



# 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 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **January 28, 2011**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on January 26, 2011.**

**“Paid For By” Reference**

Fair Political Practices Commission (FPPC) Chairman Dan Schnur created the Chairman’s Advisory Task Force charged with proposing regulatory and statutory changes to the state’s 36-year-old campaign finance laws. One proposal of the Task Force was to add a requirement that the words “paid for by” appear before required identification of committees and other persons in the Act.

For example, Section 84305(a) provides in pertinent part:

“[N]o candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type which shall be in a color or print which contrasts with the background so as to be easily legible.”

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Regulation 18435(b) provides:

“The sender, as used in Government Code Section 84305, is the candidate or committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable under Government Code Sections 84200–84217.”

The addition of the “paid for by” text further implements the purpose of the statute and regulation to allow the public to identify who paid for the mailer.

Similarly, Section 84504 states:

“(a) Any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars (\$50,000) or more in any reference to the committee required by law, including, but not limited, to its statement of organization filed pursuant to Section 84101.

“(b) If the major donors of fifty thousand dollars (\$50,000) or more share a common employer, the identity of the employer shall also be disclosed.

“(c) Any committee which supports or opposes a ballot measure, shall print or broadcast its name as provided in this section as part of any advertisement or other paid public statement.

“(d) If candidates or their controlled committees, as a group or individually, meet the contribution thresholds for a person, they shall be identified by the controlling candidate’s name.”

Similarly, amending Regulation 18450.4 to add the text “paid for by” further implements the purpose of this statute and regulation to allow the public to discern who paid for the mailer.

**FISCAL IMPACT STATEMENT**

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

**AUTHORITY**

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of those regulations is to implement, interpret, and make specific the procedures for valuing gifts to nonprofit and political fundraisers, consistent with various provisions of the Political Reform Act (Government Code Sections 81000–91014). Specific Government Code sections implemented, interpreted, or made specific by those regulations are indicated in the “Reference” section at the end of each regulation.

CONTACT

Any inquiries may be made to John W. Wallace, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322–5660 or 1–866–ASK–FPPC. Proposed regulatory language can be accessed at [www.fppc.ca.gov/index.php?id=247#2](http://www.fppc.ca.gov/index.php?id=247#2).

**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act” )<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **January 28, 2011**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **January 26, 2011**.

BACKGROUND/OVERVIEW

Political Reform Act regulations allow a grace period for filing all forms when the deadline for filing falls on a Saturday, Sunday, or state holiday except for particular forms (e.g. late contribution reports and late expenditure reports). The grace period allows forms that would otherwise be due on these ‘closed’ days to be filed on the next business day. Those forms that are not subject to the grace period, however, must be filed according to the applicable statute whether the due day falls on a weekend, state holiday, or regular business day. Given the hardship potentially caused to campaigns in filing

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

reports over a weekend or holiday and the staffing issues involved, a Task Force formed by the Commission’s Chairman recommends applying the grace period to most forms that cause this issue. The Task Force did not recommend, however, that the grace period be applied to Independent Expenditure reports due on a weekend or state holiday.

REGULATORY ACTION

Amend 2 Cal. Code Regs. Section 18116.

The Commission will consider amending Section 18116 to apply the filing grace period over a weekend or state holiday to late reports that are currently exempted from the grace period. This exception will not apply on the weekend preceding an election. On that weekend, all forms must be filed within 24 hours per the applicable statutes. The Commission will also consider whether to continue to apply the 24-hour reporting (with no grace period) to late independent expenditure reports.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 82036, 82036.5, 84203, 84203.3, and 84204.

CONTACT

Any inquiries should be made to Heather M. Rowan Fair Political Practices Commission, 428 J Street, Suite

800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.php?id=247#2>.

**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **January 28, 2011**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on January 26, 2011**.

**BACKGROUND/OVERVIEW**

A “slate mailer” is a mass mailing that supports or opposes a total of four or more candidates or ballot measures. (Section 82048.3.) A “mass mailing” is defined as over 200 hundred substantially similar pieces of mail sent in a calendar month. (Section 82041.5; Regulation 18435.)

A slate mailer organization is any person who, directly or indirectly, does all of the following:

“(1) Is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers.

“(2) Receives or is promised payments totaling five hundred dollars (\$500) or more in a calendar year for the production of one or more slate mailers.” (Section 82048.4.)<sup>2</sup>

A person or entity that qualifies as a slate mailer organization must file a statement of organization within 10

days after it has received or has been promised \$500 or more for producing one or more slate mailers. (Section 84108.) Thereafter, the organization must file periodic campaign statements as specified in Sections 84218, 84219, and 84220. In addition, no slate mailer organization shall send a slate mailer unless the mailer properly identifies the organization and contains an appropriate disclosure as specified in Section 84305.5.

The Political Reform Act requires special disclaimers on slate mailers that are sent to voters. (Section 84305.5.) These include a “Notice to Voters” that the slate mailer is not an official publication of a political party and that those candidates and committees who have paid to appear in the mailer or have had others make payments at their behest to appear in the mailer, are denoted by an asterisk. (Section 84305.5(a)(4), Section 84305.5(b).) The organization or committee sending a slate mailer must also provide its name, street address and city. There are also legibility requirements for the Notice to Voters listed in Section 84305.5.

The task force set up by the Chairman of the Fair Political Practices Commission has submitted several recommendations for improving slate mailer disclosures, several of which can be accomplished by regulatory change. The proposed slate mailer regulation implements these recommendations. In addition, the Commission’s Subcommittee on Internet Political Activity recommended that the same disclaimer requirements that apply to slate mailers sent by traditional mail should apply to slate mailers sent by email.

**REGULATORY ACTION**

**Adopt 2 Cal. Code Regs. Section 18401.1 and 2 Cal. Code Regs. Section 18435.5 — 2 Cal. Code Regs. Section 18401.1:**

While Regulation 18401 provides the Commission’s rules for maintaining records for most mailers, this regulation is applicable only to candidates, campaign treasurers, and elected officers. (See Regulation 18401(a).) Currently, Commission regulations do not expressly require Slate Mailer Organizations to maintain records of their activity. However, to ensure compliance with both the Act’s reporting and disclosure requirements, it is essential that slate mailer organizations maintain adequate records of their payments and receipts, and of any mailers they have sent.

Accordingly, the Commission will consider record-keeping requirements for Slate Mailer Organizations. Specific proposals the Commission may consider include, but are not limited to, the following:

- Language specifying a slate mailer organization’s duty to maintain detailed accounts, records, bills, and receipts necessary to prepare required campaign statements.

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> However, a slate mailer organization does not include (1) a candidate or officeholder or his or her controlled committee; (2) an official committee of any political party; (3) a legislative caucus committee; or (4) a committee primarily formed to support or oppose a candidate, officeholder, or ballot measure.” (Section 84208.4(b).)



- Requiring a slate mailer organization to maintain an original sample of any slate mailer sent by the organization, including basic information relating to the mailer such as the date of the mailing, the number of pieces mailed, and the method of postage or delivery.
- Requiring a slate mailer organization to maintain copies of documents reflecting the receipt of payments or obligations incurred by the organization relating to any slate mailer it has sent such as canceled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, and vouchers.

**2 Cal. Code Regs. Section 18435.5:**

Section 84305.5 subdivision (a)(4) and (b) require that each candidate or ballot measure supported or opposed in a slate mailer for which a payment of \$100 or more has been received by the slate mailer organization (or a committee responsible for the slate mailer) from a candidate, committee (or any other person at the behest of a candidate or committee) must be designated in the slate mailer by an asterisk. There has been some confusion over this requirement within the regulated community. In order to ensure compliance with the Act's requirements, the Commission will consider adopting regulatory language to clarify the requirements.

The Commission will also consider clarifying the Act's requirements that the slate mailer Notice to Voters required by Section 84305.5 be easily legible by implementing standards for legibility including but not limited to a requirement that the Notice to Voters must appear with a reasonable degree of color contrast with the background and that the statement appear on a plain background, not superimposed over an illustration or a patterned background.

Additionally, the Commission will consider adopting provisions clarifying that the language of the required Notice to Voters in a slate mailer must be written in the same language (*e.g.*, Spanish or Korean), as the slate mailer in order to ensure that the required Notice to Voters is comprehensible to the audience the mailer is intended to reach. In addition to the regulatory language proposed, the Commission may also consider requiring that the Notice to Voters be printed in all or some of the languages used in the slate mailer and may include consideration of whether the Notice to Voters shall always appear in English in addition to the non-English language that appears in the slate mailer.

Lastly, the Commission will consider whether disclaimer requirements that apply to slate mailers sent by traditional mail should apply to slate mailers sent by email as well.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Sections 82048.3, 82048.4, 84218, 84219, 84220, and 84305.5.

CONTACT

Any inquiries should be made to Sukhi K. Brar, Brian G. Lau, or Hyla Wagner, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.php?id=247#2>.

**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the "Commission"), under the authority vested in it under the Political Reform Act (the "Act")<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The

<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Commission will consider the proposed regulation at a public hearing on or after **January 28, 2011**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **January 26, 2011**.

### BACKGROUND/OVERVIEW

The Commission is considering changes to Regulation 18404.1 concerning the deadline for termination of candidate controlled committees organized for elective state office. Section 85316(a) permits state candidates to accept contributions after the date of the election only to the extent that the contributions do not exceed “net debts outstanding” from the election<sup>2</sup>. Section 84214 provides that committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the Commission that insure that a committee or candidate will have no activity that must be disclosed under the Act. Regulation 18404.1 sets forth requirements for the termination of these committees and procedures to request an extension of time.

Candidate controlled committees organized for elective state office that have “net debts outstanding” must be terminated no later than 24 months after the earliest of the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends, or, for withdrawn candidates, no later than 24 months after the election from which the candidate withdrew. Committees that have no “net debts outstanding” must be terminated not later than 9 months after the earliest of the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends, or, for withdrawn candidates, no later than 9 months after the election from which the candidate withdrew.

Subdivision (f) of Regulation 18404.1 provides that committees may request an extension of up to six months for termination of a state candidate’s committee and places no limit on the number of times a committee may request an extension.

<sup>2</sup> 2 Cal. Code of Regulations Section 18531.61 defines “net debts outstanding” to include an amount necessary to cover the cost of raising funds to pay net debt outstanding from the election, to pay costs related to complying with post-election requirements of the Act, necessary administrative costs related to winding down the campaign, legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots for the election and the total amount of unpaid debts, loans and accrued expenditures incurred with respect to the election, less the total cash on hand available to pay those debts and obligations and the total amount owed to the committee.

### REGULATORY ACTION

#### Amend 2 Cal. Code Regs. Section 18404.1:

Requiring termination of a candidate controlled committee organized for elective state office that has net debts outstanding by a certain date imposes an unnecessary burden on committees requesting an extension of time for termination and Commission staff which must consider and act on these requests. The burden is unnecessary because the Commission almost always grants the requests. To do otherwise, the Commission could be limiting a committee’s ability to pay its debts. Rather than require these committees to repeatedly continue requesting an extension of time to raise funds to pay debt, these changes will permit these committees to remain open until they have paid all their debt. These committees are subject to all of the disclosure requirements imposed on committees under the Act. Hence, the revision would not harm the disclosure purposes of the Act.

The proposed changes would also change the deadline for termination of a committee organized for elective state office that has no net debts outstanding from nine months to 24 months from the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends, or, for withdrawn candidates, no later than 24 months after the election from which the candidate withdrew. This change is intended to give committees with surplus funds more time to decide how to dispose of those surplus funds.

The proposed amendment also contains technical changes that eliminate obsolete provisions governing committees organized for elections held prior to 2001 and candidates defeated in elections between January 1, 2001 and February 15, 2002.

### SCOPE

The Commission may adopt or reject all or part of the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

### FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulatory action will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulatory action will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulatory action will have no fiscal impact on the federal funding of any state program or entity.

### AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend,

and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act (Gov. Code Secs. 81000–91014).

**REFERENCE**

The purpose of this regulation is to implement, interpret and make specific Government Code Sections 84214 and 85316.

**CONTACT**

Any inquiries should be made to Valentina Joyce, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322–5660 or 1–866–ASK–FPPC, or email [vjoyce@fppc.ca.gov](mailto:vjoyce@fppc.ca.gov).

The Commission welcomes public comment on the proposed regulatory language which can be accessed under the “Regulations” section of the Commission’s website at <http://www.fppc.ca.gov/index.php?id=247#2>. In addition, updated regulatory language will be available for public comment on the “Agendas” section of the Commission’s website no later than January 18th, ten days before the Commission’s January 28th meeting.

**TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS**

**Title 8. Division of Occupational Safety and Health**

**Notice of Proposed Rulemaking**

**Proposed Changes to Section 344.30 (Conveyance Inspection Program Fees)**

**NATURE OF PROCEEDING**

NOTICE IS HEREBY GIVEN that the Division of Occupational Safety and Health (“the Division”) of the Department of Industrial Relations is proposing to take the action described in the Informative Digest/Policy Statement Overview (“the Proposed Rulemaking”). Any person interested may present statements or arguments orally or in writing relevant to the Proposed Rulemaking at a hearing to be held in the Training Room at 1515 Clay Street, 13<sup>th</sup> Floor in Oakland, California, on February 9th, 2011 between 1:00 and 3:00 p.m.

The facilities for the public hearing are accessible to persons with mobility impairments, and other disability accommodations are 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 programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator 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 Real–time 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.

Written Comment Deadline: Any interested person may submit written comments relevant to the Proposed Rulemaking to the contact person mentioned below by 4:00 p.m. on February 9, 2011. Interested persons may submit written or verbal comments at the public hearing. Persons who are unable or who do not wish to attend the public hearing may mail or FAX comments to:

Karen Belcher, DOSH Elevator Unit  
7575 Metropolitan Dr. Suite 203  
San Diego, CA 92026  
FAX: (619) 767–2058

The official record of the rulemaking proceeding will be closed at the conclusion of the public hearing. The Division will not consider written comments received after the close of the public hearing unless an extension of time in which to receive written comments is announced at the public hearing.

The Division may thereafter adopt the Proposed Rulemaking substantially as described below or may modify it if such modifications are sufficiently related to the original text. With the exception of technical, grammatical or other non–substantive changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the persons designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to the Proposed Rulemaking or who request notification of any changes to the Proposed Rulemaking.



## AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 60.5, and 7314 of the Labor Code, and to implement, interpret or make specific Section 7314 of the Labor Code and Section 11010 of the Government Code, the Division is considering changes to Division 1 of Title 8 of the California Code of Regulations as follows: Amendment of Chapter 3.2, Section 344.30 to modify fees charged by the Division for inspections, re-inspections and permits of elevators and other conveyances.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Pursuant to Labor Code sections 60.5 and 6308, the Division is charged with the administration and enforcement of the provisions of the California Occupational Safety and Health Act, commencing with Labor Code section 6300, as well as other provisions of law impacting upon the health and safety of employees and the public in the State of California.

Existing Labor Code section 7314 authorizes the Division of Occupational Safety and Health to fix and collect fees for the inspection of elevators. The fees shall be fixed at the amount necessary to cover the actual costs of having a Division safety engineer perform the inspections, including administrative costs. (See, also, Government Code section 11010.)

Currently, the Division's Conveyance fee schedule (found at Title 8, Section 344.30) is based on a calculated hourly rate of \$210.00 per hour. In other words, when the Division promulgated its existing conveyance fees, it calculated that it would need to charge \$210.00 per billed hour of its inspectors' time to fund the administration of its elevator program. A majority of the fees collected by the Division result from a flat permit fee, however, in the past, the estimated amount of hours necessary to conduct an inspection and issue the permit has become unaligned with the actual hours required to perform the task. Therefore, the amounts currently collected for permits no longer bear any correlation to the time and expenses necessary to conduct the work necessary to issue the permit. The \$210.00 per hour rate is no longer sufficient to cover the costs of the program, and, the basis of the hourly rate is no longer aligned with the time required to perform the actual work to inspect and issue the various permits that are issued by the Division. The Division has determined that an hourly rate of \$225.00 per hour is required to support the existing structure and expenditures of the Division in operating the conveyance inspection program.

The Division has examined past inspection efforts and developed an estimated average time necessary to

conduct inspections and issue the various permits issued by the Division. Attachment "A" shows the various types of permits issued by the Division, along with the previous permit fee, the current estimated time required to perform the work and issue the permit, and the revised permit fee based on the new \$225.00 hourly rate. Where permit fees exceed \$225.00, these are instances where the related work for those specific permit types require greater than one hour of time to perform, however, the basis of these fees are still equivalent to the \$225.00 per hour rate.

The purpose of the Proposed Rulemaking is to increase the conveyance fees to a level which will adequately fund the program. To that end, the Division proposes to make the following amendments:

**Section 344.30 — Conveyance Inspection Program Fees.**

The Proposed Rulemaking would amend Section 344.30(a) to increase the existing fees for the inspection (periodic inspection) and witnessing of periodic tests for specified conveyances. The proposed rulemaking would amend Section 344.30(b) to change the hourly fee for the inspection of a new installation to \$225.00 per hour, or any fraction thereof.

The proposed rulemaking would amend Section 344.30(c) to change the hourly fee for the inspection of an alteration to \$225.00 per hour, or any fraction thereof.

The proposed rulemaking would amend Section 344.30(d) to change the hourly fee for replacement inspections required under Section 3001(b)(3) to \$225.00 per hour, or any fraction thereof.

The proposed rulemaking would amend Section 344.30(e) to change the fee for field consultations to \$450.00 per hour, or any fraction thereof. This rate is twice the normal hourly rate and is consistent with the previous rate which was twice the previous normal hourly rate.

The proposed rulemaking would amend Section 344.30(f) to include annual or periodic testing in the existing language "no charge shall be made in any one permit year for more than one inspection except where safety orders have not been complied with and subsequent inspections are necessary, annual or periodic testing is required, or where an alteration has been made to a conveyance." The proposed rulemaking would also change the hourly fee to determine if applicable safety orders have been complied with to \$225.00 per hour, or any fraction thereof.

The proposed rulemaking would amend Section 344.30(i) to change the fixed fees for an erection, construction, or installation permit, for specified conveyances.

The proposed rulemaking would amend Section 344.30(j) to change the fixed fees for an alteration permit, for specified conveyances.

The proposed rulemaking would amend Section 344.30(k) to change the hourly fee for any change order review of plans to \$225.00 per hour.

Finally the proposed rulemaking would add Section 344.30(m) to establish a fee for processing and serving an Order Prohibiting Use (OPU) and setting that fee at \$675.00 based on an estimated three hours of time required to process and serve the OPU.

#### LOCAL MANDATE

The Proposed Rulemaking does not impose a mandate on local agencies or school districts.

#### FISCAL IMPACT ESTIMATES

The Proposed Rulemaking 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. However, local government agencies are responsible for permits on approximately 8,000 conveyances in the State. Half of these conveyances belong to schools or school districts. The average agency has 3 to 4 conveyances which would represent an average increased impact of \$480.00 per year. The majority of schools and school districts have only one conveyance which would produce an approximate annual increased impact of \$120.00.

A large agency like BART with approximately 123 elevators and 118 escalators would see a significant cost impact; however, the Division believes this impact would be mitigated based on the size of ridership and resulting revenues collected by BART. BART has a history of raising their fees every other year since 2003; the Division believes that BART will either absorb any fiscal impact from the increased permit costs, or will pass these costs along to their riders. BART's ridership was in excess of 130MM riders in 2008 and therefore the increased fees would be negligible.

The Proposed Rulemaking does not result in any costs or savings in federal funding to the state.

Other than the increase in the fee burden to local agencies that operate conveyances, the Proposed Rulemaking would not create nondiscretionary costs or savings for local agencies.

#### COSTS OR SAVINGS TO STATE AGENCIES

Currently the State is responsible for approximately 1,750 conveyances, including those found in State

buildings and University campuses. The majority of State buildings have less than 15 elevators. The annual permit cost in a building with 15 elevators would increase \$1,275.00.

Other State agencies such as those contained in the college and university system would experience varying cost increases depending on the number of conveyances the individual institution has.

#### BUSINESS IMPACT/SMALL BUSINESSES

The Division has determined that the Proposed Rulemaking will not result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Proposed Rulemaking may affect small businesses in that they will incur additional costs for conveyor inspections.

#### ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The Division has determined that the Proposed Rulemaking 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. It is anticipated that most owners will pass fee increases on to the public through increased rent or lease options, and that the proposed fee increase will not result in cutting staff or terminating operations.

#### COST IMPACT ON REPRESENTATIVE PERSON OR BUSINESS

Because of the wide range of elevator owners and companies in the State of California, it is not possible for the Division to identify or describe a "representative" private person or business engaged in the operation and installation of conveyances, or to quantify the cost impacts that such a "representative" business would incur in reasonable compliance with the proposed fee increase. Instead, the Division has selected four types of representational owners/businesses or companies and will describe the fiscal impact of each.

Currently the State has approximately 98,000 active conveyances. Over half of these conveyances are hydraulic elevators (62,278). Approximately 22,000 are traction or cabled elevators and 4,700 are escalators and moving walks. See Attachment A.

Over half of these conveyances (approximately 50,000) are stand alone or have only one other conveyance at that location.

The annual cost impact to the average business having one or two conveyances at the same location would

be minimal. Currently the inspection/permit fee for one elevator would be \$105.00 (under three stories) or \$140.00 (four to ten stories). Under the new fee structure the cost for any conveyance ten stories or less would be \$225.00, resulting in an annual increase of \$120.00 or \$85.00 respectively. If the business has two elevators the annual cost would increase \$240.00 or \$170.00, depending on the number of landings. This cost impact is representational of the majority of conveyances in the State.

The cost impact to larger businesses with newer equipment would be slightly higher, but still minimal. A high rise office building with a bank of 8 elevators serving 11–20 floors would see an increase of \$1,360 each year. Currently there are less than 4,500 units in the State serving 11 to 20 floors and less than 800 serving more than 20 floors.

The average mall in California is representational of a business having more than one type of conveyance. Most malls have passenger elevators, freight elevators and escalators. An example of a typical mall has 6 escalators, 2 passenger elevators and 1 freight elevator. Under the current fee structure the annual inspection permit cost would be \$2100.00. Under the proposed increase the permits would cost \$4725.00. The cost impact to this type of business would be a total of \$2,625 per year.

The proposed increase for installing all types of conveyances (elevator, escalator, wheelchair lifts, moving walks) would increase hourly rates from \$210.00 to \$225.00. The cost impact to all elevator companies would be \$15.00 per hour; however, these fees are passed along to the building/conveyance owners in the installation and alteration contracts. The average new elevator installation inspection is eight hours. Thus the cost impact would be \$120.00 (8 hours ‘x’ \$15 = \$120.00). The average new escalator installation inspection takes four hours resulting in a cost impact of \$60.00 (4 hours ‘x’ \$15 = \$60.00).

**EFFECT ON HOUSING COSTS**

The Proposed Rulemaking will have no effect on housing costs in California.

**ALTERNATIVES**

The Division must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the agency’s attention, would be more effective in carrying out the purpose for which the amendment of these regulations is proposed, or would be as effective as, and less burdensome to, affected private persons than the Proposed Rulemaking.

**CONTACT PERSONS**

Inquiries concerning the Proposed Rulemaking and written comments may be directed to:

Karen Belcher, (Primary Contact — ((619) 920–5679))  
 Debra Tudor, Principal Safety Engineer (Secondary Contact — ((408) 362–2120))  
 Division of Occupational Safety and Health,  
 Elevator Unit  
 7575 Metropolitan Dr. Suite 203  
 San Diego, CA 92108

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The Division has prepared an initial statement of reasons for the Proposed Rulemaking and has available all the information upon which the proposal is based.

**TEXT OF PROPOSED RULEMAKING**

Copies of the exact language of the Proposed Rulemaking 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 Division of Occupational Safety and Health, 1515 Clay Street, 19th Floor, Oakland, CA 94612. These documents may also be viewed and downloaded by going to “DIR Rulemaking — Proposed Regulations” under the category “Division of Occupational Safety and Health” at [www.dir.ca.gov/DIRRulemaking.html](http://www.dir.ca.gov/DIRRulemaking.html).

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

All the information upon which the Proposed Rulemaking is based is contained in the rulemaking file which is available for public inspection by contacting the persons named above.

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

**TITLE 8. DIVISION OF WORKERS’ COMPENSATION**

**STATE OF CALIFORNIA  
 DEPARTMENT OF INDUSTRIAL RELATIONS  
 Division of Workers’ Compensation**

**NOTICE OF PROPOSED RULEMAKING**

**Subject Matter of Regulations: Workers’ Compensation — Official Medical Fee Schedule: Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule**



**TITLE 8. CALIFORNIA CODE  
OF REGULATIONS  
Sections 9789.30 et seq.**

**NOTICE IS HEREBY GIVEN** that the Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 133, 4603.5, 5307.1 and 5307.3 proposes to amend sections 9789.30, 9789.31, 9789.32, 9789.33, 9789.36, 9789.37, 9789.38, and adopt section 9789.39 in Article 5.3 of Subchapter 1, Chapter 4.5, Division 1, of title 8, California Code of Regulations, relating to the Official Medical Fee Schedule — Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule.

**PROPOSED REGULATORY ACTION**

The Division of Workers' Compensation, proposes to amend Article 5.3 of Subchapter 1, Chapter 4.5, Division 1, of Title 8, California Code of Regulations, by amending and adopting regulations commencing with section 9789.30:

- 1. Amend section 9789.30 Definitions**
- 2. Amend section 9789.31 Adoption of Standards**
- 3. Amend section 9789.32 Applicability**
- 4. Amend section 9789.33 Determination of Maximum Reasonable Fee**
- 5. Amend section 9789.36 Update of Rules to Reflect Changes in the Medicare Payment System**
- 6. Amend section 9789.37 DWC Form 15 Election for High Cost Outlier**
- 7. Amend section 9789.38 Appendix X**
- 8. Adopt section 9789.39 Federal Regulations and Federal Register Notices by Date of Service**

**AN IMPORTANT PROCEDURAL NOTE ABOUT  
THIS RULEMAKING**

The Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule component of the Official Medical Fee Schedule "establish(es) or fix(es) rates, prices, or tariffs" within the meaning of Government Code section 11340.9(g) and is therefore not subject to Chapter 3.5 of the Administrative Procedure Act (commencing at Government Code section 11340) relating to administrative regulations and rulemaking.

This rulemaking proceeding to amend the Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule is being conducted under the Administrative Director's rulemaking power under Labor Code sections 133, 4603.5, 5307.1 and 5307.3. This

regulatory proceeding is subject to the procedural requirements of Labor Code sections 5307.1 and 5307.4.

This Notice and the accompanying Initial Statement of Reasons are being prepared to comply with the procedural requirements of Labor Code section 5307.4 and for the convenience of the regulated public to assist the regulated public in analyzing and commenting on this non-APA rulemaking proceeding.

**PUBLIC HEARING**

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

- Date:** **Tuesday, January 25, 2011**  
**Time:** **10:00 a.m. to 5:00 p.m. or conclusion of business**  
**Place:** **Elihu M. Harris State Building,  
Auditorium  
1515 Clay Street,  
Oakland, CA 94612**

In order to ensure unimpeded access for disabled individuals wishing to present comments and facilitate the accurate transcription of public comments, camera usage will be allowed in only one area of the hearing room. To provide everyone a chance to speak, public testimony will be limited to 10 minutes per speaker and should be specific to the proposed regulations. Testimony which would exceed 10 minutes may be submitted in writing.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

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

**ACCESSIBILITY**

The State Office Buildings and Auditoriums are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Shavonda Early, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711



or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on Tuesday, January 25, 2011**. The Department of Industrial Relations, Division of Workers' Compensation will consider only comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray  
 Regulations Coordinator  
 Department of Industrial Relations  
 Division of Workers' Compensation  
 Post Office Box 420603  
 San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov).

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 p.m. on Tuesday, January 25, 2011**.

#### AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 59, 133, 4603.4, 4603.5, and 5307.3.

Reference is to Labor Code sections 4600, 4603.2, 5307.11 and 5307.1.

#### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Labor Code section 4600 requires an

employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury. Under existing law, payment for medical treatment shall be no more than the maximum amounts set by the Administrative Director in the Official Medical Fee Schedule or the amounts set pursuant to a contract. Labor Code Section 5307.1, as amended by Senate Bill 228 of 2003 (Chapter 639, Statutes of 2003, effective January 1, 2004), requires the Administrative Director to adopt and revise periodically an official medical fee schedule that establishes the reasonable maximum fees paid for all medical services rendered in workers' compensation cases.

Except for physician services, all fees in the adopted schedule must be in accordance with the fee-related structure and rules of the relevant Medicare (administered by the Center for Medicare & Medicaid Services of the United States Department of Health and Human Services) and Medi-Cal payment systems. As set forth in Labor Code section 5307.1(c), the maximum facility fee for services performed in an ambulatory surgical center, or in a hospital outpatient department, may not exceed 120 percent of the fee paid by Medicare for the same services performed in a hospital outpatient department. The inflation factor for hospital outpatient services is determined solely by the estimated adjustment in the hospital market basket for the 12 months beginning October 1 of the preceding calendar year. The Administrative Director may adopt different conversion factors, diagnostic related group weights, and other factors affecting payment amounts from those used in the Medicare payment system, provided estimated aggregate fees do not exceed 120 percent of the estimated aggregate fees paid for the same class of services in the Medicare Payment System.

Labor Section 5307.1 also provides that the Administrative Director shall adjust the hospital outpatient departments and ambulatory surgical centers fee schedule to conform to any relevant changes in the Medicare payment system by issuing an order, exempt from Labor Code sections 5307.3 and 5307.4 and the rulemaking provisions of the Administrative Procedure Act (Chapter 3.2 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), informing the public of the changes and their effective date.

Effective Jan. 1, 2004, the Administrative Director adopted the hospital outpatient departments and ambulatory surgical centers fee schedule (California Code of Regulations, title 8, sections 9789.30 et seq.), which is updated annually by Administrative Director Order.

The Administrative Director now proposes to amend sections 9789.30, 9789.31, 9789.32, 9789.33, 9789.36, 9789.37, and 9789.38, revise the multiplier for payment of facility fees for services performed in ambulatory surgical centers and proposes minor amendments to conform to the proposed change, update, or clarify sections of the hospital outpatient departments and ambulatory surgical centers fee schedule. The Administrative Director also proposes to adopt section 9789.39 which provides for the updates to the federal regulation and federal register references made in the hospital outpatient departments and ambulatory surgical centers fee schedule updates by Order of the Administrative Director, in order to conform to changes in the Medicare payment system as required by Labor Code section 5307.1.

The proposed regulations implement, interpret, and make specific sections 4600 and 5307.1 of the Labor Code as follows:

**1. Section 9789.30 — Definitions**

Subdivisions (a), (e), (f), (q), and (w) are amended to move references to the federal regulation and federal register made in the hospital outpatient departments and ambulatory surgical centers fee schedule updates by Order of the Administrative Director, to section 9789.39.

Subdivision (a) is also amended to revise the definition of “Adjusted Conversion Factor.” Instead of setting forth a specific value for the formula to determine the adjusted conversion factor, the definition is set forth in terms, with reference made to where the values can be found, as follows:

“ ‘Adjusted Conversion Factor’ is determined as follows: unadjusted conversion factor x (1–labor–related share + (labor–related share x wage index)). For each update, the unadjusted conversion factor for the preceding period is adjusted by the rate of change in the market basket inflation factor. The market basket inflation factor and labor–related share are specified in the Federal Register notices announcing revisions in the Medicare payment rates. See Section 9789.39(b) for the unadjusted conversion factor, market basket inflation factor, and labor–related share by date of service.” The year by year update references are deleted.

Subdivision (a) is also amended to state that for services rendered on or after February 15, 2006, the Federal Register adjusting the conversion factor for a rural Sole Community Hospital is “incorporated by reference and will be made available upon request to the Administrative Director.”

Subdivision (c) amends the definition of “Ambulatory Surgical Center (ASC)” to modify a surgical clinic as one that is certified “to use anesthesia, except local anesthesia or peripheral nerve blocks, or both, in compliance with the community standard of practice, in

doses that, when administered have the probability of placing a patient at risk for loss of the patient’s life-preserving protective reflexes.”

Subdivision (e), which defines the “APC Payment Rate,” is amended to state: “The APC payment rate is specified in the Federal Register notices announcing revisions in the Medicare payment rates. See Section 9789.39(b) for the Federal Register reference to the APC payment rate by date of service.” The year by year update references are deleted.

Subdivision (f), which defines the “APC Relative Weight,” is amended to state: “The APC relative weight is specified in the Federal Register notices announcing revisions in the Medicare payment rates. See Section 9789.39(b) for the Federal Register reference to the APC relative weight by date of service.” The year by year update references are deleted.

Subdivision (p) adds a definition for “Labor–related Share” as “the portion of the payment rate that is attributable to labor and labor–related cost determined by CMS, pursuant to Section 1833(t)(2)(D) of the Social Security Act and as specified in the Federal Register notices announcing revisions in the Medicare payment rates. See Section 9789.39(b) for the Federal Register reference that reference the labor–related share by date of service.”

Subdivision (p now q), amends the definition for “Market Basket Inflation Factor,” to remove the specific reference to the 3.4% market basket increase in the August 1, 2003 Federal Register and instead to reference the Federal Register “notices announcing revisions in the Medicare payment rates. See Section 9789.39(b) for the Federal Register reference to the market basket inflation factor by date of service.” The year by year update references are deleted.

Subdivision (r) adds a definition for “Outlier Threshold” to mean “the Medicare outlier threshold used in determining high cost outlier payments.”

Former subdivision (q) is re–lettered as (s).

Subdivision (t) adds a definition for “Price adjustment” to mean “any and all price reductions, offsets, discounts, rebates, adjustments, and or refunds which accrue to or are factored into the final net cost to the hospital outpatient department or ambulatory surgical center.”

Former subdivision (r) is re–lettered as (u).

Former subdivision (s) is re–lettered as (v).

Subdivision (t now w), amends the definition for “Wage Index” to remove the specific reference to the CMS’ 2004 Hospital Outpatient Prospective Payment System and instead to reference the CMS’ Hospital Outpatient Prospective Payment System Federal Register “and wage index values as specified in the Hospital Inpatient Prospective Payment Systems set forth in the

Federal Register notices announcing revisions in the Medicare payment rates. See Section 9789.39(b) for the Federal Register reference that contains description of the wage index and wage index values by date of service.” The year by year update references are deleted.

Subdivision (u now x) is amended to clarify that the 120% Medicare multiplier required by Labor Code section 5307.1, or the 122% multiplier that includes an extra 2% reimbursement for high cost outlier cases applies to services rendered before March 1, 2011 in both hospital outpatient departments and ambulatory surgical centers. After March 1, 2011, the rate for hospital outpatient departments will be the same. For services rendered in ambulatory surgical centers on or after March 1, 2011, the workers’ compensation multiplier will be 100% Medicare multiplier, or the 102% multiplier that includes an extra 2% reimbursement for high cost outlier cases.

**2. Section 9789.31 Adoption of Standards**

Subdivision (a), which incorporated by reference the 2004 CMS Hospital Outpatient Prospective Payment System (HOPPS), is amended to incorporate by reference certain addenda published in the Federal Register notices announcing revisions in the Medicare payment rates. The adopted payment system addenda by date of service is listed in Section 9789.39(b). The year by year update references are deleted.

Subdivision (b), which incorporated by reference certain tables published in the 2005 CMS Hospital Inpatient Prospective Payment Systems (IPPS), is amended to incorporate by reference certain tables published in the Federal Register notices announcing revisions in the Medicare payment rates. The adopted payment system tables by date of service is listed in Section 9789.39(b). The year by year update references are deleted.

Subdivision (c), which incorporated by reference the 2005 CMS Hospital Inpatient Prospective Payment Systems (IPPS) “Payment Impact File” published by CMS, is amended to incorporate by reference the “Payment Impact File” published by CMS “in effect for the year that includes the date of service.” The year by year update references are deleted.

Subdivision (d), which incorporated by reference the American Medical Associations’ Physician “Current Procedural Terminology,” 2004 Edition, is amended to incorporate by reference the American Medical Associations’ “Current Procedural Terminology,” 4th Edition, annual revision in effect for the year that includes the date of service. The revised subdivision also provides the mailing address, the internet address and the phone number where copies may be purchased. The year by year update references are deleted.

Subdivision (e), which incorporated by reference CMS’ 2004 Alphanumeric “Healthcare Common Procedure Coding System (HCPCS),” is amended to incorporate by reference the Alphanumeric “Healthcare Common Procedure Coding System (HCPCS)” annual revision in effect for the year that includes the date of service. The revised subdivision also provides the mailing address, the internet address and the phone number where copies may be purchased. The year by year update references are deleted.

**3. Section 9789.32 Applicability**

Subdivision (a) is revised to refer to the new section 9789.39.

The CPT codes 10040–69990, which define surgical procedures, are increased to include 10021 through 69990.

Subdivision (b) is revised to state: “Sections 9789.30 through 9789.39 apply to any hospital outpatient department as defined in Section 9789.30(n) and any ASC as defined in Section 9789.30(c).” The references to other outpatient departments and clinics are deleted.

Subdivision (e) has a syntax change, adding the words “referenced in,” and changes the reference from Section 9789.31(a)(5) to Section 9789.31(a).

**4. Section 9789.33 Determination of Maximum Reasonable Fee**

Subdivision (a) is revised to state “In accordance with Section 9789.30(x), an extra 2% reimbursement,” instead of “The 1.22 factor.”

Subdivision (a)(1): The CPT codes 10040–69990, which define surgical procedures, are increased to include 10021 through 69990 in three places.

Subdivision (a)(1) is also amended to revise the method of determining the maximum allowable payment for outpatient facility fees for hospital emergency room services or for surgical services performed at a hospital outpatient department or at an ambulatory surgical center. The term “adjusted conversion factor” is substituted into the formula, and instead of setting forth a specific value for the formula to determine the payment, the definition is set forth in terms, with reference made to where the values can be found, as follows:

“APC relative weight x adjusted conversion factor x applicable workers’ compensation multiplier. See Section 9789.39(b) for the APC relative weight by date of service. See Section 9789.30(x) for the applicable workers’ compensation multiplier by date of service”.

The year by year update references are deleted.

Subdivision (a)(1)(A) is amended to revise the method of determining the maximum payment rate for ASCs and non-listed hospitals. Instead of setting forth a specific value for the formula to determine the payment, the definition is set forth in terms, with reference made



to where the values can be found, as follows:

“APC relative weight x adjusted conversion factor x applicable workers’ compensation multiplier pursuant to Section 9789.30(x)”

Subdivision (a)(1)(B) is amended to include the following language:

“For services rendered on or after February 15, 2006, table B in Section 9789.35 contains an ‘adjusted conversion factor’ which incorporates the standard conversion factor, wage index, rural SCH adjustment factor, and inflation factor, as described in CMS’ 2006 Hospital Outpatient Prospective Payment System final rule of November 10, 2005, published in the Federal Register (CMS–1501–FC, 70 FR 68516), at page 68556.”

Additionally, the words “outpatient departments” are added after the phrase “The maximum payment rate for the listed hospitals” as clarification. The number “1.22” in the formula to determine the payment rate for the listed hospital outpatient departments is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (a)(2): The number “1.22” in the formula for procedure codes for drugs and biologicals with status code indicator “G” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (a)(3): The formula for procedure codes for devices with status code indicator “H” is revised to state: “Documented paid cost, plus an additional 10% of the hospital outpatient department’s or ASC’s documented paid cost, net of immediate and anticipated price adjustments based upon the hospital outpatient department’s or ASC’s prior calendar year’s usage for comparable devices, not to exceed a maximum of \$ 250.00, plus any sales tax and/or shipping and handling charges actually paid.”

Subdivision (a)(4): The number “1.22” in the formula for procedure codes for drugs and biologicals with status code indicator “K” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (a)(5): The number “1.22” in the formula for procedure codes for blood and blood products with status code indicator “R” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (a)(6): The formula for procedure codes for brachytherapy services with status code indicator “U” is revised to state: “Documented paid cost, plus an additional 10% of the hospital outpatient department’s or ASC’s documented paid cost, net of immediate and anticipated price adjustments based upon the hospital outpatient department’s or ASC’s prior calendar year’s usage for comparable devices, not to exceed a maxi-

imum of \$ 250.00, plus any sales tax and/or shipping and handling charges actually paid.”

For services rendered on or after April 15, 2010, the number “1.22” in the formula for procedure codes for brachytherapy services with status code indicator “U” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (b)(1)(A): The CPT codes 10040–69990, which define surgical procedures, are increased to include 10021 through 69990 in three places.

The standard payment formula is revised to state:

“APC relative weight x adjusted conversion factor x applicable workers’ compensation multiplier. See Section 9789.39(b) for the APC relative weight by date of service. See Section 9789.30(x) for the applicable workers’ compensation multiplier by date of service.”

The following sentence was deleted: “For services rendered on or after July 15, 2005, use: (APC relative weight x unadjusted conversion factor) x (.40 + .60 x applicable wage index) x 1.20”

For services rendered on or after February 15, 2006, by rural SCH hospitals, the formula was revised to state, “use: APC relative weight x adjusted conversion factor x 1.071 x applicable workers’ compensation multiplier. See Section 9789.39(b) for the APC relative weight by date of service. See Section 9789.30(x) for the applicable workers’ compensation multiplier by date of service.”

Subdivision (b)(1)(B): The number “1.20” in the formula for procedure codes for drugs and biologicals with status code indicator “G” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (b)(1)(C): The formula for procedure codes for devices with status code indicator “H” is revised to state: “Documented paid cost, plus an additional 10% of the hospital outpatient department’s or ASC’s documented paid cost, net of immediate and anticipated price adjustments based upon the hospital outpatient department’s or ASC’s prior calendar year’s usage for comparable devices, not to exceed a maximum of \$ 250.00, plus any sales tax and/or shipping and handling charges actually paid.”

Subdivision (b)(1)(D): The number “1.20” in the formula for procedure codes for drugs and biologicals with status code indicator “K” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (b)(1)(E): The number “1.20” in the formula for procedure codes for blood and blood products with status code indicator “R” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”



Subdivision (b)(1)(F): For services rendered on or after March 1, 2009, the formula for procedure codes for brachytherapy services with status code indicator “U” is revised to state: “Documented paid cost, plus an additional 10% of the hospital outpatient department’s or ASC’s documented paid cost, net of immediate and anticipated price adjustments based upon the hospital outpatient department’s or ASC’s prior calendar year’s usage for comparable devices, not to exceed a maximum of \$ 250.00, plus any sales tax and/or shipping and handling charges actually paid.”

Also in this subdivision, for services rendered on or after April 15, 2010, the number “1.20” in the formula for procedure codes for brachytherapy services with status code indicator “U” is replaced with the phrase “applicable workers’ compensation multiplier pursuant to Section 9789.30(x).”

Subdivision (b)(2) is revised by adding the following sentence: “For services rendered on or after July 15, 2005, the outlier threshold is specified in the Federal Register notices announcing revisions in the Medicare payment rates. See Section 9789.39(b) for the Federal Register reference that defines the outlier threshold by date of service.” The year by year update references are deleted.

Subdivisions (c)(1), (c)(5) and (c)(6) are revised to update the DWC Medical Unit address to: P.O. Box 71010, Oakland, CA 94612.

Subdivision (c)(6) is revised to reflect the correct webpage link for the Division of Workers’ Compensation: [http://www.dir.ca.gov/dwc/dwc\\_home\\_page.htm](http://www.dir.ca.gov/dwc/dwc_home_page.htm)

**5. Section 9789.36 — Update of Rules to Reflect Changes in the Medicare Payment System**

This section is amended to add reference to the proposed section 9789.39 to the hospital outpatient departments and ambulatory surgical centers fee schedule section of the Official Medical Fee Schedule. In addition, the effective date for annual updates to the hospital outpatient departments and ambulatory surgical centers fee schedule is changed from January 1 to March 1 of each year, to provide for a more realistic effective date given the constraints of when the Medicare publishes the final rule and providing adequate notice (30 days) to affected parties.

The section is also revised to reflect the correct webpage link for the Division of Workers’ Compensation: [http://www.dir.ca.gov/dwc/dwc\\_home\\_page.htm](http://www.dir.ca.gov/dwc/dwc_home_page.htm)

**6. Section 9789.37 Election for High Cost Outlier**

Number 7 on the form is revised to update the DWC Medical Unit address to: P.O. Box 71010, Oakland, CA 94612. The revision date is also changed to state “03/01/2011.”

**7. Section 9789.38 Appendix X**

The following sentence is added to this section: “See Section 9789.39(a), for the Code of Federal Regulations reference for effective date, revisions, and amendments by date of service.” The year by year update references are deleted.

**8. Proposed section 9789.39. Federal Regulations, Federal Register Notices by Date of Discharge.**

This section is added to provide for the updates to the federal regulation and federal register references made in the hospital outpatient departments and ambulatory surgical centers fee schedule updates by order of the Administrative Director, in order to conform to changes in the Medicare payment system as required by Labor Code Section 5307.1.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Adoption of these regulations will not: (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses within the State of California, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- The Division of Workers’ Compensation is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations will most significantly affect ambulatory surgical centers, workers’ compensation insurers, self-insured employers and workers’ compensation third party administrators.

The Medicare fee related payment structure is based on the averaging concept, so that in some cases the ambulatory surgical center may be paid less than cost and in other cases the ambulatory surgery center may be paid more than cost. But, on the average, the allowance should be reasonable.

Because the fee is being reduced from a 120% multiplier to 100% multiplier of the Medicare outpatient hospital departments fee schedule, or a 102% multiplier that includes an extra 2% reimbursement for high cost outlier cases, the ambulatory surgical centers will be receiving less than they are currently receiving. Preliminary

analyses show ambulatory surgical centers costs are 66 to 71% of hospital outpatient department costs. Starting in 2008, Medicare pays ambulatory surgical centers 67% of hospital outpatient department rates for most procedures. (See slides 24 and 25 of Barbara O. Wynn’s Presentation to CHSWC, Oakland, October 22, 2009.) It is anticipated that the annual savings to the workers’ compensation system will be approximately \$31 million dollars.

Workers’ compensation insurers, self-insured employers and workers’ compensation third party administrators, will benefit with a reduced payment for procedures performed in ambulatory surgical centers.

**EFFECT ON SMALL BUSINESS**

The Administrative Director has determined that the proposed regulation will affect small business. Small business employers will have reduced costs due to the reduced facility fees for services rendered in ambulatory surgical centers. Ambulatory surgical centers will be affected as the maximum allowed fees will be reduced from 120% to 100% of the Medicare hospital outpatient departments fee schedule.

**FISCAL IMPACTS**

- **Costs or savings to state agencies:** These regulations affect the State Compensation Insurance Fund (SCIF), which is the largest workers’ compensation insurer in the state. In 2009, SCIF had 18.6% of the workers’ compensation market share (*2009 California Property and Casualty Market Share Report*, CA Dept. of Insurance, <http://www.insurance.ca.gov/0400-news/0200-studies-reports/0100-market-share/2009/index.cfm>). Reducing the cost of procedures performed in ambulatory surgical fee centers will reduce the cost to SCIF by a little under \$6 million.
- Costs/savings in federal funding to the State: None.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The potential costs imposed on all public agency employers by these proposed regulations, although not a benefit level increase, are not a new State mandate because the regulations apply to all employers, both public and private, and not uniquely to local governments.

The Administrative Director has determined that the proposed regulations will not impose any new mandated programs on any local agency or school district. The California Supreme Court has determined that an increase in workers’ compensation benefit levels does not constitute a new State mandate for the purpose of local mandate claims because the increase does not impose unique requirements on local governments. See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46. The potential costs imposed on all public agency employers and payors by these proposed regulations, although not a benefit level increase, are similarly not a new State mandate because the regulations apply to all employers and payors, both public and private, and not uniquely to local governments.

- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed regulations do apply to a local agency or school district in its capacity as an employer required to provide workers’ compensation benefits to injured workers.
- Other nondiscretionary costs/savings imposed upon local agencies: None.

**CONSIDERATION OF ALTERNATIVES**

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

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

**PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

Pursuant to Government Code section 11346.45, the text of draft proposed regulations was made available for pre-regulatory public comment through the Division’s Internet message board (the DWC Forum). Additionally, a pre-rulemaking stakeholder’s meeting was held to receive input on the development of the regulations.

AVAILABILITY OF INITIAL STATEMENT  
OF REASONS, TEXT OF PROPOSED  
REGULATIONS, RULEMAKING FILE  
AND DOCUMENTS SUPPORTING THE  
RULEMAKING FILE/INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below. However, documents subject to copyright may be inspected but not copied.

As of the date of this notice, the rulemaking file consists of the notice; the initial statement of reasons; the proposed text of the regulations (underline and strike-out version and clean version); the documents incorporated by reference; and the Form 399, Economic and Fiscal Impact Statement. Also included are studies and documents relied upon in drafting the proposed regulations and Form 399, Economic and Fiscal Impact Statement.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division's website at [www.dir.ca.gov](http://www.dir.ca.gov). To access them, click on the link for the Division of Workers' Compensation homepage, then click on the "Participate in Rulemaking" link and scroll down the list of rulemaking proceedings to find the current Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 18<sup>th</sup> Floor, Oakland, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday, unless the state office is closed for a state holiday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142  
E-mail: [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov)

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

BACKUP CONTACT PERSON/CONTACT  
PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact person:

Minerva Krohn, Industrial Relations Counsel IV or  
Jarvia Shu, Industrial Relations Counsel III  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142  
E-mail: ([mkrohn@dir.ca.gov](mailto:mkrohn@dir.ca.gov); [jshu@dir.ca.gov](mailto:jshu@dir.ca.gov))

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

AVAILABILITY OF CHANGES  
FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website: [www.dir.ca.gov](http://www.dir.ca.gov), then click on the link for the Division of Workers' Compensation homepage, then click on the "Participate in Rulemaking" link and scroll down the list of rulemaking proceedings to find the current Outpatient Hospital Departments and Ambulatory Surgical Centers Fee Schedule rulemaking link.

AUTOMATIC MAILING

A copy of this Notice will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended and adopted will appear in title 8, California Code of Regulations, commencing with section 9789.30.

**TITLE 8. DIVISION OF WORKERS' COMPENSATION**

**NOTICE OF PROPOSED RULEMAKING**

**Subject Matter of Regulations: Workers' Compensation — Official Medical Fee Schedule: Inpatient Hospital Fee Schedule**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS  
Sections 9789.20 et seq.**

**NOTICE IS HEREBY GIVEN** that the Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 133, 4603.5, 5307.1 and 5307.3 proposes to revise sections 9789.20 through section 9789.22, and adopt section 9789.25 in Article 5.3 of Division 1, Chapter 4.5, Subchapter 1, of title 8, California Code of Regulations, relating to the Official Medical Fee Schedule — Inpatient Hospital Fee Schedule.

**PROPOSED REGULATORY ACTION**

The Division of Workers' Compensation, proposes to amend Article 5.3 of Division 1, Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, by adopting regulations commencing with section 9789.20:

- 1. Amended section 9789.20 Inpatient Hospital Fee Schedule: General Information for Inpatient Hospital Fee Schedule — Discharge On or After July 1, 2004**
- 2. Amended section 9789.21 Definitions for Inpatient Hospital Fee Schedule**
- 3. Amended section 9789.22 Payment of Inpatient Hospital Services**
- 4. Proposed section 9789.25 Federal Regulations, Federal Register Notices, and Payment Impact File by Date of Discharge**

**AN IMPORTANT PROCEDURAL NOTE ABOUT THIS RULEMAKING**

The Inpatient Hospital Fee Schedule component of the Official Medical Fee Schedule "establish(es) or fix(es) rates, prices, or tariffs" within the meaning of

Government Code section 11340.9(g) and is therefore not subject to Chapter 3.5 of the Administrative Procedure Act (commencing at Government Code section 11340) relating to administrative regulations and rule-making.

This rulemaking proceeding to amend the Inpatient Hospital Fee Schedule is being conducted under the Administrative Director's rulemaking power under Labor Code sections 133, 4603.5, 5307.1 and 5307.3. This regulatory proceeding is subject to the procedural requirements of Labor Code sections 5307.1 and 5307.4.

This Notice and the accompanying Initial Statement of Reasons are being prepared to comply with the procedural requirements of Labor Code section 5307.4 and for the convenience of the regulated public to assist the regulated public in analyzing and commenting on this non-APA rulemaking proceeding.

**PUBLIC HEARING**

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

**Date: Tuesday, January 25, 2011**  
**Time: 10:00 a.m. to 5:00 p.m. or conclusion of business**  
**Place: Elihu M. Harris State Building, Auditorium, 1515 Clay Street, Oakland, CA 94612**

In order to ensure unimpeded access for disabled individuals wishing to present comments and facilitate the accurate transcription of public comments, camera usage will be allowed in only one area of the hearing room. To provide everyone a chance to speak, public testimony will be limited to 10 minutes per speaker and should be specific to the proposed regulations. Testimony which would exceed 10 minutes may be submitted in writing.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

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

**ACCESSIBILITY**

The State Office Buildings and Auditoriums are accessible to persons with mobility impairments. Alter-



nate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on Tuesday, January 25, 2011**. The Department of Industrial Relations, Division of Workers' Compensation will consider only comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray  
 Regulations Coordinator  
 Department of Industrial Relations  
 Division of Workers' Compensation, Legal Unit  
 Post Office Box 420603  
 San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov).

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than **5:00 p.m. on Tuesday, January 25, 2011**.

#### AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 59, 133, 4603.4, 4603.5, and 5307.3.

Reference is to Labor Code sections 4600, 4603.2, 5307.1 and 5307.11.

#### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Labor Code section 4600 requires an employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury. Under existing law, payment for medical treatment shall be no more than the maximum amounts set by the Administrative Director in the Official Medical Fee Schedule or the amounts set pursuant to a contract. Labor Code section 5307.1, as amended by Senate Bill 228 of 2003 (Chapter 639, Statutes of 2003, effective January 1, 2004), requires the Administrative Director to adopt and revise periodically an Official Medical Fee Schedule that establishes the reasonable maximum fees paid for all medical services rendered in workers' compensation cases.

Except for physician services, all fees in the adopted schedule must be in accordance with the fee-related structure and rules of the relevant Medicare (administered by the Center for Medicare & Medicaid Services of the United States Department of Health and Human Services) and Medi-Cal payment systems. Upon adoption by the administrative director of an Inpatient Hospital Official Medical Fee Schedule the maximum reasonable fees shall not exceed 120 percent of estimated aggregate fees prescribed in the Medicare payment system for the same class of services before application of the inflation factor. (Lab. Code, § 5307.1(a).) The inflation factor is determined solely by the estimated adjustment in the hospital market basket for the 12 months beginning October 1 of the preceding calendar year. (Lab. Code, § 5307.1(g).) The Administrative Director, however, may adopt different conversion factors, diagnostic related group weights, and other factors affecting payment amounts from those used in the Medicare payment system, provided estimated aggregate fees do not exceed 120 percent of the estimated aggregate fees paid for the same class of services in the Medicare Payment System. (Lab. Code, § 5307.1(b).)

In 2003, the legislature enacted Labor Code section 5318, which provided a separate reimbursement for implantable medical devices, hardware, and instrumentation for six different Diagnostic Related Groups (DRGs). The statute also provided that the pass-through section would only be operative until the Administrative Director adopts a regulation specifying

separate reimbursement, if any, for implantable medical hardware or instrumentation for complex spinal surgeries. (Lab. Code, § 5307.1(b).)

Labor Code section 5307.1 also provides that the Administrative Director shall adjust the Inpatient Hospital Fee Schedule to conform to any relevant changes in the Medicare payment system by issuing an order, exempt from Labor Code sections 5307.3 and 5307.4 and the rulemaking provisions of the Administrative Procedure Act (Chapter 3.2 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), informing the public of the changes and their effective date. (Lab. Code, § 5307.1(g)(2).)

Effective Jan. 1, 2004, the Administrative Director adopted the Inpatient Hospital Fee Schedule (California Code of Regulations, title 8, sections 9789.20 et seq.), which incorporated the Labor Code section 5318 pass-through, which is updated annually by Administrative Director Order.

The Administrative Director now proposes to amend sections 9789.20 through 9789.22 which revises the methodology for separate reimbursement of implantable spinal hardware used in complex spinal surgeries, and proposes minor amendments to conform to the proposed changes, to update, or to clarify sections of the Inpatient Hospital Fee Schedule. The Administrative Director also proposes to adopt section 9789.25 which provides for the updates to the federal regulation, federal register, and payment impact file references made in the Inpatient Hospital Fee Schedule updates by Order of the Administrative Director, in order to conform to changes in the Medicare payment system as required by Labor Code section 5307.1.

The proposed regulations implement, interpret, and make specific sections 4600, 5307.1, and 5318 of the Labor Code as follows:

**1. Section 9789.20 — General Information for Inpatient Hospital Fee Schedule — Discharge on or After July 1, 2004**

**Subdivision (c)** is amended to add the proposed section 9789.25 to the Inpatient Hospital Fee Schedule section of the Official Medical Fee Schedule.

**Subdivision (d)** is amended to change the effective date for annual updates to the Inpatient Hospital Fee Schedule from October 1 to December 1 of each year, to provide for a more realistic effective date given the constraints of when the Medicare publishes the final rule and to provide adequate notice (30 days) to affected parties. Since 2004, depending on the year, Medicare has published its final rule as early as August 1st and as late as August 27th, with an effective date of October 1st. It is not unusual for Medicare to publish notices and corrections to its final rule after the final rule is published. In order to give adequate notice (30 days) to af-

ected parties, the current effective date of October 1 is unachievable. The proposed effective date is in conformance with Labor Code section 5307.1(g)(1)(A), which states in pertinent part, “Notwithstanding any other provision of law, the official medical fee schedule shall be adjusted to conform to any relevant changes in the Medicare and Medi-Cal payment systems no later than 60 days after the effective date of those changes. . . .”

**2. Section 9789.21 — Definitions for Inpatient Hospital Fee Schedule**

The Administrative Director’s Orders updating the Inpatient Hospital Fee Schedule pursuant to Labor Code section 5307.1(g)(2) are now organized and referenced in section 9789.25, and therefore are deleted from this section. Specifically, references to the federal regulation, federal register, and payment impact file made in subdivisions (b)(1), (b)(2), (b)(3), (d now e)(1)(B now C), (d now e)(1)(C now D), (d now e)(1)(D now E), (d now e)(1)(E now F), (d now e)(1)(F now G), (d now e)(2)(B), (d now e)(2)(C), (d now e)(2)(E), (d now e)(2)(F), (d now e)(2)(G), (f), (o), (q now r)(1), (s now t) are organized and moved to section 9789.25, and deleted from this section.

**Subdivision (b)** is amended to clarify the effective date of discharge when choosing the formula used to arrive at the capital outlier factor. For discharges occurring on or after January 1, 2004 and before January 1, 2008, a large urban add-on is applied. The large urban add-on was eliminated for discharges on or after January 1, 2008. Subdivision (b), second paragraph is amended to substitute the word “of” with the word “to” in the last sentence of the paragraph.

**Subdivision (d)**, is added to define “Complex spinal surgery”. The current regulation lists complex spinal surgery DRGs in sections 9789.22(e) and (f). Complex spinal surgery is entitled to an additional payment allowance pursuant to section 9789.22.

**Subdivision (d now e)** is amended to: 1. exclude payments for spinal hardware used in complex spinal surgery in addition to payments for outlier cases and new technology when calculating the composite factor; 2. clarify that composite factor means the standard OMFS rate for a hospital; 3. clarify that the prospective operating costs are hospital-adjusted; and 4. substitute “hospital” for “health facility” to conform to the changes made to section 9789.21(l).

**Subdivision (d now e)(1)** is amended to clarify that the prospective capital costs are hospital-adjusted.

**Subdivision (d now e)(1)(A)** is amended to clarify the effective date of discharge when choosing the formula used to arrive at the hospital-adjusted rate for prospective capital costs. For discharges on or after January 1, 2004 and before January 1, 2008, a large urban

add-on is applied when arriving at the hospital-adjusted rate for prospective capital costs. The large urban add-on was eliminated for discharges on or after January 1, 2008. This subdivision is amended to clarify that the prospective capital costs are hospital-adjusted; and to correct the term “Capital standard payment rate” to “Capital standard federal payment rate.”

**Subdivision (d now e)(1)(B)** adds the definition of “capital market basket” to mean the Medicare capital input price index (CIPI) and the capital standard federal payment rate is the capital market basket applied to the capital standard federal payment rate for the preceding period. This definition was inadvertently omitted from the current regulation.

**Subdivision (d now e)(1)(C)** is re-lettered subdivision (e)(1)(C). The subdivision is further amended to clarify that for each update in the composite factor, the capital standard federal payment rate for the preceding period is adjusted by the rate of change in the capital market basket.

**Subdivision (d now e)(2)** is amended to clarify that the prospective operating costs are hospital-adjusted.

**Subdivision (d now e)(2)(A)** is amended to: 1. clarify that the prospective operating costs are hospital-adjusted; 2. correct the wage-adjusted standard rate formula by substituting “labor-related national” for “OMFS”; and 3. clarify the formula used to calculate the hospital-adjusted rate for prospective operating costs is in conformance with California Labor Code section 5307.1(g)(1)(A)(i).

**Subdivision (d now e)(2)(B)** is amended to clarify that for each update in the composite factor, the labor-related national standardized amount for the preceding period is adjusted by the rate of change in the operating market basket. The subdivision is further amended to reference section 9789.25(b) for the labor-related national standard operating rate for discharges occurring on or after November 29, 2004 by date of discharge.

**Subdivision (d now e)(3)** is amended to substitute “hospital” for “health facility” to conform to changes made to section 9789.21(l), and to make a minor formatting change.

**Subdivision (e)** “Costs” is rescinded because section 9789.22(f) provides formulas used to determine costs.

**Subdivision (g)** is amended to reflect the rescission of Subdivision (e).

**Subdivision (h)** is amended to include additional allowance for spinal hardware under section 9789.22(g) or (h) in calculating the cost outlier threshold, and substitutes “Section 9789.22(g)” for “subdivision (j)” to conform to the numbering changes.

**Subdivision (l)** is amended to change the term from “health facility” to “hospital” for clarity. Where used in this fee schedule, the term “hospital” is substituted for “health facility”.

**Subdivision (m)** is amended to substitute “hospital” for “health facility” to conform to the changes made to section 9789.21(l).

**Subdivision (n)** is amended to conform to changes made to the payment methodology for complex spinal surgery cases.

**Subdivision (p)** is added to define “large urban add-on” as it is used in the Inpatient Hospital Fee Schedule.

**Subdivision (q now r)** is amended to clarify the labor-related portion is applied to the operating wage index when calculating the operating outlier factor.

**Subdivision (r now s)** is amended to substitute “hospital” for “health facility” to conform to the changes made to section 9789.21(l).

**Subdivision (u)** is added to define “price adjustment” as any and all price reductions, offsets, discounts, rebates, adjustments, and or refunds which accrue to or are factored into the final net cost to the hospital. Where used in this fee schedule, the term “price adjustment” is substituted for “discounts and rebates” for clarification.

**Subdivision (w)** is added to define “spinal hardware”. A definition of spinal hardware was previously defined in section 9789.22(f) as a “device”. Subdivision (w) substitutes “spinal hardware” for “device”, and refines the definition to clarify spinal hardware is a permanently implantable device surgically implanted, embedded, inserted, or otherwise applied to a human body in the course of complex spinal surgery. The device must be intended to function for more than one year and throughout the useful life of the device, to assist, restore, or replace, or otherwise therapeutically influence the function of the spine. The term, spinal hardware, does not apply to any device which is intended for temporary purposes or intended for removal. The device must be recognized in the official United States Pharmacopoeia-National Formulary, or any supplement to it, and be reasonably required to cure or relieve the injured worker from the effects of his or her injury pursuant to Labor Code section 4600.

### 3. Section 9789.22. Payment of Inpatient Hospital Services

**Subdivision (a)** is amended to conform to changes made to the payment methodology for complex spinal surgery cases proposed in sections 9789.22(f)(2), (g), and (h) and substitutes “hospital” for “health facility” to conform to changes made to section 9789.21(l).

**Subdivision (c)** is amended to make a minor formatting change.

**Subdivision (d)** is added to clarify that professional services are paid under a separate Official Medical Fee Schedule (beginning at section 9789.10) and to clarify that billing for payment under the Inpatient Hospital Fee Schedule shall originate from hospitals and payment may be made only to hospitals for covered items



and services including any spinal hardware separately payable under section 9789.22(g) or (h).

**Subdivision (d now e)** is amended to conform to changes made to the payment methodology for complex spinal surgery cases, and substitutes “hospital” for “health facility” to conform to section 9789.21(l). This amendment requires, when applicable, documentation of the costs of implanted spinal hardware be submitted in accordance with section 9789.22(h).

**Subdivision (e now f)(1 through 4)** is amended to change the numbering within the subdivision.

**Subdivision (e now f)(5)** is rescinded because “complex spinal surgery” DRGs are now defined in section 9789.21(d) and listed by date of discharge in section 9789.25(b).

**Subdivision (e now f)(1)** is amended to define the formula used to calculate additional allowance for cost outlier cases exclusive of complex surgery cases involving spinal hardware reimbursed under section 9789.22(h). The higher costs for cost outlier cases that do not involve complex spinal surgery reimbursed under section 9789.22(h) shall be reimbursed as follows:

Step 1: Determine the Inpatient Hospital Fee Schedule maximum payment amount (DRG weight x 1.2 x hospital specific composite factor).

Step 2: Determine costs. Costs = (total billed charges x total cost-to-charge ratio).

Step 3: Determine outlier threshold. Outlier threshold = (Inpatient Hospital Fee Schedule payment amount + hospital specific outlier factor + any new technology pass-through payment determined under section 9789.22(j)).

If costs exceed the outlier threshold, the case is a cost outlier case. The additional allowance for the outlier case equals 0.8 x (costs – outlier threshold).

**Subdivision (e now f)(2)** is added to define the formula used to calculate additional allowance for cost outlier cases involving complex spinal surgery cases. The higher costs of a case involving spinal hardware reimbursed under section 9789.22(h) shall be reimbursed using the following method. This method is optional for other cases involving complex spinal surgery and may be elected by a hospital on a case-by-case basis in lieu of the method in section 9789.22(f)(1). A hospital electing this method for other complex spinal surgery cases must document the cost of any spinal hardware as required under section 9789.22(h). The method is as follows:

Step 1: Determine the Inpatient Hospital Fee Schedule maximum payment amount (DRG weight x hospital specific composite factor x applicable multiplier).

Step 2: Determine total costs. Total Costs = (total charges – charges for any spinal hardware) x (total

cost-to-charge ratio) + documented paid cost of any spinal hardware, plus an additional 10% of the hospital’s documented paid cost, net of immediate and anticipated price adjustments, not to exceed a maximum of \$250.00, plus any sales tax and/or shipping and handling charges actually paid.

Step 3: Determine outlier threshold. Outlier threshold = (Inpatient Hospital Fee Schedule payment amount + hospital specific outlier factor + any additional allowance for spinal hardware under section 9789.22(g) or (h) + any new technology pass-through payment determined under section 9789.22(j)).

If costs determined in Step 2 exceed the outlier threshold, the case is a cost outlier case. The additional allowance for the outlier case equals 0.8 x (costs – cost outlier threshold).

**Subdivision (f)** is rescinded and is replaced with subdivisions (g) and (h), which define how additional allowance for spinal hardware used in complex spinal surgery is provided for. The DRGs that define complex spinal surgeries have been moved to the definition section (section 9789.21(d)), and the definition of “device” is changed to “spinal hardware” and also moved to the definition section (section 9789.21(w)).

**Subdivision (g)** is added to provide the method of determining additional allowance for spinal hardware used in complex spinal surgery unless the hospital makes a one-time annual election for an alternative maximum payment allowance and additional allowance for spinal hardware used in complex spinal surgery under Subdivisions (h) and (i). For discharges occurring before December 15, 2010, costs for spinal hardware used during complex spinal surgery shall be separately reimbursed at the hospital’s documented paid cost, plus an additional 10% of the hospital’s documented paid cost, net of price adjustments, not to exceed a maximum of \$250.00, plus any sales tax and/or shipping and handling charges actually paid. For discharges occurring on or after December 15, 2010, an additional allowance of \$2,925 shall be made for discharges assigned to MS-DRGs 453, 454, 455, 456, 457, 458, 459, and 460 and an additional allowance of \$625 shall be made for discharges assigned to MS-DRGs 028, 029, 030, 471, 472, and 473. Effective with each update in the composite rate, the additional allowance in section 9789.22(g)(2)(A) shall be adjusted by the rate of change in the hospital operating market basket.

**Subdivision (h)** is added to provide an alternate payment method for discharges assigned only to complex spinal surgery cases in lieu of the Inpatient Hospital Fee Schedule maximum payment allowed under section 9789.22(a) and additional allowance under section 9789.22(g)(2). The hospital may make one annual elec-



tion encompassing all complex spinal surgery cases pursuant to section 9789.22(i) for an alternate maximum payment allowance and additional allowance to be determined as follows:

Multiplier x DRG weight x hospital specific composite factor plus the additional allowance for documented paid cost for spinal hardware, plus an additional 10% of the hospital's documented paid cost, net of immediate and anticipated price adjustments, not to exceed a maximum of \$250.00, plus any sales tax and/or shipping and handling charges actually paid.

The multiplier shall be as follows: For discharges occurring on or after December 15, 2010, the multiplier shall be 1.0. For discharges occurring on or after the effective date of the 2012 annual update, the multiplier shall be 0.8.

The hospital shall submit documentation that includes for each spinal hardware item: (1) a description; (2) the name of the manufacturer, the manufacturer's supply code, and the item's unique identifier; (3) the charge included in the hospital's bill; (4) the hospital's documented paid cost net of immediate price adjustments and anticipated price adjustments based upon the hospital's prior calendar year's usage for comparable spinal hardware; and (5) any sales tax and/or shipping and handling charges actually paid. The operative report of the patient's medical record must be submitted by the hospital and clearly document the spinal hardware items that were implanted for each discharge, and a responsible hospital official shall certify that the documentation accurately reflects the complete list of spinal hardware items utilized for the patient and accurately reflects the patient's spinal hardware costs by including the following sentence: "I hereby certify under penalty of perjury that the following is the true and correct actual cost and list of the items meeting the criteria in Title 8, California Code of Regulations section 9789.22(h)."

**Subdivision (i)** is added to set forth the requirements a hospital needs to meet in order to make an annual election of the alternate allowance methodology set forth in section 9789.22(h). The election must be submitted in writing to the Administrative Director and postmarked by December 15 of each year. The election shall be effective for one year commencing with discharges on or after January 1 following the month of December in which the election is made. If the hospital does not file a timely election, the maximum payment allowed to a hospital shall be determined under section 9789.22(a) and additional allowance for spinal hardware used in complex spinal surgery shall be determined under section 9789.22(g)(2). Before January 1 of each year the Administrative Director shall post a list of those hospitals electing to be paid under the alternate payment method set forth in section 9789.22(h).

**Subdivisions (g now j), (h now k), (i now l)(2)(A), (i now l)(2)(B), (j now m)(3), and (j now m)(5)** are amended to move references to the federal regulation, federal register, and payment impact file made in the inpatient hospital fee schedule updates by Order of the Administrative Director, to section 9789.25.

**Subdivision (i now l)(1)** is amended to: 1. substitute "hospital" for "health facility" to conform to changes made to section 9789.21(l); 2. conform to the changes made to the payment methodology for complex spinal surgery cases; and 3. minor formatting changes. This amendment provides the first day of the stay in the transferring hospital shall be reimbursed at twice the per diem amount and the hospital shall receive the additional allowances under either sections 9789.22(g) or (h) and under section 9789.22(j) when applicable.

**Subdivisions (i now l)(2), (i now l)(2)(A), (i now l)(2)(B), and (j now m)** are amended to make minor changes to formatting and citations to conform to changes made in this regulation.

**Subdivision (k now n)** is amended to substitute "hospital" for "health facility" to conform to changes to section 9789.21(l). This amendment also requires submission of different information for discharges occurring on or after December 15, 2010, when a hospital is not listed in section 9789.23, requests the Administrative Director to provide a hospital specific composite factor or hospital specific outlier factor. The hospital will be required to provide in writing the following Medicare information: Medicare provider number, physical location, county code, hospital specific operating and capital CCRs, and DSH and/or IME adjustments, if applicable.

**Subdivision (l now o)** is amended to substitute "hospital" for "health facility" to conform to changes to section 9789.21(l).

**4. Section 9789.25. Federal Regulations, Federal Register Notices, and Payment Impact File by Date of Discharge.**

This section is added to provide the updates to the federal regulation, federal register, and payment impact file references made in the Inpatient Hospital Fee Schedule updates by Order of the Administrative Director, in order to conform to changes in the Medicare payment system as required by Labor Code section 5307.1(g)(2).

**Subdivision (a)** lists the federal regulations by date of discharge that are referenced in the Inpatient Hospital Fee Schedule updates and are incorporated by reference.

**Subdivision (b)** lists the federal register notices by date of discharge that are referenced in the Inpatient Hospital Fee Schedule updates and are incorporated by reference.

**Subdivision (c)** lists the payment impact file by date of discharge referenced in the Inpatient Hospital Fee Schedule updates and are incorporated by reference.

**DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. Adoption of these regulations will only reduce the amount of duplicate payment currently being made for the spinal hardware used in complex spinal surgery.
- Adoption of these regulations will not: (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses within the State of California, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- The Division of Workers' Compensation is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations will most significantly affect hospitals, workers' compensation insurers, self-insured employers and workers' compensation third party administrators.

The Medicare fee related payment structure is based on the averaging concept, so that in some cases the hospitals may be paid less than cost and in other cases the hospital may be paid more than cost. But, on the average, the allowance should be reasonable.

- The proposed adoption of section 9789.22(f)(2), additional allowance for cost outlier cases involving complex spinal surgery, addresses the concern that "charge compression" will adversely affect when a complex spinal surgery case would be eligible for an additional cost outlier payment, as well as determining the amount of the additional payment. Charge compression typically occurs when calculating the overall cost-to-charge ratio for a hospital, because hospitals tend to have lower mark-up on high cost items such as spinal hardware and have higher mark-up on low cost items. This has resulted in costs being understated by approximately 13 to 15 percent in complex spinal surgeries which use spinal hardware due to charge compression. The proposed amendment

removes the charge compression factor when determining whether a complex spinal surgery case is a cost outlier case and provides for a more accurate calculation of the amount of additional payment to the hospital.

- The proposed adoption of sections 9789.22(g) and (h) will reduce the amount of duplicate payment for spinal hardware used in complex spinal surgeries by an estimated \$28 million in 2011 and an estimated \$55 million in 2012. The duplicate payment for spinal hardware in the current regulation is the amount paid for in both the standard rate of payment for complex spinal surgery cases and again in the pass-through provision which pays for the documented cost of the spinal hardware. In other words, the standard payment (1.20 x Medicare payment) already accounts for significant device costs in complex spinal surgery DRGs. Using MS-DRG 460 (spinal fusion except cervical without MCC) as an example, device and non-device costs (before adjustment for charge compression) account for 47.2 percent and 52.8 percent, respectively, of the average Medicare cost per discharge. As stated earlier, current policy allows an additional payment for spinal hardware at the documented cost.

The proposed addition of sections 9789.22(g) and (h) will provide for the following: Hospitals will have an annual choice in how they would be reimbursed for complex spinal surgery using permanently implantable hardware. Hospitals may choose between two alternatives, either: 1. section 9789.22(g) — The standard hospital-specific MS-DRG reimbursement (1.2 x MS-DRG weight x hospital specific composite factor) plus an additional allowance of \$2,925 for discharges assigned to MS-DRGs 453, 454, 455, 456, 457, 458, 459 and 460; and an additional allowance of \$625 for discharges assigned to MS-DRGs 028, 029, 030, 471, 472, and 473 for hardware used in complex spinal surgery; or 2. section 9789.22(h) — The alternate payment methodology will be a multiplier of the hospital-specific MS-DRG reimbursement, plus the documented invoice cost of the hardware used in complex spinal surgery. The multiplier will be 1.0 for discharges occurring in the first year of the revised fee schedule and 0.8 for discharges occurring on or after the effective date for the 2012 annual update. The hospital will be required to submit a detailed invoice pertaining to the implanted hardware accompanied with a

certification attesting to the accuracy of the cost of the items.

Payment under section 9789.22(g) will reduce administrative burden to hospitals, workers' compensation insurers, self-insured employers, and workers' compensation third party administrators, relative to the current payment policy. No invoices are needed, and do not require knowing the spinal hardware costs and usage. This payment methodology also recognizes some variation in costs of the spinal hardware used in a complex spinal surgery.

Payment under section 9789.22(h) recognizes variation in usage, and provides for the greatest payment accuracy since payment is based on actual hardware costs. However, this method of payment will continue the administrative burden at current levels.

It is difficult to estimate the impact on individual hospitals, as they will vary greatly depending on which annual method of payment is selected by the hospital, and the volume and mix of complex spinal surgeries performed at the hospital. An analysis by Barbara O. Wynn, RAND, however, estimates that in 2011, 152 out of 163 hospitals will receive a higher payment under the alternate payment method (section 9789.22(h)) than under the add-on allowance prescribed by section 9789.22(g). In 2012, approximately 102 out of 163 hospitals are projected to receive a higher payment on average under the alternate payment method than under the add-on allowance method. If the hospital elects payment for complex spinal surgery under section 9789.22(g), the hospital should receive reasonable payment with little additional administrative burden, if at all. If the hospital elects payment under section 9789.22(h), there will be increased accuracy in payment to the hospital because payment will be based on documented costs of the spinal hardware.

Workers' compensation insurers, self-insured employers and workers' compensation third party administrators, will benefit with less administrative burden and, overall, the amount of duplicate payment for spinal hardware should be reduced.

#### EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations will affect small business as all California employers who are required to have workers' compensation will have reduced costs for spinal hardware used in complex spinal surgery procedures.

#### FISCAL IMPACTS

- Costs or savings to state agencies: These regulations affect the State Compensation Insurance Fund (SCIF), which is the largest workers' compensation insurer in the state. In 2008, SCIF had 22.6% of the workers' compensation market share (p.49, *2008 California Property and Casualty Market Share Report*, CA Dept. of Insurance, <http://www.insurance.ca.gov/0400-news/0200-studies-reports/0100-market-share/Marketshare2008/upload/IndMktShr2008-WP.pdf>). Reducing the amount of duplicate payment for spinal hardware used in complex spinal surgeries will reduce the cost to SCIF from an estimated \$6m to \$11m. In addition, the administrative costs will decrease when payment is made to hospitals that elect the add-on amount for spinal hardware (section 9789.22(g)).
- Costs/savings in federal funding to the State: None.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The potential costs imposed on all public agency employers by these proposed regulations, although not a benefit level increase, are not a new State mandate because the regulations apply to all employers, both public and private, and not uniquely to local governments. The Administrative Director has determined that the proposed regulations will not impose any new mandated programs on any local agency or school district. The California Supreme Court has determined that an increase in workers' compensation benefit levels does not constitute a new State mandate for the purpose of local mandate claims because the increase does not impose unique requirements on local governments. See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46. The potential costs imposed on all public agency employers and payors by these proposed regulations, although not a benefit level increase, are similarly not a new State mandate because the regulations apply to all employers and payors, both public and private, and not uniquely to local governments.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of division 4 of the Government Code: None. The proposed regulations do apply to a local agency or school district in its capacity as an employer required to provide workers' compensation benefits to injured workers.



- Other nondiscretionary costs/savings imposed upon local agencies: None.

### CONSIDERATION OF ALTERNATIVES

The Administrative Director will be responsible for determining that no reasonable alternative considered or that has otherwise been identified and brought to the Administrative Director's attention would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

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

### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A text of draft proposed regulations was made available for pre-regulatory public comment through the Division's Internet message board (the DWC Forum). Additionally, pre-rulemaking stakeholder's meetings were held over a period of nine months to receive input on the development of the regulations.

### AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE/INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below. However, documents subject to copyright may be inspected but not copied.

As of the date of this notice, the rulemaking file consists of the notice; the initial statement of reasons; the proposed text of the regulations (underline and strike-out version and clean version); the documents incorporated by reference; and the Form 399, Economic and Fiscal Impact Statement. Also included are studies and documents relied upon in drafting the proposed regulations and Form 399, Economic and Fiscal Impact Statement.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division's website at [www.dir.ca.gov](http://www.dir.ca.gov). To access them, click on the link for

the Division of Workers' Compensation homepage, then click on the "Participate in Rulemaking" link and scroll down the list of rulemaking proceedings to find the current Inpatient Hospital Fee Schedule rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 18<sup>th</sup> Floor, Oakland, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday, unless the state office is closed for a state holiday or furlough (which is generally the second, third, and fourth Friday of each month.). Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

### CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142  
E-mail: [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov)

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

### BACKUP CONTACT PERSON/CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact person:

Minerva Krohn, Industrial Relations Counsel IV or  
Jarvia Shu, Industrial Relations Counsel III  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142  
E-mail: ([mkrohn@dir.ca.gov](mailto:mkrohn@dir.ca.gov); [jshu@dir.ca.gov](mailto:jshu@dir.ca.gov))

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



AVAILABILITY OF CHANGES FOLLOWING  
PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website: [www.dir.ca.gov](http://www.dir.ca.gov), then click on the link for the Division of Workers' Compensation homepage, then click on the "Participate in Rulemaking" link and scroll down the list of rulemaking proceedings to find the current Inpatient Hospital Fee Schedule rulemaking link.

AUTOMATIC MAILING

A copy of this Notice will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended and adopted will appear in title 8, California Code of Regulations, commencing with section 9789.20.

**TITLE 14. OFFICE OF SPILL  
PREVENTION AND RESPONSE**

**NOTICE OF PROPOSED RULEMAKING**

Notice is hereby given that the Office of Spill Prevention and Response (OSPR) within the Department of Fish and Game, proposes to amend Sections 791, 791.7, 792, 794, 795, and 796 in Subdivision 4 of Title 14 of the California Code of Regulations (CCR). These sections pertain to the Certificate of Financial Responsibility requirements.

PUBLIC HEARING

Pursuant to Government Code Section 11346.8(a), **no public hearing has been scheduled** on the proposed action. However, a hearing will be held if OSPR receives a written request for a public hearing from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period. If a hearing is requested, it will

be held in Sacramento. **Copies of the written comments submitted will be made available upon request.**

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to OSPR. All written comments must be received by OSPR at this office no later than **5:00 p.m. on February 14, 2011**, in order to be considered. Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Game  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090  
Attention: Joy D. Lavin-Jones  
Fax: (916) 324-5662  
E-mail: [jlavinj@ospr.dfg.ca.gov](mailto:jlavinj@ospr.dfg.ca.gov)

PERMANENT ADOPTION OF REGULATIONS

OSPR may thereafter adopt the proposal substantially as described in this Notice, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposals — with changes clearly indicated — will be available for 15 days prior to its adoption from the person designated in this Notice as contact person. The text will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Government Code Section 8670.37.54(b) grants the Administrator the authority to adopt regulations governing policy or other contractual terms, conditions or defenses which are necessary or which are unacceptable in establishing evidence of financial responsibility. Accordingly, the proposed regulations implement, interpret and make specific Government Code Sections 8670.37.51 through 8670.37.57 relating to financial responsibility.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act), enacted in 1990 by Senate Bill 2040, created a comprehensive state oil spill program for marine waters.

The Act mandates that all vessel and marine facility owner/operators shall be prohibited from transporting oil or operating a marine facility which transfers oil to or from a vessel in California, without first obtaining a certificate demonstrating specified levels of financial responsibility to pay for any costs resulting from oil spills occurring in California marine waters, or in locations which could affect California marine waters.

Pursuant to the authority in the Act, OSPR currently has regulations (Title 14, California Code of Regulations, Sections 791 through 797) which define terms used in the regulations; establish procedures for applying for a California Certificate of Financial Responsibility (COFR); establish required levels of financial responsibility and certificate requirements for owners or operators of vessels and marine facilities, and owners of oil; provide information on the types of evidence required in order to establish financial responsibility; inform the regulated community of those situations in which a certificate may be revoked; and, provide the methods for reporting changes which could affect the certificant's ability to comply with the financial responsibility requirements.

This proposal would amend the regulations as follows:

- Definitions have been amended to clarify the requirements for a COFR and standardize the terms used.
- Shortens the lead time that the renewal applications are sent out, which reflects new electronic renewal procedures.
- Clarifications to the timeframes and procedures when evidence of financial responsibility is terminated or about to expire. This is to help ensure continued and uninterrupted COFR evidence and coverage.
- Repealing references to paper certificates, which are being phased out.
- Removing the requirements for a copy of the certificate to be kept on board the vessel, due to electronic access to this information.
- Changes to the timeframes that renewal documentation for insurance coverage needs to be submitted.
- Clarifies when the submittal of additional documentation, in addition to the insurance policy, may be needed.
- Adds specific timeframes under which the self-insurance documents described must be submitted. This is to assure to the Administrator that the company is still economically viable and able to qualify for self-insurance, and maintain continued COFR coverage.

- Clearly identifies and describes the process for submitting documentation of membership in a Protection and Indemnity Club (P&I Club) as evidence of financial responsibility. Specific renewal timeframes and procedures have been updated to ensure continued P&I Club coverage.
- Additional language which gives the Administrator authority to ask for additional documentation as necessary, as a further guarantee that whatever the method of demonstrating financial responsibility, it is still valid and in effect.
- Clarifications and corrections.

#### SMALL BUSINESS IMPACT STATEMENT

OSPR has determined that the proposed regulations may affect small businesses.

#### COMPLIANCE WITH GOVERNMENT CODE SECTIONS 8574.10 AND 8670.55

In accordance with Government Code Section 8574.10, these regulations have been submitted to the Review Subcommittee of the State Interagency Oil Spill Committee for review and comment; and in accordance with Government Code Section 8670.55, these regulations have been submitted to the Oil Spill Technical Advisory Committee for review and comment.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

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

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

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

Cost impacts on representative private persons or businesses:

These amendments clarify current practices and streamline the application submittal and review process and will, therefore, not result in significant additional costs to private persons or directly affected businesses. The OSPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: NONE.

BUSINESS IMPACTS

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

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

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

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF DOCUMENTS AND OSPR CONTACT PERSON

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

Department of Fish and Game  
Office of Spill Prevention and Response  
P.O. Box 944209  
Sacramento, California 94244-2090

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the World Wide Web at the following address:

[http://www.dfg.ca.gov/ospr/Law/regs\\_under\\_review.asp](http://www.dfg.ca.gov/ospr/Law/regs_under_review.asp)

Questions regarding the proposed regulations, requests for documents, or any questions concerning the substance of this regulatory action may be directed to Joy Lavin-Jones ((916) 327-0910), or Alexia Retallack ((916) 322-1683).

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF HEALTH CARE SERVICES**

**NOTICE OF GENERAL PUBLIC INTEREST**

**THE DEPARTMENT OF HEALTH CARE SERVICES MAY EXTEND SUPPLEMENTAL PAYMENTS TO HOSPITALS**

This notice is to provide information of public interest with respect to the proposed extension to June 30, 2011 of supplemental payments to specified hospitals for hospital inpatient and outpatient services provided to Medi-Cal beneficiaries. This notice is also to provide information with respect to a proposed extension to June 30, 2011 of increased payments that may be made to Medi-Cal managed health care plans.

California Regulatory Notice Register, 2009, Volume No. 26-Z contained a public notice of the implementation of the Medi-Cal Hospital Provider Rate Stabilization Act as specified in Chapter 627, Statutes of 2009 (AB 1383) as amended by Chapter 218, Statutes of 2010 (AB 1653) and Chapter 714, Statutes of 2010 (SB 208).

The Medi-Cal Hospital Provider Rate Stabilization Act gives the Department of Health Care Services the authority to make supplemental payments until December 31, 2010 to specified hospitals for hospital inpatient and outpatient services provided to Medi-Cal beneficiaries and to increase payments that may be made to Medi-Cal managed health care plans.

The proposed extensions of the supplemental payments to hospitals and increased payments to managed care plans are subject to approval by the federal Centers for Medicare & Medicaid Services.

**PUBLIC REVIEW AND COMMENTS**

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

Any written comments concerning the proposal may also be mailed to the above address or emailed to [Bob.Sands@dhcs.ca.gov](mailto:Bob.Sands@dhcs.ca.gov).

**DEPARTMENT OF HEALTH CARE  
SERVICES**

**NOTICE OF GENERAL PUBLIC INTEREST**

**THE CALIFORNIA DEPARTMENT OF  
HEALTH CARE SERVICES WILL ADOPT  
REVISED SALES TAX LAWS FOR MEDI-CAL  
PROGRAM IHSS PROVIDERS**

Effective for dates of service on or after July 1, 2010, the California Department of Health Care Services (DHCS) will adopt the provisions in Assembly Bill 1612 (Chaptered 725, Statutes of 2010) added Article 4 (commencing with Section 6150) to the Revenue and Taxation Code. DHCS will establish state sales tax as follows:

- Personal care services providers will receive a payment to offset any increased federal income tax, Social Security tax or Medicare tax liability created by receiving additional income in the form of a supplementary payment in the amount of the state sales tax.
- The tax rate to be applied to this revenue is the same as the existing sales tax rate (and will be modified as that rate is modified from time to time).
- Per Revenue and Taxation Code Section 6168, after collection of the sales tax, funds will be deposited into the State Treasury to the credit of the Personal Care IHSS Quality Assurance Revenue Fund and shall be used solely for purposes of the In-Home Supportive Services (IHSS) program, including, but not limited to, those services provided under the Medi-Cal program. All revenue in this fund will be used for provider supplementary payments and for purposes set forth in Welfare and Institutions Code 12306.6 for the IHSS Personal Care Services Program and the IHSS 1915(j) Option Program. Because the amount of revenue to be deposited into the fund from sales tax revenues is anticipated to be less than the total amount of supplementary payments to be made, the statute requires the State Director of Finance to transfer additional amounts as needed from the State General Fund.
- For providers who are taxed and who receive supplementary payment, the amount of the supplementary payment is the amount of the sales tax collected plus any increased cost incurred due to imposition of federal income tax, Social Security tax or Medicare tax. This supplementary

payment will not be further taxed under the proposed taxing scheme.

- Medi-Cal will extend the existing state sales tax to gross receipts received by certain providers from the sale of supportive services. "Provider" is defined as a natural person who is authorized by law to provide all of the support services defined below and who makes a retail sale. The support services are as follows:
  1. Domestic services and services related to domestic services
  2. Heavy cleaning
  3. Personal care services
  4. Accompaniment when needed during necessary travel to health-related appointments or to alternative resource sites
  5. Yard hazard abatement
  6. Protective Supervision
  7. Teaching and demonstration directed at reducing the need for other supportive services
  8. Paramedical services that make it possible for the recipient to establish and maintain an independent living arrangement, including those necessary paramedical services that are ordered by a licensed health care professional who is lawfully authorized to do so, which persons could provide for themselves but for their functional limitations. Paramedical services include the administration of medications, puncturing the skin, or inserting a medical device into a body orifice, activities requiring sterile procedures, or other activities requiring judgment based on training given by a licensed health care professional.

These proposed changes will impact the following provider categories:

- Personal Care Services providers
- IHSS 1915(j) Option program providers

**PUBLIC REVIEW**

The proposed changes are available for public review at local county welfare offices throughout California. Written comments must be submitted within 45 days from the publication date of these changes in the California Regulatory Notice Register. All comments should include the author's name, organization or affiliation, phone number and Provider ID number, if appropriate. Members of the public may request a copy of the State Plan Amendment pages, and submit comments to:



Mr. Paul Miller, Chief Long-Term Care Division  
 California Department of Health Care Services  
 1501 Capitol Avenue  
 MS 0018  
 P.O. Box 997419  
 Sacramento, CA 95899-7419

**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)**

**Cocamide Diethanolamine Under Consideration  
 For Possible Listing**

**Via The Authoritative Bodies Mechanism:  
 Request For Relevant Information**

**EXTENSION OF PUBLIC COMMENT PERIOD  
 December 24, 2010**

*[Posted on the OEHHA web site on  
 December 15, 2010]*

The Safe Drinking Water and Toxic Enforcement Act of 1986<sup>1</sup> (Proposition 65 or the Act), which is codified as Health and Safety Code section 25249.5 et seq., requires the Governor to publish, and update at least annually, a list of chemicals known to the State to cause cancer or reproductive toxicity. The Act describes the mechanisms for administratively listing chemicals as known to the State to cause cancer or reproductive toxicity (Health and Safety Code section 25249.8).

On October 22, 2010, OEHHA published a notice in the *California Regulatory Notice Register* (Register 10 No. 43-Z) soliciting information which may be relevant to the evaluation of *cocamide diethanolamine (coconut oil acid diethanolamine condensate)* (CAS No. 68603-42-9) under consideration for possible listing within the context of the Proposition 65 administrative listing regulatory criteria in Title 27 of the California Code of Regulations section 25306.

<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.

The publication of the notice initiated a 60-day public comment period which would have closed on December 21, 2010. OEHHA has received a request from interested parties seeking an extension of the comment period to allow for the submission of complete and relevant scientific information for *cocamide diethanolamine (coconut oil acid diethanolamine condensate)*. **OEHHA hereby extends the public comment period for this chemical until 5 p.m., Tuesday, February 1, 2011.**

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, faxed, or delivered in person to the addresses below:

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

**It is requested that hard-copy comments be submitted in triplicate. In order to be considered, comments must be received at OEHHA by 5 p.m., Tuesday, February 1, 2011.**

**DECISION NOT TO PROCEED**

**DEPARTMENT OF FOOD AND  
 AGRICULTURE**

**NOTICE OF DECISION NOT TO PROCEED  
 WITH RULEMAKING ACTION**

Pursuant to Government Code section 11347, notice is hereby given that the Department of Food and Agriculture, Meat and Poultry Inspection Branch, has decided not to proceed with its rulemaking action described in the Notice published in the *California Regulatory Notice Register*, No. 23-Z, June 4, 2010, Notice File No. Z-2010-0524-05. This action pertained to the requirements for renderers, collection centers, dead animal haulers, and transporters of inedible kitchen grease under Subchapter 2, Chapter 4, Division 2, of Title 3 of the California Code of Regulations. This proposed rulemaking action is withdrawn for further consideration. The Department of Food and Agriculture may initiate a new regulatory proposal pertaining to the same or similar subject areas at a later date, with notice as required by law.

**OAL REGULATORY  
DETERMINATION**

**OFFICE OF ADMINISTRATIVE LAW**

**DETERMINATION OF ALLEGED  
UNDERGROUND REGULATION  
(Summary Disposition)**

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

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

**DEPARTMENT OF CORRECTIONS AND  
REHABILITATION**

Date: December 10, 2010  
 To: Daniel Carpenter  
 From: Chapter Two Compliance Unit  
 Subject: **2010 OAL DETERMINATION NO. 30(S)  
(CTU2010-1021-01)**  
 (Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation In-Cell Handicraft Departmental Operations Manual Supplement, Mule Creek State Prison

On October 21, 2010, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether a document titled “In-Cell Handicraft” constitutes an underground regulation. The rule is contained in Section 101050 of the Mule Creek State Prison Departmental Operations Manual Supplement (rev. July 2010) and sets out various requirements for inmate handicraft activities at Mule Creek State Prison. This document was issued by the warden at the Mule Creek State Prison and is attached hereto as Exhibit A.<sup>1</sup>

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

<sup>1</sup> Exhibit A has two attachments, only one of which was provided to OAL (Attachment A).

defined in Government Code section 11342.600,<sup>2</sup> which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).<sup>3</sup> Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

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

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

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

In *In re Garcia* (67 Cal.App.4<sup>th</sup> 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

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

. . .

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

<sup>2</sup> “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

<sup>3</sup> Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

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

Similarly, the rule challenged by your petition was issued by Mule Creek State Prison and applies solely to the inmates of the Mule Creek State Prison. Inmates housed at other institutions are governed by those other institutions' requirements for inmate handicraft activities. Therefore, the rule is a "local rule" and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.<sup>4</sup>

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

/s/  
SUSAN LAPSLEY  
Director

/s/  
Elizabeth A. Heidig  
Staff Counsel

Copy: Matthew Cate  
Tim Lockwood

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indi-

<sup>4</sup> The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

**(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.**

[Emphasis added.]

cated. 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# 2010-1110-04  
BOARD OF CHIROPRACTIC EXAMINERS  
Fingerprint Submission

The Board of Chiropractic Examiners adopted Section 321.1 of Title 16 of the California Code of Regulations at a meeting on September 23, 2010. This section outlines the new procedures for electronic fingerprinting of licensees and applicants for licenses, who are required to complete state and federal criminal offender record information searches through the Department of Justice and the Federal Bureau of Investigation.

Title 16  
California Code of Regulations  
ADOPT: 321.1  
Filed 12/15/2010  
Effective 01/14/2011  
Agency Contact: Dixie Van Allen (916) 263-5329

File# 2010-1103-01  
BOARD OF OPTOMETRY  
Requirement for Glaucoma Certification

This rulemaking action implements Senate Bill 1406, Chapter 352, Statutes of 2008, by establishing the requirements for the certification of optometrists to treat all primary open-angle glaucoma and exfoliation and pigmentary glaucoma. The rulemaking action also specifies continuing education requirements for glaucoma-certified optometrists and the exemption from the didactic instruction and case management requirements for certification for optometrists who completed their education from accredited schools or colleges of optometry on or after May 1, 2008.

Title 16  
California Code of Regulations  
ADOPT: 1571  
Filed 12/09/2010  
Effective 01/08/2011  
Agency Contact: Andrea Leiva (916) 575-7182

File# 2010-1104-03  
CALIFORNIA TAX CREDIT ALLOCATION  
COMMITTEE  
CTCAC Regulations Implementing the Federal and State LIHTC Laws

This regulatory amendment was adopted by the California Tax Credit Allocation Committee on October 27, 2010, pursuant to Health and Safety Code section 50199.17, and submitted to OAL for filing with the

Secretary of State and printing in the California Code of Regulations pursuant to Government Code section 11343.8. This amendment extends various deadlines related to applications for tax credits.

Title 4  
California Code of Regulations  
AMEND: 10322(h)(5), 10325(c)(3)(B),  
10325(c)(8)  
Filed 12/14/2010  
Effective 12/14/2010  
Agency Contact: Velia Martinez (916) 654-6340

File# 2010-1029-01  
DENTAL BOARD OF CALIFORNIA  
Disciplinary Guidelines

This regulatory action amends the Dental Board's Disciplinary Guidelines that are incorporated by reference in Title 16 of the California Code of Regulations section 1018 to provide direction to administrative law judges who determine penalties for dentists, registered dental hygienists and registered dental assistants who have violated provisions of statutory law or regulations. The Disciplinary Guidelines have not been updated since 1996 and the changes in this rulemaking incorporate numerous statutory and regulatory changes that have occurred since the last revision to ensure the consistent use of titles and terms and to remove outdated and unnecessary terms and conditions and to incorporate new changes necessary to ensure the Dental Board's ability to meet its consumer protection mandate.

Title 16  
California Code of Regulations  
AMEND: 1018  
Filed 12/14/2010  
Effective 01/13/2011  
Agency Contact: Sarah Wallace (916) 263-2187

File# 2010-1123-01  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION  
Inmate/Parolee Appeals

This emergency regulatory action concerns inmate and parolee appeals and was submitted to OAL by the California Department of Corrections and Rehabilitation (CDCR) pursuant to Penal Code section 5058.3 as operationally necessary. This action includes a major revision of the formal administrative appeal process, discontinues the informal appeal process, and incorporates several new forms.

Title 15  
California Code of Regulations  
ADOPT: 3084.8, 3084.9, 3086 AMEND: 3000,  
3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5,  
3084.6, 3084.7, 3137, 3173.1, 3179, 3193, 3220.4,  
3482, 3630, 3723 REPEAL: 3085  
Filed 12/13/2010  
Effective 01/28/2011  
Agency Contact:  
Randy Marshall (916) 445-2308

File# 2010-1110-02  
DEPARTMENT OF FOOD AND AGRICULTURE  
Light Brown Apple Moth Interior Quarantine  
The Department of Food & Agriculture submitted this timely certificate of compliance action to make permanent the emergency expansion of the interior quarantine in OAL File No. 2010-0706-04E for the Light Brown Apple Moth (LBAM), *Epiphyas postvittana*. The emergency action affected the LBAM quarantine areas in areas of Alameda, Contra Costa, Los Angeles, Monterey, Sacramento, San Benito, San Joaquin, Santa Clara, Solano and Sonoma counties, resulting in approximately 5,020 square miles under regulation for the LBAM within the state. The section affected by this action is title 3, California Code of Regulations, section 3434.

Title 3  
California Code of Regulations  
AMEND: 3434(b) and (c)  
Filed 12/14/2010  
Agency Contact:  
Stephen S. Brown (916) 654-1017

File# 2010-1105-06  
DEPARTMENT OF FOOD AND AGRICULTURE  
Modified Point of Origin Inspection Areas  
The Department of Food and Agriculture (Department) amends Title 3 of the California Code of Regulations, section 850 regarding modified point-of-origin inspection areas for cattle in California. Modified point-of-origin inspection requires all cattle crossing out of a boundary to be inspected. The Department is removing Area Number 4 from the regulations pursuant to Food and Agriculture Code section 21111.5 that allows cattle producers in the area to petition to remove their area from the modified point-of-origin inspection areas.

Title 3  
California Code of Regulations  
AMEND: 850  
Filed 12/14/2010  
Effective 01/13/2011  
Agency Contact: Nancy Grillo (916) 651-7280



File# 2010-1202-03  
 DEPARTMENT OF INDUSTRIAL RELATIONS  
 Conveyance Inspection Program Fee Increase

This is an emergency readopt of the regulatory action that amended Title 8 section 344.30 of the California Code of Regulations to update the fees for the inspection of elevators and other types of conveyances. This amendment increases the fees to cover the costs the agency incurs in performing inspections. Subsection (d) of Labor Code section 7314 provides that any fees required pursuant to that section shall be adopted as emergency regulations and shall not be subject to review by the Office of Administrative Law.

Title 8  
 California Code of Regulations  
 AMEND: 344.30  
 Filed 12/08/2010  
 Effective 12/08/2010  
 Agency Contact: Jon Wroten (916) 263-2803

File# 2010-1025-02  
 DEPARTMENT OF PESTICIDE REGULATION  
 Toxic Air Contaminants — Chloropicrin

This action adds the pesticide chloropicrin to the list of compounds designated as toxic air contaminants in accordance with Food and Agricultural Code section 14023.

Title 3  
 California Code of Regulations  
 AMEND: 6860  
 Filed 12/09/2010  
 Effective 01/08/2011  
 Agency Contact:  
 Linda Irokawa-Otani (916) 445-3991

File# 2010-1112-01  
 EMERGENCY MEDICAL SERVICES  
 AUTHORITY  
 Advanced EMT

In this regulatory action, the Emergency Medical Services Authority amends a regulation pertaining to Advanced Emergency Medical Technicians (Advanced EMTs) entitled "Application of Chapter; Displacement of Services." The amendments relate to the procedural requirements applicable when a local emergency medical services agency or the governing body of a public safety agency may consider the displacement of existing paramedic services, or of existing services that utilize Advanced EMTs accredited in the local optional scope of practice, by initiating new Advanced EMT services. The amendment of this regulation was originally included within a substantial revision of EMT-II/Advanced EMT regulations which was "approved in part

and disapproved in part" in Office of Administrative Law file number 2010-0406-06SR.

Title 22  
 California Code of Regulations  
 AMEND: 100105  
 Filed 12/15/2010  
 Effective 01/14/2011  
 Agency Contact: Laura Little (916) 322-4336

File# 2010-1025-05  
 OCCUPATIONAL SAFETY AND HEALTH  
 STANDARDS BOARD  
 Portable Ladders

The Occupational Safety and Health Standards Board proposed to amend sections 1648, 1675, 3276, 3277, 3278, 3287, 3413, and 3458.1, and repeal sections 1678, 3279, and 3280, of title 8 of the California Code of Regulations concerning portable ladders.

Title 8  
 California Code of Regulations  
 AMEND: 1648, 1675, 3276, 3277, 3278, 3287, 3413, 3458.1  
 REPEAL: 1678, 3279, 3280  
 Filed 12/08/2010  
 Effective 01/07/2011  
 Agency Contact: Marley Hart (916) 274-5721

File# 2010-1025-03  
 OCCUPATIONAL SAFETY AND HEALTH  
 STANDARDS BOARD  
 Underground Vaults — Headroom Clearance

This action amends existing provisions governing the minimum size of manholes or underground rooms by clarifying the existing requirement that such enclosures comply with Public Utilities Code sections 8051-8057 (underground electrical room dimensions) as modified by subsections (a) and (b) of the regulation. The amendments also delete an unneeded cross-reference to Title 24.

Title 8  
 California Code of Regulations  
 AMEND: 2813  
 Filed 12/09/2010  
 Effective 01/08/2011  
 Agency Contact: Marley Hart (916) 274-5721

File# 2010-1025-04  
 OCCUPATIONAL SAFETY AND HEALTH  
 STANDARDS BOARD  
 Definitions of Manifold and Header

This action amends existing provisions governing oxygen, acetylene, and fuel gas connections by adding definitions of "manifold" and "header" to an existing requirement that manifold and header hose connections be capped when not in use.

Title 8  
 California Code of Regulations  
 AMEND: 1742  
 Filed 12/09/2010  
 Effective 01/08/2011  
 Agency Contact: Marley Hart (916) 274-5721

File# 2010-1105-03  
 STATE WATER RESOURCES CONTROL BOARD  
 Lower San Joaquin River Agricultural Discharge Control Program

This regulatory action amends the Basin Plan for selenium control in the San Joaquin River Basin, including a time extension, a conditional prohibition of discharge and a performance goal for agricultural subsurface drainage discharges to Mud Slough (north) and the San Joaquin River between Mud Slough and the Merced River confluence.

Title 23  
 California Code of Regulations  
 AMEND: 3943  
 Filed 12/15/2010  
 Agency Contact: Peter Martin (916) 341-5557

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN July 14, 2010 TO  
 December 15, 2010**

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

**Title 2**

11/30/10 AMEND: 67.8 (Appendix A)  
 11/23/10 ADOPT: 1190, 1190.01, 1190.02, 1190.03, 1190.04, 1190.05  
 11/22/10 AMEND: 1859.2, 1859.83  
 11/16/10 AMEND: 7286.1  
 11/15/10 AMEND: 18545, 18703.4, 18730, 18940.2, 18943  
 11/15/10 AMEND: 18225  
 10/29/10 ADOPT: 1859.90.2 AMEND: Renumber 1859.90.2 to 1859.90.3, 1859.129, 1859.197  
 10/28/10 AMEND: 59.1  
 10/27/10 ADOPT: 1185.21, 1189 AMEND: 1181, 1181.1, 1181.2, 1181.4, 1183, 1183.01,

1183.02, 1183.03, 1183.06, 1183.07, 1183.08, 1183.081, 1183.09, 1183.11, 1183.12, 1183.131, 1183.14, 1183.2, 1183.21, 1183.30, 1183.31, 1183.32, 1185, 1185.2, 1185.3, 1185.4, 1185.5, 1185.6, 1186, 1187, 1187.2, 1187.3, 1187.9, 1188, 1188.1, 1188.2, 1188.3, 1188.31, 1189.1, 1189.3 REPEAL: 1181.3, 1189.4, 1189.5  
 10/26/10 ADOPT: 2297.1  
 10/21/10 ADOPT: 58.8 AMEND: 59.3  
 10/11/10 ADOPT: 599.937.4  
 10/07/10 AMEND: 51.1  
 10/07/10 AMEND: 51.2(u)  
 10/07/10 AMEND: div. 8, ch. 46, sec. 53500  
 10/05/10 AMEND: div. 8, ch. 79, sec. 56800  
 10/05/10 ADOPT: 1859.172 AMEND: 1859.162.3, 1859.171  
 10/04/10 AMEND: 1859.2, 1859.81  
 10/04/10 ADOPT: 642, 643, 644, 645 AMEND: 640, 641  
 09/27/10 AMEND: 18942, 18944.1  
 09/07/10 AMEND: Renaming of headings only, as follows: Article 4 of Chapter 1 to new Subchapter 1.2; Subarticles 1-10 of nes Subchapter 1.2 to new Articles 1-10; and Chapters 1-5 of new Article 6 to new Subarticles 1-5.  
 09/02/10 ADOPT: 60804.1, 60815.1, 60820.1, 60855, 60856, 60857, 60858, 60859, 60860, 60861, 60862, 60863 AMEND: 60841, 60846, 60853 REPEAL: 60855  
 09/01/10 AMEND: 234, 548.70  
 09/01/10 AMEND: 234, 548.70  
 08/18/10 ADOPT: 51.3, 52.1, 52.2, 52.3, 52.5, 52.8, 52.10, 53.1, 53.2, 53.3, 53.4, 54.1, 55.1, 56.1, 56.2, 56.3, 56.4, 57.1, 57.2, 58.1, 58.2, 58.6, 58.7, 58.9, 58.10, 58.11, 59.2, 59.3, 59.4, 60.1, 63.1, 64.1, 64.2, 64.3, 64.4, 64.5, 64.6 AMEND: 51 (renumbered to 51.1), 51.1 (renumbered to 51.2), 51.2 (renumbered to 52.4), 52.3 (renumbered to 52.6), 51.9 (renumbered to 52.7), 51.5 (renumbered to 52.9), 52.6 (renumbered to 55.2), 52.2 (renumbered to 58.3), 51.4 (renumbered to 58.4), 52.1 (renumbered to 58.5), 57.2 (renumbered to 59.1), 52.5 (renumbered to 60.2), 57.3 (renumbered to 60.3), 53.1 (renumbered to 66.1), 56 (renumbered to 67.1), 56.1 (renumbered to 67.2), 56.2 (renumbered to 67.3), 56.3 (renumbered to 67.4), 56.4 (renumbered to 67.5), 56.5 (renumbered to 67.6), 56.6 (renumbered to 67.7), 56.7 (renumbered to 67.8) REPEAL: 51.3, 52,

	52.4, 53, 53.2, 54, 54.2, 56.8, 57.1, 57.4, 60, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 60.10, 65, 547, 547.1	<b>Title 4</b>	12/14/10 AMEND: 10322(h)(5), 10325(c)(3)(B), 10325(c)(8)
08/13/10	AMEND: 18707		12/07/10 ADOPT: 12347, 12348 AMEND: 12002, 12345
<b>Title 3</b>			11/29/10 AMEND: 1374.2
12/14/10	AMEND: 3434(b) and (c)		11/29/10 AMEND: 8070, 8072, 8073, 8074
12/14/10	AMEND: 850		11/04/10 AMEND: 8034, 8035, 8042, 8043
12/09/10	AMEND: 6860		11/02/10 AMEND: 12480, 12488, 12492, 12494, 12496, 12498, 12499, 12501, 12502, 12504, 12508
12/06/10	AMEND: 3906		10/26/10 AMEND: 1844
11/30/10	AMEND: 3406		10/04/10 ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036
11/24/10	ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407		09/29/10 AMEND: 8070, 8072, 8073, 8074
11/24/10	ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407		09/15/10 AMEND: 10323
11/22/10	AMEND: 3435(c)		09/09/10 AMEND: 1766
11/18/10	AMEND: 105, 108		09/09/10 AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162, 10164
11/17/10	AMEND: 3434(b)		08/30/10 ADOPT: 213.2 AMEND: 211, 213, 293, 405
11/17/10	AMEND: 3434(b)		08/20/10 AMEND: 130
11/17/10	AMEND: 3437		08/16/10 AMEND: 1689
11/15/10	REPEAL: 3000, 3001, 3002, 3003, 3004		07/29/10 ADOPT: 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5560, 5570, 5571, 5572, 5573, 5580, 5590
11/09/10	AMEND: 3437		07/22/10 AMEND: 10300, 10302, 10305, 10310, 10315, 10317, 10320, 10322, 10323, 10325, 10326, 10327, 10328, 10330, 10335, 10337
10/27/10	AMEND: 6447, 6447.2, 6784		
10/21/10	AMEND: 3591.5(a)		<b>Title 5</b>
10/18/10	AMEND: 3437(b)		12/02/10 ADOPT: 4700, 4701, 4702, 4703
10/11/10	AMEND: 3558(a)		12/01/10 ADOPT: 76020, 76140, 76212, 76240 AMEND: 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 76010, 76240
10/11/10	AMEND: 3855		11/18/10 ADOPT: 70030, 70040, 71135, 71320, 71390, 71395, 71400.5, 71401, 71475, 71480, 71485, 71640, 71650, 71655, 71716, 71750, 71760, 74110, 74115 AMEND: 70000, 70010, 70020, 71100, 71110, 71120, 71130, 71140, 71150, 71160, 71170, 71180, 71190, 71200,
10/06/10	ADOPT: 1391, 1391.1, 1391.2, 1391.3, 1391.4 AMEND: 1391 (renumbered to 1391.5), 1391.1 (renumbered to 1391.6)		
10/01/10	AMEND: 3434(b)		
09/27/10	AMEND: 3		
09/27/10	AMEND: 3437		
09/22/10	AMEND: 3591.20(a)		
09/14/10	AMEND: 3434(b)		
09/13/10	ADOPT: 3437		
09/09/10	AMEND: 3434(b)		
09/02/10	AMEND: 3425(b)		
08/26/10	AMEND: 3406(b)		
08/26/10	AMEND: 3406(b)		
08/26/10	AMEND: 3434(b) & (c)		
08/26/10	ADOPT: 6531 AMEND: 6502, 6511, 6530		
08/24/10	AMEND: 3700(c)		
08/19/10	AMEND: 3423(b)		
08/17/10	AMEND: 3437		
08/16/10	AMEND: 3425(b) and (c)		
08/13/10	AMEND: 3591.15(a) and (b)		
08/11/10	AMEND: 3437		
08/05/10	AMEND: 3423(b)		
07/26/10	AMEND: 3435(c)		
07/20/10	AMEND: 3437		
07/16/10	AMEND: 3434(b) and (c)		

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71210, 71220, 71230, 71240, 71250,	75020, 75030, 75040, 75100, 75110,
71260, 71270, 71280, 71290, 71300,	75120, 75130
71310, 71340, 71380, 71400, 71405,	10/18/10 AMEND: 80015, 80015.1, 80015.2,
71450, 71455, 71460, 71465, 71470,	80015.3, 80015.4, 80021, 80021.1,
71500, 71550, 71600, 71630, 71700,	80024.7, 80024.8
71705, 71710, 71715, 71720, 71730,	10/18/10 ADOPT: 1216.1
71735, 71740, 71745, 71770, 71810,	10/01/10 AMEND: 57020 REPEAL: 50721,
71850, 71865, 71920, 71930, 74000,	50722, 50723, 50724, 50725, 50727,
74002, 74004, 74006, 74120, 74130,	50728, 50729, 50730, 57031, 50732
74140, 74150, 74160, 74170, 74190,	09/13/10 ADOPT: 4800, 4801, 4802, 4803, 4804,
74200 REPEAL: 70030, 71000, 71005,	4805, 4806, 4807
71010, 71020, 71330, 71360, 71410,	08/30/10 ADOPT: 30960, 30961, 30962, 30963,
71415, 71420, 71490, 71495, 71505,	30964
71510, 71515, 71520, 71555, 71560,	08/24/10 REPEAL: 18015
71565, 71605, 71610, 71615, 71650,	08/20/10 AMEND: 80001
71655, 71725, 71775, 71800, 71805,	08/19/10 ADOPT: 59204.1
71830, 71855, 71860, 71870, 71875,	08/19/10 ADOPT: 11967.6.1 AMEND: 11967.6
71880, 71885, 71890, 71900, 71905,	08/09/10 ADOPT: 30010, 30011, 30012, 30013,
71910, 72000, 72005, 72010, 72020,	30014, 30015, 30016, 30017, 30018,
72101, 72105, 72110, 72120, 72130,	30019, 30034, 30035, 30036, 30037,
72140, 72150, 72160, 72170, 72180,	30038, 30039, 30040, 30041, 30042,
72190, 72200, 72210, 72220, 72230,	30043, 30044, 30045, 30046 AMEND:
72240, 72250, 72260, 72270, 72280,	30000, 30001, 30002, 30005, 30020,
72290, 72300, 72310, 72330, 72340,	30021, 30022, 30023, 30030, 30032,
72360, 72380, 72400, 72405, 72410,	30033
72415, 72420, 72450, 72455, 72460,	08/02/10 ADOPT: 4700, 4701, 4702
72465, 72470, 72500, 72505, 72515,	07/30/10 ADOPT: 70030, 70040, 71135, 71320,
72520, 72550, 72555, 72560, 72565,	71390, 71395, 71400.5, 71401, 71475,
72570, 72600, 72605, 72610, 72615,	71480, 71485, 71640, 71650, 71655,
72650, 72655, 72700, 72701, 72705,	71716, 71750, 71760, 74110, 74115,
72710, 72715, 72720, 72725, 72730,	76020, 76140, 76212, 76240 AMEND:
72735, 72740, 72745, 72770, 72775,	70000, 70010, 70020, 71100, 71110,
72800, 72805, 72810, 72830, 72850,	71120, 71130, 71140, 71150, 71160,
72855, 72860, 72865, 72870, 72875,	71170, 71180, 71190, 71200, 71210,
72880, 72885, 72890, 72900, 72905,	71220, 71230, 71240, 71250, 71260,
72910, 72915, 72920, 72930, 73000,	71270, 71280, 71290, 71300, 71310,
73010, 73100, 73110, 73120, 73130,	71340, 71380, 71400, 71405, 71450,
73140, 73150, 73160, 73165, 73170,	71455, 71460, 71465, 71470, 71500,
73180, 73190, 73200, 73210, 73220,	71550, 71600, 71630, 71700, 71705,
73230, 73240, 73260, 73270, 73280,	71710, 71715, 71720, 71730, 71735,
73290, 73300, 73310, 73320, 73330,	71740, 71745, 71770, 71810, 71850,
73340, 73350, 73360, 73380, 73390,	71865, 71920, 71930, 74000, 74002,
73400, 73410, 73420, 73430, 73440,	74004, 74006, 74120, 74130, 74140,
73470, 73480, 73500, 73520, 73530,	74150, 74160, 74170, 74190, 74200,
73540, 73550, 73600, 73610, 73620,	76000, 76120, 76130, 76200, 76210,
73630, 73640, 73650, 73660, 73670,	76215 REPEAL: 70030, 71000, 71005,
73680, 73690, 73700, 73710, 73720,	71010, 71020, 71330, 71360, 71410,
73730, 73740, 73750, 73760, 73765,	71415, 71420, 71490, 71495, 71505,
73770, 73780, 73790, 73800, 73820,	71510, 71515, 71520, 71555, 71560,
73830, 73831, 73832, 73850, 73860,	71565, 71605, 71610, 71615, 71650,
73870, 73880, 73890, 73900, 73910,	71655, 71725, 71775, 71800, 71805,
74008, 74010, 74014, 74016, 74018,	71830, 71855, 71860, 71870, 71875,
74020, 74030, 74040, 74050, 74100,	71880, 71885, 71890, 71900, 71905,
74180, 74300, 74310, 74320, 75000,	71910, 72000, 72005, 72010, 72020,



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72101, 72105, 72110, 72120, 72130, 72140, 72150, 72160, 72170, 72180, 72190, 72200, 72210, 72220, 72230, 72240, 72250, 72260, 72270, 72280, 72290, 72300, 72310, 72330, 72340, 72360, 72380, 72400, 72405, 72410, 72415, 72420, 72450, 72455, 72460, 72465, 72470, 72500, 72505, 72515, 72520, 72550, 72555, 72560, 72565, 72570, 72600, 72605, 72610, 72615, 72650, 72655, 72700, 72701, 72705, 72710, 72715, 72720, 72725, 72730, 72735, 72740, 72745, 72770, 72775, 72800, 72805, 72810, 72830, 72850, 72855, 72860, 72865, 72870, 72875, 72880, 72885, 72890, 72900, 72905, 72910, 72915, 72920, 72930, 73000, 73010, 73100, 73110, 73120, 73130, 73140, 73150, 73160, 73165, 73170, 73180, 73190, 73200, 73210, 73220, 73230, 73240, 73260, 73270, 73280, 73290, 73300, 73310, 73320, 73330, 73340, 73350, 73360, 73380, 73390, 73400, 73410, 73420, 73430, 73440, 73470, 73480, 73500, 73520, 73530, 73540, 73550, 73600, 73610, 73620, 73630, 73640, 73650, 73660, 73670, 73680, 73690, 73700, 73710, 73720, 73730, 73740, 73750, 73760, 73765, 73770, 73780, 73790, 73800, 73820, 73830, 73831, 73832, 73850, 73860, 73870, 73880, 73890, 73900, 73910, 74008, 74010, 74014, 74016, 74018, 74020, 74030, 74040, 74050, 74100, 74180, 74300, 74310, 74320, 75000, 75020, 75030, 75040, 75100, 75110, 75120, 75130, 76010, 76240	11/04/10 AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464 11/02/10 ADOPT: 5197 11/02/10 AMEND: 1504, 1637, 3622 10/27/10 ADOPT: 1600.1 AMEND: 1600, 1601 10/05/10 AMEND: 3395 09/27/10 AMEND: 10232.2 09/23/10 AMEND: 9767.3 09/14/10 AMEND: 10253.1 09/13/10 AMEND: 5206(d)(4)(a), 1532.2(d)(4)(a), 8359(d)(4)(a) 09/01/10 AMEND: 1502 08/30/10 AMEND: 4848 08/30/10 AMEND: 5158 08/25/10 AMEND: Appendix B following section 5207 08/17/10 AMEND: 4885 08/09/10 AMEND: 9767.3, 9767.6, 9767.8, 9767.12, 9767.16, 9880, 9881, 9881.1, 10139 08/03/10 AMEND: 3563, 3651 07/22/10 AMEND: 5278
<b>Title 7</b>	
07/23/10 AMEND: 19816, 19816.1	
<b>Title 8</b>	
11/23/10 AMEND: 206, 207	
11/09/10 AMEND: 219, 202	
10/13/10 AMEND: 212.5	
10/13/10 AMEND: 212.5	
<b>Title 9</b>	
12/06/10 ADOPT: 3200.028, 3200.252, 3630.05, 3630.10, 3630.15 AMEND: 3630, 3650	
10/18/10 ADOPT: 1810.326, 1810.376, 1810.439 AMEND: 1810.317, 1810.321, 1810.323, 1810.345, 1810.350, 1810.360, 1810.365, 1810.375, 1810.380, 1810.425, 1810.430, 1810.435, 1810.436, 1810.438, 1820.220, 1820.225, 1830.215, 1840.112, 1850.213	
09/20/10 ADOPT: 7212.1, 7212.2, 7212.3, 7212.4 AMEND: 7210, 7211, 7212	
09/20/10 ADOPT: 7213, 7213.1, 7213.2, 7213.4, 7213.5, 7213.6, 7214, 7214.1, 7214.2, 7214.3, 7214.4, 7214.5, 7214.6, 7214.7, 7214.8, 7215, 7215.1, 7216, 7216.1, 7216.2, 7218, 7220, 7220.3, 7220.5, 7220.7, 7221, 7225 AMEND: 7213.3, 7224, 7226, 7226.1, 7226.2, 7227, 7227.1, 7227.2 REPEAL: 7213, 7213.1, 7213.2, 7214, 7215, 7216, 7218, 7219, 7220, 7221, 7225	
08/09/10 ADOPT: 4100, 4105, 4210, 4300, 4310, 4315, 4320, 4325, 4330, 4415, 4420	
<b>Title 10</b>	
11/04/10 AMEND: 2689.8(c)	
10/21/10 AMEND: 2498.6	

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10/18/10 ADOPT: 3575, 3576, 3577 AMEND: 3500, 3522, 3523, 3524, 3526, 3527, 3528, 3529, 3530, 3582, 3681, 3702, 3703, 3721, 3724, 3726, 3728, 3731, 3741

10/11/10 ADOPT: 2278.50, 2278.51, 2278.52, 2278.53, 2278.54, 2278.55, 2278.56, 2278.57, 2278.58, 2278.59

09/28/10 ADOPT: 1409.1, 1414, 1422.4, 1422.4.1, 1422.5, 1422.6, 1422.6.1, 1422.6.2, 1422.6.3, 1422.7, 1422.7.1, 1422.9, 1422.10, 1422.11, 1422.12, 1424, 1437, 1950.122, 1950.122.2.1, 1950.122.4, 1950.122.4.1, 1950.122.5, 1950.122.5.1, 1950.122.5.2, 1950.122.5.3, 1950.122.5.4, 1950.122.6, 1950.122.7, 1950.122.8, 1950.122.9, 1950.122.10, 1950.122.11, 1950.122.12, 1950.205.1, 1950.209, 1950.307 AMEND: 1404, 1409, 1411, 1430.5, 1431, 1433, 1436, 1454, 1550, 1552, 1557, 1950.003, 1950.122.2, 1950.123, 1950.204.3, 1950.204.4, 1950.301, 1950.314.8, 1950.316, 1950.317 REPEAL: 1950.122

09/23/10 AMEND: 2274.70, 2274.71, 2274.72, 2274.73, 2274.74, 2274.75, 2274.76, 2274.77, 2274.78

09/20/10 AMEND: 2494.4.9

09/16/10 AMEND: 3006, 3007, 3007.05, 3007.2, 3007.3, 3007.6, 3008, 3010, 3011.1, 3011.2, 3011.4, 3012.2 REPEAL: 3005

08/24/10 AMEND: 3525, 3527, 3541, 3542, 3543, 3544, 3561, 3563, 3566, 3568, 3569, 3570, 3583, 3602, 3603, 3661, 3722

08/05/10 AMEND: 2646.6

07/30/10 AMEND: 2699.6700

07/29/10 ADOPT: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8, 2548.9, 2548.10, 2548.11, 2548.12, 2548.13, 2548.14, 2548.15, 2548.16, 2548.17, 2548.18, 2548.19, 2548.20, 2548.21, 2548.22, 2548.23, 2548.24, 2548.25, 2548.26, 2548.27, 2548.28, 2548.29, 2548.30, 2548.31 REPEAL: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8

07/21/10 ADOPT: 3575, 3576, 3577 AMEND: 3500, 3522, 3523, 3524, 3526, 3527, 3528, 3529, 3530, 3582, 3681, 3702, 3703, 3721, 3724, 3726, 3728, 3731, 3741

07/19/10 ADOPT: 2274.70, 2274.71, 2274.72, 2274.73, 2274.74, 2274.75, 2274.76, 2274.77, 2274.78

**Title 11**

11/02/10 ADOPT: 51.26

10/07/10 ADOPT: 994.9, 994.10, 994.11, 994.12, 994.13, 994.14, 994.15 AMEND: 994.1, 994.2, 994.4, 994.5, 994.6 REPEAL: 994.9, 994.10, 994.11, 994.12, 994.13, 994.14, 994.15, 994.16

10/06/10 AMEND: 9040, 9041

**Title 13**

11/09/10 AMEND: 551.15, 551.17, 556, 558, 561, 586

11/08/10 AMEND: 1956.8, 1958, 1961, 1976, 1978, 2111, 2122, 2136, 2141 REPEAL: 2166, 2166.1, 2167, 2168, 2169, 2170, 2171, 2172, 2172.1, 2172.2, 2172.3, 2172.4, 2172.5, 2172.6, 2172.7, 2172.8, 2172.9, 2173, 2174

10/12/10 ADOPT: 1235.7 AMEND: 1200, 1235.1, 1235.2, 1235.4, 1256

08/12/10 ADOPT: 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630

07/29/10 REPEAL: 171.04

07/23/10 ADOPT: 126.00, 126.02, 126.04, 127.00, 127.02, 127.04, 127.06, 127.08, 127.10 AMEND: 125.00, 125.02, 125.12, 125.16, 125.18, 125.20, 125.22

07/16/10 AMEND: 2449, 2449.1, 2449.2

**Title 13, 17**

10/19/10 AMEND: Title 13: 2025, 2449, 2449.3, 2452, 2453, 2456, 2458, 2460, 2461, 2462 and Title 17: 93116.1, 93116.2, 93116.3

**Title 14**

12/03/10 AMEND: 29.80

11/22/10 AMEND: 1220

11/19/10 AMEND: 895.1, 914.7, 915.1, 916.9, 923.1, 923.2, 923.5, 934.7, 935.1, 936.9, 943.1, 943.2, 943.5, 954.7, 955.1, 956.9, 963.1, 963.2, 963.5, 1093.2, 1104.1

11/09/10 AMEND: 163, 164

10/27/10 AMEND: 18660.40

10/18/10 AMEND: 13800

10/11/10 ADOPT: 749.6

10/07/10 AMEND: 20030, 20040, 20050, 20060, 20070, 20080, 20090, 20100, 20110

10/05/10 AMEND: 125, 125.1

10/05/10 ADOPT: 700.3 AMEND: 105, 105.1, 106, 107, 110, 112, 116, 119, 120.2, 120.3, 102.6, 120.7, 122, 123, 124.1, 126, 147, 149.1, 150, 150.02, 150.03, 150.05, 180.3, 180.15, 700.4, 705

10/05/10 AMEND: 25231

09/21/10 AMEND: 502, 507

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09/21/10 AMEND: 787.1, 787.4, 787.5, 787.6  
 REPEAL: 787.2, 787.9  
 09/08/10 AMEND: 300  
 08/16/10 AMEND: 918, 938, 958  
 08/12/10 AMEND: 6550.5  
 08/11/10 AMEND: 895.1, 916.9, 936.9, 956.9,  
 923.9, 943.9, 963.9 REPEAL: 916.9.1,  
 936.9.1, 916.9.2, 936.9.2, 923.9.2,  
 943.9.2  
 07/20/10 AMEND: 670.5  
 07/19/10 AMEND: 632

**Title 15**

12/13/10 ADOPT: 3084.8, 3084.9, 3086 AMEND:  
 3000, 3084, 3084.1, 3084.2, 3084.3,  
 3084.4, 3084.5, 3084.6, 3084.7, 3137,  
 3173.1, 3179, 3193, 3220.4, 3482, 3630,  
 3723 REPEAL: 3085  
 11/22/10 ADOPT: 1747.1, 1749.1, 1750.1  
 AMEND: 1706, 1747, 1748, 1749, 1750,  
 1752, 1756, 1757, 1767  
 11/16/10 AMEND: 1730, 1778, 1790  
 10/14/10 ADOPT: 4168.7, 4171.5 AMEND: 4166,  
 4168, 4168.5, 4169, 4169.5, 4169.9,  
 4170.5, 4171, 4173, 4174, 4174.5, 4174.6  
 REPEAL: 4172  
 10/11/10 ADOPT: 3999.10  
 09/22/10 ADOPT: 3999.9  
 09/09/10 AMEND: 3605  
 08/19/10 ADOPT: 3268.3 AMEND: 3000, 3268,  
 3268.1, 3268.2  
 08/13/10 ADOPT: 3540, 3541, 3542, 3543, 3544,  
 3545, 3546, 3547, 3548, 3560, 3561,  
 3562, 3563, 3564, 3565  
 08/11/10 AMEND: 3350.2, 3352.2, 3356, 3358,  
 3390  
 08/05/10 REPEAL: 3999.3  
 08/05/10 REPEAL: 3999.4  
 08/05/10 REPEAL: 3999.5  
 08/04/10 ADOPT: 3042 AMEND: 3040, 3040.1,  
 3041, 3041.2, 3043, 3043.1, 3043.3,  
 3043.4, 3043.5, 3043.6, 3044, 3045,  
 3045.1, 3045.2, 3045.3 REPEAL: 3040.2  
 07/30/10 ADOPT: 3349.1.1, 3349.1.2, 3349.1.3,  
 3349.1.4, 3349.2.1, 3349.2.2, 3349.2.3,  
 3349.2.4, 3349.3, 3349.3.1, 3349.3.2,  
 3349.3.3, 3349.3.4, 3349.3.5, 3349.3.6,  
 3349.3.7, 3349.4.1, 3349.4.2, 3349.4.3,  
 3349.4.4, 3349.4.5, 3349.4.6 AMEND:  
 3349  
 07/27/10 REPEAL: 3999.2  
 07/22/10 ADOPT: 3768, 3768.1, 3768.2, 3768.3  
 REPEAL: 3999.6

**Title 16**

12/15/10 ADOPT: 321.1

12/14/10 AMEND: 1018  
 12/09/10 ADOPT: 1571  
 11/24/10 AMEND: 1417  
 11/23/10 AMEND: 144  
 11/18/10 AMEND: 811  
 11/17/10 ADOPT: 1707.5  
 11/08/10 AMEND: 1974, 1996.1  
 10/18/10 AMEND: 3394.3, 3394.4, 3394.6  
 10/12/10 AMEND: 1399.501, 1399. 511,  
 1399.520, 1399.525, 1399.526,  
 1399.527, 1399.545, 1399.550,  
 1399.556, 1399.573, 1399.612  
 REPEAL: 1399.508  
 09/30/10 AMEND: 4200, 4202, 4204, 4206, 4208,  
 4210, 4212, 4214, 4216, 4218, 4220,  
 4226, 4228, 4230, 4234, 4236, 4240,  
 4242, 4244, 4246, 4248, 4250, 4252,  
 4254, 4258, 4264  
 09/29/10 AMEND: 109(b)(2), 109(b)(7),  
 117(e)(2), 121(a)(2)  
 09/23/10 AMEND: 1391.1  
 09/23/10 ADOPT: 1399.419.1, 1399.419.2  
 09/22/10 ADOPT: 39, 40, 41, 42, 43, 44, 45, 46, 48,  
 48.1, 48.2, 48.3, 48.5, 48.6  
 09/21/10 ADOPT: 1426.1, 1430, 1431 AMEND:  
 1420, 1421, 1422, 1423, 1424, 1425,  
 1425.1, 1426, 1427, 1428, 1428.6, 1429,  
 1430 (renumbered to 1432)  
 08/25/10 AMEND: 427.10, 427.30  
 08/18/10 AMEND: 1721, 1723.1  
 08/12/10 AMEND: 2537, 2590  
 07/30/10 ADOPT: 3394.7 AMEND: 3394.1,  
 3394.4, 3394.5, 3394.6  
 07/21/10 REPEAL: 1569  
 07/21/10 ADOPT: 2262.1 AMEND: 2262, 2276

**Title 17**

11/10/10 AMEND: 50300  
 11/09/10 AMEND: 30253, 30255, 30256  
 10/20/10 ADOPT: 95380, 95381, 95382, 95383,  
 95384, 95385, 95386, 95387, 95388,  
 95389, 95390, 95391, 95392, 95393,  
 95394, 95395, 95396, 95397, 95398  
 10/13/10 AMEND: 30100, 30195 REPEAL:  
 30321, 30321.1, 30322  
 09/20/10 AMEND: 94508, 94509, 94510, 94511,  
 94512, 94513, 94515  
 09/09/10 AMEND: 94801, 94804, 94805, 94806  
 09/02/10 AMEND: 94700, 94701  
 08/30/10 ADOPT: 95550  
 08/26/10 AMEND: 60201, 60203, 60207, 60210,  
 70300, 70301, 70302, 70303, 70303.1,  
 70303.5, 70304, 70305, 70306

**Title 18**

10/18/10 AMEND: 1020 REPEAL: 471

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08/26/10	AMEND: 1598	97320.11,	97320.13,	97320.15,
07/19/10	ADOPT: 1698.5	97320.17,	97320.19,	97320.21,
<b>Title 20</b>		97320.23,	97320.25,	97320.27,
09/01/10	AMEND: 1601, 1602, 1604, 1605.3, 1606, 1607	97320.29, 97320.31, 97321.1, 97321.3, 97321.5, 97321.7, 97321.11, 97321.13, 97321.15, 97321.17, 97321.19, 97321.21, 97321.23, 97321.25, 97321.27, 97321.29, 97321.31, 97321.33, 97321.35, 97321.37, 97321.39, 97321.41, 97321.43, 97321.45, 97321.47, 97321.49, 97321.51, 97321.53, 97321.55, 97321.57, 97321.59, 97321.61, 97321.63, 97321.65, 97321.67, 97321.69, 97321.71, 97321.73, 97321.75, 97321.77, 97321.79, 97321.81, 97321.83, 97321.85, 97321.87, 97321.89, 97321.91, 97321.93, 97321.95, 97321.97, 97321.98, 97321.99, 97321.101, 97321.103, 97321.105, 97321.107, 97321.109, 97321.111, 97321.113, 97321.115, 97321.117, 97321.119, 97321.121, 97321.123, 97321.125, 97321.127, 97321.129, 97321.131, 97321.133, 97321.135, 97321.137, 97321.139, 97321.141, 97321.143, 97321.145, 97321.147, 97321.149, 97322.1, 97322.3, 97322.5, 97322.7, 97322.9, 97322.11, 97322.13, 97322.15, 97323.1, 97323.3, 97323.5, 97323.7, 97323.9, 97323.11, 97323.13, 97323.15, 97324.1, 97324.3, 97324.5, 97324.7, 97324.9, 97324.11, 97324.13, 97324.15, 97324.17, 97324.19, 97324.21, 97324.23, 97324.25, 97324.27, 97324.29, 97324.31, 97324.33, 97324.35, 97324.37, 97324.39, 97324.41, 97324.43, 97324.45, 97324.47, 97324.49, 97324.51, 97324.53, 97324.55, 97324.57, 97324.59, 97324.61, 97324.63, 97324.65, 97324.67, 97324.69, 97324.71, 97324.73, 97324.75, 97324.77, 97325.1, 97325.3, 97325.5, 97325.7, 97325.9, 97326.1, 97326.3, 97326.5, 97326.7, 97326.9, 97326.11, 97326.13, 97326.15, 97331.1, 97331.3, 97331.5, 97331.7, 97332.1, 97333.1, 97333.3, 97333.5, 97333.7, 97333.9, 97333.11, 97333.13, 97333.15, 97333.17, 97333.19, 97333.21, 97333.23, 97335.1, 97335.3, 97341.1, 97341.3, 97341.5, 97341.7, 97342.1,		
<b>Title 21</b>				
09/30/10	AMEND: 7000			
<b>Title 22</b>				
12/15/10	AMEND: 100105			
11/10/10	AMEND: 51516.1			
10/26/10	AMEND: 97234, 97264, 97267			
10/06/10	AMEND: 100080			
10/06/10	AMEND: 100080			
08/23/10	AMEND: 926-3, 926-4, 926-5			
08/02/10	ADOPT: 119900			
07/26/10	REPEAL: 97300.1, 97300.3, 97300.5, 97300.7, 97300.9, 97300.11, 97300.13, 97300.15, 97300.17, 97300.19, 97300.21, 97300.23, 97300.25, 97300.27, 97300.29, 97300.31, 97300.33, 97300.35, 97300.37, 97300.39, 97300.41, 97300.43, 97300.45, 97300.47, 97300.49, 97300.51, 97300.53, 97300.55, 97300.57, 97300.59, 97300.61, 97300.63, 97300.65, 97300.67, 97300.69, 97300.71, 97300.73, 97300.75, 97300.77, 97300.79, 97300.81, 97300.83, 97300.85, 97300.87, 97300.89, 97300.91, 97300.93, 97300.95, 97300.97, 97300.99, 97300.103, 97300.105, 97300.107, 97300.109, 97300.111, 97300.113, 97300.115, 97300.117, 97300.119, 97300.121, 97300.123, 97300.125, 97300.127, 97300.129, 97300.131, 97300.133, 97300.135, 97300.137, 97300.139, 97300.141, 97300.143, 97300.145, 97300.147, 97300.149, 97300.151, 97300.153, 97300.155, 97300.157, 97300.159, 97300.161, 97300.163, 97300.165, 97300.167, 97300.169, 97300.171, 97300.173, 97300.175, 97300.177, 97300.179, 97300.181, 97300.183, 97300.185, 97300.187, 97300.189, 97300.191, 97300.193, 97300.195, 97300.197, 97300.199, 97300.203, 97300.205, 97300.207, 97300.209, 97300.211, 97300.213, 97300.215, 97300.217, 97300.219, 97300.221, 97300.223, 97300.225, 97300.227, 97300.229, 97300.231, 97320.1, 97320.3, 97320.5, 97320.7, 97320.9,			



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97324.1, 97343.3, 97343.5, 97343.7,  
97343.9, 97343.11, 97343.13, 97345.1,  
97345.3, 97350.1, 97350.3, 97350.5,  
97350.7, 97350.9, 97352.1, 97352.3,  
97352.5, 97352.7, 97352.9, 97352.11,  
97353.1, 97353.3, 97353.5, 97353.7,  
97353.9, 97353.11, 97353.13, 97353.15,  
97354.1, 97354.3, 97354.5, 97361.1,  
97361.3, 97361.5, 97362.1, 97363.1,  
97363.3, 97363.5, 97363.7, 97363.9,  
97363.11, 97364.1, 97364.3, 97364.5,  
97364.7, 97364.9, 97365.1, 97365.3,  
97370.1, 97370.3, 97370.5, 97370.7,  
97372.1, 97372.3, 97372.5, 97372.7,  
97372.9, 97373.1, 97373.3, 97373.5,  
97373.7, 97374.1, 97381.1, 97381.3,  
97381.5, 97381.7, 97381.9, 97381.11,  
97382.1, 97383.1, 97383.3, 97383.5,  
97383.7, 97383.9, 97383.11, 97383.13,  
97383.15, 97383.17, 97383.19, 97384.1,  
97384.3, 97384.5, 97384.7, 97385.1,  
97385.3, 97385.5, 97390.1, 97390.3,  
97391.1, 97392.1, 97392.3, 97392.5,  
97392.7, 97392.9, 97392.11, 97392.13,  
97394.1, 97395.1, 97395.3, 97401.1,  
97401.3, 97401.5, 97402.1, 97403.1,  
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97404.7, 97404.9, 97405.1, 97405.3,  
97411.1, 97411.3, 97411.5, 97411.7,  
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97413.11, 97414.1, 97414.3, 97416.1,  
97416.3, 97416.5, 97416.7, 97416.9,  
97416.11, 97417.1, 97418.1, 97420.1,  
97420.3, 97420.5, 97421.1, 97425.1,  
97425.3, 97425.5, 97425.7, 97425.9,  
97426.1, 97426.3, 97426.5, 97426.7,  
97426.9, 97426.11, 97431.1, 97431.3,  
97431.5, 97432.1, 97433.1, 97433.3,  
97434.1, 97434.3, 97434.5, 97434.7,  
97434.9  
07/23/10 AMEND: 66261.3, 66261.4, 66268.1,  
66268.7, 66268.9, 66268.124  
07/22/10 ADOPT: 52000, 52100, 52101, 52102,  
52103, 52104, 52500, 52501, 52502,  
52503, 52504, 52505, 52506, 52508,  
52509, 52510, 52511, 52512, 52513,  
52514, 52515, 52516, 52600  
07/21/10 AMEND: 97232  
**Title 22, MPP**  
10/11/10 AMEND: 88030  
09/03/10 ADOPT: 84067 AMEND: 83064, 84001,  
84076, 84079, 84087.2, 84088, 84090,  
86065, 88065, 89405  
**Title 23**  
12/15/10 AMEND: 3943  
12/07/10 ADOPT: 3909 AMEND: 3900  
11/18/10 AMEND: 2200, 2200.3, 2200.4, 2200.6  
11/17/10 AMEND: 1062, 1064, 1066, 3833.1  
11/4/20 ADOPT: 3929.5  
09/27/10 ADOPT: 2922  
09/22/10 ADOPT: 2921  
09/15/10 ADOPT: 3929.4  
07/19/10 ADOPT: 6932 REPEAL: 6932  
**Title 25**  
07/19/10 ADOPT: 6932 REPEAL: 6932  
**Title 27**  
11/18/10 AMEND: 25805  
**Title MPP**  
09/03/10 ADOPT: 31-021 AMEND: 31-003,  
31-410, 31-501  
08/26/10 AMEND: 40-188  
08/26/10 AMEND: 44-211  
08/26/10 ADOPT: 91-101, 91-110, 91-120,  
91-130, 91-140