335,070 annually, if every eligible bus participates in the pupil activity bus program.

**EFFECT ON SMALL BUSINESSES**

The CHP has not identified any significant impact on small business. The CVC, Section 545(k), does not represent an additional mandate on motor carriers, but simply provides a method by which motor carriers can operate vehicles when transporting school pupils. Limousine and small bus operators will be able to transport school pupils, at or below the 12th-grade level, to or from public or private school activities.

A charter-party carrier business choosing to operate a motor vehicle pursuant to CVC, Section 545(k), will be charged a \$90 annual inspection fee for each vehicle. There are approximately 3,723 buses in California, as indicated by the CPUC, which operate motor vehicles with an 11-25 passenger capacity, that are eligible for the pupil activity bus program. As already indicated, businesses in California may incur an estimated total cost of \$335,070 annually.

**ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

**AUTHORITY**

Note: Authority cited: Sections 34501, 34501.5, and 34508, CVC.

**REFERENCE**

This action implements, interprets, or makes specific Sections 545, 12517.45, 34501, 34501.5, 34501.8, and 34508, CVC.

**TITLE 13. DEPARTMENT OF MOTOR VEHICLES**

**NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (the department) proposes to amend Sections 345.24, 345.40, 345.41, 345.46 and 345.50 and delete Section 345.42 in Chapter 1, Division 1, Article 4.7 of Title 13, California Code of Regulations, Schools for Traffic Violators.

**PUBLIC HEARING**

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

**DEADLINE FOR WRITTEN COMMENTS**

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., March 15, 2010, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

**AUTHORITY AND REFERENCE**

The department proposes to adopt this regulation under the authority granted by Section 1651, 11202, and 11219 of the Vehicle Code in order to implement, interpret or make specific Sections 320, 1671, 11202, 11207, 11212, 11213 and 11219 of the Vehicle Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Vehicle Code sections 11200, 11202, 11202.5, 11204 and 11206 authorize the department to license and regulate traffic violator schools, instructors and operators.

The proposed amendments to Sections 345.24, 345.40, 345.41, 345.42, 345.46 and 345.50 would reduce, delete or clarify the program requirements for the schools, instructors, operators and students. The minimum continuing education requirements for instructors would be reduced. A traffic violator school would be allowed to post its class schedules on the Internet or submit the class schedule by U.S. mail. Specified expanded alternatives to change class schedule listings and student confirmations would be allowed. Quarterly reporting of classes conducted by traffic violator schools would be eliminated. Fees are specified for a duplicate completion certificate.

#### FISCAL IMPACT STATEMENT

- Cost or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

#### DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action may affect small businesses and entities with little or no impact.

#### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the is-

ssues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

#### ALTERNATIVES CONSIDERED

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

#### CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Maria Grijalva, Department of Motor Vehicles, P.O. Box 932382, Mail Station C-244, Sacramento, California 94232-3820; telephone number (916) 657-6469 or [mgrijalva@dmv.ca.gov](mailto:mgrijalva@dmv.ca.gov).

In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Cathy Sowell, at (916) 657-6469 or [csowell@dmv.ca.gov](mailto:csowell@dmv.ca.gov). The fax number for the Regulations Branch is (916) 657-1204.

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

The department has prepared an initial statement of reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons and the location of public records, including reports, documentation and other materials related to the proposed regulatory action. In addition, the above-cited materials (notice of proposed regulatory action, initial statement of reasons and express terms documents) may be accessed at [www.dmv.ca.gov/about/lad/regactions.htm](http://www.dmv.ca.gov/about/lad/regactions.htm).

#### AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the pro-

posed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

**TITLE MPP. DEPARTMENT OF  
SOCIAL SERVICES**

ORD#-0909-08

NOTICE OF PROPOSED CHANGES IN  
REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF SOCIAL  
SERVICES (CDSS)

ITEM#1 Penalty Pass-On Regulations

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held as follows:

March 17, 2010  
Office Building # 8, Room 105  
744 P St.  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on March 17, 2010.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the

full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 8-4-192  
Sacramento, California 95814

TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

CHAPTERS

Manual of Policies and Procedures (MPP), Division 91 (Employment), Chapter 91-100 (Pass-On of Federal Penalty for the CalWORKs), Section 91-101 (Definitions), Section 91-110 (CWD Reporting Responsibilities), Section 91-120 (CWD Reporting for CDSS' Appeal of Any Federal Penalties), Section 91-130 (Pass-On of Federal Penalties), Section 91-40 (Notice And Relief From Pass-On of Federal Penalties).

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

As originally adopted in Assembly Bill 1542 (Chapter 270, Statutes of 1997) and authorized by Welfare and Institutions Code Section 10544, if the state is assessed a federal fiscal penalty for not meeting the federal work participation rate (WPR), then the counties failing to make the rate are held accountable and will share in the penalty, after the exhaustion of all reasonable and available federal administrative remedies. Currently, there is no existing regulation to pass on any federal penalties assessed on the state to the counties.

Assembly Bill 1808 (Section 27.7, Chapter 75, Statutes of 2006) amended Welfare and Institutions Code Section 10544 to clarify that 50 percent of the federal fiscal penalty the state is assessed will be passed on to the counties who fail to meet the federal work participation requirement. Previous language of Welfare and Institutions Code Section 10544 stated that the failing counties will share the penalty without specifying the percentage of the share. The amended statutory language clarifies the percentage of the federal fiscal penalty to be shared between the state and the counties failing to meet the federal rate requirement. This proposed regulation implements and makes specific the terms and requirements of Welfare and Institutions Code Section 10544.

As authorized in the amended Welfare and Institutions Code Section 10544, if a county's single allocation is reduced due to the sharing of the penalty, then the county is obligated to replace the reduction with county general funds, so that the total funding remains the same as the county's single allocation and is in addition to the funds required to meet the county's maintenance of effort requirement. Also added is the requirement that a county failing to meet the rate may be provided penalty relief, either full or partial, from sharing the fiscal penalty if the CDSS determines there were circumstances beyond the county's control that caused the county's failure to meet the rate. In addition, new language allows penalty relief for a county based on the degree of success or progress in meeting federal requirements, and to the extent that there are differences between state and federal program requirements, the degree of success in meeting state participation requirements. Previous language in Welfare and Institutions Code Section 10544 did not consider the differences between state and federal program requirements.

The amended Welfare and Institution Code Section 10544 requires that a county have good cause for failing to submit accurate and timely data used to measure the work participation rate, or it will be considered to have failed to meet the federal requirements. Section 10544 further requires that if there are differences between state and federal program requirements, a county may also be provided relief based on the degree of success in meeting state participation requirements. The definition of good cause includes, but shall not be limited to, the lack of accurate, timely, and complete instructions from CDSS.

CDSS facilitated meetings and discussions in workgroups to gather input from stakeholders in the development of the proposed regulation. That effort included co-development of methodologies and inputs from staffs of the California Welfare Directors Association (CWDA) and the state Legislature. CDSS stakeholders, like the CWDA, Welfare Advocates, California State

Association of Counties, County Representatives, Department of Finance, Legislature, and the California Health and Human Services Agency, all contributed to the input and review throughout the crafting of the proposed regulation.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 and the supporting Temporary Assistance to Needy Families (TANF) regulations specify the penalty for failing the TANF WPR shall be five percent of the state's block grant, which would be approximately \$150 million for California. Additionally, failure to meet WPR requirements increases the state maintenance-of-effort (MOE) requirements from 75 percent of historic expenditure levels to 80 percent (approximately \$180 million). The state's California Work Opportunity and Responsibility to Kids (CalWORKs) program extended to counties specific program and administrative flexibility, which allowed counties to design programs to meet the needs that are unique to their county. Given this greater flexibility to design their own programs, counties are therefore held accountable for the failure and success of their programs. Therefore, counties are held accountable for failing to meet federal and state performance outcomes, including the federal WPR requirement, and are subject to the penalties associated for not meeting the required federal and state performance outcomes.

The proposed regulations will ensure the pass-on of penalties associated with failure to meet the federal WPR. The proposed regulations also assist CDSS in accomplishing its responsibilities to implement and administer the requirements of the CalWORKs program as set forth in the Welfare and Institutions Code.

As authorized by Welfare and Institutions Code Section 10544, the proposed regulations implement and make specific current statutory requirements of AB 1808 (Section 27.7, Chapter 75, Statutes of 2006).

#### COST ESTIMATE

1. Costs or Savings to State Agencies: The potential fiscal impact (cost avoidance) to the state is dependent upon the imposition of penalties from the Federal government for failing to meet the Temporary Assistance for Needy Families (TANF) Work Participation Rate (WPR) requirements. Although California failed to meet the WPR for Federal Fiscal Year (FFY) 2007, the federal government will not be imposing a penalty for the year due to an anomaly related to the changes associated with the Deficit Reduction Act (DRA) of 2005 and their interactions with the penalty reduction formula in federal regulations. The State has not yet been advised of the status of the FFY 2008 WPR, however, the State could be

subject to a penalty up to \$230 million for failing the FFY 2008 WPR, up to \$115 million of this penalty could be passed on to the counties. The year in which any penalty must be paid is dependent on the timing of notification of failure and the subsequent processes between the State and the federal government, and the State and the counties to determine the total amount of the penalty and the amount of the penalty to be passed on to the counties.

2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: The potential fiscal impact (cost avoidance) to the state is dependent upon the imposition of penalties from the Federal government for failing to meet the Temporary Assistance for Needy Families (TANF) Work Participation Rate (WPR) requirements. Although California failed to meet the WPR for Federal Fiscal Year (FFY) 2007, the federal government will not be imposing a penalty for the year due to an anomaly related to the changes associated with the Deficit Reduction Act (DRA) of 2005 and their interactions with the penalty reduction formula in federal regulations. The State has not yet been advised of the status of the FFY 2008 WPR, however, the State could be subject to a penalty up to \$230 million for failing the FFY 2008 WPR, up to \$115 million of this penalty could be passed on to the counties. The year in which any penalty must be paid is dependent on the timing of notification of failure and the subsequent processes between the State and the federal government, and the State and the counties to determine the total amount of the penalty and the amount of the penalty to be passed on to the counties.
4. Federal Funding to State Agencies: These regulations will not have an impact on federal funding.

**LOCAL MANDATE STATEMENT**

These regulations do not impose a reimbursable state mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under Section 17500 et seq. of the Government Code.

**STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

CDSS has made an initial determination that the proposed action will not have a significant, statewide ad-

verse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

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

**SMALL BUSINESS IMPACT STATEMENT**

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

**ASSESSMENT OF JOB CREATION OR ELIMINATION**

The adoption of the proposed amendments 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.

**STATEMENT OF EFFECT ON HOUSING COSTS**

The proposed regulatory action will have no effect on housing costs.

**STATEMENT OF ALTERNATIVES CONSIDERED**

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

**AUTHORITY AND REFERENCE CITATIONS**

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Section 10540.5, 10541.7, 10544, 10553, 10554, 10809, 10852, 10853. Subject regulations implement and make specific Sections 10540.5, 10541.7, 10544, 10809, 10852, 10853, 11521, 11521.5, 15200, 15200.4, 15204.2, 15204.25, 15204.4, Welfare and Institutions Code, 45 Code of Federal Regulations Sections 260.30 through 260.33, 261.2, 261.20, 261.22, 261.40, 261.41, 261.42,

261.43, 261.44, 261.51, 261.52, 262.1, 262.2, 262.3, 262.4, 262.5, 262.7, 263.1, 265.3.

**CDSS REPRESENTATIVE REGARDING  
RULEMAKING PROCESS OF THE  
PROPOSED REGULATION**

Contact Person: Sue Tognet (916) 657-2586  
Backup: Everardo Vaca (916) 657-2586

**EMERGENCY STATEMENT**

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF HEALTH CARE  
SERVICES**

THE DEPARTMENT OF HEALTH CARE SERVICES PROPOSES SPECIAL PAYMENT RULES TO APPLY TO CLINICS THAT ARE OWNED AND OPERATED BY THE STATE OF CALIFORNIA AND PROVIDE OUTPATIENT SERVICES TO MEDI-CAL BENEFICIARIES

This notice is to provide information of public interest with respect to payments to be made to freestanding clinics owned and operated by the State of California. Payments to such clinics are to be made based upon 100 percent of reasonable and allowable costs for Medi-Cal services rendered to Medi-Cal beneficiaries.

The Department of Health Care Services (DHCS) will annually determine interim, all-inclusive payment rates. DHCS may periodically adjust such rates for inflation or to take into consideration increases or decreases not reflected in the most recently audited cost report to ensure that interim payments approximate actual allowable costs. Interim payments would be made on a per-visit basis throughout the fiscal year, based on the facility's claims.

DHCS will conduct an interim reconciliation of interim payments to allowable costs after receipt of filed cost reports, and reconcile interim payments to actual allowable costs after an audit of the cost report is completed. If, at the end of either the interim reconciliation or the

audit, it is determined that the clinic has been overpaid, the overpayment will be properly credited and paid to the Medi-Cal program. If it has been determined that the clinic was underpaid, the clinic will receive an adjusted payment amount. DHCS will follow Federal Medicaid procedures for managing the overpayment of Federal Medicaid funds.

**PUBLIC REVIEW AND COMMENTS**

A copy of the State Plan Amendment that amends California's Medicaid State Plan to allow cost-based reimbursement for clinics owned and operated by the State may be requested, in writing, from Mr. Bob Sands, Department of Health Care Services, Safety Net Financing Division, MS 4504, P.O. Box 997436, Sacramento, CA 95899-7436.

DHCS is seeking comment on the State Plan Amendment described above. Written comments may be mailed to Mr. Sands at the above address and must be received on or before March 15, 2010.

**DEPARTMENT OF HEALTH CARE  
SERVICES**

**NOTICE OF GENERAL PUBLIC INTEREST**

**THE DEPARTMENT OF HEALTH CARE SERVICES IS PROPOSING SUPPLEMENTAL PAYMENTS FOR PUBLICLY OWNED OR OPERATED EMERGENCY MEDICAL TRANSPORTATION SERVICE PROVIDERS FOR SERVICES PROVIDED TO MEDI-CAL BENEFICIARIES**

This notice is to provide information of public interest with respect to supplemental payments that are proposed to be made to specified emergency medical transportation service providers for emergency transportation services to Medi-Cal beneficiaries.

The supplemental payments to publicly owned or operated emergency medical transportation service providers would be made on an annual lump-sum basis for each fiscal year, and would not be paid as individual increases to current reimbursement rates for specific services. The payments would supplement, and not supplant, specified existing levels of payments, but would be subject to all applicable federal payment limits.

The proposed State Plan Amendment to allow supplemental payments to publicly owned or operated emergency medical transportation service providers is subject to approval by the federal Centers for Medicare & Medicaid Services.

PUBLIC REVIEW AND COMMENTS

A copy of the State Plan Amendment that amends California's Medicaid State Plan to allow supplemental payments to publicly owned or operated emergency medical transportation providers may be requested, in writing, from Mr. Bob Sands, Department of Health Care Services, Safety Net Financing Division, MS 4504, P.O. Box 997436, Sacramento, CA 95899-7436.

DHCS is seeking comment on the State Plan Amendment described above. Written comments may be mailed to Mr. Sands at the above address and must be received on or before March 15, 2010.

**TITLE 14. FISH AND GAME  
COMMISSION**

**Notice of Proposed Changes in Regulations  
(Continuation of California Notice Register 2009,  
No. 24-Z, and Meetings of May 14, 2009,  
June 25, 2009 and August 6, 2009.)**

(NOTE: See Amended Informative Digest changes shown with "bold" print indicating changes.)

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 713, 1002, 1050, 1053, 2118, 2120, 2122, 2150, 2150.2, 7701, 7708, 15005, 15102, 15200, 15202 and 15600, Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 220, 713, 1050, 1053, 1055, 2116, 2116.5, 2117, 2118, 2118.5, 2119, 2120, 2121, 2122, 2123, 2125, 2150, 2150.1, 2150.2, 2150.3, 2150.4, 2150.5, 2151, 2152, 2153, 2155, 2156, 2157, 2185, 2186, 2187, 2188, 2189, 2190, 2271, 7700, 7701, 7702, 7702.1, 7703, 8371, 8431, 15200, 15201, 15202, 15400, 15505, and 15600, of said Code, proposes to amend Sections 671, 671.1 and 671.7 and Add Section 703, Title 14, California Code of Regulations, relating to New Restricted Species Permits and Requirements.

**AMENDED INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

In December 2007, the Commission added barramundi, *Lates calcarifer*, to the Restricted Species List in Section 671, Title 14, California Code of Regulations (CCR). The placement of barramundi on the Restricted Species List addressed the potential for escaped barramundi to adapt to California conditions, **compete with or prey upon native fish, and act as a vector for a vi-**

rus found in juvenile barramundi that was not fully understood at the time. Although the Commission agreed that barramundi posed a threat to California's wildlife resources, the Department was directed to continue working with the aquaculture industry on a reasonable approach to support aquaculture and sales of barramundi in California.

Since 2007, the Department has held discussions with California aquaculture industry representatives on reasonable measures that could be implemented to allow the development of aquaculture of barramundi with facilities and practices that would ensure minimal risk to California wildlife resources.

In late 2008, the Department was also approached by a California seafood importer who is seeking to import live farmed barramundi for human consumption. The seafood importer wants to import live barramundi into retail commercial establishments where they will be maintained alive **until purchased** for human consumption when **they** will be killed and packaged for consumer use.

The California aquaculture industry has continued to express strong interest in farming barramundi in appropriate areas, e.g. in the desert and isolated from suitable barramundi habit, and the use of effective recirculation and containment to minimize disease risks.

**Proposal Overview**

With a broader understanding of the risks associated with importation of live barramundi, and development of adequate control procedures to address the risks to the natural environment, **the Department is proposing to allow importation, aquaculture and sales of live barramundi under controlled conditions as follows:**

1. **Importation of live barramundi from an approved distributor under controlled conditions specified on the permit.**
2. **Aquaculture farming purposes by a registered aquaculturist under controlled conditions specified on the permit.**
3. **Retail sales for human consumption of live barramundi from 1 to 3 pounds where it will be sold dead and packaged before leaving the commercial establishment.**

The Department's proposal will allow transportation of all life stages of barramundi, including broodstock, between permitted aquaculture facilities for aquaculture farming purposes. Also permitted importers, wholesalers, and aquaculturists will be allowed to transport live barramundi that are 300 mm to 500 mm in total length or weigh 1 to 3 pounds for retail sales at terminal markets in approved geographic regions. **Narrow** size and weight ranges coupled with strict geographic distribution ensures low probability of surviving to **sexual** maturity, if there is any accidental or ille-

gal release into the natural environment. This size/weight requirement also ensures that the fish are out of the juvenile life stage to facilitate disease detection and management. All activities will be required to maintain effective biosecurity conditions at all times.

Additionally, passage of AB 820 (Strickland, Chapter 689, Statutes of 2005) resulted in substantial modification and/or addition to existing laws (sections 2116–2195 of the Fish and Game Code (FGC)) related to possession of wild animals in California. Also recent events involving captive restricted **wildlife** species (a human fatality incident and separate escaped animal incidents) have necessitated reconsideration, modification, and/or addition to the existing regulations to address **emerging** issues.

The Department’s proposal achieves a balance between the Department’s mission to protect California’s natural resources and the strong demand for new marketing opportunities and growth by California’s aquaculture and seafood industries. The changes **related to capture of restricted wildlife** are combined with the proposed aquaculture and seafood changes to reduce Commission workload and regulatory rulemakings.

The Department proposal achieves a balance between the Department’s mission to protect California’s natural resources and the strong demand for new marketing opportunities and growth by California’s aquaculture and seafood industries. The wildlife related changes are combined with the proposed aquaculture and seafood changes to reduce Commission workload and regulatory rulemakings.

This proposal complies with the Aquaculture Development Committee recommendation for support of the aquaculture industry’s desire to farm new aquaculture products that are sustainable and economically viable.

The following proposed changes will amend the Restricted Species List for barramundi and add four new Restricted Species permits and associated permitting requirements as follows:

Aquaculture and Seafood

- 1) Allow live importation, possession, transportation, and sales of barramundi under an authorized permit.
- 2) Allow live retail sales of barramundi for human consumption that are 300 mm (11.8 inches) to 500 mm (19.6 inches) in total length, or weigh 1 to 3 pounds.
- 3) Allow live retail sales of barramundi in all counties except **Santa Barbara, Ventura, San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.**

- 4) Establish a new permit and requirements for live importation, possession, transportation and sales of a restricted aquatic species for aquaculture farming purposes by a registered aquaculturist.
- 5) Establish a new permit and requirements for live importation, possession, transportation and sales of a restricted species for retail sales from a commercial establishment where it will be maintained alive for human consumption until purchased, when it will be killed and packaged **before leaving the establishment.**
- 6) Propose regulations to address emergency contingency planning and cost recovery in the event of an escape or a containment failure involving a restricted species.

**In addition, the restricted species aquaculture permit portion of this proposal is structured with four options to facilitate Commission discussion as shown below:**

**Option 1 — Live sales of restricted aquaculture product to the public to be restricted to Northern California areas and all importers, producers and sellers must be permitted.**

**Option 2 — No geographic restriction and all importers, producers and sellers must be permitted.**

**Option 3 — Live sales of restricted aquaculture product to the public to be restricted to Northern California areas and terminal markets that purchase from a permitted source and only sell restricted aquaculture product to the public are not required to be permitted.**

**Option 4 — No geographic restriction and terminal markets that purchase from a permitted source and only sell restricted aquaculture product to the public are not required to be permitted.**

Wildlife

- 7) Establish a new permit and requirements for a person who is in the business of exhibiting animals, and clarify the qualifications to transport and possess a restricted species.
- 8) Establish a new permit and requirements for a person who is a resident or nonresident, is in the business of using birds to abate nuisance birds, and possesses the qualifications to import, transport, and possess a restricted species.
- 9) New and revised regulations to address issues such as breeding, escape and emergency contingency planning, public safety, identification of **restricted** animals, and cost recovery for escape or emergency searches **involving a restricted species.**

Regulatory Simplification

- 10) Move all restricted permit fees and add application form numbers into a new proposed Section 703 to facilitate annual fee updates pursuant to FGC Section 713 and 699, Title 14, CCR, and necessary form revisions.
- 11) Propose additional minor changes to align and clarify the regulations and reduce public confusion.

**Present Regulations**

Section 671, Title 14, CCR, contains the list of restricted species that are unlawful for any person to import, export, transport, maintain, dispose or use except as authorized in a permit issued by the department.

Section 671.1, Title 14, CCR, establishes the categories of permits that allow a person to import, export, transport, maintain, dispose of, or use for any purpose animals restricted by Section 671 to protect native wildlife, agriculture interests, animal welfare, and/or human health and safety.

671.7, Title 14, CCR, states the Department may issue permits for importation, possession, transportation and sales of aquatic animals listed in Section 671 for aquaculture purposes.

**Proposed Regulations**

For public notice purposes to facilitate Commission discussion, the Department is proposing **four options** with the following changes to current regulations:

**Option 1 — Geographic restrictions and everyone must be permitted**

Section 671 will be revised to allow for an exception for barramundi importation and sales under certain conditions **with** an authorized permit.

- 1) Subsection 671(c)(2)(K)2.i. will be removed since any wolf hybrid whelped before February 5, 1998 is now deceased. **Additional changes were added for clarity.**
- 2) **Subsection 671(c)(2)(B) is proposed to updated with a recent Order name change to Xenarthra.**
- 3) Subsection 671(c)(3)(B)1. will be updated to add the common name clawed frog to the genus *Xenopus*.
- 4) Subsections 671(c)(5)(J), (O) and (R) are proposed to be updated with recent scientific name changes by the American Fisheries Society. **Additional name changes for tilapia are proposed to provide the correct scientific name.**

- 5) Subsection 671(c)(5)(U) is proposed to be modified to include an exception for importation, transportation, possession, or sales of barramundi. Live sales for human consumption of barramundi that range from 1 to 3 pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in **total** length will be allowed in all counties except for **Santa Barbara, Ventura, San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial, under the conditions set forth in Section 671.7.**
  - a. These narrow size and weight ranges coupled with strict geographic distribution ensures low probability of surviving to sexual maturity, if there is any accidental or illegal release into the natural environment.
  - b. This size/weight requirement also ensures that the fish are out of the juvenile life stage to facilitate disease detection and management.
  - c. These proposed changes will ensure barramundi are not sold alive for human consumption unless they are within the appropriate size/weight range and from a location out of the southern area of California.
  - d. These restrictions only apply to live sales for human consumption and do not apply to shipments for aquaculture farming purposes.
  - e. **Two additional counties, Santa Barbara and Ventura, are proposed to be added to the barramundi “live sales” exclusion area due to their proximity and easy access to live markets in the Los Angeles area.**
  - f. **The proposed size criteria is proposed to be moved into a new subsection 671(c)(5)(U)(2), the county restriction is proposed to be moved in a new subsection 671(c)(5)(U)(3), and the requirement of adhering to Section 671.7 conditions is proposed to be moved into a new subsection 671(c)(5)(U)(1) for clarity.**
- 6) Subsection 671(c)(7)(g) will be revised to apply to all Gila monsters in the genus *Heloderma* to strengthen enforcement measures and increase public safety from venomous reptiles.
- 7) Subsection 671(c)(9)(D) will be revised to correct the species name for pink abalone.
- 8) Subsection 671(c)(10) will be revised to add the common name quagga mussel to the genus *Dreissena*.

- 9) Additional minor changes are proposed to align and clarify the regulations and reduce public confusion.

Section 671.1 will be revised to establish four new Restricted Species Permits for Aquaculture, Native Species Exhibiting, Nuisance Bird Abatement and Wholesale/Importation. The section will also be revised to address breeding, escape/emergency contingency planning, public safety, identification of animals, and cost recovery for animal searches. Additional minor changes are proposed to align and clarify the regulations and reduce public confusion. The following list contains the substantial proposed changes:

- 1) Subsection 671.1(a)(2) will be modified to allow that the department may enter all holding facilities, vehicles, vessels or other places where restricted species are kept or may be kept and these inspections may be made at any time with or without prior notification. This proposed change will facilitate enforcement measures.
- 2) Subsection 671.1(a)(3) will be modified to reduce the reporting requirement of name or address changes to five from 14 days to ensure quick Department notification.
- 3) Subsection 671.1(a)(4) will be modified to require all records be legible, written in English, and available at the holding facility. This proposed change will ensure all records are easy to understand and available for all inspections.
- 4) Subsection 671.1(a)(5) will be expanded to apply to all importers and add poundage and sex, if available, to the transportation records. This proposed change will ensure adequate transportation records are retained for all importations into the state.
- 5) Subsection 671.1(a)(6) will be modified to state a business can qualify for a permit by having at least one full time employee who meets qualifications for obtaining a restricted species permit as specified in section 671.1(c)(1) and requires **annual** proof of continued employment for a full time employee if the owner doesn't possess the required qualifications.
- 6) Subsection 671.1(a)(9)(A) will be modified to clarify that the municipal treated sewage is not considered waters of the state for purposes of this section.
- 7) Subsection 671.1(a)(10) will be added to allow the Department to confer with other state and federal agencies or any other person or entity in order to verify information on the application or to determine if the importation, transportation, or possession of any animal requested will be in the best interest of the state and animal.
- 8) Subsection 671.1(b) will be modified to state the fees will be adjusted annually and moved to the new Section 703 and that the department may make amendments to existing permits under certain conditions.
- 9) Subsection 671.1(b)(1) through (8) was struck-out and the eight original permits and four new permits restructured alphabetically with the fees **moved** to the New Section 703 and the following proposed changes:
  - a. Subsection 671.1(b)(1) will contain the Animal Care permit regulations with minor clarification changes.
  - b. Subsection 671.1(b)(2) will contain the new Aquaculture permit and requirements for a person who is a registered aquaculturist to import, transport, possess, and offer for sale restricted species for aquaculture purposes.
  - c. Subsection 671.1(b)(3) will contain the AZA permit regulations with minor clarification changes.
  - d. Subsection 671.1(b)(4) will contain the Breeding permit regulations with a new requirement of a breeding plan.
  - e. Subsection 671.1(b)(5) will contain the Broker/Dealer permit regulations with minor clarification changes.
  - f. Subsection 671.1(b)(6) will contain the Exhibiting permit regulations with minor clarification changes.
  - g. Subsection 671.1(b)(7) will contain the new Native Species Exhibiting permit and requirements for a person who is in the business of exhibiting native animals, and possesses the qualifications listed in Section 671.1(c)(1) to transport and possess restricted species.
  - h. Subsection 671.1(b)(8) will contain the new Nuisance Bird Abatement permit and requirements for a person who is a resident or nonresident, is in the business of using raptors to abate nuisance birds, and possesses the qualifications listed in Section 671.1(c)(1) to import, transport, and possess restricted species.
  - i. Subsection 671.1(b)(9) will contain the Research permit to require a research institution to demonstrate to the Department that they meet or exceed the requirements as part of a federal program or permit.
  - j. Subsection 671.1(b)(10) will contain the Shelter permit regulations with minor clarification changes.

- k. Subsection 671.1(b)(11) will contain the Single Event Breeding for Exhibitors permit regulations with minor clarification changes.
- l. Subsections 671.1(b)(12) will contain the new Wholesale/Importation permit and requirements for a person who is a resident and is in the wholesale or importation business of selling fish or aquaculture product to import, transport, possess, and offer for sale restricted species.
- 10) Subsection 671.1(c)(1) will be modified to require qualifying experience to be within 10 years of application data. Aquaculture and Wholesale/Importation permittees will be exempt from these qualifications and must instead follow the requirements in Section 671.7. This proposed change will establish better qualification requirements for these new permits.
- 11) Subsection 671.1(c)(2) will be modified to clarify the application process and exempt Aquaculture and Wholesale/Importation permittees from the application requirements listed in subsection 671.1(c)(2)(A) through (M) instead of following the application requirements in Section 671.7. This proposed change will establish better application instructions and requirements.
- 12) Subsection 671.1(c)(2)(F) will be amended to describe the requirements for a breeding plan for restricted species. **Add licensed professionals in breeding or exhibition of restricted species to the list of entities that may certify if there is a legitimate need for the breeding and add exhibition to the list of legitimate breeding needs.**
- 13) Subsection 671.1(c)(2)(G) will be added to establish new requirements for nonresident exhibitors to ensure the Department has the exhibiting schedule or any changes to ensure compliance.
- 14) Subsection 671.1(c)(2)(H) and 671.1(c)(2)(I) will be added to ensure adequate documentation of federal requirements.
- 15) Subsection 671.1(c)(2)(J) will be added to provide for “Emergency Action Plans” in the event of escape or injury involving a restricted species. This subsection will also enable cost–recovery from the permittee for Department involvement in capturing or ending the threat from escaped animals.
- 16) **Subsection 671.1(c)(2)(J)(4) will be added to require the permit holder to immediately report the escape or release of the wild animal to the Department and the nearest law enforcement agency.**
- 17) Subsection 671.1(c)(2)(K) will be added to provide “Unique Identification” for every elephant, non–human primate, bear, wolf, gila monster, and animal in the Family Felidae that is possessed under a restricted species permit. **The compliance date for this new requirement was changed to December 31, 2010.**
- 18) **Add subsection 671.1(c)(2)(K)(3) to state the Department shall maintain the unique identifiers for each animal until they are deceased.**
- 19) Subsection 671.1(c)(2)(L) will be added to list the information needed from bona fide scientific institutions for the initial application and for each additional new species.
- 20) Subsection 671.1(c)(2)(M) will be added to ensure adequate documentation of federal requirements.
- 21) **Add subsection 671.1(c)(2)(N) to require the permit holder to notify the Department within 10 days when taking possession or transferring an animal or when an animal is deceased.**
- 22) Subsection 671.1(c)(4) and (c)(5) will be modified and add (c)(6) to standardize denial, revocation and appeal procedures for permits.
- 23) **Subsection 671.1(c)(4)(A) will be added to allow the Department to deny a permit or amendment of an existing permit request if the application and/or additional material does not support the statement of purpose.**
- 24) Subsection 671.1(c)(6) will be **moved** to (c)(7) and updated to move all permit fees to the new Section 703, clarify fee waiver conditions, and add an inspection fee waiver for aquaculture or wholesale/importation permits, if their facilities have been previously inspected or **had** no fish health issues in the past year. This proposed change establishes clearer conditions for fee waivers.
- Section 671.7 will be revised to add the following restricted species permit conditions for the Aquaculture and Wholesale/Importation permits. The following proposed changes establish adequate containment and control procedures to ensure protection of the natural environment. Additional minor changes are proposed to align and clarify the regulations and reduce public confusion.
- 1) Specify that a Section 236 importation permit is not required for aquatic animal importations under an Aquaculture and Wholesale/Importation restricted species permit.

- 2) Add definition for closed–water system and terminal markets **with the removal of the permit exception** in subsection 671.7(a).
- 3) Specify the general permit requirements in subsection 671.7(b).
  - a. All live restricted species shall be held, raised, and transported in a closed–water system.
  - b. Facilities and transport systems must be designed so that biosecurity is maintained in the case of failure of the primary containment system.
  - c. Access to facilities and transport systems containing restricted species shall be restricted to assure against unauthorized removal of animals.
  - d. Co–mingling or hybridization of restricted and non–restricted species is prohibited unless authorized by the Department.
  - e. Require a written Emergency Action Plan that describes the emergency measures in the event of an escape or a containment failure involving a restricted species. This subsection will also enable cost–recovery from the permittee for Department involvement in the capture of escaped animals or a containment failure.
  - f. In the event of adverse impacts arising from the farming of restricted species, or from violation of articles in this section, the Department is authorized to take appropriate and reasonable actions to remedy the situation.
- 4) Specify the permit application requirements in subsection 671.7(c).
  - a. The following information shall accompany an application for each new restricted species permit, amendment, or renewal:
  - b. New Applicants and Permittees Requesting Amendments: An inventory of all restricted species requested including the common and scientific name of the each species, and the weight, volume, or count of each species.
  - c. Renewals: An inventory of all restricted species presently held at their aquaculture facility including the common and scientific name of each species, and the weight, volume, or count of each species.
  - d. A written statement detailing the type of business that will be conducted with the restricted species requested.
  - e. A copy of the applicant’s current aquaculture registration, if an aquaculture permit is being requested.
  - f. A copy of their Emergency Action Plan.
  - g. For annual renewal of a restricted species permit, the permittee shall report to the Department on the importation, production and/or dispensation of all restricted species at their facility and on other information as specified in the permit.
- 5) Specify the live importation requirements in subsection 671.7(d).
  - a. No shipment of restricted species into the state may be made without permit.
  - b. All importations of restricted species shall be accompanied by a bill of lading, and a copy of the restricted species permit shall accompany each shipment.
  - c. The authorized source of restricted species must have good record of husbandry and health management as determined by the Department.
  - d. Notification of each restricted species animal importation shall reach the Department regional office at least five days in advance of the importation date to allow for adequate time to organize Department staff for entry inspections.
  - e. All restricted species imported into California under these regulations may be inspected by the Department at either the place of entry into the state or at another location as specified by the department.
- 6) Specify the live transportation requirements within the state in subsection 671.7(e).
  - a. All shipments of live restricted species animals shall be accompanied by a bill of lading.
  - b. Notification of restricted species animal shipment(s) shall reach the Department regional office at least 48 hours in advance of the movement date.
  - c. Both the seller and consignee of restricted species shall retain a copy of the invoice, bill of lading or similar accountable document for three years.
- 7) Specify the sales requirements by permittees in subsection 671.7(f).
  - a. Restricted species products may be sold alive by aquaculture facilities or fish businesses with the appropriate permit.
  - b. All shipping containers of restricted species animals shall be labeled as restricted

- aquaculture product unless specifically authorized in the restricted species permit.
- c. All restricted species products sold shall be accompanied by a sales invoice, showing the name and address of the permittee, the restricted species permit number, date of sale, the common and scientific name of the species, and the weight, volume, or count of each species sold. All applicable documents shall be immediately made available to the department upon request.
  - d. No live restricted species product shall be stocked in private, public or fish-for-fee facilities or **be released in any** waters of the state.
- 8) Specify the sales requirements by terminal markets in subsection 671.7(g) **with the removal of the permit exception.**
- a. All restricted species products sold or leaving the premises of a terminal market shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with **subsection 240(c)** of these regulations. **The subsection (c) of 240 was added for clarification.**
  - b. No live restricted species product shall be allowed to leave a terminal market or **be released in any** waters of the state.

Section 703 will be added to contain the restricted species permit fees and various application form numbers that are incorporated by reference. **Permit** fees are adjusted annually pursuant to the provisions of Section 699 and FGC Section 713. The proposed additions are outlined below:

The new application fees are proposed to be double the present application fee since it takes twice as long to process new applications for restricted species permits. The inspection fees are proposed to be increased to recover Department costs.

Subsection (A) 2010 Restricted Species Permit Fees

1. Restricted Species Permit Application (New)	[\$51.25-\$101.50]
2. Restricted Species Permit Application (Amended or Renewal)	\$ 51.25
3. Animal Care — Welfare Species	\$ 50.75
4. Animal Care — Detrimental Species	\$426.00
5. Aquaculture	\$426.00
6. AZA	\$426.00
7. Breeding	\$426.00

8. Resident Broker/Dealer	\$426.00
9. Nonresident Broker/Dealer	\$851.75
10. Resident Exhibiting	\$426.00
11. Nonresident Exhibiting	\$851.75
12. Native Species Exhibiting	\$426.00
13. Resident Nuisance Bird Abatement	\$426.00
14. Nonresident Nuisance Bird Abatement	\$851.75
15. Research — Detrimental Species	\$426.00
16. Shelter	\$ 50.75
17. Single Event Breeding for Exhibitors	\$ 50.75
18. Wholesale/Importation	\$426.00
19. Fee for two initial inspections	[\$170.50-\$3000.00]
20. Hourly inspection fee (> 2 hrs)	[\$ 42.50-\$100.00]

Subsection 703(B) to (H) Restricted Species Application Forms

- (B) New Restricted Species Permit Application  
FG 1312 (New 10/2009)
- (C) Native Species Exhibiting Permit Amendment Form  
FG 1312a (New 10/2009)
- (D) New Native Species Exhibiting Permit Application  
FG 1312b (New 10/2009)
- (E) Restricted Species Permit Inventory of Animals Form  
FG 1313 (New 10/2009)
- (F) Native Species Exhibiting Permit Inventory of Animals Form  
FG 1313a (New 10/2009)
- (G) Restricted Species Permit Amendment Form  
FG 1313b (New 10/2009)
- (H) Restricted Species Nonresident Exhibiting Itinerary Form FG 1316 (New 10/2009)

**Option 2 — No geographic restrictions and everyone must be permitted**

All Proposed changes in Option 1 are included in Option 2 except for the following subsection.

**Subsection 671(c)(5)(U) is proposed to be modified as follows:**

- 1) The proposed county restriction will be removed.
- 2) The proposed size criteria is proposed to be moved into a new subsection 671(c)(5)(U)(2) and the requirement of adhering to Section 671.7 conditions is proposed to be moved into a new subsection 671(c)(5)(U)(1).

**Option 3 — Geographic restrictions and terminal markets not permitted**

All Proposed changes in Option 1 are included in Option 3 except for the following subsections.

**Subsection 671.7 is proposed to be modified as follows:**

- 1) Keep the original definition for terminal markets in subsection 671.7(a).
- 2) Keep the original sales requirements by terminal markets in subsection 671.7(g) with the following changes.
  - a. Terminal markets that purchase live restricted species product from permitted importer or permitted aquaculturist are not required to hold a restricted species permit provided the live restricted species product is maintained in a closed–water system.
  - b. All restricted species products sold or leaving the premises of a terminal market shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with **subsection 240(c)** of these regulations. **The subsection (c) of 240 was added for clarification.**
  - c. No live restricted species product shall be allowed to leave a terminal market or **be released in any** waters of the state.

**Option 4 — No geographic restrictions and terminal markets are permitted**

All Proposed changes in Option 1 are included in Option 4 except for the following subsections.

**Subsection 671(c)(5)(U) is proposed to be modified as follows:**

- 1) The proposed county restriction will be removed.
- 2) The proposed size criteria is proposed to be moved into a new subsection 671(c)(5)(U)(2) and the requirement of adhering to Section 671.7 conditions is proposed to be moved into a new subsection 671(c)(5)(U)(1).

**Subsection 671.7 is proposed to be modified as follows:**

- 1) Keep the original definition for terminal markets in subsection 671.7(a).
- 2) Keep the original sales requirements by terminal markets in subsection 671.7(g) with the following changes.

- a. Terminal markets that purchase live restricted species product from permitted importer or permitted aquaculturist are not required to hold a restricted species permit provided the live restricted species product is maintained in a closed–water system.
- b. All restricted species products sold or leaving the premises of a terminal market shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with **subsection 240(c)** of these regulations. **The subsection (c) of 240 was added for clarification.**
- c. No live restricted species product shall be allowed to leave a terminal market or **be released in any** waters of the state.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resource Building Auditorium, 1416 Ninth Street, Sacramento, California, on Thursday, February 4, 2010 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Double Tree Hotel — Ontario Airport, Ontario, California, on Wednesday, March 3, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in The La Grande Room, Beach Resort Monterey, 2400 Sand Dunes Dr., Monterey, California, on Thursday, April 8, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before March 24, 2010 at the address given below, or by fax at (916) 653–5040, or by e–mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e–mailed to the Commission office, must be received before 5:00 p.m. on April 6, 2010. All comments must be received no later than April 8, 2010, at the meeting in Monterey. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~–underline format and modifications indicated in double ~~strikeout~~/underline, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090,

phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Jon Snellstrom at the preceding address or phone number. **Mr. Scott Barrow, Fisheries Program Branch, Department of Fish and Game, (916) 445-7600 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

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

**Impact of Regulatory Action**

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action is necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

The net impacts are unknown at this time.

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed action will open up new marketing opportunities for California's aquaculture and retail seafood industries which will offset the new permit fees and inspection costs.

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

The proposed regulation changes would provide a cost recovery mechanism to offset Department costs related to permitting restricted species and for escaped animals.

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

None.

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

None.

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

None.

- (h) Effect on Housing Costs:

None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

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

FISH AND GAME COMMISSION

John Carlson, Jr.  
Executive Director

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

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

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

**NOTICE OF INTENT TO LIST DDE AND  
NITROBENZENE  
January 29, 2010**

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemicals *1-dichloro-2,2-bis(p-chlorophenyl) ethylene (DDE)* and *nitrobenzene* as known to the State to cause reproductive toxicity under the Safe Drinking Water and Toxic Enforcement Act of 1986.<sup>1</sup> This action is being taken under the authoritative bodies listing mechanism.<sup>2</sup>

Chemical	CAS No.	Endpoint	Reference	Chemical Use
1,1-Dichloro-2,2-bis(p-chlorophenyl)-ethylene (DDE)	72-55-9	Developmental, male reproductive	U.S. EPA (2008)	Environmental degradation product of DDT, an insecticide
Nitrobenzene	98-95-3	Male reproductive	U.S. EPA (2009)	Used in the synthesis of other industrial chemicals and intermediates. Occurs in shoe and metal polishes and soaps.

OEHHA requested relevant information related to the possible listing of *DDE* and *nitrobenzene* in a notice published in the *California Regulatory Notice Register* on October 30, 2009 (Register 2009, No. 44-Z). OEHHA received no public comments.

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

- 1) An authoritative body formally identifies the chemical as causing reproductive toxicity (Section 25306(d)<sup>3</sup>).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(g)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306 (h)). The U.S. Environmental Protection Agency (U.S. EPA) is one of several institutions designated as authoritative

for the identification of chemicals as causing reproductive toxicity (Section 25306(l)).

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

**OEHHA’s determination:** DDE and nitrobenzene each meet the criteria for listing as known to the State to cause reproductive toxicity under Proposition 65, based on findings of the U.S. Environmental Protection Agency (U.S. EPA, 2008; U.S. EPA 2009).

**Formal identification and sufficiency of evidence for DDE:** In 2008, the U.S. EPA published a report on DDE (U.S. EPA, 2008). This report concludes that the chemical causes developmental and male reproductive toxicity, and satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the U.S. EPA’s conclusions in the report that DDE causes reproductive toxicity. The U.S. EPA report concludes:

“DDE has been found to be an antiandrogenic compound, which may explain a number of reproductive and developmental effects seen in male rats exposed to DDE at various ages.”

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

<sup>2</sup> See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., Section 25306.

<sup>3</sup> All referenced sections are from Title 27 of the Cal. Code of Regulations.

“Observed effects in the male animals include reduced anogenital distance and retention of thoracic nipples in pups exposed during gestation and lactation; delayed puberty in rats exposed either during juvenile development or at very high doses during gestation and lactation; and reduced accessory sex organ weights in exposed adult males.”

“[A]nimal studies also reveal susceptibility to DDE during development, particularly in males. In rats, exposure to 100 mg/kg/day during gestation resulted in a significant decrease in ventral prostate weight in males at 15 months of age and a decrease in weights of glans penis, ventral prostate, and epididymis at 10 months old; reduced anogenital distance and increased mean number of retained nipples also were observed in the newborns. Anogenital distance at birth was reduced in male rat pups exposed transplacentally to 100 mg/kg/day during gestational (sic) (and also unquantified pup exposure during lactation); the animals also had retained thoracic nipples on postnatal day 13 and a significant delay in the onset of puberty was reported.”

Based on the U.S. EPA report and the references cited in the report, the evidence is sufficient for listing by the authoritative bodies mechanism.

**Formal identification and sufficiency of evidence for nitrobenzene:** In 2009, the U.S. EPA published a report on nitrobenzene (U.S. EPA, 2009). This report concludes that the chemical causes male reproductive toxicity, which satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the U.S. EPA’s discussion of data and conclusions in the report that nitrobenzene causes reproductive toxicity. The U.S. EPA report concludes:

“In male rats (F344/N and CD) and mice (B6C3F1), nitrobenzene exposure via the inhalation and oral routes has been shown to cause testicular atrophy, including a dramatic decrease in sperm count with ensuing loss of fertility.”

“In rodents. . . nitrobenzene is a moderately effective male reproductive toxicant.”

There “is strong evidence for nitrobenzene to act as a male reproductive toxicant. . .”

Thus, the U.S. EPA (2009) has formally identified nitrobenzene as causing male reproductive toxicity in rodents.

**Request for comments:** OEHHA is committed to public participation in its implementation of Proposition 65. OEHHA wants to ensure that its regulatory decisions are based on a thorough consideration of all rele-

vant information. OEHHA is requesting comments as to whether these two chemicals meet the criteria set forth in the Proposition 65 regulations for authoritative bodies listings. In order to be considered, **comments must be received by OEHHA by 5:00 p.m. on Monday, March 1, 2010.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov). Comments submitted in paper form may be mailed or delivered in person in triplicate, or faxed, to the addresses below:

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

Fax: (916) 323-8803

Street Address: 1001 I Street  
Sacramento, California 95814

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

**References**

U.S. EPA, 2008: Health Effects Support Document for 1,1-Dichloro-2,2-bis(p-chlorophenyl)ethylene (DDE). U.S. Environmental Protection Agency Office of Water (4304T) Health and Ecological Criteria Division Washington, DC 20460. EPA Document Number EPA-822-R-08-003, January 2008 ([www.epa.gov/safewater/ccl/pdf/DDE.pdf](http://www.epa.gov/safewater/ccl/pdf/DDE.pdf)).

U.S. EPA, 2009: Toxicological Review of Nitrobenzene (CAS No. 98-95-3) in Support of Summary Information on the Integrated Risk Information System (IRIS). U.S. Environmental Protection Agency Washington, DC. EPA/635/R-08/004F January 2009 ([www.epa.gov/iris](http://www.epa.gov/iris)).

**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# 2009-1203-02

**AIR RESOURCES BOARD**

**Plug-in Hybrid Electric Vehicles and Aftermarket Parts**

This rulemaking amends or adopts regulations, and related testing and certification procedures documents, to establish new Equivalent All Electric Range exhaust and evaporative emissions test procedures for blended Plug-In Hybrid Electric Vehicles (PHEV); it adopts new test procedures to determine whether these vehicles qualify for Type F or Type G advanced component allowances under Zero Emission Vehicle regulations; it adopts a new test procedure for testing the All Electric Range of fuel-cell powered vehicles; it adopts a new definition of "sealed fuel system" for evaporative emissions testing exemption purposes; and it adopts a new after-market parts certification procedure for PHEV conversion systems.

Title 13

California Code of Regulations

ADOPT: 2032 AMEND: 1961, 1962, 1962.1, 1976, 1978

Filed 01/14/2010

Effective 02/13/2010

Agency Contact: Amy Whiting (916) 322-6533

File# 2009-1204-01

**BOARD OF EQUALIZATION**

**Board Approval Required for Refunds Over \$50,000**

This rulemaking amends two sections within Title 18 to clarify that staff, as a result of a vote by the California Board of Equalization delegating the authority, have the authority, without further approval from Board Members to grant or deny specified refunds. This amends these sections to increase the delegation from \$50,000 to cover amounts up to \$100,000. This amendment further specifies that if a refund should be granted in excess of \$50,000 (or \$15,000 in one instance) that this determination must be available as a public record for 10 days prior to its effective date.

Title 18

California Code of Regulations

AMEND: 5237, 5266

Filed 01/20/2010

Effective 02/19/2010

Agency Contact:

Richard Bennion (916) 445-2130

File# 2009-1209-03

**CALIFORNIA ARTS COUNCIL**

**Conflict of Interest Code**

This is a Conflict of Interest Code filing that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of

State and printing in the California Code of Regulations.

Title 2

California Code of Regulations

AMEND: Section 27000

Filed 01/14/2010

Effective 02/15/2010

Agency Contact: Marilyn Nielsen (916) 322-6404

File# 2010-0112-07

**DEPARTMENT OF FOOD AND AGRICULTURE**

**White Striped Fruit Fly Interior Quarantine**

This is a reoption of the prior emergency regulatory action (OAL file no. 2009-0729-01E) that established a quarantine area of approximately 81 square miles in Los Angeles and San Bernardino counties for the white striped fruit fly (*Bactrocera albistrigata*). The emergency regulation also established the articles and commodities covered and the restrictions on the articles and commodities covered. The effect of the proposed adoption of this regulation is to provide authority to the State to conduct quarantine activities against the white striped fruit fly in the quarantine area.

Title 3

California Code of Regulations

ADOPT: 3436

Filed 01/19/2010

Effective 01/19/2010

Agency Contact: Stephen S. Brown (916) 654-1017

File# 2010-0104-04

**FISH AND GAME COMMISSION**

**Incidental Take of Pacific Fisher During Candidacy**

This is the second and final emergency reoption by the Fish and Game Commission adopting section 749.5 in Title 14 of the California Code of Regulations to provide for the incidental take of Pacific fisher during its candidacy for listing as an endangered or threatened species under CESA, in accordance with Fish and Game Code section 2084. This is a straight reoption, with no change to the emergency language.

Title 14

California Code of Regulations

ADOPT: 749.5

Filed 01/14/2010

Effective 01/26/2010

Agency Contact: Sherrie Fonbuena (916) 654-9866

File# 2009-1202-01

**FISH AND GAME COMMISSION**

**Bay Delta Sport Fishing Enhancement Stamp**

This Section 100 filing repeals section 1.18 in Title 14 of the CCR because the specific authority for imposition of a Bay Delta Sports Fishing Enhancement Stamp

was provided by Fish and Game Code section 7360 which the legislature repealed in its entirety in AB 1052 (Chap 381, Stats 2009).

Title 14  
 California Code of Regulations  
 REPEAL: 1.18  
 Filed 01/13/2010  
 Agency Contact: Jon Snellstrom (916) 653-4899

File# 2009-1231-03  
 OFFICE OF THE INSPECTOR GENERAL  
 Conflict of Interest Code

The California Office of the Inspector General is amending its conflict of interest code found at title 2, div. 8, ch. 102, sec. 59100, California Code of Regulations. The amendment was approved for filing by the Fair Political Practices Commission on December 21, 2009.

Title 2  
 California Code of Regulations  
 AMEND: div.8, ch. 102, sec. 59100  
 Filed 01/19/2010  
 Effective 02/18/2010  
 Agency Contact:  
 Ann Bordenkircher (916) 830-3648

File# 2009-1201-01  
 OFFICE OF THE STATE CHIEF INFORMATION OFFICER  
 Conflict of Interest Code

The Office of the State Chief Information Officer is adopting its conflict of interest code found at title 2, div. 8, ch. 119, sec. 59640, California Code of Regulations. The adoption was approved for filing by the Fair Political Practices Commission on June 26, 2009.

Title 2  
 California Code of Regulations  
 ADOPT: div. 8, ch. 119, sec. 59640  
 Filed 01/13/2010  
 Effective 02/12/2010  
 Agency Contact: Vanessa Rose (916) 739-7898

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN August 19, 2009 TO  
 January 20, 2010**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For fur-

ther 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**
- 01/19/10 AMEND: div.8, ch. 102, sec. 59100
  - 01/14/10 AMEND: Section 27000
  - 01/13/10 ADOPT: div. 8, ch. 119, sec. 59640
  - 01/11/10 ADOPT: 18229.1, 18944 REPEAL: 18944
  - 01/05/10 AMEND: div. 8, ch. 49, sec. 53800
  - 12/22/09 AMEND: 1859.96, 1859.148.2, 1859.166.2
  - 12/21/09 AMEND: 1896.4, 1896.12
  - 12/21/09 ADOPT: 20714.5 AMEND: 20711, 20712, 20714, 20716, 20717, 20718, 20719
  - 11/24/09 AMEND: 1859.2
  - 11/24/09 AMEND: 1859.2, 1859.35, 1859.51, Form SAB 50-02, SAB Form 50-03, SAB Form 50-04
  - 11/17/09 ADOPT: 20810, 20811, 20812, 20813, 20814, 20815, 20816, 20817, 20818, 20819, 20820, 20821, 20822, 20823, 20830, 20831, 20832, 20833, 20840, 20841, 20842
  - 11/16/09 AMEND: 1859.129, 1859.197
  - 11/12/09 ADOPT: 18944.4 AMEND: 18944.3
  - 11/12/09 ADOPT: 18219, 18734
  - 11/09/09 ADOPT: 1859.148.2, 1859.166.2 AMEND: 1859.2, 1859.121, 1859.164.2, 1859.197
  - 11/09/09 ADOPT: 604 REPEAL: 604
  - 11/05/09 ADOPT: 60800, 60801, 60802, 60803, 60804, 60805, 60806, 60807, 60808, 60809, 60810, 60811, 60812, 60813, 60814, 60815, 60816, 60817, 60818, 60819, 60820, 60821, 60822, 60823, 60824, 60825, 60826, 60827, 60828, 60829, 60830, 60831, 60832, 60833, 60834, 60835, 60836, 60837, 60840, 60841, 60842, 60843, 60844, 60845, 60846, 60847, 60848, 60849, 60850, 60851, 60852, 60853, 60854, 60855
  - 11/03/09 ADOPT: 1859.96 AMEND: 1859.2, 1859.90
  - 10/01/09 AMEND: 2291, 2292, 2294 ADOPT: 2297
  - 10/01/09 AMEND: 1898.2, 1898.7
  - 09/22/09 ADOPT: 18603, 18603.1
  - 09/22/09 ADOPT: 18901.1 AMEND: 18420.1
  - 09/18/09 AMEND: 1859.76
  - 09/17/09 AMEND: 2270, 2271
  - 09/14/09 AMEND: 588.1, 588.2

**CALIFORNIA REGULATORY NOTICE REGISTER 2010, VOLUME NO. 5-Z**

08/31/09 ADOPT: 1859.324.2 AMEND:  
1859.302, 1859.324.1, 1859.330

**Title 3**

01/19/10 ADOPT: 3436  
01/12/10 AMEND: 3434(b)  
01/11/10 AMEND: 3406(b) and (c)  
01/06/10 AMEND: 3435(b)  
01/04/10 AMEND: 2675, 2734, 2735  
12/31/09 AMEND: 3434(b), (c), (e)  
12/29/09 AMEND: 3423(b)  
12/28/09 AMEND: 3434(b)  
12/28/09 AMEND: 3434(b)  
12/16/09 AMEND: 3591.20(a)  
12/16/09 AMEND: 3406(b)(c)  
11/25/09 AMEND: 3435(b)  
11/24/09 AMEND: 3430(b)  
11/16/09 AMEND: 3435(b)  
11/16/09 AMEND: 3406(b)(c)  
11/10/09 AMEND: 3434(b)  
10/30/09 AMEND: 3435(b), (c) and (d)  
10/15/09 AMEND: 3434(b)  
10/08/09 AMEND: 3434(b)  
10/08/09 AMEND: 3591.20(a)  
09/24/09 AMEND: 3406(b)  
09/24/09 AMEND: 3434(b)  
09/22/09 AMEND: 6562  
09/15/09 AMEND: 3434(b)  
09/14/09 AMEND: 3435(b)  
09/10/09 ADOPT: 2300.1, 2300.2, 2300.3  
AMEND: 2300  
09/09/09 AMEND: 3434(b)  
09/03/09 AMEND: 3434(b)  
09/01/09 AMEND: 3435(b)  
08/28/09 AMEND: 3434(b)  
08/27/09 AMEND: 3435(b)  
08/27/09 AMEND: 3588  
08/26/09 AMEND: 6400, 6502, 6620,  
6626(a)–(b), 6626(c), 6627, 6670, 6672,  
6736, and incorporated by reference  
forms  
08/20/09 AMEND: 3406(b)  
08/20/09 AMEND: 3591.13(a)

**Title 4**

12/17/09 AMEND: 8070, 8072, 8073, 8074  
12/09/09 AMEND: 12388  
12/08/09 ADOPT: 12218.8, 12218.9, 12238,  
12239 AMEND: 12200.9, 12200.10A,  
12200.11, 12200.13, 12203.2, 12205.1,  
12218, 12218.7, 12220.13, 12220.18,  
12220.23, 12225.1, 12233, 12235  
10/27/09 AMEND: 8034, 8035, 8042, 8043  
10/20/09 AMEND: 1606

10/07/09 AMEND: 7030, 7034, 7035, 7037, 7038,  
7042, 7044, 7045, 7046, 7048, 7049,  
7050

08/25/09 ADOPT: 12380, 12381, 12384, 12385,  
12386 AMEND: 12360

**Title 5**

01/04/10 AMEND: 1203, 1204, 1205, 1206,  
1207.1, 1208, 1209, 1211, 1217, 1218,  
1219, 1220, 1225  
12/18/09 AMEND: 41905  
12/16/09 ADOPT: 19828.4, 19837.3, 19839,  
19845.2 AMEND: 19815, 19816,  
19816.1, 19828.3, 19837.2, 19845.1,  
19846  
12/16/09 ADOPT: 30730, 30731, 30732, 30733,  
30734, 30735, 30736  
11/03/09 AMEND: 1200, 1204.5, 1207, 1207.5,  
1210, 1211.5, 1215, 1215.5, 1216  
REPEAL: 1207.2  
08/20/09 ADOPT: 19825.1 AMEND: 19816,  
19816.1, 19825, 19825.1 (renumber to  
19825.2)

**Title 8**

12/09/09 AMEND: 9812, 10111.2  
12/02/09 AMEND: 4086  
11/19/09 AMEND: 15600, 15601, 15602, 15603,  
15604, 15605, 15606, 15607, 15611  
11/04/09 AMEND: 9771, 9778, 9779, 9779.5  
REPEAL: 9779.9  
10/28/09 AMEND: 3333, 3650  
10/26/09 AMEND: 5306  
10/22/09 AMEND: 3277  
10/07/09 AMEND: 2395.6  
08/31/09 AMEND: 3385  
08/27/09 AMEND: 3400

**Title 9**

12/21/09 ADOPT: 9550  
12/21/09 ADOPT: 10700, 10701 AMEND: 10518,  
10529 REPEAL: 10532, 10533  
11/04/09 ADOPT: 3200.125, 3200.215, 3200.217,  
3200.253, 3200.254, 3200.255,  
3200.256, 3200.275, 3200.276,  
3200.320, 3200.325, 3550, 3810, 3820,  
3830, 3840, 3841, 3842, 3843, 3844,  
3844.1, 3845, 3850, 3851, 3851.1, 3852,  
3853, 3854, 3854.1, 3854.2, 3856  
AMEND: 3310, 3510  
10/26/09 ADOPT: 4350  
09/22/09 ADOPT: 7213.4, 7213.5, 7213.6, 7214.1,  
7214.2, 7214.3, 7214.4, 7214.6, 7214.8,  
7215.1, 7216.1, 7216.2, 7220.3, 7220.5,  
7220.7 AMEND: 7213, 7213.1, 7213.2,

	7213.3, 7214, 7215, 7216, 7218, 7220, 7221, 7224, 7225, 7226, 7226.1, 7226.2, 7227, 7227.1, 7227.2 REPEAL: 7219	09/23/09	AMEND: 260.102.8(b), 260.103.6, 260.105.15, 260.113, 260.140.8(b)(4), 260.140.42(e), 260.140.71.2, 260.140.114.1(c), 260.151(a), 260.236(c)(3)(C), 260.608, 1457(d), 1950.122.1, 2020(c), 2030, Note after Subchapter 6 REPEAL: 250.50, 250.51
09/14/09	ADOPT: 4000, 4005		
<b>Title 10</b>			
01/07/10	AMEND: 2651.1, 2652.1, 2652.10, 2653.3, 2653.4, 2653.5, 2654.1, 2655.3, 2655.4	09/17/09	AMEND: 2699.6805
12/15/09	REPEAL: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5	08/19/09	AMEND: 2699.6707, 2699.6711, 2699.6721, 2699.6723, 2699.6725, 2699.6809
12/08/09	AMEND: 2699.6603		
12/07/09	ADOPT: 2309.2, 2309.3, 2309.4, 2309.5, 2309.6, 2309.7, 2309.8, 2309.9, 2309.10, 2309.11, 2309.12, 2309.13, 2309.14, 2309.15, 2309.16, 2309.17, 2309.18, 2309.20	<b>Title 11</b>	
12/03/09	AMEND: 2698.600, 2698.602	01/11/10	38.3
12/01/09	ADOPT: 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, 2031.7, 2031.8 AMEND: 2031.9, 2031.10	01/05/10	AMEND: 900, 901, 902, 903, 904, 905, 906 REPEAL: 907, 908, 909, 910, 911
12/01/09	ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, 2850.10	11/09/09	AMEND: 1005, 1007, 1008
12/01/09	ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10	10/14/09	AMEND: 9052(c), 9053(b), 9053(c), 9053(e)(5)(A)4, 9053(e)(10)(A), 9053(e)(10)(B), 9054(e)(4), 9057(b), 9059(b), 9059(c), 9059(e)(9)(A), 9059(e)(9)(B), 9060(e)(4)
12/01/09	AMEND: 2699.200, 2699.201	<b>Title 12</b>	
11/19/09	AMEND: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507	10/13/09	ADOPT: 600 REPEAL: 600
11/19/09	AMEND: 2498.5	09/17/09	ADOPT: 508
11/19/09	AMEND: 2498.5	<b>Title 13</b>	
11/19/09	AMEND: 2498.4.9	01/14/10	ADOPT: 2032 AMEND: 1961, 1962, 1962.1, 1976, 1978
11/19/09	AMEND: 2498.4.9	01/05/10	AMEND: 553.70
11/10/09	AMEND: 260.101.2, 260.103.4, 260.105.7, 260.105.17, 260.105.33, 260.105.34, 260.211.1, 260.217, 260.230, 260.241.4, 260.242 REPEAL: 260.105.37, 260.204.11	12/31/09	AMEND: 2449, 2449.1, 2449.2
10/29/09	AMEND: 2699.6809	12/31/09	AMEND: 2449, 2449.1, 2449.2
10/29/09	AMEND: 2699.6600, 2699.6607, 2699.6619, 2699.6621, 2699.6705, 2699.6715, 2699.6725	12/15/09	ADOPT: 155.07 AMEND: 155.05
10/26/09	AMEND: 2632.9	12/09/09	ADOPT: 2025
10/26/09	AMEND: 2695.85	12/03/09	AMEND: 425.01
10/15/09	AMEND: 2632.5	10/20/09	AMEND: 2433
10/06/09	ADOPT: 2728, 2773, 2903 AMEND: 2731, 2848, 2930 REPEAL: 2728, 2755	10/13/09	ADOPT: 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359
09/29/09	AMEND: 2699.6625	09/16/09	ADOPT: 2468, 2468.1, 2486.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9, 2468.10
09/24/09	AMEND: 260.004, 260.017.1, 260.102.14, 260.165, 260.210, 260.211, 260.230.1, 260.236, 260.236.1, 260.237.2, 260.240, 260.241.3 REPEAL: 260.101, 260.103.3, 260.237.1	09/01/09	AMEND: 2222
		08/24/09	AMEND: 2193
		<b>Title 13, 17</b>	
		12/03/09	AMEND: Title 13 — 1956.8, 2020, 2022, 2022.1, 2027, 2449, 2449.3, 2451, 2452, 2453, 2455, 2456, 2458, 2461, 2462, 2479, 2485, Title 17 — 93116.1, 93116.2, 93116.3, 93116.5
		<b>Title 14</b>	
		01/14/10	ADOPT: 749.5
		01/13/10	REPEAL: 1.18
		01/08/10	AMEND: 4970.00, 4970.01, 4970.05, 4970.06.1, 4970.07, 4970.07.2, 4970.08,

**CALIFORNIA REGULATORY NOTICE REGISTER 2010, VOLUME NO. 5-Z**

	4970.10, 4970.10.1, 4970.10.3, 4970.10.4, 4970.11, 4970.14.1, 4970.14.3, 4970.15.1, 4970.15.2, 4970.15.3, 4970.17, 4970.19, 4970.19.2, 4970.19.4, 4970.20, 4970.21, 4970.22, 4970.24, 4970.25.1, 4970.26	12/21/09 AMEND: 3287, 3290 11/24/09 ADOPT: 3123, 3124 AMEND: 3041.3, 3122, 3162, 3164, 3165 10/23/09 ADOPT: 3999.8 10/14/09 AMEND: 3045.2 10/06/09 AMEND: 3000, 3173.1, 3176, 3176.3, 3315, 3323 09/29/09 AMEND: 3341.5
12/29/09	AMEND: 4609	
12/21/09	AMEND: 670.5	
12/21/09	AMEND: 2310, 2320	
12/02/09	AMEND: 699.5	
12/01/09	AMEND: 895, 895.1, 898, 914.8, 916, 916.2, 916.5, 916.9, 916.11, 916.12, 923.3, 923.9, 916.9.1, 923.9.1, 934.8, 936.5, 936, 936.2, 936.9, 936.9.1, 936.11, 936.12, 943.3, 943.9, 943.9.1, 954.8, 956.5, 956, 956.2, 956.9, 956.11, 956.12, 963.3, 963.9	<b>Title 16</b> 01/06/10 AMEND: 1505 01/06/10 ADOPT: 2.4 01/06/10 ADOPT: 1735, 1735.1, 1735.2, 1735.3, 1735.4, 1735.5, 1735.6, 1735.7, 1735.8 AMEND: 1751, 1751.01, 1751.02, 1751.1, 1751.2, 1751.3, 1751.4, 1751.5, 1751.6, 1751.7, 1751.8, 1751.9 REPEAL: 1716.1, 1716.2, 1751.1, 1751.6, 1751.9 12/18/09 ADOPT: 81, 87.8, 87.9 AMEND: 80, 87, 87.1, 87.7, 88, 88.1, 88.2, 89 12/16/09 ADOPT: 3340.45 AMEND: 3340.5, 3340.15, 3340.16, 3340.42 12/10/09 ADOPT: 39, 40, 41, 42, 43, 44, 45, 46, 48, 48.1, 48.2, 48.3, 48.5, 48.6 12/09/09 AMEND: 1314.1 12/03/09 AMEND: 1338 11/30/09 AMEND: 832.45, 832.46, 861 REPEAL: 842 11/30/09 AMEND: 2286 11/12/09 ADOPT: 645 11/05/09 ADOPT: 3340.42.2 AMEND: 3340.17, 3340.42 10/08/09 AMEND: 1888 10/07/09 ADOPT: 1399.90, 1399.91, 1399.92, 1399.93, 1399.94, 1399.95, 1399.96, 1399.97, 1399.98, 1399.99 REPEAL: 1399.50, 1399.52 10/05/09 ADOPT: 1399.514 09/16/09 ADOPT: 1950.1 AMEND: 1984 09/16/09 ADOPT: 1399.720, 1399.721, 1399.722, 1399.723, 1399.724, 1399.725 09/08/09 AMEND: 2310 08/24/09 AMEND: 4161
11/30/09	ADOPT: 1022.4, 1022.5, 1024.6 AMEND: 1035.3, 1090.12, 1092.14	
11/30/09	AMEND: 1052, 1052.1, 1052.4	
11/25/09	AMEND: 895, 895.1, 919.9, 919.10, 939.9, 939.10	
11/23/09	ADOPT: 749.4	
11/18/09	AMEND: 163, 164	
10/29/09	AMEND: 551	
10/27/09	AMEND: 938.8	
10/27/09	ADOPT: 1530.05 AMEND: 1553, 1554, 1561.1, 1562, 1564, 1567	
10/26/09	ADOPT: 1091.15 AMEND: 1091.9	
10/22/09	ADOPT: 749.5	
10/20/09	ADOPT: 6594, 6594.1, 6594.2, 6594.3, 6594.4, 6594.5, 6594.6, 6594.7, 6594.8, 6594.9, 6594.20, 659.21, 6594.22, 6594.23, 6594.24, 6594.25, 6594.26, 6594.27, 6594.40, 6594.41, 6594.42, 6594.43, 6594.44, 6594.45, 6594.46, 6594.47	
10/20/09	AMEND: 300	
10/07/09	AMEND: 122	
10/05/09	AMEND: 670.5	
09/15/09	AMEND: 502	
08/25/09	AMEND: 257, 300, 311, 313	
08/24/09	ADOPT: 749.4	
<b>Title 15</b>		
01/07/10	AMEND: 1, 100, 102, 260, 261, 262, 263, 351, 352, 353, 354, 355, 356, 358, 1006, 1010, 1029, 1032, 1045, 1055, 1056, 1063, 1081, 1083, 1084, 1100, 1122, 1140, 1160, 1245, 1260, 1264, 1272, 1280	
01/07/10	ADOPT: 3768, 3768.1, 3768.2, 3768.3 REPEAL: 3999.6	
12/29/09	ADOPT: 3378.3 AMEND: 3000, 3378.1	
<b>Title 17</b>		
01/12/10	ADOPT: 95480, 95480.1, 95481, 95482, 95483, 95484, 95485, 95486, 95487, 95489, 95490	
12/28/09	ADOPT: 95340, 95341, 95342, 95343, 95344, 95345, 95346	
12/17/09	ADOPT: 100600, 100601, 100602, 100603, 100604, 100605, 100606, 100607, 100608, 100609, 100610, 100611	

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12/14/09	ADOPT: 95320, 95321, 95322, 95323, 95324, 95325, 95326	09/30/09	AMEND: 3939.2
12/09/09	ADOPT: 95300, 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95308, 95309, 95310, 95311	09/16/09	ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 REPEAL: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37
11/12/09	AMEND: 30305	09/15/09	ADOPT: 2910.1
11/10/09	ADOPT: 100502	09/15/09	ADOPT: 3989.9
10/15/09	ADOPT: 1230 REPEAL: 1230	09/10/09	ADOPT: 490.1, 492.1, 492.2, 492.3, 492.4, 492.5, 492.6, 492.7, 492.8, 492.9, 492.10, 492.11, 492.12, 492.13, 492.14, 492.15, 492.16, 492.17, 493.1, 493.2
09/22/09	AMEND: 2500, 2502, 2505		AMEND: 490, 491, 492, 493, 494
09/18/09	AMEND: 100500		REPEAL: 495
09/01/09	ADOPT: 95360, 95361, 95362, 95363, 95364, 95365, 95366, 95367, 95368, 95369, 95370	<b>Title 24</b>	
08/19/09	ADOPT: 100081	12/02/09	ADOPT: 1-702 AMEND: 1-701
<b>Title 18</b>		<b>Title 25</b>	
01/20/10	AMEND: 5237, 5266	10/29/09	AMEND: 1008
09/29/09	AMEND: 1620	10/15/09	ADOPT: 4100, 4102, 4104
<b>Title 19</b>		09/17/09	AMEND: 637
11/19/09	AMEND: 200, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217	09/17/09	AMEND: 1008
11/06/09	AMEND: 901, 905, 905.2, 906.3	09/08/09	ADOPT: 7980, 7980.1, 7982, 7982.1, 7982.2, 7982.3, 7982.4, 7983, 7983.1, 7983.2, 7983.3, 7983.4, 7983.5, 7984, 7984.1, 7984.2
<b>Title 21</b>		08/19/09	ADOPT: 4200, 4202, 4204, 4205, 4206, 4208, 4210, 4212, 4214, 4216
10/06/09	ADOPT: 1412.1, 1412.2, 1412.3, 1412.4, 1412.5, 1412.6, 1412.7, 1412.8, 1412.9	<b>Title 27</b>	
09/16/09	ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711	12/17/09	ADOPT: 10010 REPEAL: 10010
<b>Title 22</b>		12/02/09	AMEND: 27001
12/31/09	AMEND: 97018, 97019, 97215, 97216, 97222, 97225, 97226, 97227, 97231, 97232, 97234, 97240, 97241, 97244, 97245, 97246, 97249, 97260, 97261, 97264, 97267	10/26/09	AMEND: 25102(d)
12/21/09	AMEND: 7314	<b>Title 28</b>	
11/24/09	ADOPT: 65800, 65801, 65802, 65803, 65804, 65805, 65806, 65807, 65808	12/18/09	ADOPT: 1300.67.2.2
08/31/09	ADOPT: 2706-7	<b>Title MPP</b>	
<b>Title 23</b>		12/22/09	AMEND: 11-425, 22-001, 22-003, 22-009, 45-302, 45-303, 45-304, 45-305, 45-306
12/15/09	AMEND: 2200	12/15/09	AMEND: 70-104
12/01/09	ADOPT: 5.1, 13.1, 13.2, 138 AMEND: 1, 3, 4, 5, 6, 7, 8, 13, 15, 109, 112 Table 8.1, 120, 193 Appendix A	11/10/09	AMEND: 31-002, 31-003 and 31-502
11/04/09	ADOPT: 2631.2	09/22/09	AMEND: 40-107, 42-213, 89-130
11/02/09	ADOPT: 3919.5	08/31/09	ADOPT: 31-021 AMEND: 31-003, 31-410, 31-501
10/21/09	AMEND: 1062, 1064, 1066, 1070		
10/06/09	AMEND: 3939.2		
09/30/09	ADOPT: 570, 571, 572, 573, 574, 575, 576		