



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. CALIFORNIA SEA URCHIN
COMMISSION**

NOTICE IS HEREBY GIVEN that the California Sea Urchin Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code proposes to adopt its Conflict-of-Interest Code. The purpose of the code is to implement the requirements of Government Code sections 87300 through 87302, and 87306.

CONFLICT OF INTEREST CODES

ADOPTION

STATE: **California Sea Urchin Commission**

A written comment period has been established commencing on **May 4, 2007**, and closing on **June 18, 2007**. Written comments should be directed to the California Sea Urchin Commission, Attention **Katie Koning**, 1621B 13th Street, Sacramento, CA 95814.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **June 18, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Katie Koning**, California Sea Urchin Commission, 1621B 13th Street, Sacramento, CA 95814, telephone number (916) 444-8194.

AVAILABILITY OF PROPOSED CONFLICT
OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission office. Requests for copies from the Commission should be made to **Katie Koning**, California Sea Urchin Commission, 1621B 13th Street, Sacramento, CA 95814, telephone number (916) 444-8194.

**TITLE 4. CALIFORNIA HORSE
RACING BOARD**

TITLE 4, CALIFORNIA CODE OF
REGULATIONS

NOTICE OF PROPOSAL TO AMEND
RULE 1849. NERVING
AND
PROPOSAL TO REPEAL
RULE 1850. POSTERIOR
DIGITAL NEURECTOMY
AND
RULE 1851. LIST OF NERVED HORSES

The California Horse Racing Board (Board) proposes to amend Rule 1849, Nerving, and repeal Rule 1850, Posterior Digital Neurectomy and Rule 1851, List of Nerved Horses, after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1849, Nerving, and to repeal Rule 1850, Posterior Digital Neurectomy, and Rule 1851, List of Nerved Horses. The proposed action would ban “nerved” horses from the grounds of the racing association; from entry in a race; or from being sold or offered for sale on the grounds of a facility under the jurisdiction of the Board. The proposed action would also repeal Rules 1850 and 1851.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, June 19, 2007**, or as soon after that as business before the Board will permit, at the **Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons

making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on June 18, 2007**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
Fax: (916) 263-6042
E-Mail: harolda@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440 and 19580, Business and Professions (B&P) Code. Reference: Section 19580, B&P Code.

B&P Code Sections 19420, 19440 and 19580 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific B&P Code Section 19580.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

B&P Code Section 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, and over all persons or things having to do with the operation of such meetings, is vested in the Board. B&P Section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. B&P Code Section 19580 states the Board shall adopt regulations to establish policies, guidelines and penalties relating to equine medication to preserve and enhance the integrity of horse racing in California. A posterior digital neurectomy, commonly known “heel nerving,” is a procedure where the posterior digital nerves of a horse’s hoof are transected with a scalpel, laser or other means to desensitize the posterior portion of the foot. In racehorses the procedure is primarily used for wing fractures of the coffin bone, navicular disease and other

chronic conditions of the foot. A horse that has undergone a posterior digital neurectomy can feel its foot; it just cannot feel the heel of its foot. If the horse puts pressure on its foot it can feel where it is, or where it is running, and so it does not cause the horse to lose stability and that is why heel nerved horses are now permitted to run in California. However, the procedure is currently not common among California racehorses due to improved diagnostics, medications and therapeutic shoeing. A recent informal survey of the Santa Anita race meeting revealed only two horses on the list of nerved horses (This list is a requirement of Rule 1851). Because the therapeutic value of posterior digital neurectomy is not vital to horse racing, and so few horses currently racing have undergone the procedure, the Board has determined that heel nerved horses should no longer be allowed to run in California. This necessitates the amendment of Rule 1849, and the repeal of Rule 1850 and 1851.

DISCLOSURE REGARDING
THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

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

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

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

The Board has made an initial determination that the proposed amendment of Rule 1849, and the repeal of Rule 1850 and 1851 will not have a significant, state-wide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

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

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1849 and the repeal of Rule 1850 and Rule 1851 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1849 and the repeal of Rule 1850 and 1851 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSON

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

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

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

Jacqueline Wagner, Manager
Policy and Regulation Unit
Telephone: (916) 263-6041

AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATION

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

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in

this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS

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

BOARD WEB ACCESS

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

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

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

PUBLIC MEETING: On **June 21, 2007**, at 10:00 a.m.
in the Auditorium of the Harris
State Building
1515 Clay Street, Oakland,
California 94612-1499.

At the Public Meeting, the Board will make time available to receive comments or proposals from inter-

ested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **June 21, 2007**, following the Public Meeting
in the Auditorium of the
Harris State Building
1515 Clay Street, Oakland,
California 94612-1499.

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

BUSINESS MEETING: On **June 21, 2007**, following the Public Hearing
in the Auditorium of the
Harris State Building
1515 Clay Street, Oakland,
California 94612-1499.

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

DISABILITY ACCOMMODATION NOTICE

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

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

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

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4

and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Agricultural Safety Orders, Construction Safety Orders, General Industry Safety Orders, and Ship Building, Ship Repairing, and Ship Breaking Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **June 21, 2007**.

1. **TITLE 8: AGRICULTURAL SAFETY ORDERS**
Chapter 4, Subchapter 7 to New Subchapter 3
New Articles 1 through 10
Relocation of Agricultural Safety Orders
2. **TITLE 8: CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 28
Section 1704
Pneumatically-Driven Nailers and Staplers

Descriptions of the proposed changes are as follows:

1. **TITLE 8: AGRICULTURAL SAFETY ORDERS**
Chapter 4, Subchapter 7 to New Subchapter 3
New Articles 1 through 10
Relocation of Agricultural Safety Orders

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

BACKGROUND

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as a result of the implementation of the Title 8 Reform Project. The Reform Project was first considered in response to Executive Orders W-127-95 and W-131-96. The Executive Orders directed all state agencies to review their standards and, where possible, repeal unnecessary standards, consolidate duplicative standards, and amend existing state standards to minimize the negative impact on California business and the economy. As a result and as part of the 1997 Budget Act that the Legislature approved and the Governor signed, the Board was given authority to proceed with Title 8 Reform. Numerous advisory committee meetings were convened to consider

the need for and scope of reform. During the advisory committee meetings, a consensus was reached that:

- 1) There was a need to better organize the safety orders in Title 8, Chapter 4, to make the different occupational safety and health requirements easier to locate.
- 2) Any Title 8, Chapter 4, reform activities must be limited to non-substantive revisions only.
- 3) The reform of Title 8, Chapter 4, should include a review and possible reform of all the subchapters in Chapter 4, not just Subchapter 7.
- 4) The reform of Title 8, Chapter 4, would consist of eight reform elements as described in Attachment No. 4.

This rulemaking is the second of several rulemaking packages that would be developed to implement the Title 8 Reform Project.

Reform Element 1, Parts 1 and 2.

Reform Element No. 1, Part 1, has been completed and included relocating 14 existing sections titled "Compressed Air Safety Orders" and its two Appendices, originally located in Subchapter 3, into the General Industry Safety Orders (GISO) in Group 26. The present rulemaking, Reform Element No. 1, Part 2, includes identifying all safety orders specific to the agricultural industry and relocating these standards into Subchapter 3, to be titled "Agricultural Safety Orders (AgSO)." A separate subchapter containing all agricultural related safety orders would provide one of California's largest and most hazardous industries with an industry-specific subchapter that contains safety orders unique to agricultural operations. This reform element would relocate approximately 35 existing sections from other subchapters into Subchapter 3. Both Parts 1 and 2 of Reform Element 1 are limited to non-substantive revisions only.

Therefore, the goal of the Title 8 Reform Project is to enhance the organization of Chapter 4, Title 8, CCR, by making the safety orders easier to find, more user friendly, and understandable; thereby, increasing both employer and employee awareness, understanding, and compliance with the safety orders affecting their workplace.

PROPOSED ACTION

As part of the implementation of the Title 8 Reform Project, Reform Element No. 1, Part 2, the proposed rulemaking would transfer the agricultural-industry-specific safety orders from existing Subchapter 7, GISO, to new Subchapter 3, titled "Agricultural Safety Orders," in new Articles 1 through 10, thereby improving the organization of Title 8, Chapter 4.

The intent of this proposal is to make the Agricultural Safety Orders (AgSO's) easier to locate and understand

by placing the sections that relate to the agricultural industry in a more logical order and location within new Subchapter 3.

This rulemaking action proposes to transfer in its entirety all the AgSO's from Subchapter 7 of the GISO's into new Subchapter 3, renamed Agricultural Safety Orders. The proposed rulemaking consists only of non-substantive, editorial, reformatting, and renumbering of articles, sections, subsections, and grammatical revisions associated with the transfer of all the AgSO's from Subchapter 7 into new Subchapter 3, as new Articles 1 through 10 of the AgSO's. These non-substantive revisions are not all discussed in this informative digest, but are clearly indicated in the regulatory text in underline and strikeout format. Additionally, any additional non-substantive revisions to the language currently contained in Subchapter 7, GISO, are shown highlighted.

It is noted that because the proposed transfer of the AgSO's is non-substantive, these proposed revisions are considered changes without regulatory effect and could be accomplished using the Title 1, Division 1, Section 100 rulemaking process. However, because of the large number of safety orders proposed to be transferred, this proposal will utilize the standard rulemaking process pursuant to the Administrative Procedure Act and Title 1 of the California Code of Regulations.

Reform Element 1, Part 2 — Subchapter 7, General Industry Safety Orders.

As indicated in Section 3202, Subchapter 7, contains safety orders that are intended to apply to all places of employment in California as defined by Labor Code Section 6303, unless the Board adopts safety orders applying to certain industries, occupations or employments, in which like conditions and hazards exist. Those orders would take precedence whenever they are inconsistent with the GISO's. Currently, the agricultural-industry-specific safety orders are found throughout Subchapter 7 and are located among thousands of other safety orders that do not apply to agricultural operations, thereby making the specific requirements regarding agricultural operations difficult to locate.

The AgSO's proposed to be transferred from Subchapter 7 to Subchapter 3 include all sections in existing Article 13, Agricultural Operations. Additionally, the proposal would transfer certain specific agricultural requirements from existing Article 27, Transportation of Employees and Materials.

This entire rulemaking proposal will have no regulatory effect upon the regulated public because the agricultural safety orders are proposed for transfer in their entirety, with non-substantial revisions for clarity, into new Articles 1 through 10, in Subchapter 3, AgSO. Therefore, this proposal would improve the accessibility of the agricultural standards by making the AgSO's

easier to locate within Title 8; thereby, increasing both employer and employee awareness, understanding, and compliance with agricultural safety orders affecting their workplace.

New Subchapter 3. Agricultural Safety Orders, New Articles 1 through 10.

This rulemaking proposal would transfer all sections containing agricultural specific safety orders and related definitions currently contained in the GISO's in Subchapter 7, into new Articles 1 through 10 of new Subchapter 3, Agricultural Safety Orders.

Proposed Sections 1151, 1165, 1170, 1200, 1201, 1202, 1203, 1204, 1205, 1210, 1211, 1213, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1225, 1230, 1235, 1250, 1255, 1270, 1275, and 1280 are transferred sections that are essentially verbatim with no substantive revisions. These sections are proposed for transfer from existing Sections 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3444, 3445, 3446, 3447, 3448, 3450, 3451, 3452, 3453, 3454, 3455, 3456, 3457, 3458, and portions of existing Sections 3700, 3701, and 3702.

In addition, proposed Sections 1160, 1260, and 1285 include standards that would apply directly to agricultural operations. These provisions are currently contained in the general industry and construction safety orders as they also pertain to the general and construction industries. However, these proposed sections contain no new requirements, as the agricultural industry is already required to comply with these provisions. Proposed Sections 1150 and 1240 include standards that the agricultural industry is already required to comply with.

New Article 1. Introduction.

This proposal transfers portions of the provisions of existing Sections 3207, 3436, 3437, 3457, and 3700 into new Article 1, titled "Introduction," which would contain new Sections 1150 and 1151.

New Section 1150. Scope and Application.

Existing Section 3436, titled "Application" is proposed for transfer to new Section 1150, titled "Scope and Application."

The proposed editorial revision to the title of new Section 1150 would clarify this section's content by including the scope of this standard.

Existing Section 3436 contains a description of the type of operations subject to the safety orders in existing Article 13, Agricultural Operations.

The proposed amendments new Section 1150 editorially revise the original wording from "The orders in this article . . ." (indicating all safety orders in existing Article 13) to "The orders in this subchapter . . ." (indicating all safety orders in Subchapter 3).

This editorial revision limits the scope and application of the relocated AgSO's to the safety orders in new

Subchapter 3, AgSO's. Additionally, there are proposed editorial changes to the current language of existing Section 3436 initiated as part of the implementation of Title 8 Reform Element No. 3 to be promulgated to provide clear introductions to each subchapter in Chapter 4.

In addition, it is proposed to include the phrase "(The orders. . .) establish minimum occupational safety and health standards and . . ." to be consistent with similar scope statements in Chapter 4. Additionally, the proposal deletes the existing language "Agricultural machinery and equipment are subject to all applicable Safety Orders except where they are inconsistent with the orders in this article." This language is proposed to be replaced with the language "Operations, conditions, machinery and equipment not specifically covered by the safety orders in this subchapter are subject to all applicable orders contained in Chapter 4."

This revision clearly indicates that the sections in new Subchapter 3 contain safety orders specific to agricultural operations, as identified by the new subchapter's title, and would also aid locating these requirements when using the table of contents.

New Section 1151. Definitions.

This proposal relocates all definitions specific to the agricultural safety orders currently in existing Section 3437 of the GISO into proposed new Section 1151, titled "Definitions." Proposed titled Section 1151 contains all definitions specific to new Subchapter 3 including all definitions currently in existing Section 3437, selected definitions from existing Section 3457, and definitions consistent with language in existing Sections 3700, 3649 and 3207 for Farm Labor Vehicle, Agricultural Tractor and Qualified Person, respectively.

As noted in the proposed text, this proposal transfers all definitions currently in existing Section 3437 to proposed Section 1151. These definitions include Agricultural Equipment, Agricultural Operations, Frond, Ground Driven Components, Guard or Shield, Guarded by Location, Long-Handled Hand Tool, Nip Point, Power Take-Off (PTO) Drivelines, Power Take-Off (PTO) Shaft, Self-Propelled Agricultural Equipment, and Short-Handled Hand Tool.

This proposal also transfers specific definitions from existing Section 3457(b) to proposed Section 1151. These definitions include Agricultural Employer, Agricultural Establishment, Hand-Labor Operations, Handwashing Facility, Potable Water, and Toilet Facility.

In addition, this proposal transfers the definition of "Farm Labor Vehicle" from existing Section 3700 to proposed Section 1151.

Finally, this proposal includes definitions from existing Sections 3649 and 3207. These definitions include Agricultural Tractor and Qualified Person, respectively. These definitions apply to general industry and are also included in new Subchapter 3 because they are definitions that pertain to the agricultural industry, too.

This proposal creates a definition section at the beginning of new Subchapter 3 which would contain all definitions specific to the agricultural industry in new Subchapter 3. This proposal would aid in locating the appropriate definitions, ensures clarity of regulatory language, and improves understanding of the safety orders.

New Article 2. General Requirements.

This proposal transfers portions of the provisions of existing Section 3203 and the provisions of existing Sections 3438 and 3439 into new Article 2, titled "General Requirements," which would contain new Sections 1160, 1165, and 1170, respectively.

New Section 1160. Injury and Illness Prevention Program.

Existing Section 3203 is proposed to be referenced in new Section 1160, titled "Injury and Illness Prevention Program." Proposed Section 1100 includes a reference to the existing requirements of Section 3203 that every employer must establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP).

This proposal would ensure clarity that the agricultural industry is subject to the IIPP requirements of the GISO's, and is consistent with references to Section 3203 in other industry-specific subchapters.

The proposed addition of the reference to the IIPP in new Section 1160 will have no regulatory effect on the regulated public, as agricultural employers are already required to comply with the existing requirements of Section 3203 of the GISO.

New Section 1165. Communications.

Existing Section 3438 is proposed for transfer to new Section 1165, titled "Communications." New Section 1165 contains requirements for employee safety instructions and warnings in the language they understand.

It is proposed to include the phrase ". . . the employer shall provide . . ." following the word "English" and to remove the unnecessary phrase ". . . shall be presented . . .," thereby, making this provision simpler and more direct.

These proposed editorial revisions will have no regulatory effect upon the regulated public as agricultural employers are already required to comply with the existing requirements of Section 3438.

New Section 1170. First-Aid and Medical Response.

Existing Section 3439, titled “First-Aid Kit,” is proposed for transfer to new Section 1170, titled “First-Aid and Medical Response.” New Section 1170 contains first-aid and medical response requirements.

Amendments are proposed to the title of existing Section 3439 to delete the term “Kit,” and to add the phrase “and Medical Response.” These proposed amendments to the title of existing Section 3439 better reflect the content of proposed Section 1170, and would be consistent with the Title 8 Reform Element No. 6 to be promulgated to correct inaccurate titles of various sections.

Additionally, this proposal amends the organizational format of existing Section 3439(b) and includes editorial revisions that better describe the original intent of the existing standard.

New Article 3. Field Sanitation Requirements.

This proposal transfers portions of the provisions of existing Section 3457 into new Article 3, titled “Field Sanitation Requirements,” which would contain new Sections 1200 through 1205.

Proposed Article 3 would contain the field sanitation requirements for employees working in agricultural operations and would present these requirements in a reformatted and clearer fashion.

New Section 1200. Scope and Application for Field Sanitation.

The scope of the field sanitation requirements in existing Section 3457(a) are proposed to be transferred into new Section 1200(a), and the application of the field sanitation standard indicated in existing Section 3457(c) is proposed to be transferred into new Section 1200(b) and (c). There are non-substantive revisions in wording engendered by the placement of these provisions in new Article 3.

This proposal transfers portions of the requirements of existing Section 3457(c) that currently reference existing Sections 3360–3368 for all agricultural operations not involving hand-labor operations into proposed Section 1200(b), deletes the term “Requirements,” as this word is unnecessary and amends this standard by including the phrase “in the General Industry Safety Orders,” to clarify that Sections 3360–3368 are contained in these orders.

In addition, it is proposed to transfer the existing requirement that “all other agricultural operations shall meet the following requirements,” currently contained in existing Section 3457(c) into proposed Section 1200(c) and to amend a phrase by referencing the field sanitation requirements in proposed Sections 1200 through 1205.

New Section 1201. Potable Drinking Water Requirements for Field Sanitation.

Existing Section 3457(c)(1) is proposed to be transferred in its entirety into new Section 1201. As reflected in its proposed title, new Section 1201 contains drinking water requirements for field sanitation for specified agricultural operations.

The proposed editorial revisions to the title of new Section 1201, noted in the text, would clarify this section’s content.

New Section 1202. Toilet and Handwashing Facility Requirements for Field Sanitation.

Existing Section 3457(c)(2), titled “Toilet and handwashing facilities,” is proposed to be transferred its entirety into new Section 1202. As reflected in its proposed title, new Section 1202 contains toilet and handwashing facility requirements for specified agricultural operations.

These proposed editorial revisions to the title of new Section 1202 would clarify this section’s content.

New Section 1203. Maintenance of Field Sanitation Facilities.

Existing Section 3457(c)(3), titled “Maintenance standards,” is proposed to be transferred in its entirety into new Section 1203. As reflected in its proposed title, new Section 1203 contains maintenance requirements of field sanitation facilities for specified agricultural operations.

These proposed editorial revisions to the title of new Section 1203 would clarify this section’s content.

New Section 1204. Reasonable Use of Field Sanitation Facilities.

Existing Section 3457(c)(4), titled “Reasonable use,” is proposed to be transferred in its entirety into new Section 1204. As reflected in its proposed title, new Section 1204 contains requirements for the employer to provide the employee reasonable use of field sanitation facilities during specified agricultural operations.

These proposed editorial revisions to the title of new Section 1204, as noted in the text, would clarify this section’s content.

New Section 1205. Reporting Requirements for Field Sanitation.

Existing Section 3457(d), titled “Required Reports,” is proposed to be transferred in its entirety into new Section 1205. As reflected in its proposed title, new Section 1205 contains reporting requirements for employers subject to field sanitation standards.

These proposed editorial revisions to the title of new Section 1205 would clarify this section’s content.

As noted in the proposed text, this proposal amends the original wording in proposed Section 1205 from “. . . this Section shall provide . . .” to “. . . this Article shall provide . . .,” to reflect that the safety orders in ex-

isting Section 3457 are proposed for transfer to a new Article 3. Additionally, this proposal amends the original wording in existing Section 3457(d), proposed Section 1205, from “. . . the requirement of this subsection . . .” to “. . . the requirement of this section . . .,” to reflect that the existing safety orders in Section 3457(d) are proposed for transfer to new Section 1205.

New Article 4. Employee Transportation Safety Requirements.

This proposal transfers portions of the provisions of existing Sections 3701 and 3702 into new Article 4, titled “Employee Transportation Safety Requirements,” which would contain new Sections 1210 and 1211.

New Section 1210. Seatbelt Requirements for Farm Labor Vehicles.

Existing Section 3702(h) is proposed to be transferred in its entirety into new Section 1210. As reflected in its proposed title, new Section 1210 contains seatbelt requirements for farm labor vehicles.

The proposed title of new Section 1210 would clarify this section’s content.

New Section 1211. Vehicle Operating Requirements.

The proposed title of new Section 1211 would clarify this section’s content. The descriptive title language is proposed to be included to aid in locating these requirements when using the table of contents. Existing Section 3701(a) is proposed to be transferred in its entirety into new Section 1211.

As reflected in its proposed title, new Section 1211 contains requirements for the operation of farm labor vehicles. This section mandates persons operating a farm labor truck or a farm labor bus to possess a valid school bus driver’s certificate or the appropriate class driver’s license and a certificate issued by the Department of Motor Vehicles to permit the operation of farm labor vehicles.

This proposal also includes a reference in proposed subsection (b) to Article 27 of the GISO’s which contains requirements for transporting employee. This proposed reference aids in identifying additional existing requirements, associated with the transportation of employees, to which agricultural operations, defined in proposed Section 1151, may be subject to.

New Article 5. Tool Safety Requirements.

This proposal transfers the provisions of existing Section 3456 into new Article 5, titled “Tool Safety Requirements,” which would contain new Section 1213.

New Section 1213. Hand–Held Tools.

Existing Section 3456 is proposed to be transferred in its entirety into new Section 1213, titled “Hand–Held Tools.”

References to other provisions are fine–tuned for clarity and for conformance with the overall reorganization plan that this proposal implements.

New Article 6. Equipment Safety Requirements.

This proposal transfers the provisions of existing Section 3440, portions of existing Section 3441(c) through (h), Sections 3444, 3445, 3446, 3447, and 3453, into new Article 6, titled “Equipment Safety Requirements,” which would contain new Sections 1215, 1216, 1217, 1218, 1219, 1220, and 1221, respectively.

New Section 1215. Agricultural Equipment.

Existing Section 3440 is proposed to be transferred in its entirety into new Section 1215(a) through (h), titled “Agricultural Equipment.”

It is proposed in subsection (a) to reference other safety requirements regarding agricultural tractors in Article 25 of the General Industry Safety Orders.

This proposal will aid the employer in locating the agricultural tractor requirements contained in the referenced article.

It is proposed in subsection (g) to amend the existing language from “. . . in this article . . .” to “. . . in this subchapter . . .,” to reflect that the agricultural safety orders in existing Article 13, titled “Agricultural Operations,” are proposed for transfer into new Subchapter 3, titled “Agricultural Safety Orders.”

Additionally, existing Section 3441(c), (d), (e), (f), (g), and (h) which contains specific agricultural equipment requirements are proposed to be transferred in its entirety into new Section 1215(i) through (n).

This proposal organizes specific requirements to which agricultural equipment is subject to in one article, and in separate sections solely containing such requirements.

It is proposed to include two “NOTES” in proposed Section 1215. The proposed “NOTE 1.” referencing the standards for tractors in Article 25 of the GISO makes the employer aware that additional tractor requirements exist in the GISO that apply to tractors used in agricultural operations. The proposed “NOTE 2.” referencing standards for orchard man–lifts in Section 3641 of the GISO makes the employer aware that specific requirements exist in the GISO that apply to orchard man–lifts.

These proposed “NOTES” are informational only and, therefore, will have no regulatory effect.

New Section 1216. Horizontal Rotary Spreaders; New Section 1217. Beet Trucks; New Section 1218, Choppers; New Section 1219. Conveyors and Elevators; and New Section 1220. Vegetable–Trimming Saws.

As noted in the proposed text, the specific equipment requirements in existing Sections 3442, 3444, 3445, 3446, and 3447 are proposed for transfer verbatim with

no proposed revisions to new Sections 1216, 1217, 1218, 1219, and 1220 of proposed Article 6.

New Section 1221. Applicator Rigs, Tanks, and Vessels Used for Fertilizer, Insecticide, Pesticide, and Other Chemical Solutions of a Hazardous Nature.

Existing Section 3453(a), (b), (c), (d), (e), (f), and (h) is proposed for transfer verbatim with no proposed revisions, except a minor editorial revision, into new Section 1221.

It is proposed in new Section 1221(b) to revise an incorrect chemical designation for anhydrous ammonia from “NH₃” to the correct designation of “NH₃.”

New Article 7. Equipment Operating Requirements.

This proposal transfers portions of the provisions of existing Section 3441 into new Article 7, titled “Equipment Operating Requirements,” which would contain new Section 1225.

New Section 1225. Operation of Agricultural Equipment.

Existing Section 3441(a) and (b) is proposed to be transferred into new Section 1225(a) and (b), titled “Operation of Agricultural Equipment.”

This proposal amends the referenced section number from “Section 3455 of this article” to “Section 1250” in the “NOTE” of proposed subsection (a). This proposal reflects that the referenced requirements currently in existing Section 3455 are proposed for transfer to new Section 1250 of the same subchapter as new Section 1225.

New Article 8. Restricted and Hazardous Material Safety Requirements.

This proposal transfers the provisions of existing Section 3450, Section 3451, and portions of Section 3453 into new Article 8, titled “Restricted and Hazardous Material Safety Requirements,” which would contain new Sections 1230, 1235, and 1240, respectively.

New Section 1230. Formulation and Application of Restricted Materials (Organophosphates and Carbamates, Toxicity Categories I and II).

Existing Section 3450 is proposed for transfer to new Section 1230, titled “Formulation and Application of Restricted Materials. (Organophosphates and Carbamates, Toxicity Categories I and II).” Proposed Section 1230 contains the mandate that medical requirements relating to the formulation and application of restricted materials must be as required by Title 3, Article 23 of the California Code of Regulations.

As noted in the proposed text, the reference of the title “California Administrative Code” is updated to read “California Code of Regulations” to reflect the current title.

New Section 1235. Decontamination of Equipment Used for Restricted Materials.

Existing Section 3451 is proposed for transfer verbatim with no revisions to new Section 1235, titled “Decontamination of Equipment Used for Restricted Materials.”

New Section 1240. Employee Decontamination Means Required for Aqua Ammonia Operations.

Existing Section 3453(g) is proposed for transfer to new Section 1240, with a new title “Employee Decontamination Means Required for Aqua Ammonia Operations.” Proposed Section 1240 contains eye wash requirements for operations where aqueous ammonia is used.

As noted in the proposed text, a section title is proposed to reflect the safety orders contained in proposed Section 1240. This proposal contains editorial revisions and format changes to clarify in proposed subsection (a), the original intent of this standard, that the employer is responsible to provide eyewash requirements for operations where aqueous ammonia is used in the event aqueous ammonia is spilled in the eyes of workers.

In addition, it is proposed in subsection (b) to reformat the existing language to specify the water supply requirements during aqua ammonia operations. This proposal would clarify the existing water supply requirements during aqua ammonia operations.

These eye wash requirements in proposed Section 1240 are proposed to be separated from the equipment requirements currently contained in existing Section 3453, in order to be consistent with the organization of proposed Subchapter 3.

New Article 9. Site Safety Requirements.

This proposal transfers the provisions of existing Sections 3455 and 3448 into new Article 9, titled “Site Safety Requirements,” which would contain new Sections 1250 and 1255. In addition, a new Section 1260 is proposed which would contain the existing requirements of confined space hazards contained in existing Sections 5156 and 5158.

New Section 1250. Overhead Electrical Hazards.

Existing Section 3455 is proposed to be transferred in its entirety into new Section 1250, titled “Overhead Electrical Hazards” with an editorial revision.

As stated in the “NOTE,” it is proposed to include the reference to “of the High-Voltage Electrical Safety Orders” to specifically identify the safety orders that pertain to clearance distances.

New Section 1255. Water Hazards.

Existing Section 3448 is proposed to be transferred in its entirety into new Section 1255, titled “Water Hazards” with the exception of proposing to delete the term “actual” as it is unnecessary.

New Section 1260. Confined Space Hazards.

This proposal includes new Section 1260, titled “Confined Space Hazards” that is consistent with the language of existing Section 5156 and references the confined space requirements of existing Section 5158.

As noted in the proposed text, this proposal contains a reference to the confined space requirements of existing Section 5158 for all agricultural operations as defined in new Section 1151. The proposed language in new Section 1260 is consistent with that of the scope, application, and definitions of existing Section 5156 which references existing Section 5158 for industries and operations including agricultural operations.

The proposed addition of the reference to existing Section 5158 would ensure clarity that the agricultural operations, as defined in new Section 1151, are subject to the confined space requirements of existing Section 5158 of the GISO.

This proposal will have no regulatory effect, as agricultural operations are currently required to comply with the existing requirements of Section 5158 of the GISO.

New Article 10. Operation Specific Safety Requirements.

This proposal transfers the provisions of existing Sections 3458, 3454, and 3452 into new Article 10, titled “Operation Specific Safety Requirements,” which would contain new Sections 1270, 1275 and 1280, respectively. In addition, a new Section 1285 is proposed which would contain the existing requirements of helicopter operations in existing Section 3710 of the GISO and existing Article 35 of the CSO.

New Section 1270. Date Palm Operations.

Existing Section 3458, titled “Fall Protection for Date Palm Operations,” is proposed to be transferred in its entirety into new Section 1270, with new title “Date Palm Operations.”

The proposed editorial revision to the title of new Section 1270 would provide a separate subsection titled “Fall Protection” that specifically identifies the fall protection requirements during date palm operations.

New Section 1275. Sheepshearing Operations.

Existing Section 3454, titled “Sheepshearing,” is proposed to be transferred in its entirety into new Section 1275, with new title “Sheepshearing Operations.”

The proposed editorial revision to the title of new Section 1270 would include the term “Operations” in the title of new Section 1275. This proposal would clarify the content of this section and is also consistent with the title of proposed Article 10, titled “Operation Specific Safety Requirements,” that contains specific safety requirements of various other agricultural operations.

New Section 1280. Aircraft Crop Dusting and Spraying Operations.

Existing Section 3452, titled “Aircraft Crop Dusting and Spraying,” is proposed to be transferred in its entirety into new Section 1280, with the new title, “Aircraft Crop Dusting and Spraying Operations.” As reflected in its new title, new Section 1280 contains the requirements for aircraft crop dusting and spraying operations that must comply with the safety requirements of Article 23 of Title 3.

The proposed editorial revision to the title of new Section 1280 would include the term “Operations” in the title of new Section 1280. This proposal would clarify the content of this section and is also consistent with the title of proposed Article 10, titled “Operation Specific Safety Requirements,” that contains specific safety requirements of various other agricultural operations.

In addition, an editorial amendment is proposed in new Section 1280 so that the reference to “California Administrative Code” is updated to read “California Code of Regulations” to reflect the current title.

New Section 1285. Helicopter Operations.

This proposal includes a reference to Article 35 of the CSO’s to make it clear that all agricultural operations utilizing helicopters in their operations must comply with the existing requirements of Article 35, titled “Helicopter Operations” of the CSO. The proposed language in new Section 1285 is also consistent with the language in existing Section 3710 of the GISO for general industry operations, including agricultural operations, to comply with existing Article 35 of the CSO.

This proposed reference to Article 35 of the CSO references an article to which employers responsible for helicopter operations are currently subject to, including agricultural employers. This proposed reference aids in identifying additional existing requirements associated with helicopter operations to which agricultural operations, as defined in proposed Section 1151, may be subject to.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

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

Impact on Housing Costs

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

Impact on Businesses

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

This proposal is non-substantive and is intended to enhance the format and order of the agriculture specific safety orders. Therefore, this rulemaking is proposed to provide a positive impact on California businesses by making the standards easier to locate and understand by the regulated public.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

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

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

These proposed standards do not require local agencies to carry out the governmental function of providing

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

These proposed standards do not impose unique requirements on local governments. All employers — state, local and private — will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses because the proposed revisions are non-substantive. The agricultural specific safety orders are proposed for transfer into Subchapter 3, with only editorial, reformatting, and renumbering of articles, sections, and subsections, and grammatical revisions associated with this proposed transfer.

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

- 2. **TITLE 8: CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 28
Section 1704
**Pneumatically-Driven Nailers
and Staplers**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This proposed rulemaking is the result of a petition (OSHSB Petition File No. 461) by Mr. Jim Muskovich, Safety Consultant, regarding the use of the term "unattended" in Construction Safety Orders (CSO) Section 1704(b) which currently reads:

“When not in use, or *unattended*, all pneumatically driven nailers and staplers shall be disconnected from the air supply at the tool.”

The Petitioner contended that “unattended” can be misinterpreted to mean that it is a violation for an employee to set the tool down for even a few moments in order to procure additional supplies, such as lumber or roofing materials.

The use of pneumatically-driven nailers has increased in recent years and accidents involving their use have risen correspondingly. Although engineering safeguards, including triggering control sequences, are already commonly available in the marketplace, accident statistics tend to indicate that human error, haste, lack of training, and lack of adherence to safe work practices are contributing to the number of injuries using these tools.

Section 1704 was last modified 1987 and much has changed in the industry since that time. Both the Division of Occupational Safety and Health (Division) and the Occupational Safety and Health Standards Board (Board) staff supported the petition and proposed a comprehensive overhaul of Section 1704. Concurrently the Division submitted a Form 9, Requests for New, or Change in Existing, Safety Orders, with suggested changes to the standard on August 30, 2004, supplemented on December 10, 2004.

On October 21, 2004, the Board granted the petition to the extent that an advisory committee be convened to review construction safety orders for pneumatically-driven nailers in light of current accident statistics, industry practices and technology. The consensus recommendations of the advisory committee convened June 7, 2006, have been considered in the preparation of this rulemaking proposal.

This proposed rulemaking action contains nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

Subsection 1704(a), Definitions.

The existing subsection prescribes that all pneumatically-driven nailers and staplers which operate at more than 100 psi pressure at the tool shall have a safety device to prevent accidental discharge unless the muzzle is in contact with the work surface. It is proposed to move this provision to subsection (b) in order to make room for certain definitions necessary for the proper application of proposed modifications to Section 1704; i.e., definitions for “light-duty nailers and staplers” and

“mode of actuation.” The effect of these proposed modifications would be to clarify the proposed standard to assure proper application and enforcement.

Subsection 1704(b), General.

The existing subsection prescribes that all pneumatically-driven nailers and staplers shall be disconnected from the air supply at the tool when not use or unattended. It is proposed to relocate this provision to subsection (c) in order to make room for the provisions of relocated subsection (a) as follows:

Subsection (b)(1).

Existing subsection (a) is proposed to be relocated to new subsection (b)(1). Furthermore, the existing 100 psi threshold which established a requirement for a work piece contact device is proposed to be replaced with an exception for light-duty nailers and staplers. This change was recommended by the advisory committee as the 100 psi threshold, also contained in counterpart federal standards [29 CFR 1926.503(b)(3)], is obsolete. The 100 psi threshold is subject to manipulation; i.e., operators in the field can set their tools to operate just below the 100 psi threshold in order to avoid the requirement. The proposed exception uses the defined term “light-duty nailers and staplers” which cannot easily be manipulated through subterfuge. The effect of this proposed modification would be to provide worker safety more effective than the federal standard by establishing clarifying applicability, consistent with current technology.

Subsection (b)(2).

This new subsection is proposed to prescribe that pneumatically-driven nailers and staplers shall be operated and maintained in accordance with the manufacturer’s operating and safety instructions. The effect of this amendment would be to establish criteria for the safe operation and maintenance of pneumatically-driven nailers and staplers.

Subsection (b)(3).

This new subsection is proposed to prescribe that personal protective equipment shall be utilized in accordance with CSO Section 1514. Although adherence to all applicable provisions of the safety orders is implicit, the effect of this cross-reference will be to add emphasis to this important safety practice.

Subsection (b)(4).

This new subsection is proposed to prescribe that operating controls shall not be removed, tampered with, altered, or otherwise disabled. The effect of this amendment would be to prohibit the common practice of disabling factory installed safety devices in the field (altering and/or removing trigger and/or work piece springs) in order to increase production.

Subsection (b)(5).

This new subsection is proposed to prescribe that pneumatically-driven nailers and staplers shall be connected to the air supply with a safety disconnect to prevent the tool from becoming accidentally disconnected. The effect of this amendment would be to prevent or minimize hazards created if the tools were to become disconnected from its air supply (e.g. operator thrown off balance, hose whip, tool sliding out of control off roof) and to provide equivalency with counterpart federal standards [29 CFR 1926.302(b)(1)].

Subsection (b)(6).

This new subsection is proposed to prescribe that tools shall be equipped with a fitting that will discharge all compressed air in the tool at the time the fitting or hose coupling is disconnected. The effect of this amendment would be to ensure there will be no residual pressure to accidentally discharge the nailer or stapler once it is disconnected from its air source.

Subsection (c).

The existing subsection (c) prescribes that hoses exceeding 1/2-inch inside diameter shall have a safety device at the source of supply or branch line to reduce pressure in case of hose failure. It is proposed to relocate this provision to subsection (e) in order to accommodate amendments and reformatting of the foregoing sections.

Existing subsection (b) is proposed to be relocated to subsection (c) and modified to prescribe specific conditions under which the tool shall be disconnected from its air supply. They are: (1) when performing any maintenance or repair on the tool, (2) when clearing a jam, (3) whenever the operator leaves the working level where the tool is, or (4) whenever the worker is over 25 feet from or is out of sight of the tool. The effect of these amendments would be to eliminate the ambiguity that was the subject of the petition and to clarify specific tasks requiring complete de-energization of the tool.

Subsection (d).

Existing subsection (d) prescribed safety precautions, including fall protection based on roof pitch. The portion of the existing subsection that requires the operator to wear a safety belt with a lanyard when the tool is used on a roof of 1/3 pitch or steeper is proposed for deletion for the following reasons: (1) the existing requirement for the use of a safety belt conflicts with fall protection requirements elsewhere in the safety orders (Articles 24 and 30) and (2) the 1/3 pitch fall protection trigger presently specified is inconsistent with fall protection triggers elsewhere in the safety orders. Furthermore, the existing fall protection requirements are based on pitch rather than slope. Pitch is not a term commonly used in the industry and creates confusion. The

effect of this deletion would be to promote consistency by eliminating overlaps and conflicts with other parts of the safety orders.

The portion of the existing subsection that requires that on roofs of 1/4 pitch or steeper, the air hose shall be secured at roof level in such a manner as to provide ample, but not excessive, amounts of hose is also proposed for modification. It is proposed to replace the use of "pitch" with "slope" and to set the trigger at roofs sloped steeper than 7:12, which is consistent with other triggers for roofing [i.e. CSO 1716.2(g), and 1731(c)].

Subsection (e).

Existing subsection (c) is proposed to be relocated to new subsection (e) in order to accommodate amendments and reformatting of the foregoing sections as described above.

Subsection (f).

This new subsection is proposed to prescribe that the employer's written Code of Safe Practices shall include provisions for training specific for the use of pneumatically-driven nailers and staplers where applicable. The effect of this amendment would be to emphasize that safety training for pneumatically-driven nailers and staplers should be included in the employer's Code of Safe Practices when applicable to assure that workers using pneumatically-driven nailers and staplers are properly trained on their safe operation and maintenance.

Subsection (g).

This new subsection is proposed to prescribe training in addition to that required by CSO 1509 and GISO 3203(a)(7) before workers can use pneumatically driven nailers. This section also prescribes refresher training, remedial training, and the general content of the training, as well as a requirement that the training be conducted by a qualified person. The effect of this amendment would be to assure safe operation of pneumatic nailers by training workers in the hazards and by instructing them in the safe handling and operation of pneumatic nailers.

COST ESTATES OF PROPOSED ACTION

Costs or Savings to State Agencies.

The training costs associated with this proposal are negligible since employers are already required to conduct periodic training and toolbox or tailgate safety meetings as required by CSO 1509 and GISO 3203 (Injury and Illness Prevention Training Programs). The proposed training standards can easily be incorporated into those training elements. The advisory committee estimated that any training costs would be more than offset by anticipated savings derived from reduced workers compensation and liability insurance costs.

Furthermore, the proposed standard does not impose unique requirements on state government. All employers — state, local and private — will be required to comply all the prescribed standards.

Impact on Housing Costs

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

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Additional costs that may be incurred for additional training required by this proposed standard cannot be accurately determined; however, an advisory committee convened to review and comment on this proposal indicated that they anticipated that additional costs for training would be more than offset by savings resulting from reduced workers compensation and liability insurance costs.

Cost Impact on Private Persons or Businesses

The proposed standard may result in a small increase in training costs in order for employers to properly train their employees in accordance with the training requirements of Section 1704(f). Employers are already required to conduct periodic training and toolbox or tailgate safety meetings required by CSO 1509 and GISO 3203 (Injury and Illness Prevention Training Programs), and the proposed training standards can easily be incorporated into those training elements. The advisory committee that assisted in developing this proposal estimated that any training costs would be more than offset by anticipated savings deriving from reduced workers compensation and liability insurance costs.

Costs or Savings in Federal Funding to the State

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

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

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

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

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

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement

by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

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

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

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

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been

identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

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

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

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than June 15, 2007. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on June 21, 2007, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

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

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

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

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is

prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE EMISSION CONTROL AND SMOG INDEX LABELS REGULATIONS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to the Emission Control and Smog Index Label regulation. The proposed amendments would revise the smog index in the existing Smog Index Label and establish a global warming index to be incorporated into that label.

DATE: June 21, 2007
TIME: 9:00 am.
PLACE: Los Angeles Airport Marriot Hotel
5855 West Century Boulevard
Los Angeles, CA 90045

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 21, 2007, and may continue at 8:30 a.m., June 22, 2007. This item may not be considered until June 22, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before June 21, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 13, California Code of Regulations, section 1965 (Emission Control and Smog Index Labels — 1979 and subsequent Model-Year Motor Vehicles) and to the "California Smog Index Label Specifications" adopted September 5, 2003 incorporated by reference therein, and proposed incorporation by reference in that same section 1965 of new "California Environmental Performance Label Specifications."

Background: To provide vehicle emissions information to consumers, the ARB has required a Smog Index label on new vehicles since the 1998 model year (MY). The Smog Index Label provides consumers with an indication of the relative emissions performance of new light-duty vehicles for smog forming exhaust emissions of non-methane organic gas, oxides of nitrogen, and evaporative hydrocarbons.

Over the past several years there have been a number of studies using focus groups and market research to evaluate different types of vehicle labeling and ranking programs. In these studies, respondents preferred some kind of overall environmental score that they could have faith in and would be applicable across the country and across all vehicles. Respondents stated that the information needs to be presented in a way that consumers find simple and understandable. Unfortunately, consumers do not have a clear understanding of environmental factors as they relate to car choice and tend to assign responsibility for this issue to government or industry. However, there appears to be growing public awareness of environmental issues. A recent California Field Poll indicates the majority of Californians consider global warming as a serious problem.

Consumer awareness of a vehicle's environmental footprint would help consumers make the cleanest purchasing choice possible when selecting a new vehicle. Ultimately, consumer decisions to buy cleaner cars could result in lower emissions than would be achieved from regulating vehicles alone.

In 2005 Assembly Bill (AB) 1229 was signed into law adding Health & Safety Code section 43200.1 which, among other things, requires ARB to develop a greenhouse gas index and label, and to review the existing Smog Index Label. Staff proposes amending the Smog Index Label to add a Greenhouse Gas Index, and add specific requirements to label information and presentation to enhance label appearance and consistency. These labeling requirements are prescriptive by nature and will require one label size and design to be used by all affected vehicle manufacturers.

The Proposed Amendments:

In preparing this proposal staff found noticeable differences in the way the Smog Index was presented by different manufacturers, making it difficult for consumers to compare emission or smog forming values from one vehicle to the next. As a result, staff proposes modifications to the graphics and content of the existing California Smog Index Label and is also proposing a new Global Warming Index to be included on the new label.

The current Smog Index Label uses a relative ratio to compare actual vehicle emissions to an average vehicle. Staff found inconsistencies in existing label size and

presentation of content used by manufacturers which creates confusion and misunderstanding by consumers. Prior market research by the United States Environmental Protection Agency (U.S. EPA), based on consumer focus groups, recommended a simple scale from 1–10 for both Air Pollution and Greenhouse Gas (GHG) emissions. Staff also performed market research based on consumer focus groups and determined that using a simpler scale from 1–10 represents the optimal way to present emissions information.

For the Smog Index, staff recommends using a simple scale from 1–10 where 1 represents the dirtiest vehicle available and 10 the cleanest based on vehicle emission certification standards. This scale is consistent with the U.S. EPA scale currently used on their Green Vehicle Guide website. U.S. EPA found through focus groups that this scale was meaningful for prospective car buyers. While U.S. EPA provides these scores on its website, vehicle labeling using these scores is voluntary. Currently none of the auto manufacturers label their vehicles using U.S. EPA's program, although some manufacturers reference their vehicles' scores in product literature.

For the Global Warming Index, staff developed a scoring system also using a simple 1–10 scale. The scoring system incorporates all vehicle greenhouse gases mandated by ARB's motor vehicle greenhouse gas emission standards, which take effect for 2009 model year. Similar to Smog scores, U.S. EPA provides greenhouse gas scores on its website but does not require that scores be printed on new vehicle labels. U.S. EPA's greenhouse gas scores are based on different calculation methods and at this time are not aligned with staff's proposed scoring system.

Staff recommends that the scoring system be re-analyzed when 2012 MY California certification data become available. This new analysis is required because annual reductions in global warming emissions, as required by ARB's greenhouse gas emission standards, may alter the distribution of scores over time.

Staff recommends the new label regulations take effect for all passenger cars, light-duty trucks, and medium-duty passenger vehicles manufactured on or after October 1, 2008.

In designing the new California Environmental Performance label, staff turned to market research specialists for help and sought out consumer-based input from focus groups to provide clarity and understanding of a newly designed label. The purpose of these focus groups was to build upon the work previously done and to obtain up-to-date information from California specific consumers. As a result staff designed a new label based on this research. The label best understood by respondents is shown in figure 1.

Figure 1: Proposed California Environmental Performance

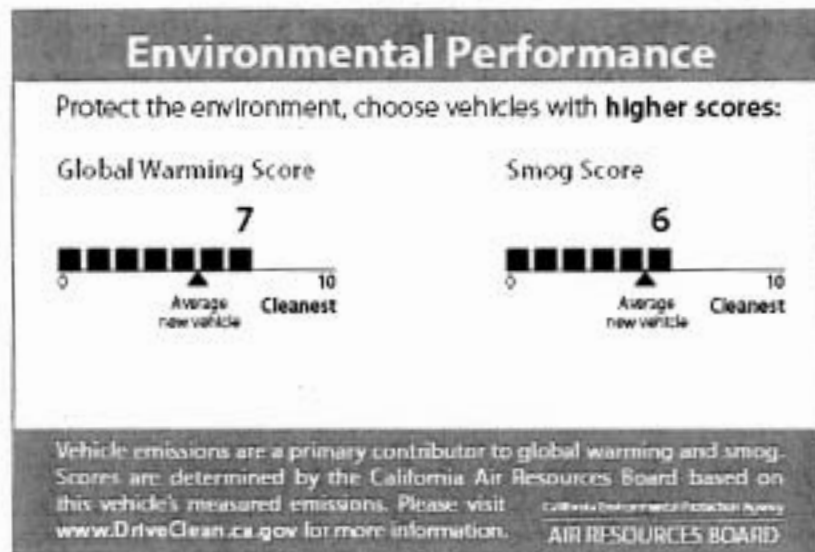


Figure 1 shows the Global Warming score on the left and the Smog Score on the right. The black boxes represent the score of the labeled vehicle. A triangle below the scale shows score of an average vehicle for comparison purposes. It was clear in the focus groups that with the word “cleanest” under the 10 and with the statement: “Protect the environment, choose vehicles with the higher stores” meant vehicles with more black boxes were cleaner vehicles. The statement at the bottom of the label describes the impact of motor vehicles on smog and global warming. It also points consumers to the ARB’s www.DriveClean.ca.gov website which is a consumer oriented website with information about clean cars, alternative fuel and advanced technology vehicles.

COMPARABLE FEDERAL REGULATIONS

Currently there is no federal smog or GHG vehicle emission labeling requirements.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulation, which includes a summary of the economic and environmental impacts of the proposal. The ISOR is entitled: “Staff Report: Initial Statement of Reasons for Rulemaking: Proposed Amendments to the Smog Index Vehicle Emissions Label.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikethrough format to allow for comparison with the existing regulations, may be accessed on the ARB’s website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, or by calling (916) 322–2990.

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

Inquiries concerning the substance of the proposed regulation may be directed to Mr. Craig Duehring, Air Resources Engineer, by email at cduehrin@arb.ca.gov, or by phone at (916) 323–2361, or to Mr. Gerhard Achtelek, Manager, Zero Emission Vehicle (ZEV) Infrastructure Section, by email at gachteli@arb.ca.gov or by phone at (916) 323–8973.

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

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/2007/labels07/labels07.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

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

The proposed amendments would modify the existing Smog Index Label and add a global warming score to the existing label. Based on the amount of information already on the label and the fact that the new global warming score must be added, the size of label must be increased to accommodate both scales. In addition, the legislation requires using a color other than black for some portion of the label.

The total annual cost to implement this regulation is calculated as the annualized capital cost to upgrade existing printers plus the annual operating cost for increasing the label size and using color cartridges. For the industry as a whole this equates to \$245,000 per year. The initial annualized capital cost for a typical manufacturer to implement this regulation is estimated to be \$3,500. The annual ongoing cost for increasing label size and using color cartridges for a typical manufacturer is estimated to be \$4,667. Thus, the total annual cost for a typical manufacturer is \$8167. These cost estimates will vary slightly by manufacturer depending on the actual number of assembly plants, ports of entry, printers required, and vehicles produced.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. Only businesses involved in the production of automobiles would be directly affected by the proposed amendments. Most vehicle manufacturers are located outside of California. Staff was not able to determine if the automobile manufacturer will pass on the full incremental cost of revising the Smog Index Label to the consumer.

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

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

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would not affect small businesses. There are no known small business automobile manufacturers.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer finds that the reporting requirements of the regulation that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by email before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, June 20, 2007**, and addressed as follows:

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

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

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Govt. Code Section 6250 et seq.), your written and

oral comments, attachments, and associated contact information (e.g. your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

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

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, 43200, and 43200.1. This action is proposed to implement, interpret and make specific sections 39002, 39003, 43000, 43013, 43018.5, 43100, 43101, 43102, 43103, 43104, 43107 43200, 43200.1, 44250, 44251, 44252, 44253, 44254, of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

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

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Sections 125.02, 125.04, 125.08, 125.12, 125.16, and 125.20 in Chapter 1, Division 1 of Title 13, California Code of Regulations.

PUBLIC HEARING

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

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., **June 18, 2007**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by sections 1651 of the Vehicle Code in order to implement, interpret or make specific sections 1652, 13352, 13386, and 23575(g) of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to amend sections 125.02, 125.04, 125.08, 125.12, 125.16 and 125.20 of Article 2.55, Title 13, California Code of Regulations, relating to the California Ignition Interlock Device (IID) Program.

With passage of Assembly Bill 3045 (Chapter 835, Statutes of 2006), the department is required to certify that each ignition interlock device operates in the man-

ner for which it was certified and requires the manufacturer to ensure that the functionality of the device cannot be changed or altered from the certified criteria.

This bill also prohibits the department from issuing a restricted driver license until it receives proof that the Ignition Interlock Device has been installed according to the specifications provided in the guidelines adopted by the National Highway Traffic Safety Administration. These amendments will also identify verification of installation forms which are to be completed by the installer and submitted to the department.

DOCUMENTS INCORPORATED BY REFERENCE

The following forms are incorporated by reference in Sections 125.12, 125.16, and 125.20. These forms are not published in the California Code of Regulations because it would be impractical and cumbersome to publish these documents in the California Code of Regulations.

- Verification of Installation, DL 920 (REV 1/2007)
- Notice of Removal, DL 922 (REV 1/2007)

These documents are available upon request directly from the department and are reasonably available to the affected public from a commonly known or specified source.

FISCAL IMPACT STATEMENT

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

DETERMINATIONS

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

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses. Ignition Interlock Installers will be required to submit specified forms to the department when a vehicle is equipped with an Ignition Interlock Device.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Randi Calkins, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8898, or rcalkins@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

tact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov. Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

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

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF REGULATIONS FOR THE CERTIFICATION AND TESTING OF GASOLINE VAPOR RECOVERY SYSTEMS USING ABOVEGROUND STORAGE TANKS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of regulations for the certification and testing of gasoline vapor recovery systems installed at gasoline dispensing facilities using aboveground storage tanks.

DATE: June 21, 2007

TIME: 9:00 a.m.

PLACE: Los Angeles Airport Marriott Hotel
5855 W. Century Boulevard
Los Angeles, CA 90045

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., June 21, 2007, and may continue at 8:30 a.m., June 22, 2007. Please consult the agenda for the meeting, which will be available at least 10 days before June 21, 2007, to determine the time when this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 94010 and 94011, title 17, California Code of Regulations (CCR), and the incorporated certification and test procedures: *Definitions for Vapor Recovery Procedures*, D-200; and *Efficiency and Emission Factor for Phase II Systems*, TP-201.2; and the proposed adoption of section 94016, title 17, CCR incorporating certification and test procedures: *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks*, CP-206; *Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Temperature Attenuation Factor at Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.1; *Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Processors at Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.2; and *Determination of Static Pressure Performance of Vapor Recovery Systems of Gasoline Dispensing Facilities with Aboveground Storage Tanks*, TP-206.3; and the proposed adoption of section 94168, Test Method for Determining the Static Pressure Performance of Phase II Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks.

Background: Throughout California, ARB authorizes the sale, installation, and use of vapor recovery equipment at gasoline dispensing facilities (GDF) through a certification program. Control of the emissions of air pollutants from GDFs is necessary to reduce hydrocarbon emissions that lead to the formation of ozone and to control emissions of benzene, a constituent of gasoline vapor that has been identified as a toxic

air contaminant. In March 2000, ARB approved the Enhanced Vapor Recovery (EVR) certification regulation for vapor recovery equipment used with underground storage tanks (UST). The EVR regulations established new standards for vapor recovery systems to further reduce emissions during storage and transfer of gasoline at GDFs that use USTs. Vapor recovery equipment used with aboveground storage tanks (AST) was not included in the adopted rulemaking.

Staff's Proposal: ARB staff proposes new vapor recovery certification requirements to reduce emissions from GDFs using ASTs and save gasoline. The proposal will establish new performance standards and specifications for AST vapor recovery systems and components. These new performance standards and specifications control standing loss emissions unique to ASTs, which account for approximately 90 percent of the total statewide emissions for this category. Some of the proposed performance standards and specifications are similar to the existing requirements for UST systems at GDFs adopted as part of ARB's EVR program. This similarity in performance standards and specifications will achieve consistency between AST and UST vapor recovery requirements.

The proposal includes a new certification procedure, CP-206, *Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks* that is specifically designed for ASTs. The certification procedure for AST vapor recovery systems and equipment relies on many of the test procedures (TP) that were adopted for UST vapor recovery systems and equipment. These procedures are equally applicable when testing equipment used with ASTs. Staff is also proposing the adoption of three new test procedures to evaluate conformance with the proposed performance requirements: TP-206.1, *Determination of Emission Factor for Standing Loss Control Vapor Recovery Systems Using Temperature Attenuation Factor at Gasoline Dispensing Facilities with Aboveground Storage Tanks*; TP-206.2, *Determination of Emission Factors for Standing Loss Control Vapor Recovery Systems Using Processors at Gasoline Dispensing Facilities with Aboveground Storage Tanks*; and, TP-206.3, *Determination of Static Pressure Performance of Vapor Recovery Systems at Gasoline Dispensing Facilities with Aboveground Storage Tanks*. These new procedures test vapor recovery systems and equipment that reduce the tank temperature, control emissions directly, and reduce leaks in ways that are specific to systems and equipment using ASTs.

When these proposed regulations are adopted, ARB will certify EVR systems and components for ASTs. District rules determine which new and existing ASTs will be required to use ARB certified EVR systems and components. New ASTs will be required to have EVR

systems and components installed by January 1, 2009. Existing ASTs will be required to retrofit or replace current equipment with EVR systems and components by January 1, 2013.

Staff also proposes amendments to TP-201.2, *Efficiency and Emission Factor for Phase II Systems* to correct the emission factor equation and clarify fugitive emissions determinations. Likewise, staff proposes amendments to the definitions in D-200 to clarify and add terms used in the AST vapor recovery certification and test procedures.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify gasoline vapor recovery systems for service stations; however, changes to ARB's vapor recovery regulations have a national impact. Certification by ARB is required in most other states that require vapor recovery at service stations.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking: Public Hearing to Consider Adoption of Regulations for Certification and Testing of Gasoline Vapor Recovery Systems Using Aboveground Storage Tanks."

Copies of the ISOR and full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, at least 45 days prior to the scheduled hearing on June 21, 2007.

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

Requests for printed documents and inquires concerning the substance of the proposed regulations may be directed to the designated agency contact persons: Mr. Michael Werst, Mr. Joe Guerrero, or Mr. George Lew, Engineering and Certification Branch, Monitoring and Laboratory Division, at (916) 327-0900.

Further, the agency representative and designated back-up contact person to whom non-substantive inquires concerning the proposed administrative action

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

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB internet site for this rulemaking at <http://www.arb.ca.gov/regact/2007/ast07/ast07.htm>

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

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

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

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

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may have minor impacts on the creation or elimination of new jobs within the State of California, and may have minor impacts on the creation of new businesses and the elimination of existing businesses within the State of California, and minor impacts on the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

As explained in the ISOR, some individual businesses may be adversely affected by the proposed regulatory action. Therefore, the Executive Officer finds that the adoption of the proposed regulatory action may

have a significant adverse impact on some businesses. The Executive Officer has considered proposed alternatives that would lessen any adverse economic impact on businesses and invites you to submit proposals. Submissions may include the following considerations:

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

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action would affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements in the regulations and incorporated documents that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing, or by email before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received no later than 12:00 noon June 20, 2007, and addressed to the following

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814
Electronic submittal: <http://www.arb.ca.gov/lispub/bclist.php> no later than 12:00 noon, June 20, 2007.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than 12:00 noon, June 20, 2007.

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated

contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

STATUTORY AUTHORITY AND REFERENCES

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

HEARING PROCEDURES

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

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

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Visitors and Environmental Services Center, 1001 I Street, 1st Floor, Sacramento, California 95814, (916) 322-2990.

GENERAL PUBLIC INTEREST

TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that it's Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AGRICULTURAL LABOR RELATIONS BOARD
Ag. Empl. Relief Fund, Chall. Ballot Investigs., Mandatory Mediation

This regulatory action makes a change in the minimum payout from the Agricultural Employee Relief Fund, provides a limitation on evidence heard on appeal to the Board, and clarifies that a determination by a mediator shall be deemed a "report" under Labor Code Section 1164.

Title 8
California Code of Regulations
AMEND: 20299, 20363, 20407
Filed 04/18/07
Effective 05/18/07
Agency Contact:
Joseph A. Wender, Jr. (916) 653-4054

BOARD OF EQUALIZATION
Interstate and Foreign Commerce

This change without regulatory effect amends the regulation that explains when the presumption that a ve-

hicle, vessel or aircraft purchased outside California was purchased for use in California does not apply. It adds mention of a new statutory exclusion that in effect allows for limited use in California for the purpose of warranty or repair service completed in 30 days or less, as provided in Revenue and Taxation Code section 6248, subdivision (f), without the implication of use tax.

Title 18
California Code of Regulations
AMEND: 1620
Filed 04/25/07
Effective 04/25/07
Agency Contact: Diane G. Olson (916) 322-9569

BOARD OF PAROLE HEARINGS
Sexually Violent Predators — Amendments to 15 CCR Section 2600.1

This emergency filing updates the criteria for imposition of a temporary hold of up to 3 days beyond a prisoner's scheduled release date for determining whether that person may be subject to commitment as a sexually violent predator, and when the screening indicates the prisoner is likely to be a sexually violent predator, the criteria for determining whether good cause exists for a 45 day hold beyond the scheduled release date for referral to the State Department of Mental Health for full evaluation.

Title 15
California Code of Regulations
AMEND: 2600.1
Filed 04/18/07
Effective 04/18/07
Agency Contact: Teresa A. Arcure (916) 322-9424

**CALIFORNIA EDUCATIONAL FACILITIES
AUTHORITY**
Qualified Scholarship Funding Corporations

This action adopts the California Educational Facilities Authority's (CEFA) regulations establishing the process for approval of not-for-profit corporations as qualified to issue qualified scholarship funding bonds. The action implements the requirements of AB 961 (Chap. 318, Stats. 2005). This filing is the resubmittal of previously withdrawn OAL file number 06-1017-03S.

Title 4
California Code of Regulations
ADOPT: 9071, 9072, 9073, 9074, 9075
Filed 04/24/07
Effective 05/24/07
Agency Contact: Evelyn Gorman (916) 653-3390

CALIFORNIA SCHOOL FINANCE AUTHORITY
 State Charter School Facilities Incentive Grant

This regulatory action amends the terms and conditions for applications for funding from the Charter School Facilities Incentive (CSFI) Grant. The allocation of grant funds to charter schools are based on preference points for certain factors, including low income population served, the school's nonprofit status and whether the school is located in an overcrowded attendance area. The amendments clarify the requirements, increase the maximum preference points assignable, add a fourth preference point for schools that meet the Academic Performance Index Growth Target for the most recent year, increase the weight allocated to the low income category and decrease the weight for the overcrowded school category.

Title 4
 California Code of Regulations
 AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10188
 Filed 04/19/07
 Effective 04/19/07
 Agency Contact: Kristin Smith (916) 651-9479

CALIFORNIA STUDENT AID COMMISSION
 National Guard Assumption Program of Loans for Education (NGAPLE)

These new regulations implement Education Code sections 69750 et seq. which allow the California Student Aid Commission (CSAC) to enter agreements with program participants responsible for student loans for undergraduate or vocational education to repay portions of the participants' student loans. The participants are obligated to serve in the National Guard, State Military Reserve or the Naval Militia, and are eligible for the program upon enlisting or re-enlisting in the service.

Title 5
 California Code of Regulations
 ADOPT: 30710, 30711, 30712, 30713, 30714, 30715, 30716, 30717, 30718
 Filed 04/23/07
 Effective 04/23/07
 Agency Contact: Linda Brown (916) 526-7599

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
 Decisions; Issues Before Board

In this "changes without regulatory effect" filing, the California Unemployment Insurance Appeals Board (Board) makes nonsubstantial changes to the agency's regulations pertaining to (1) decisions of its Administrative Law Judges, (2) issues before the Board, and (3) decisions of the Board.

Title 22
 California Code of Regulations
 AMEND: 5065, 5101, 5108
 Filed 04/19/07
 Effective 04/19/07
 Agency Contact: Kim Hickox (916) 263-6768

DEPARTMENT OF CORPORATIONS
 Review of Conflict of Interest Codes

The California Department of Corporations is amending its conflict of interest code found at title 10, section 250.30, California Code of Regulations. The changes were approved for filing by the Fair Political Practices Commission on March 9, 2007.

Title 10
 California Code of Regulations
 AMEND: 250.30
 Filed 04/25/07
 Effective 05/25/07
 Agency Contact: Karen Fong (916) 322-3553

DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Dental

Certificate of Compliance filing making permanent Department of Corrections and Rehabilitation Title 15 regulations filed as an emergency on October 3, 2006 to provide inmate dental care services in state prisons pursuant to a stipulated agreement and court order (*Perez v. Tilton*, N.D. Cal., Case No. C-05-5241). Pursuant to the stipulated agreement, the proposed action sets forth responsibilities, limitations, and timeframes for emergency, urgent, interceptive and routine rehabilitative care for California inmates. Amendments also include revisions for enhanced clarity, numerical corrections, changes in punctuation, and department and divisional name changes based on recent legislation.

Title 15
 California Code of Regulations
 ADOPT: 3352.2 AMEND: 3350.1, 3352.1, 3354, 3355.1, 3358
 Filed 04/18/07
 Effective 04/18/07
 Agency Contact:
 Ann Cunningham (916) 358-1959

DEPARTMENT OF CORRECTIONS AND REHABILITATION
 Citizen's Complaints

Department of Corrections and Rehabilitation submitted this Certificate of Compliance filing to make permanent emergency regulations filed on November 3, 2006, which removed provisions in Title 15, sections 3084.1 and 3391 that made it a misdemeanor, pursuant

to Penal Code section 148.6, to knowingly make false allegations of peace officer misconduct. Penal Code section 148.6 was deemed an unconstitutional viewpoint-based violation of free speech in *Chaker v. Crogan*, 428 F.3d 1215 (9th Cir., 2005). This action brings Title 15, sections 3084.1 and 3391 into compliance with the Chaker decision. Effective upon filing.

Title 15
California Code of Regulations
AMEND: 3084.1, 3391
Filed 04/19/07
Effective 04/19/07
Agency Contact: Stephanie Winn (916) 323-6156

DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Eradication Area

This emergency regulatory action designates the entire counties of Monterey, San Mateo and Santa Cruz as additional "eradication areas" with respect to the light brown apple moth (*Epiphyas postvittana*).

Title 3
California Code of Regulations
AMEND: 3591.20
Filed 04/23/07
Effective 04/23/07
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This emergency regulatory action designates portions of the counties of Marin, San Francisco, Santa Clara, Alameda and Contra Costa as quarantine areas with respect to the light brown apple moth (*Epiphyas postvittana*). This new regulatory section establishes the quarantine areas for the pest.

Title 3
California Code of regulations
ADOPT: 3434
Filed 04/20/07
Effective 04/20/07
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Eradication Area

This emergency regulatory action designates the entire county of Santa Clara as an "eradication area" with respect to the light brown apple moth (*Epiphyas postvittana*).

Title 3
California Code of Regulations
AMEND: 3591.20(a)
Filed 04/20/07
Effective 04/20/07
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE
Diaprepes Root Weevil Interior Quarantine

This certificate of compliance makes permanent the prior emergency regulatory action (OAL file no. 06-1114-08E) that added approximately one square mile in the Oceanside area of San Diego County and added approximately four square miles in the Huntington Beach area of Orange County to areas already under quarantine in these two counties for the Diaprepes root weevil (*Diaprepes abbreviatus*).

Title 3
California Code of Regulations
AMEND: 3433(b)
Filed 04/25/07
Effective 04/25/07
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF HEALTH SERVICES
Reporting HIV Infection by Name

This is the readoption of an emergency action that updates the Department's regulations that specify the HIV test information that must be reported by a health care provider to the local health officer, the reporting forms, and the manner of transmitting a report to conform to the new requirement to include reporting of the patient's name in accordance with Health and Safety Code section 121022. Also readopted is a regulation that adds the requirement that people with access to such records must annually sign a specified "Confidentiality Agreement."

Title 17
California Code of Regulations
ADOPT: 2641.56, 2641.57 AMEND: 2641.30, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 REPEAL: 2641.75, 2641.77
Filed 04/18/07
Effective 05/09/07
Agency Contact:
Barbara S. Gallaway (916) 657-3197

DEPARTMENT OF INSURANCE
California Low Cost Automobile Insurance Program

These changes without regulatory effect update the information in the introductory paragraph of the California Automobile Insurance Low Cost Program Plan of Operations, and update the information in two exhibits reflecting changes in zip codes and in one exhibit reflecting the 2007 federal poverty levels.

Title 10
 California Code of Regulations
 AMEND: 2498.6
 Filed 04/24/07
 Agency Contact:
 Mary Ann Shulman (415) 538-4133

DEPARTMENT OF INSURANCE
 CEA: Fund Transfer from Base Limits Program to Optional Limits Program

This filing is a certificate of compliance for an emergency regulation which allowed the California Earthquake Authority (CEA) to borrow funds from its base-limits fund to finance its reinsurance of risks associated with optional higher coverage limits for personal property, loss of use, and building code upgrade.

Title 10
 California Code of Regulations
 AMEND: 2697.6, 2697.61
 Filed 04/25/07
 Effective 04/25/07
 Agency Contact:
 Lisbeth Landsman-Smith (916) 492-3561

DEPARTMENT OF JUSTICE
 Surety Bond Form — Seller of Travel Discount Programs

In this “print only” filing, the Department of Justice submits the Secretary State’s surety bond form for a “Seller of Travel Discount Programs.”

Title 11
 California Code of Regulations
 ADOPT: 64.3
 Filed 04/18/07
 Effective 04/18/07
 Agency Contact:
 Randall Borcharding (415) 703-5509

DEPARTMENT OF JUSTICE
 Escrow Form

This filing is a proof of establishment of escrow account form prepared by the Secretary of State’s office in connection with the “seller of travel discount programs” provisions contained in Business and Professions Code section 17550.27. Business and Professions Code section 17550.27(b) requires compliance with Title 2.6 (commencing with Section 1812.100) of Part 4 of Division 3 of the Civil Code. The form serves as written notice to the Secretary of State that an escrow account for the organization named on the form has been established pursuant to Business and Professions Code section 17550.26 and Civil Code section 1812.101, and

that the bank where the escrow account is established is a federally insured bank or federally insured financial institution, independent of the organization, authorized to transact business in California.

Title 11
 California Code of Regulations
 ADOPT: 64.5
 Filed 04/19/07
 Effective 04/19/07
 Agency Contact:
 Randall Borcharding (415) 703-5509

DEPARTMENT OF JUSTICE
 Escrow Form

This filing is a proof of establishment of escrow account form prepared by the Secretary of State’s office in connection with the “seller of travel business discount programs” provisions contained in Business and Professions Code section 17550.26. Business and Professions Code section 17550.26(d) requires compliance with Title 2.6 (commencing with Section 1812.100) of Part 4 of Division 3 of the Civil Code. The form serves as written notice to the Secretary of State that an escrow account for the organization named on the form has been established pursuant to Business and Professions Code section 17550.26 and Civil Code section 1812.101, and that the bank where the escrow account is established is a federally insured bank or federally insured financial institution, independent of the organization, authorized to transact business in California.

Title 11
 California Code of Regulations
 ADOPT: 64.6
 Filed 04/19/07
 Effective 04/19/07
 Agency Contact:
 Randall Borcharding (415) 703-5509

DEPARTMENT OF JUSTICE
 Surety Bond Form — Seller of Travel Business Discount Programs

In this “print only” filing, the Department of Justice submits the Secretary of State’s surety bond form for a “Seller of Travel Business Discount Programs.”

Title 11
 California Code of Regulations
 ADOPT: 64.4
 Filed 04/19/07
 Effective 04/19/07
 Agency Contact:
 Randall Borcharding (415) 703-5509

**DEPARTMENT OF TOXIC SUBSTANCES
CONTROL**

**Alternative Management Standards for Treated Wood
Waste**

This emergency regulatory action establishes the requirements for generation, disposal and management of Treated Wood Waste. (Previous OAL file #06-1221-04E)

Title 22
California Code Regulations
ADOPT: 66261.9.5, 67386.1, 67386.2, 67386.3,
67386.4
Filed 04/23/07
Effective 04/30/07
Agency Contact: Nicole Sotak (916) 327-4508

**EMPLOYMENT DEVELOPMENT DEPARTMENT
Medical Providers—Professional License Verification
and Timelines**

This rulemaking action specifies that State Disability and Family Temporary Disability insurance claims of an individual who obtains medical care out of state will not be paid until the licensure or certification of the out of state medical provider is verified. It further specifies the types of documentation acceptable to verify the treating medical provider's status and the length of time a claim can be held in suspense while awaiting verification of the medical provider's status.

Title 22
California Code of Regulations
ADOPT: 2708(d)-1(a), 2708(d)-1(b), 2708(d)-1(c)
Filed 04/20/07
Effective 05/20/07
Agency Contact: Laura Colozzi (916) 654-7712

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Prohibition of Smoking in the Workplace

This filing is a change without regulatory effect to add the new statutory definition of "enclosed space" (Stats. 2006, ch. 736, sec. 2 (AB 2067)) to the regulation dealing with the prohibition of smoking in the workplace.

Title 8
California Code of Regulations
AMEND: 5148(c)
Filed 04/20/07
Agency Contact: Marley Hart (916) 274-5721

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

**Use of Personnel Suspended Platforms from Crane/
Derrick**

This regulatory action clarifies that wire rope or steel chain are the only acceptable materials for use in suspending or lifting personnel platforms attached to a crane or derrick. These amendments to the General Industry Safety Orders are consistent with the ANSI/ASME B30.23 standard, which represents an industry consensus.

Title 8
California Code of Regulations
AMEND: 5004, 5047, 8379
Filed 04/24/07
Effective 05/24/07
Agency Contact: Marley Hart (916) 274-5721

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Railings and Stairways

The Occupational Safety & Health Standards Board (OSHSB) must adopt standards which are at least as effective as federal standards. Existing provisions in the Construction Safety Orders for railings/guardrails, stairwells, and stairways have been reviewed and found to be not as effective. The OSHSB is therefore amending those provisions of Title 8. The regulations are intended to set minimum Construction Safety Orders at construction sites for the protection of the employees.

Title 8
California Code of Regulations
AMEND: 1620, 1626, 1629
Filed 04/20/07
Effective 05/20/07
Agency Contact: Marley Hart (916) 274-5721

STATE ALLOCATION BOARD

**Leroy F. Greene School Facilities Act of 1998; Grant
for Costs of ADA**

This action adopts an alternate formula districts have the option of utilizing for funding excessive cost hardship grants used for accessibility and fire code requirements.

Title 2
California Code of Regulations
AMEND: 1859.83, 1859.202, 1866
Filed 04/25/07
Effective 05/25/07
Agency Contact: Robert Young (916) 445-0083

**STATE WATER RESOURCES CONTROL BOARD
Non-Regulatory & Regulatory Provisions of an
amendment to the SDRWQCB**

The San Diego Regional Water Quality Control Board (Regional Board) adopted Resolution R9-2006-0029 on April 12, 2006, which amended the Water Quality Control Plan for the San Diego Region (Basin Plan). The State Water Resources Control Board (SWRCB) approved this amendment under Resolution No. 2006-0090 on November 15, 2006. The Basin Plan contains the region's water quality standards which consist of beneficial uses and water quality objectives necessary to protect those uses. The amendment imposes no new regulatory requirements. The amendment incorporates editorial text changes including updated indexes, tables of contents, and endnotes; updated acronyms reflecting terms now in use; and updated graphics that did not translate well into electronic and web-accessible versions of the Basin Plan. This action is intended to improve the clarity of the Basin Plan and its convenience for public use.

Title 23
California Code of Regulations
AMEND: 3983
Filed 04/25/07
Effective 04/25/07
Agency Contact: Nirmal Sandhar (916) 341-5571

**VETERINARY MEDICAL BOARD
Registered Veterinary Technician Job Tasks**

This action specifies that an examination presently required prior to anesthesia must be performed by a veterinarian; specifies a task that may be performed by a R.V.T. under direct supervision of a veterinarian; defines the terms "administer" and "induce" in connection with the use of drugs in animal health care; and makes other small clarifying changes.

Title 16
California Code of Regulations
AMEND: 2032.4, 2034, 2036, 2036.5
Filed 04/20/07
Effective 05/20/07
Agency Contact: Deanne Pearce (916) 263-2622

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN NOVEMBER 22, 2006 TO
APRIL 25, 2007**

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

- 04/25/07 AMEND: 1859.83, 1859.202, 1866
- 04/16/07 AMEND: 18401
- 04/04/07 AMEND: 28010 REPEAL: 36000
- 03/27/07 AMEND: 59560
- 03/20/07 ADOPT: 18746.3
- 03/15/07 AMEND: div. 8, ch. 102, section 59100
- 03/14/07 AMEND: div. 8, ch. 73, section 56200
- 03/01/07 AMEND: 21922
- 02/28/07 AMEND: 714
- 02/16/07 AMEND: 1859.2, 1859.76, 1859.83, 1859.163.1, 1859.167, 1859.202, 1866
- 02/02/07 AMEND: 2561, 2563, 2564, 2565, 2566, 2567
- 01/26/07 ADOPT: 599.550, 599.552, 599.553, 599.554 AMEND: 599.500
- 01/19/07 ADOPT: 18531.62, 18531.63, 18531.64 AMEND: 18544
- 01/11/07 AMEND: 1894.4, 1896.12
- 01/09/07 ADOPT: 18534
- 01/09/07 AMEND: 18707.1
- 01/09/07 ADOPT: 18530.3
- 01/08/07 ADOPT: 1859.106.1 AMEND: 1859.106
- 12/22/06 AMEND: 21906
- 12/18/06 ADOPT: 18421.3
- 12/18/06 AMEND: 1859.2, 1859.70.1, 1859.71.3, 1859.78.5
- 12/18/06 AMEND: 18312, 18316.5, 18326, 18401, 18521, 18537.1, 18704.5, 18705.5, 18730, 18746.2
- 12/18/06 AMEND: 18703.4, 18730, 18940.2, 18942.1, 18943
- 12/18/06 AMEND: 18545
- 12/14/06 ADOPT: 18707.10
- 12/13/06 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80

Title 3

- 04/25/07 AMEND: 3433(b)
- 04/23/07 AMEND: 3591.20
- 04/20/07 AMEND: 3591.20(a)
- 04/20/07 ADOPT: 3434
- 04/03/07 AMEND: 3591.20(a), 3591.20(b)
- 04/02/07 AMEND: 752, 796.6, 1301
- 03/28/07 AMEND: 3591.2(a)

CALIFORNIA REGULATORY NOTICE REGISTER 2007, VOLUME NO. 18-Z

03/27/07 ADOPT: 1446.9, 1454.16
 03/21/07 ADOPT: 3591.20
 03/15/07 ADOPT: 1371, 1371.1, 1371.2
 03/07/07 AMEND: 3423(b)
 03/06/07 AMEND: 3700(c)
 02/15/07 ADOPT: 499.5, 513, 513.5 AMEND:
 498, 499, 500, 501, 502, 504, 505, 509,
 510, 511, 512, 512.1, 512.2, 514, 515,
 516, 517, 525, 551, 552, 553, 554, 604.1
 REPEAL: 499.5, 503, 506, 508, 512.3,
 527, 536, 537, 538, 539, 540, 541, 543,
 544, 546, 547, 550
 02/14/07 AMEND: 3700(c)
 02/08/07 AMEND: 6170, 6172, 6200
 02/08/07 AMEND: 3433(b)
 02/07/07 AMEND: 6170, 6172, 6200
 01/31/07 AMEND: 3591.12(a)
 01/24/07 AMEND: 3591.13(a)
 01/18/07 AMEND: 3800.1, 3800.2
 01/18/07 AMEND: 3433(b)
 01/18/07 AMEND: 3423(b)
 01/18/07 AMEND: 3433(b)
 01/09/07 AMEND: 3433(b)
 01/08/07 AMEND: 3591.2(a)
 01/08/07 AMEND: 3591.6(a)
 01/05/07 AMEND: 3406(b)
 01/05/07 AMEND: 6625
 01/05/07 AMEND: 3433(b)
 01/03/07 AMEND: 3424(b)
 12/20/06 AMEND: 3423(b)
 12/20/06 AMEND: 3433(b)
 12/19/06 ADOPT: 6310, 6312, 6314 AMEND:
 6170
 12/06/06 AMEND: 3700(c)
 12/06/06 AMEND: 3591.6
 11/30/06 ADOPT: 6128 AMEND: 6130

Title 4

04/24/07 ADOPT: 9071, 9072, 9073, 9074, 9075
 04/19/07 AMEND: 10176, 10177, 10178, 10179,
 10180, 10181, 10182, 10183, 10188
 03/13/07 ADOPT: 7075, 7076, 7077, 7078, 7079,
 7080, 7081, 7082, 7083, 7084, 7085,
 7086, 7087, 7088, 7089, 7090, 7091,
 7092, 7093, 7094, 7095, 7096, 7097,
 7098, 7099 REPEAL: 7000, 7001, 7002,
 7003, 7004, 7005, 7006, 7007, 7008,
 7009, 7010, 7011, 7012, 7013, 7014,
 7015, 7016, 7017
 02/08/07 ADOPT: 12550, 12552, 12554, 12556,
 12558, 12560, 12562, 12564, 12566,
 12568, 12572
 02/08/07 ADOPT: 12341
 01/31/07 AMEND: 12590
 01/30/07 AMEND: 12101, 12301.1, 12309

01/30/07 AMEND: 12358
 01/30/07 ADOPT: 12460, 12461, 12462, 12463,
 12464, 12466
 01/26/07 AMEND: 1433
 01/17/07 ADOPT: 523
 01/11/07 AMEND: 1536
 12/05/06 AMEND: 1582
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15240, 15241, 15250, 15260, 15270, 15280, 15290

Title 28

01/24/07 ADOPT: 1330.67.04 REPEAL: 1300.67.8(f)

Title MPP

02/05/07 AMEND: 30-757, 30-761

01/24/07 ADOPT: 22-901 AMEND: 22-001, 22-002, 22-003, 22-004, 22-009, 22-045, 22-049, 22-050, 22-053, 22-054, 22-059, 22-061, 22-063, 22-064, 22-065, 22-069, 22-071, 22-072, 22-073, 22-077, 22-078, 22-085 REPEAL: 22-074, 22-075, 22-076

