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

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3591.13(a) of the regulations in Title 3 of the California Code of Regulations pertaining to Guava Fruit Fly Eradication Area as an emergency regulation. The Department proposes to continue the regulations as amended.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before December 4, 2000.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Existing law provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests. Eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest.

This amendment of Section 3591.13(a) established Los Angeles and Orange Counties as an eradication area for guava fruit fly (*Bactrocera correcta*). The effect of the amendment is to provide authority for the State to perform control and eradication activities against guava fruit fly in Los Angeles and Orange Counties to prevent spread of the fly to noninfested areas to protect California's agricultural industry.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3591.13 does not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from this action.

EFFECT ON HOUSING COSTS AND BUSINESSES

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE INDIVIDUALS OR BUSINESSES

The cost impact of the changes in the regulations on private persons or businesses is expected to be insignificant.

ASSESSMENT

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department amended Section 3591.13(a) pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3591.13(a) to implement, interpret and make specific Sections 5761-5764 of the Food and Agricultural Code.

PLAIN ENGLISH STATEMENT

The amendment of this regulation is not expected to affect small businesses. This action only provides authority for State eradication activities and does not

require reporting, recordkeeping, or compliance by businesses. The Department has drafted the changes in the regulation in plain English pursuant to Government Code Sections 11342(e) and 11346.2(a)(1). The express terms of the proposed action written in plain English are available from the agency contact person named in this notice. As a courtesy, the Department has prepared and has available a noncontrolling plain English summary for anyone interested in a quick reference to the proposed amendment of the regulations.

CONTACT

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request.

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 1380.19 of the regulations in Title 3 of the California Code of Regulations pertaining to standard containers for apples.

Notice is also given that any interested person may present statements or arguments in writing relevant to the proposed action to the Department of Food and Agriculture, 1220 N Street, Room A-447, Sacramento, CA 95814, by 4:30 p.m. on December 4, 2000.

A public hearing is not scheduled but will be held if any interested person, or his or her duly authorized representative, submits a written request for public

hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing (if one is requested) or following the written comment period (if no public hearing is requested), the Department of Food and Agriculture, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Section 1380.19, Subsection (a) establishes standard container requirements for apples and describes the dimensions for 14 existing standard containers for apples. Tray-packed apples are permitted to be packed only in AP11.

This proposal would amend the above section by adopting a new apple standard container, AP 15, having a specified dimension of inside depth, and outside width and length. The container would be standard only for apples placed in two layers of trays, pads, or molded forms. Additionally, editorial amendments would be made.

FISCAL IMPACT STATEMENTS

The Department has determined that these proposed regulations will have no effect on savings or increased costs to any State agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department has also determined that the proposed regulation does not impose a mandate on local agencies or school districts.

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that these proposed changes in the regulations would result in no negative impact on small businesses and would result in a positive effect on small businesses. This is based on the fact that the proposed regulation merely offers an alternative new standard container that meets the needs of the apple industry without requiring any change on the part of industry. The express terms of the proposed action written in plain English are available from the agency contact person named in this notice.

EFFECT ON HOUSING COSTS

The Department has determined that the amendment of the proposed regulation will have no effect on housing costs.

**SIGNIFICANT ADVERSE ECONOMIC
IMPACT ON BUSINESS**

The Department has determined that the proposed changes will have no adverse economic impact on businesses including the ability of California business to compete with other businesses in other states. This is based on the fact stated in the SMALL BUSINESS IMPACT STATEMENT.

ASSESSMENT STATEMENT

The Department has determined that the proposed changes in the regulations would not affect the creation or elimination of jobs in California and would not create new or eliminate or expand existing businesses in California.

**POTENTIAL COST IMPACT ON PRIVATE
PERSONS OR BUSINESSES
DIRECTLY AFFECTED**

The Department has determined that the proposed changes would result in no costs to private persons or businesses directly affected by these proposed changes. This is based on the fact as stated in the SMALL BUSINESS IMPACT STATEMENT.

ALTERNATIVES

The Department must determine that no alternative considered by the Department would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 14, 407, 42681 and 42682 of the Food and Agricultural Code, and to implement, interpret, or make specific Section 42941 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

CONTACT

Inquiries about the notice may be directed to Robert A. Cummings, Department of Food and Agriculture, Fruit, Vegetable, and Egg Quality Control Branch, 1220 N Street, Room A-447, Sacramento, CA 95814, (916) 654-0919.

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

A complete copy of existing regulations, the proposed changes, and the Statement of Reasons may be obtained on request from the Department of Food and Agriculture, 1220 N Street, Room A-447, Sacramento, CA 95814. In addition, all information, including reports, documentation, and other materials related to the proposed action written in plain English

is available upon request from the agency contact person named in this notice. The text of the proposed regulations with any sufficiently related changes clearly indicated will be made available for 15 days prior to adoption.

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to adopt Section 2302 and amend Section 2303 of the regulations in Title 3 of the California Code of Regulations pertaining to fertilizing materials.

A public hearing concerning the proposed action will be held on December 5, 2000 at 9:30 a.m., at 1220 N Street, Main Auditorium, First Floor, Sacramento, California.

A representative of the Department of Food and Agriculture will preside at the hearing. Any interested person may appear and be heard. Persons who wish to speak are requested to register prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 8:00 a.m. to 9:00 a.m. Those registered persons will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard.

If the number of preregistered persons and other participants in attendance at the hearing warrants it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Any interested person who does not wish to speak at the hearing may present written statements to the presiding officer at the hearing, or may submit written statements on or before December 4, 2000 to the agency officer named below.

INFORMATIVE DIGEST

Existing law obligates the Department of Food and Agriculture to promote the distribution of effective and safe fertilizing materials essential for the production of food and fiber, to provide assurance to the consumer of commercial fertilizers that the product purchased is properly identified, and to provide assurance of the validity of the quality and quantity represented by the manufacturer of these products. (Food and Agricultural Code, Section 14501). Existing law provides that the Department of Food and Agriculture may adopt regulations relating to the manufacture, guaranteeing, labeling, and distribution of fertilizing materials as deemed necessary to circumscribe and prevent misbranded and adulterated fertilizing materials to protect California's agricultural industry and the consumer. (Food and Agricultural Code, Section 14502, 14681, and 14682).

Section 2302 is adopted adding subsection (a)(1) proposing that inorganic commercial fertilizer and agricultural mineral products shall not exceed the following standards for the non-nutrient metals arsenic, cadmium and lead: for each percent iron, manganese or zinc, the fertilizing material shall not exceed the following concentrations of non-nutrient metals: arsenic, 13 parts per million; cadmium, 12 parts per million; and, lead, 140 parts per million; subsection (a)(2) is added proposing that for each percent of available phosphate (P_2O_5), the fertilizing material shall not exceed the following concentrations of non-nutrient metals: arsenic, 2 parts per million; cadmium 4 parts per million; and lead, 20 parts per million; subsection (a)(3)(i) is added proposing to provide an example for the application of the standards for micronutrient materials; subsection (a)(3)(ii) is added proposing to provide an example for the application of the standards for phosphate materials; subsection (a)(4) is added proposing that specialty fertilizer containing less than 6% available phosphate (P_2O_5) but that makes no micronutrient claim shall not exceed the following standards for the non-nutrient metals arsenic, cadmium and lead: arsenic, 10 parts per million; cadmium, 20 parts per million; lead, 100 parts per million; subsection (a)(5) is added proposing that specialty fertilizer containing less than 6% available phosphate (P_2O_5) but that make a micronutrient claim shall not exceed the following standards for the non-nutrient metals arsenic, cadmium and lead: arsenic, 10 parts per million; cadmium, 20 parts per million; lead, 100 parts per million, plus the addition of the amount of arsenic, cadmium and lead derived by multiplying arsenic, 13 parts per million; cadmium, 12 parts per million; and lead, 140 parts per million for each guaranteed percent iron, manganese or zinc; subsection (a)(6)(i) is added proposing to provide an example for the application of the standard for specialty products that guarantee less than 6% available phosphate (P_2O_5) and make a micronutrient claim; subsection (b) is added proposing that all waste and hazardous waste shall be defined as specified in Title 22, CCR, Division 4.5, Chapter 11—Identification and Listing of Hazardous Waste; subsection (c) is added proposing that recyclable material used in fertilizing material manufacture shall meet all applicable requirements in the Code of Federal Regulations, Chapter 1, Title 40, Part 266, Subpart C—Recyclable Materials Used In a Manner Constituting Disposal; subsection (d) is added proposing that recyclable material used in fertilizing material manufacture shall be sampled and tested in accordance with procedures specified in Title 22, CCR, Division 4.5, Chapter 11—Identification and Listing of Hazardous Waste; subsection (d)(1) is added proposing that a copy of test results shall be submitted to the

department for each source of recyclable material used in the manufacture of zinc, manganese or iron products utilized as base fertilizing material ingredient. Additional test results shall not be required by the department unless the process or operation generating the recyclable material changes; subsection (e) is added proposing that no recyclable material may be used in fertilizing material manufacture if its use is denied pursuant to Title 22, CCR, Division 4.5, Chapter 16, Article 8.5—Requirements for Management of Recyclable Materials Used in Agriculture; subsection (f) is added proposing that no recyclable hazardous waste may be used in fertilizing material manufacture unless the generator of such recyclable hazardous waste complies with Title 22, CCR, Division 4.5, Chapter 16, Article 8.5—Requirements for Management of Recyclable Materials Used in Agriculture; subsection (g) is added proposing that by December 31, 2004 the department shall publish a report concerning results of research that evaluates the protectiveness of these regulations on both human health and the environment. Additionally, the report shall include an analysis of and recommendations for regulating cobalt, copper, mercury, molybdenum, nickel, selenium and dioxins.

Section 2303 is amended adding subsection (r) proposing that a manufacturer of any base fertilizing material ingredient that claims iron, manganese, zinc or phosphates shall provide a guarantee statement that the product does not exceed standards established for arsenic, cadmium and lead; subsection (r)(1) is added proposing that for purposes of the labeling guarantee, base fertilizing material ingredient shall be defined as phosphate, zinc, manganese, or iron products utilized as ingredient material in blended or formulated fertilizing materials; subsection (r)(2) is added proposing that the guarantee statement shall report in parts per million the maximum total concentration of arsenic, cadmium and lead in the base fertilizing ingredient material; subsection (s) is added proposing that labels and packaged product labels for commercial fertilizer and agricultural mineral products shall include either an informational statement of laboratory test results or provide an informational statement providing the maximum levels of arsenic, cadmium, cobalt, copper, lead, mercury, molybdenum, nickel and selenium. In lieu of a statement on the label, the information may be provided by either of the following statements: “Information regarding the contents and levels of metals in this product is available by calling 1-800-XXX-XXXX.”, or “Information regarding the contents and levels of metals in this product is available on the internet at <http://www.regulatory-info-xx.com>”. Each registrant must substitute a unique alphanumeric identifier for “xx”. This statement may be used only if the

licensee establishes and maintains the internet site; there is a clearly visible, direct hyperlink to a government web site; and, the internet site contains no advertising or company specific information. A government web site internet address on the label is an acceptable alternative to a web site established and maintained by the licensee; subsection (t) is added proposing that testing methodology for the informational statement of laboratory test results shall conform to either sample preparation method 3050B or 3051A and conform to analysis methods as described in US EPA Publication SW-846; subsection (u) is added proposing that labeling provisions in section 2303 (r) shall be met no later than July 1, 2001 and that labeling provision in section 2303 (s) shall be met no later than December 31, 2001 for all products entering into channels of trade; subsection (v) is added proposing that the publication of inaccurate information regarding the contents and levels of metals is a misbranding violation pursuant to Article 14681 of the Food and Agriculture Code.

**PLAIN ENGLISH POLICY
STATEMENT OVERVIEW**

This regulation amends regulations for fertilizing materials by establishing standards for the non-nutrient metals arsenic, cadmium and lead in inorganic commercial fertilizers and agricultural mineral products. Gypsum, liming materials, manure, wood or coal fly ash, sewage sludge, composted products, potting soils, potting mix, blood meal, bone meal, feather meal, kelp meal or seaweed, cottonseed meal, fish meal, sphagnum moss and fertilized seed mix are not subject to this regulation. This regulation amends regulations by requiring manufacturers of base fertilizing material ingredients to guarantee that their products meet the standards for the non-nutrient metals arsenic, cadmium and lead; and, requires recyclable material used in fertilizing material manufacture to meet specified standards. This regulation adds subsections that require informational statements on labels and packaged product labels providing results of laboratory analysis for specified metals and testing methodology utilized in testing the fertilizing material for specified metals.

**COST OF LOCAL AGENCIES AND
SCHOOL DISTRICTS**

The Department of Food and Agriculture has determined that the changes in Sections 2302 and 2303 do not impose a mandate on local agencies or school districts.

The Department has also determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretion-

ary costs to savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states.

**COST IMPACT ON AFFECTED PRIVATE
INDIVIDUALS OR BUSINESSES**

The cost impact of the changes in the regulations on private persons or businesses is that a manufacturer of any base phosphate or micronutrient fertilizing material ingredient is required to provide a guarantee statement on the label that the product does not exceed standards established for arsenic, cadmium or lead. Labels and packaged product labels for inorganic commercial fertilizer and packaged mineral products, with the exception of gypsum, liming materials, manure, wood or coal fly ash and sewage sludge, must provide an informational statement regarding levels of specified metals. A one-year phase in period has been established for the informational label requirement to minimize the cost of compliance.

ASSESSMENT

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

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to adopt Section 2302 pursuant to the authority vested by Sections 407, 14502, and 14682 of the Food and Agricultural Code of California.

The Department proposes to amend Section 2303 pursuant to the authority vested by Sections 407, 14502, and 14631 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes the amendment of the following sections in Title 3 to implement, interpret and make specific the sections of the Food and Agricultural Code of California as indicated:

<u>Section</u>	<u>Action</u>	Reference (Food and Agricultural <u>Code Sections</u>)
2302	Adopt	14682
2303	Amend	14502 and 14631

PLAIN ENGLISH STATEMENT

The amendment of these regulations may affect small businesses. The express terms of the proposed action written in plain English are available from the agency contact person named in this notice.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and request for a public hearing may be directed is: Maryam Khosravifard, California Department of Food and Agriculture, Agricultural Commodities and Regulatory Services Branch, 1220 N Street, Room A-472, Sacramento, California 95814, telephone (916) 654-0574, FAX (916) 653-2407.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request.

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to repeal Sections 1438.23.1, 1438.25.1, 1438.25.2, 1438.25.3 and 1438.25.4 of the regulations in Title 3 of the California Code of Regulations pertaining to salad products.

Notice is also given that any interested person may present statements or arguments in writing relevant to the proposed action to the Department of Food and Agriculture, 1220 N Street, Room A-447, Sacramento, CA 95814, by 4:30 p.m. on December 4, 2000.

A public hearing is not scheduled, but will be held if any interested person, or his or her duly authorized representative, submits a written request for public hearing to the Department, no later than 15 days prior to the close of the written comment period. Following the public hearing (if one is requested) or following the written comment period (if no public hearing is requested), the Department of Food and Agriculture, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Existing Sections 1438.23.1, 1438.25.1, 1438.25.2, 1438.25.3 and 1438.25.4 establish, respectively, specified reporting requirements for operators of salad product processing plants (processors); require county agricultural commissioners to maintain specified processor inspection records; require processors to maintain and make available to the county specified processor records; require processors to pay an assessment fee established by the county and establish a specified fee to be paid by processors in counties that have not established a fee; and establish minimum county inspection requirements.

This proposal would repeal all of the above sections. Additionally, nonsubstantive amendments would correct citations of authority and reference.

FISCAL IMPACT STATEMENTS

The Department has determined that these proposed regulations will have no effect on savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the state will result from these proposed regulations. The Department has also determined that these proposed regulations do not impose a mandate on local agencies or school districts.

EFFECT ON HOUSING COSTS

The Department has determined that the adoption, amendment or repeal of the proposed regulations will have no effect on housing costs.

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that these proposed changes in the regulations would result in no negative

impact on small businesses and would result in positive effects on small businesses. This is based on the fact that the proposal repeals existing regulations, thereby relieving industry of the repealed regulations. The express terms of the proposed action written in plain English are available from the agency contact person named in this notice.

SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has determined that these proposed changes will have no adverse economic impact on businesses, including the ability of California businesses to compete with other businesses in other states. This is based on the fact as stated in the SMALL BUSINESS IMPACT STATEMENT.

ASSESSMENT STATEMENT

The Department has also determined that these proposed changes in the regulations would not affect the creation or elimination of jobs in California, and would not create, eliminate, or expand existing businesses in California.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES DIRECTLY AFFECTED

The Department has determined that these proposed changes would result in no costs to private persons or businesses directly affected by these proposed changes. This is based on the fact as stated in the SMALL BUSINESS IMPACT STATEMENT.

ALTERNATIVES

The Department must determine that no alternative considered by the Department would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407 and 42795 of the Food and Agricultural Code, and to implement, interpret, or make specific Section 42941 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

CONTACT

Inquiries about the notice may be directed to Robert Cummings, Department of Food and Agriculture, Fruit, Vegetable, and Egg Quality Control Branch, 1220 N Street, Room A-447, Sacramento, CA 95814, (916) 654-0919.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS IN PLAIN ENGLISH

A complete copy of existing regulations, the proposed changes, and the Statement of Reasons may be obtained by request from the Department of Food and Agriculture, 1220 N Street, Room A-447, Sacramento, CA 95814. In addition, all information, including reports, documentation, and other materials related to the proposed action is available upon request. The text of the proposed regulations with any sufficiently related changes clearly indicated, will be made available for 15 days prior to adoption.

TITLE 4. STATE ATHLETIC COMMISSION

NOTICE IS HEREBY GIVEN that the State Athletic Commission (hereinafter "commission") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Embassy Suites LAX South, 1440 East Imperial Avenue, El Segundo, CA 90245, on Thursday, December 7, 2000 at 10:00 A.M. Written comments must be received by the commission at its office not later than 5:00 P.M. on December 6, 2000, or must be received by the commission at the hearing. The commission, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 18611 and 18763 of the Business and Professions Code, and to implement, interpret or make specific Section 19765 of the Business and Professions Code, the Commission is considering changes to Division 2 of Title 4 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Adopt Section 518

Section 18611 of the Business and Professions Code authorizes the commission to adopt, amend, or repeal,

regulations as may be necessary to carry out the laws relating to boxing and the martial arts.

Currently there are no regulations in place that address amateur full-contact mixed martial arts or "submission fighting." The commission previously adopted regulations for professional mixed martial arts but inadvertently omitted the word "amateur" in the regulation package. The professional regulations also apply, with no variation to amateur mixed martial arts. This proposal would adopt regulatory language for amateur full-contact mixed martial arts type fighting.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Cost or Savings to State Agencies Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to Any Local Agency District for Which Government Code Section 17561 Requires Reimbursement: None

Significant Adverse Economic Impact on Business:

The Commission has determined that the proposed regulatory action would not have an adverse economic impact on California business enterprises and individuals, including the ability of California business to compete with business in other states.

Promoters and other martial arts participants such as martial arts fighters, judges, referees, and physicians would have the opportunity to earn additional income from the regulation of mixed martial arts as it would become a legal sport.

Impact on Jobs/New Business:

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

Statement of Potential Cost Impact on Private Persons or Businesses Directly Affected:

Licensees, other than fighters, involved in the amateur mixed martial arts sport would pay licensing fees to the State of California. A 5% gross gate tax or a minimum of \$500 for an amateur match would be assessed upon each promoter who promotes the bout.

Effect on Housing Costs: None

PLAIN ENGLISH REQUIREMENT

The Commission has determined that the proposed regulations would not affect small business because the proposed regulations only apply to individual licensees.

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

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no alternative which it considered would either be more effective in carrying out the purpose for which the action is proposed or as effective and less burdensome to affected private persons than the proposal described in this Notice.

If the amateur mixed martial arts regulations are not adopted, amateur mixed martial arts also known as submission fighting will continue to exist in a covert manner, and it will continue to be unregulated where there is no structure or rules governing these fights. This would result in persons not having the appropriate knowledge or expertise in the martial arts field to properly referee or judge these fights and would subject the fighters to serious or detrimental injuries.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the statement of reasons and other information, if any, may be obtained at the hearing or prior to the hearing upon request from the Athletic Commission, 1424 Howe Avenue, Suite 33, Sacramento, California, 95825-3217.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the commission named above.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be addressed to Rob Lynch, Executive Officer, at the above address or at (916) 263-2195.

TITLE 8. INDUSTRIAL MEDICAL COUNCIL

Notice of Proposed Emergency Rulemaking

The Industrial Medical Council ("IMC") proposed to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The IMC proposes to adopt sections 11.5, 118, 119 and modify section 1 in Title 8 of the California Code of Regulations (CCR). These sections concern the qualifications of physicians to be come certified as Qualified Medical Examiners.

PUBLIC HEARING

The IMC will hold two public hearings on the adoption of these emergency regulations relating to the medical-legal report writing course criteria for all Physicians serving status as Qualified Medical Evaluators.

These hearings, will be on the following date at the following location:

Day: December 12, 2000
 Time: 10:00 a.m.–2:00 p.m.
 Place: 455 Golden Gate Avenue
 Public Hearing Room
 San Francisco, CA 94102

Day: December 14, 2000
 Time: 1:00 p.m.–5:00 p.m.
 Place: Holiday Inn, LAX
 9901 La Cienega Blvd.
 Los Angeles, CA 90045

At the hearing, any person may present statements or arguments orally or in writing to the proposed action described in the informative digest. It is requested but not required that anyone wishing to make public comment at the hearing submit comments in writing to the IMC prior to the date of the hearing.

All written comments should be mailed to James D. Fisher, Esq., P.O. Box 8888 San Francisco, CA 94128 and must be received by the IMC no later than 5:00 p.m., December 14, 2000 or may be submitted at the public hearing by close of session. Comments by fax will not be accepted.

AUTHORITY AND REFERENCE

The IMC is taking this action pursuant to its authority under Labor Code sections 122, 139, and 139.2. The proposed regulations will implement and make specific Labor Code section 139.2.

INFORMATIVE DIGEST/PLAIN ENGLISH POLICY OVERVIEW

The IMC proposes to adopt specified administrative regulations governing the requirements for all physicians who desire QME status and who perform evaluations under the provisions of the Labor Code.

The IMC's legislative mandates are set out in Sections 139-139.2 of the California Labor Code. The IMC oversees the medical aspects of the California Workers' Compensation system and appoints physicians as Qualified Medical Evaluators to perform

medical-legal evaluations of injured workers. The term "physician" is defined by the Labor Code to include physicians and surgeons holding an M.D. or a D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners. Labor Code § 3209.3.

A QME is appointed by the IMC to serve for a term of two years provided that he or she is licensed to practice in California; meets the eligibility criteria set out in Labor Code; passes an examination given by the IMC; and pays a fee. The legislature has determined that the quality of medical legal report writing in the California workers' compensation system must be improved. Although the QME examination tests a physicians general knowledge of the workers' compensation system's rules and regulations, there is currently no report writing aspect included within this testing process. The IMC has determined that in order to comply with the mandate of AB 776 a report writing course of sufficient quality must include various essential criteria.

Thus, pursuant to AB 776 the criteria for becoming a QME are being modified to include a report writing course to enable physicians to write more complete and accurate medical legal evaluations and to modify the eligibility criteria as required by the amendments to section 139.2. The IMC is therefore enacting new regulations containing the criteria and standards for this report writing course.

The definitions in section 1 of the proposed regulations are being modified to include definitions necessary to define the criteria for the report writing course. Section 11.5 contains the substantive rules governing the substantive standards to be met for approval of a report writing course. This section sets forth the process for submitting an application, review of the application, approval of proposed courses and revocation of an approved writing course. In addition, the section sets forth a process for auditing approved providers for compliance with the substantive rules.

Form 118 is being added to serve as an application for accreditation as a course provider. Form 119 is being added for faculty disclosure of commercial interest to ensure the course provider does not have an unethical financial interest in the course being provided.

CONSIDERATION OF ALTERNATIVES

The IMC must determine that there are no alternatives to the proposed regulation that would be more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons than the proposed regulations.

The IMC invites interested persons to present statements or arguments with respect to alternatives to

the proposed regulations at the scheduled hearings or during the written comment period.

LOCAL MANDATES

These proposals if adopted will not mandate any programs upon local agencies or school districts.

COST OR SAVINGS IN FEDERAL FUNDING TO STATE

None. The proposed regulations will not affect any Federal funding.

COST OR SAVINGS TO STATE AGENCIES

The proposed regulations will not impose costs on state agencies. Any such costs are non-reimbursable, however, since the requirement that employers contribute to the funding of California's workers' compensation programs is not unique to state agencies and applies to all employers alike, both public and private.

SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The IMC finds that adoption of these regulations will not have a significant economic impact on businesses, nor will it have a significant impact on the ability of California businesses to compete with businesses in other states.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES DIRECTLY EFFECTED

The IMC has determined that the proposed regulations may have a cost of between \$50 to \$150 on physicians seeking to become QME's. There maybe an additional impact on course providers which is to be determined.

ASSESSMENT OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The IMC has determined that these regulations will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing jobs within the State of California, or the expansion of existing businesses within the State of California.

OTHER NON-DISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES

None. There are no non-discretionary costs or savings.

EFFECT ON SMALL BUSINESS

The IMC has determined that the proposed regulations may have an impact on some small businesses. The express terms of the proposed action written in plain English are available from the agency contact person named in this notice.

CONTACT PERSONS AND THE AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The text of the proposed regulations may be obtained upon request from the IMC. A statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the IMC. The rulemaking file is available for public inspection. Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any upon which the rulemaking is based to:

Elizabeth Ignacio
Department of Industrial Relations
Industrial Medical Council
395 Oyster Point Blvd., Ste. 102
South San Francisco, CA 94080

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

James D. Fisher, Esq.
Department of Industrial Relations
Industrial Medical Council
395 Oyster Point Blvd., Ste. 102
South San Francisco, CA 94080

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearings and considering all timely and relevant comments received, the IMC may adopt the proposed regulations substantially as described in this notice. If the IMC makes modifications which are sufficiently related to the originally proposed text, it will make the modified text with the changes clearly indicated available to the public for at least 15 days before the IMC adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Elizabeth Ignacio at the address indicated above. The IMC will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, will automatically be sent those interested persons on the IMC's mailing list.

When adopted, the regulations as amended will appear in the California Code of Regulations at Title 8, Sections 11.5, 118 and 119 and modifying section 1.

**TITLE 10. DEPARTMENT
OF INSURANCE**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

RH-392

**COMPLIANCE WITH GRAMM-LEACH-BLILEY
FINANCIAL SERVICES MODERNIZATION ACT**

SUBJECT OF HEARING

A public hearing will be held regarding the date for compliance with Title V of the Gramm-Leach-Bliley Financial Services Modernization Act ("GLBA").

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes the adoption of this regulation (Title 10, Chapter 5, Section 2692 of the California Code of Regulations) pursuant to the authority vested in him by Title V of GLBA. The purpose of the regulation is to implement, interpret, and make specific the provisions of GLBA Title V.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to receive public comments, orally or in writing, with respect to the regulation as follows:

Date and Time: December 11, 2000—10:00 a.m.

**Location: 45 Fremont Street, 22nd Floor
Hearing Room
San Francisco, CA 94105**

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for these hearings in order to make special arrangements, if necessary.

**WRITTEN AND/OR ORAL COMMENTS;
AGENCY CONTACT PERSON**

All persons are invited to submit written comments to the Insurance Commissioner on the proposed regulation. Comments should be addressed to the contact person for this proceeding:

Elizabeth Mohr, Senior Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st floor
San Francisco, CA 94105
(415) 538-4112

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner, at the address listed above, no later than 5:00 p.m. on December 11, 2000. Any written materials received after that time will not be considered.

Comments submitted by means of facsimile transmission will not be accepted or considered.

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

QUESTIONS REGARDING REGULATION

Questions regarding the regulation should be directed to the contact person listed above.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW

California Insurance Code Sections 791–791.27, the Insurance Information and Privacy Protection Act enacted in 1980, establishes standards for the collection, use, and disclosure of information gathered in connection with insurance transactions. Effective January 1, 2001, California Civil Code Section 56.265 prohibits certain persons or entities from disclosing individually identifiable information concerning the health of, or medical or genetic history of, a customer for use with regard to the granting of credit.

Title V of GLBA (15 U.S.C. Section 6801, et seq.) requires various federal agencies and state insurance authorities to enact regulations respecting the privacy of customers and protecting the security and confidentiality of nonpublic personal information. GLBA required that those rules be effective on November 13, 2000, but gave federal agencies the authority to extend the effective date. The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration have adopted regulations implementing Title V of GLBA. Each retained the November 13, 2000, effective date but extended the compliance date until July 1, 2001.

Consequently, entities subject to the jurisdiction of the California Insurance Commissioner are required to comply with GLBA prior to July 1, 2001, even though financial institutions subject to the jurisdiction of the federal regulators need not comply until July 1, 2001.

STATEMENT OF SPECIFIC PURPOSE

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address is set forth below:

Section 2692(a) sets forth the applicability of section 2692. Section 2692 applies to all insurance institutions, agents, and insurance-support organizations subject to regulation under the California Insurance Code.

Section 2692(b) extends until July 1, 2001, the time for compliance with Title V of GLBA. This provision is necessary to ensure that all financial institutions, as defined in GLBA, are subject to the same provisions of GLBA on the same date.

Section 2692(c) specifies that insurance institutions, agents, and insurance-support organizations are required to continue to comply with all other applicable laws regarding the privacy or confidentiality of nonpublic personal information. This provision is necessary to clarify that entities subject to the California Insurance Commissioner's jurisdiction must continue to comply with relevant applicable California law.

LOCAL MANDATE DETERMINATION

The proposed regulation will not result in program mandates on local agencies or school districts.

COST OR SAVINGS TO LOCAL AGENCIES AND SCHOOL DISTRICTS / FEDERAL FUNDING

There will be no direct or indirect cost or savings to, nor will there be any new program mandates on, any local agency, state agency or school district from the proposal. The proposal imposes no other nondiscretionary costs or savings on local agencies. Nor will the proposal affect federal funding to the state.

ALTERNATIVES

The Commissioner must determine that no alternative considered 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.

ECONOMIC IMPACT ON BUSINESS AND INDIVIDUALS AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The proposal will not have a significant adverse economic impact on business enterprises and individuals in California or on the ability of any California business to compete with businesses in other states. If this regulation is not adopted, a financial institution will be subject to different privacy compliance requirements, depending on whether the financial institution is regulated by the state insurance commissioner or a federal regulatory agency. The proposal avoids the imposition of unnecessary or unreasonable regulations or reporting, record-keeping, or compliance requirements.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The proposal will not affect the creation or elimination of jobs within the State of California. The proposal will not result in the creation of new businesses or eliminate existing businesses within the State of California. The proposal will not affect the

expansion of businesses currently doing business within the State of California.

IMPACT ON SMALL BUSINESS

The proposed regulation will not have a significant impact on small businesses because, pursuant to Government Code section 11342(h), insurance companies are not considered small businesses.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The proposal does not have a significant cost impact on private persons or businesses directly affected by the proposal.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposal will not impose any non-discretionary cost or savings on local agencies.

COSTS OR SAVINGS TO STATE AGENCIES

The proposal will not result in any cost or in significant savings to state agencies.

REIMBURSABLE COSTS

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

IMPACT ON COMPETITIVENESS

The proposal will not have an adverse impact on competition or competitiveness.

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Those technical terms are defined in plain English.

COMPARABLE FEDERAL LAW

Comparable existing federal regulations or statutes are described in the "Summary of Existing Law," above.

IMPACT ON HOUSING COSTS

The proposal will not affect housing costs.

TEXT OF REGULATION AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons which sets forth the reasons for the regulation. The Initial Statement of Reasons, together with the text of the proposed regulation, and this Notice of Proposed Action are available for inspection or will be provided at no charge upon request to the contact person listed above.

ACCESS TO COPIES OF PROPOSED REGULATION AND STATEMENT OF REASONS

Any interested person may inspect a copy of or direct questions about the proposed regulation, the statement of reasons, the information upon which the proposal is based, and any supplemental information contained in the rulemaking file, from the contact person listed above. By prior appointment, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulation, automatically will be sent to all persons on the Insurance Commissioner's mailing list.

MODIFIED LANGUAGE

If the regulation adopted by the Department differs but is sufficiently related to the action proposed, it will be available to the public for at least 15 days prior to the date of adoption.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION: REGULATION CLEAN UP, REGULATIONS 1020, 1021, 1051, 1052, 1053, 1054, 1055, 1056, and 1080

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST), pursuant to the authority vested by Penal Code Sections 13506 (authority to adopt regulations), and in order to interpret, implement and make specific Penal Code Sections 13503(g) (the power to do any and all things necessary or convenient to enable the Commission to fully and adequately perform its duties and exercise the power granted to it) proposes to adopt, amend, or repeal regulations in Chapter 2 of Title 11 of the California Code of Regulations.

INFORMATIVE DIGEST

The proposed changes to Regulations 1020–1080 are part of a multi-phase project to accomplish the review and clean up of Commission Regulations to assure clarity, consistency, accuracy, etc. The proposed language was developed by a POST Regulation Review Committee which included staff from the various POST bureaus many of whom are long time employees and experts in their fields. The following is an overview of the types of changes included:

Regulations 1020 through 1052 and 1057: primarily clean up, no change in requirements.

Regulation 1053, Course Certification Request and Review Process: Text is proposed to require persons or organizations requesting course certification to contact a POST training and delivery consultant prior to sending in the certification request package. Text is also proposed to require expanded course outlines to be in sufficient detail to indicate technical information in the subject areas. Other changes are clean up.

Regulation 1054, Requirements for Course Budget: Text is proposed to clarify that student workbooks are not considered handouts. Text is proposed for deletion that relates to training presentation reimbursement. Presenters submitting courses budgets must include information on any outside subventions provided to support presentation of the proposed course.

Regulation 1055, Requirements for Course Presentation: Text is proposed to expand the Publicity section which indicates that courses cannot be publicized prior to course certification and that the POST certification number shall be shown on all materials being publicized. Text relating to concurrent sessions is proposed for deletion. Text relating to subventions is proposed for amendment. The Reserve Module D course was added to the courses listed in Regulation 1055(f) titled "Cheating."

Regulation 1056, Annual Recertification: Current procedures describing the recertification process have been added to this regulation.

Regulation 1080, PC832 Arrest and Firearms Course Examination and Qualification Requirements: A substantial amount of text is proposed for change. Text is added that states only service in a peace officer position for which PC 832 training is required by law maintains the currency of an individual's PC 832 certification. Text is also added that would exempt the necessity for a new criminal history clearance if there is a lapse of less than 180 days since the last clearance.

PUBLIC COMMENT

The Commission hereby requests written comments on the proposed action. All written comments must be received at POST no later than 4:30 p.m. on December 4, 2000. Written comments should be directed to Kenneth J. O'Brien, Executive Director, Commission on Peace Officer Standards and Training, 1601 Alhambra Blvd., Sacramento, CA 95816-7083.

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or duly authorized representative, may request in writing, no later than December 4, 2000, that a public hearing be held.

ADOPTION OF PROPOSED REGULATIONS

Following the close of the public comment period, the Commission may adopt the proposals substantially as described in this notice or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before adoption, the text of any modified language clearly indicated will be made available at least 15 days before the date of adoption to all persons whose comments were received by POST during the public comment period, and all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date on which the revised text is made available.

TEXT OF PROPOSAL

Copies of the Statement of Reasons and exact language of the proposed action may be obtained by submitting a request in writing to the contact person at the address below. This address also is the location of all information considered as the basis for these proposals. The information will be maintained for inspection during the Commission's normal business hours (8 a.m. to 5 p.m., Monday through Friday).

ESTIMATE OF ECONOMIC IMPACT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Declaration Relating to Impact on All California Businesses Including Small Businesses: The Commission on Peace Officer Standards and Training, in the development of the proposed regulation, has assessed the potential for adverse economic impact on businesses in California, including the ability of California businesses to compete with businesses in other states, and has found that the proposed amendments to Regulations 1020-1080 will have no effect. This finding was based on the determination that the proposed amendments to Regulations 1020-1080 in no way applies to businesses because the Commission on Peace Officer Standards and Training sets selection and training standards for law enforcement and does not impact California businesses, including small businesses.

Costs Impact on Private Persons or Entities: None

Effect on Housing Costs: None

ASSESSMENT

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

CONSIDERATION OF ALTERNATIVES

In order to take this action, the Commission must determine that no alternative considered by the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquires concerning the proposed action and requests for written material pertaining to the proposed action should be directed to Leah Cherry, Associate Governmental Program Analyst, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, or by telephone at (916) 227-3891.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO ADOPT NOT-TO-EXCEED AND EURO III EUROPEAN STATIONARY CYCLE EMISSION TEST PROCEDURES FOR THE 2005 AND SUBSEQUENT MODEL YEAR HEAVY-DUTY DIESEL ENGINES

The Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to regulations to adopt supplemental test procedures for 2005 and subsequent model year heavy-duty diesel engines. The supplemental test procedures include the Not-to-Exceed and EURO III European Stationary Cycle emission test procedures.

DATE: December 7, 2000

TIME: 9:00 a.m.

PLACE: Air Resources Board
Board Hearing Room, Lower Level
2020 L Street
Sacramento, California

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 7, 2000, and may continue at 8:30 a.m., December 8, 2000. This item may not be considered until December 8, 2000. Please consult the agenda for the meeting, which will be available at least 10 days before December 7, 2000, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the Clerk of the Board at (916) 322-5594 or

TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area by November 22, 2000.

INFORMATIVE DIGEST OF PROPOSED
ACTION AND PLAIN ENGLISH POLICY
STATEMENT OVERVIEW

Sections Affected: California Code of Regulations (CCR), title 13, article 1.5; section 1956.8; and section 2065, and the incorporated “California Exhaust Emission Standards And Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles.”

In the 1990s, seven large manufacturers of heavy-duty diesel engines (HDDEs) violated certification regulations by turning off, or defeating, emissions control equipment during in-use highway driving. To address this violation, the Department of Justice, the United States Environmental Protection Agency (U.S. EPA) and the ARB signed consent decrees with the seven engine manufacturers. A consent decree is a judicial decree that recognizes a mutual settlement between the parties—in this case, between the government and the engine manufacturers (herein referred to as the “settling manufacturers”).

In the consent decrees, the settling manufacturers are required, among other things, to produce HDDEs that comply with prescribed emission standards that are lower than those required in current state and federal regulations, as measured by the Federal Test Procedure (FTP). Specifically, these engines must meet a 2.5 gram per brake horsepower (g/bhp-hr) hour standard for non-methane hydrocarbons (NMHC) plus oxides of nitrogen (NOx) emissions no later than October 1, 2002 (about 50 percent cleaner than current engines). In addition, because it was found that the FTP was not adequate to ensure that exhaust emissions were controlled during all in-use driving, it was agreed that compliance with supplemental test procedures would be necessary. Thus, the majority of the settling manufacturers agreed to produce engines by October 1, 2002, that would meet supplemental test procedures including the Not-To-Exceed (NTE) test and the EURO III European Stationary Cycle (ESC) test. The consent decree states that these requirements must be met for a period of two years. Together with the FTP test, the supplemental test procedures will require control of emissions during the majority of real world operating conditions, ensuring that in the future defeat devices will no longer be employed.

Recognizing the effectiveness of the supplemental tests, the U.S. EPA published a Notice of Proposed Rulemaking (Vol. 64, Federal Register, pp. 58472–58566, October 29, 1999) proposing to adopt similar supplemental test procedures for 2004 and subsequent model year HDDEs. However, because of federal

timing constraints, the NTE and ESC test procedures will not be required until the 2007 model year for federally certified HDDEs (65 FR 59896, October 6, 2000). Therefore, once the HDDE consent decree requirements expire in 2004, the settling manufacturers will not be obligated to comply with the supplemental test procedures in 2005 or 2006. Not until the 2007 model year, when the federal rule comes into effect, will HDDE manufacturers be required to comply with similar supplemental test procedures federally.

In order to assure continued compliance during model years 2005 and 2006 by the settling manufacturers and to begin compliance by all other manufacturers in 2005, staff proposes the inclusion of the NTE and ESC tests in the required California certification process for 2005 and subsequent model year HDDEs. The proposed supplemental test procedures are identical to those in the Consent Decrees. In addition, staff proposes the exemption of “ultra-small volume manufacturers”¹ and “urban buses”² from the proposed supplemental test procedures until the 2007 model year in order to allow additional lead time for compliance. Below is a summary of the proposed amendments:

1. Not-to-Exceed Test Procedure

The NTE test establishes an area (NTE control area) under the torque curve of an engine where emissions must not exceed a specified cap for a given pollutant. The NTE cap is set at 1.25 times the FTP emission limit. For 2005 model year heavy-duty engines, the FTP emission limit for NMHC plus NOx is 2.5 grams per brake horsepower-hour, and thus the NTE cap is 3.125 grams per brake horsepower-hour. As in the consent decree requirements, an additional 0.5 grams per brake horsepower-hour is proposed for determining compliance with the supplemental procedures in in-use compliance testing.

The basic NTE control area for diesel engines has three primary boundaries. The first is the upper boundary, which is represented by the engine’s torque and speed map. This shows an engine’s maximum torque at a given speed. The second boundary is 30 percent of maximum torque. Only operation above this boundary is included in the NTE control area. The third boundary is determined based on the lowest engine speed at

¹ An “ultra-small volume manufacturer” is defined as any manufacturer with California sales less than or equal to 300 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines per model year based on the average number of vehicles and engines sold by the manufacturer in the previous three consecutive model years.

² An “urban bus” is defined in proposed title 13, California Code of Regulations, section 1956.2.

50 percent of maximum power and highest engine speed at 70 percent of maximum power. Only engine operation above the engine speed boundary is included in the NTE control area. Additionally, there are two small areas which are “carved out” of the basic NTE control area because of uncertain technical feasibility.

Notwithstanding the conditions outside the NTE control area specified above, the NTE requirement would apply under any engine operating conditions that could reasonably be expected in normal vehicle use. A vehicle can be tested for compliance with the NTE procedure either on the road or in emissions testing laboratory using an engine or chassis dynamometer. Instead of using a specific driving cycle such as the FTP, compliance testing can involve driving of any type which could reasonably be expected to occur in normal vehicle operation within the boundaries of the NTE control area, including operation under steady-state or transient conditions and under varying ambient conditions. Measured emissions are averaged over a minimum of thirty seconds and compared to the NTE test cap. These requirements would apply to new engines and throughout their useful life.

The NTE test procedures are applicable for a wide range of ambient conditions. For example, NTE ambient temperature coverage can range from 55 °F to 95 °F compared to the FTP ambient conditions of 68 °F to 86 °F. Two different options related to temperature and altitude will be available for manufacturers to comply with the NTE requirements. Under option one, manufacturers must comply with the NTE requirements within the ambient temperature range of 55 °F to 95 °F, and an altitude range of up to 5,500 feet above sea level. Within this NTE altitude and temperature zone, the engine must meet the NTE requirements. For testing at a given altitude outside of this zone, NO_x and PM emission results may be corrected for temperature.

Under option two, manufacturers must comply with the NTE requirements between 55 °F and 100 °F at sea-level and between 55 °F and 86 °F at 5,500 feet above sea-level. The maximum temperatures for the corresponding altitudes between those points are determined linearly. At temperatures above the NTE zone, NTE requirements do not apply. Additionally, defeat devices may not be used in the temperatures above the NTE control area. This option is not contained in the consent decrees although it is in the U.S. EPA’s Final Rule. It is provided here because it provides even better control of off-cycle emissions under typical California conditions.

In U.S. EPA’s Final Rule, a NTE deficiency provision for 2007 through 2009 model year engines provides manufacturers with a relief mechanism for failing to comply with some of the NTE requirements. Because the NTE control area and test procedures in the proposed regulation are identical to the NTE requirements in the HDDE consent decree for model years 2003 and 2004, the settling manufacturers will be in compliance with proposed NTE requirements prior to the effective date of this proposal. However, it may be possible that manufacturers will have technical difficulties that are limited in nature. Therefore, staff proposes the inclusion of NTE deficiencies from 2005 through 2007 model years. This provision is optional and increases manufacturer flexibility compared to the consent decrees.

2. EURO III European Stationary Cycle Test Procedure

The Euro III ESC test cycle, or the “supplemental steady state test,” consists of 13 modes at different speed and power conditions, primarily representing the typical highway cruise operating conditions of heavy-duty diesel vehicles.

During the test cycle, the engine is initially operated at idle, then through a defined sequence of 12 modes at various speeds and engine loads. The test modes are at three different operational engine speeds and at 25%, 50%, 75%, and 100% of maximum load. The engine is operated for two minutes at each mode, except for idle. The emission results at each mode are then weighted and averaged.

Manufacturers would be required to show compliance with the following:

Average Allowable Testing Caps

At each mode of operation of the ESC test, the concentration of the gaseous pollutants is measured. The weighted average emissions for each pollutant must not be greater than the existing FTP emission limit which is 2.5 grams per brakehorsepower-hour for NMHC plus NO_x for 2005 and subsequent model year engines. A single, particulate matter measurement is made of the entire 13 modes at the end of the test. The ARB may select 3 additional test points between the 12 non-idle test modes for gaseous pollutants only. The purpose of the additional tests is to ensure that the engine emission controls are not optimized for the specific test modes and then defeated when operating in modes not specified for testing.

Maximum Allowable Testing Caps

Maximum allowable emission caps are determined from the 12 non-idle test points of the ESC tests. The maximum allowable emission cap at any

set of speed and load conditions between the test points can be determined by using a four-point interpolation procedure. Emissions of gaseous pollutants at any point within the maximum allowable emission capped operational zone must not exceed the emissions standard as determined by interpolation. Maximum allowable emission caps only apply to gaseous pollutants and do not apply to particulate matter.

3. Measuring Smoke Emissions Within the NTE Control Area

Within the NTE control area, an engine must meet either a filter smoke cap or an opacity cap. The filter smoke cap is 1.0 on the Bosch number scale, a measure of smoke opacity. There are two alternatives for the smoke opacity cap. The first opacity cap is 4 percent averaged over 30 seconds using a 5-inch path. This cap is for transient testing. The second opacity cap is also 4 percent, but averaged over 10 seconds using a 5-inch path. This cap is for steady state testing. Smoke emissions at these low levels would not be visible.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

The Board staff has prepared a Staff Report which includes the initial statement of reasons (ISOR) for the proposed action and a summary of the environmental impacts of the proposal. Copies of the Staff Report, and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990. The Board staff has compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the agency contact person identified immediately below.

The ARB staff has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a plain English summary of the regulation is available from the agency contact person named in this notice, and is also contained in the ISOR for this regulatory action.

To obtain the ISOR in an alternate format, please contact the Air Resources Board's ADA Coordinator at (916) 323-4916, TCC (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area. This notice, the ISOR, and subsequent regulatory documents will also be available on the ARB's Internet site for this rulemaking at: <http://www.arb.ca.gov/regact/NTEtest/NTEtest.htm>.

Further inquiries regarding this matter should be directed to the agency contact person for this rulemaking, Ms. Susan O'Connor, Manager, On-Road Heavy-Duty Diesel Section, at (626) 450-6162 of the

Air Resources Board, Mobile Source Control Division, 9528 Telstar Avenue, El Monte, California 91731.

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 in reasonable compliance with the proposed regulations are presented below.

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

The Executive Officer has also determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, except as noted below.

The businesses affected by the proposed supplemental test procedures are the manufacturers of HDDEs sold in California. Based on previous sales data, there are 21 companies that manufacture these types of engines. The proposed test procedures may be expected to result in some engine design modifications, which in turn, may result in increased costs to the engine manufacturers. However, these costs are expected to be passed on to the consumers or purchasers of heavy-duty vehicles with a gross vehicle weight rating of 14,001 pounds and greater. Since the settling manufacturers, account for approximately 60 percent of heavy-duty diesel vehicle sales and are required to comply with identical requirements beginning two years prior to 2005, most purchasers are not expected to experience an increase in vehicle cost as a result of the proposed regulations.

If the entire costs are passed on to the consumer, heavy-duty vehicle retail prices would increase by a maximum of approximately \$674 per medium heavy-duty vehicle and \$824 per heavy heavy-duty vehicle in the 2005 model year. U.S. EPA estimates that average vehicle costs are \$52,000 per medium heavy-duty vehicle and \$108,000 per heavy heavy-duty vehicle. Based on U.S. EPA's estimated vehicle costs, the estimated price increase would represent a 1-2 percent price increase. The price increase of this size is not expected to dampen the demand of heavy-duty vehicles. Consequently, the impact to dealers of heavy-duty vehicles is not expected to be significant.

The expected price increase is also not expected to impact California employment, business expansion, creation and elimination, or the ability of California businesses to compete with businesses from other states.

Due to the additional emission control technologies that may be required, manufacturers of those technologies may experience higher sales volume. The higher sales volume may also increase employment for those businesses that supply parts between the related businesses. Compared to overall California employment, this effect is expected to be minor. Additionally, to the extent that manufacturers use contract laboratories located in California for testing or other research and development efforts, there is a potential increase in contract laboratory employment. No other associated businesses are expected to be affected by the proposed supplemental test procedures.

The estimated excess NOx emissions expected to be reduced due to the proposed supplemental test procedures is 8.4 tons per day in 2005 and 17.3 tons per day in 2006. This estimate is for California registered vehicles only. Based on the costs described above, the cost effectiveness is estimated to range from \$0.63 to \$0.09 per pound of excess NOx reduced. The range depends upon the weight class of the heavy-duty vehicle. Based on current sales distribution of the two weight classes, overall cost effectiveness is estimated at \$0.17 per pound of excess NOx reduced. This is well within the range of cost-effectiveness determined by previous regulatory action within the past decade.

In accordance with Government Code section 11346.54, the Executive Officer has determined that the proposed regulatory action will not adversely affect the creation or elimination of jobs with the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. The Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action will affect small business. A full assessment of the economic impact of the proposed regulatory action can be found in the Staff Report.

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.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

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

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, December 6, 2000, or received by the Clerk of the Board at the hearing. To be considered by the ARB, e-mail submissions must be addressed to NTEtest@listserve.arb.ca.gov and received at the ARB no later than 12:00 noon, December 6, 2000.

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 10 days prior to the hearing. 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

This regulatory action is proposed under that authority granted in California Health and Safety Code sections 39600, 39601, 43013, 43018, 43101, 43104, 43105, 43210, and 43806, and Vehicle Code section 28114. This action is proposed to implement, interpret and make specific California Health and Safety Code sections 39002, 39003, 39500, 43000, 43012, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43106, 43202, 43203, 43204, 43210-43213, and 43806, and Vehicle Code section 28114.

HEARING PROCEDURES

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

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice 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 Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER REQUIRING CERTAIN CALIFORNIA LIGHT- AND MEDIUM-DUTY VEHICLES TO BE SUBJECT TO FEDERAL TIER 2 EXHAUST STANDARDS, AND ADOPTING ADDITIONAL EXHAUST EMISSION STANDARDS FOR HEAVY-DUTY GASOLINE VEHICLES AND ENGINES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to its exhaust emissions regulations for light-, medium- and heavy-duty engines and vehicles. One set of amendments would require that where a manufacturer has certified a light- or medium-duty vehicle model to a federal Tier 2 emissions bin that is more stringent than a California emissions category and does not have an identical California emissions category counterpart, the equivalent model in California would have to be certified either to a more stringent California vehicle emissions category or to the federal standards for the Tier 2 emissions bin. The second set of amendments would adopt additional exhaust emission standards for heavy-duty gasoline engines to align with recently promulgated federal standards. These proposed amendments are designed to implement the principle that only the cleanest available vehicles should be offered in California because of the state's unique air quality challenges.

DATE: December 7, 2000

TIME: 9:00 a.m.

PLACE: Air Resources Board
Board Hearing Room, Lower Level
2020 L Street
Sacramento, California

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 7, 2000, and may continue at 8:30 a.m., December 8, 2000. This item may not be considered until December 8, 2000. Please consult the agenda for the meeting, which will be available at least 10 days before December 7, 2000, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the Clerk of the Board at (916) 322-5594, or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area by November 22, 2000, to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION AND PLAIN ENGLISH POLICY STATEMENT OVERVIEW

Sections Affected: Amendments to title 13, California Code of Regulations (CCR), section 1961 and the incorporated "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," and section 1956.8 and the incorporated "California Exhaust Emission Standards and Test Procedures for 1987 and Subsequent Model Heavy-Duty Otto-Cycle Engines and Vehicles." Adoption of the incorporated new "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines and Vehicles."

Proposed Amendments Affecting Light- and Medium-Duty Vehicles

Background—The California LEV I and LEV II Programs. The Board adopted the second phase of its Low-Emission Vehicle (LEV II) program for passenger cars, light-duty trucks and medium-duty vehicles following a November 1998 hearing. These regulations are a continuation of the original Low-Emission Vehicle (LEV I) program adopted in 1990. Both the LEV I and LEV II regulations include three primary elements: (1) tiers of exhaust emission standards for increasingly more stringent categories of low-emission vehicles, (2) a mechanism requiring each manufacturer to phase-in a progressively cleaner mix of vehicles from year to year with the option of credit banking and trading, and (3) a requirement that a specified percentage of passenger cars and lighter light-duty trucks be ZEVs, vehicles with no emissions.

The LEV I regulations. The LEV I program established four low-emission vehicle categories to which a car or light truck could be certified: Transitional Low-Emission Vehicle (TLEV), Low-Emission Vehicle (LEV), Ultra Low-Emission Vehicle (ULEV) and ZEV. The medium-duty vehicle categories are LEV, ULEV, Super Ultra Low-Emission Vehicle (SULEV) and ZEV. Vehicles could also be certified to the preexisting "Tier 1" exhaust emission standards. Each low-emission vehicle category has a progressively more stringent standard for exhaust emissions of nonmethane organic gas (NMOG), a precursor of ozone pollution. For example, passenger car LEVs and ULEVs have to meet standards for NMOG that are respectively about one-third and

one-sixth of the corresponding 1994 Tier 1 standard. The identical LEV and ULEV standard for oxides of nitrogen (NOx) represents a 50% reduction from the 1994 Tier 1 NOx standard.

All cars have been subject to the same low-emission vehicle standards, regardless of weight. However, heavier light-duty trucks and medium-duty vehicles were allowed to have greater emissions for a given low-emission vehicle category. There were two weight categories for light-duty trucks (LDT1 and LDT2) and four weight categories for medium-duty vehicles (MDV2, MDV3, MDV4 and MDV5).

Under LEV I, each year a manufacturer may produce cars and LDT1s certified to any combination of emission categories—TLEV, LEV, etc.—as long as its full model line meets the annual NMOG fleet average requirement. The required fleet average NMOG emissions level starts at the Tier 1 level for the 1994 model year. It then becomes incrementally more stringent through the 2003 model year, when the level for cars and LDT1s was derived from a potential mix of 75% LEVs, 15% ULEVs and 10% ZEVs. The heavier light trucks in the LDT2 category are subject to numerically higher fleet average NMOG emissions requirements reflecting the numerically higher TLEV, LEV and ULEV standards and the absence of a ZEV requirement for these vehicles. Medium-duty vehicles have separate requirements based on a percent phase-in schedule. The standards for chassis-certified medium-duty vehicles are phased in between the 1998 and the 2004 model years, at which point a manufacturer is required to certify at least 60% LEVs and 40% ULEVs.

The LEV II regulations. The LEV II amendments include three major interrelated exhaust emissions elements. The first is restructuring the light-duty truck category so that all former light-duty trucks, and all former medium-duty vehicles having a gross vehicle weight (GVW) of less than 8,500 lbs., will generally be subject to the same exhaust emission standards as passenger cars. Only vehicles having a GVW of 8,500–14,000 lbs. would remain as medium-duty vehicles in LEV II. These include the heaviest SUVs and pickup trucks, such as the Ford Excursion and Dodge Ram 2500.

Second, the Board adopted new LEV II standards for the LEV, ULEV and SULEV categories which are more stringent than the corresponding LEV I standards in several respects. Most importantly, the NOx standard for LEV and ULEV cars was reduced by 75% compared to LEV I. The Board eliminated the car and light truck TLEV standards after the 2003 model year; it concluded that the more stringent standards for the remaining vehicle emission categories could be met by a full range of gasoline and alternative fuel vehicles, making it inappropriate to allow substantially higher

NOx and particulate levels to assure availability of diesel cars and light trucks. The overall LEV II emission standards for medium-duty vehicles were tightened to be substantially equivalent in stringency to the light-truck standards (although numerically higher).

Manufacturers are generally required to phase-in certification of vehicles to the LEV II emission standards in place of the LEV I standards between the 2004 and 2007 model years. Car and current light truck models are to be certified to the LEV II standards at a rate of at least 25/50/75/100% during 2004–2007, although alternative plans can be approved. A manufacturer of vehicles classified as medium-duty under both LEV I and LEV II (8501-14,000 lbs. GVWR) must phase-in at least one test group a year to the LEV II standards, with full compliance by 2007. Vehicles that are medium-duty under LEV I but will be in the light truck category under LEV II do not have to be certified to the LEV II standards until the 2007 model year, when 100% compliance is required.

Third, the LEV II regulations provide for continuing yearly reductions in the annual fleet average NMOG requirement from the 2004 through 2010 model years. The 2010 level for cars and LDT1s was derived from a possible mix of 18% LEVs, 47% ULEVs, 25% SULEVs and 10% ZEVs. LEV II changes the required mix of medium-duty LEVs and ULEVs to at least a 40/60 starting with the 2004 model year. Because of the stringent LEV II NOx standards, most of the LEV II emission benefits are NOx reductions.

The Federal Tier 2 Program. On December 21, 1999, the U.S. Environmental Protection Agency (U.S. EPA) issued its Tier 2 regulations, which establish new more stringent exhaust emission requirements for all U.S. light- and medium-duty vehicles not subject to the California standards, starting with the 2004 model year. They are contained in 40 CFR Part 86 Subpart S. Although differing in several respects from the California program, the regulations were designed to be compatible with LEV II and to allow harmonization of federal and California vehicle technology. The Tier 2 regulations establish 10 different emission standard “bins” for cars and light trucks that function in the same manner as the vehicle emission categories (e.g., LEV and ULEV) in the California program. The emission levels for some federal bins fall between those for California’s vehicle emission categories, and the least stringent bins allow emissions greater than is allowed for any California LEV II emission category. It is expected that moderately well-controlled diesel engines in SUVs and pickup trucks could meet the federal Tier 2 standards for the least stringent bins.

The Tier 2 regulations employ a fleet average requirement for NOx instead of NMOG. When phase-ins are complete in the 2009 model year, all of

the vehicles subject to the LEV II standards for cars and light trucks, along with heavier “medium-duty passenger vehicles” (MDPVs) such as the Ford Excursion, will have to meet a fleet average NOx requirement of 0.07 gram per mile (gm/mi) for each manufacturer. In earlier years there are “interim non-Tier 2” fleet average NOx requirements that must be met by various vehicle categories. All 2004 and later model-year cars, light-trucks and MDPVs must be certified to one of the Tier 2 bins (including an eleventh bin for pre-2008 MDPVs only). There are also mechanisms for early banking of NOx credits.

U.S. EPA’s “heavy light-duty truck” category, or HLDT, is equivalent to what California has called MDV2 and MDV3—the vehicles that are treated as medium-duty vehicles under LEV I but as light-duty trucks under LEV II. Under Tier 2, none of these vehicles can be certified to a NOx standard greater than 0.6 g/mi after the 2003 model year. During the 2004–2006 model years an increasing proportion (25/50/75%) are grouped with the manufacturer’s MDPVs and made subject to an “interim non-Tier 2” fleet average NOx requirement of 0.20 g/mi. They do not all become subject to the Tier 2 fleet average NOx requirement of 0.07 g/mi until the 2009 model year.

The Proposed Regulatory Action. Although the LEV II program is ultimately more stringent than Tier 2, U.S. EPA’s treatment of the HLDT category during 2004–2006 is significantly more aggressive than under LEV II. Instead of adopting interim requirements or a graduated phase-in, the ARB chose to allow manufacturers to focus most resources on developing emission control systems to meet the LEV II light truck standards. This meant the vehicles could be certified to 120,000 mile LEV I NOx standards of 0.6 g/mi (for MDV2) and 0.9 g/mi (for MDV3) until the 2007 model year when the LEV standard for these vehicles will be 0.07 g/mi. In estimating the emission impacts of the LEV II program, the ARB staff projected that manufacturers would in practice certify at least one model to the LEV II light-duty truck standards each year to avoid excessive workload demands for the 2007 model year. But now that manufacturers will be required to make progressively cleaner federal HLDTs during 2004–2006 under Tier 2, staff is proposing amendments to assure that these cleaner vehicles are marketed in California.

The proposed amendments would provide that, whenever a manufacturer federally-certifies a 2004 or subsequent model-year passenger car, light-duty truck or medium-duty vehicle model to a federal Tier 2 emissions bin that is more stringent than an applicable California emissions category and does not have an identical California emission counterpart, the equivalent model in California will have to be certified either to a more stringent California emissions category or to

the federal standards for the Tier 2 emissions bin. Model equivalency would be determined based on whether the federal model is identical to the California with respect to manufacturer, make and model, cylinder block configuration (L-6, V-8 etc.), displacement, combustion cycle, and transmission class. Comparative stringency would be based on the combined NMOG plus NOx standards for 100,000 or 120,000 miles. For purposes of compliance with the fleet average NMOG requirements and calculating vehicle emission credits, the vehicles would be considered to be certified to the next less stringent LEV II vehicle emissions category. The manufacturer would still be required to meet other applicable California emissions and phase-in requirements, such as evaporative emission standards, on-board diagnostics, emissions warranty, and California emission labels.

Since the Tier 2 program allows manufacturers to build higher-emitting SUVs and pickup trucks as long as their emissions are offset by cleaner cars, staff expects manufacturers may at times certify federal vehicles with especially low emissions. The amendments would assure that equivalent California models would have the same emissions performance. The Tier 2 requirements may also trigger some lower-emitting MDPVs in the 2004–2006 model years, and these vehicles would also be covered.

Staff is also proposing several minor amendments to the LEV II provisions to correct errors and update the certification language consistent with the Tier 2 requirements. For example, proposed amendments would eliminate unintended instances where requirements for small volume manufacturers are more stringent than those for other manufacturers. As with LEV I, small volume manufacturers would be allowed to delay implementation until the end of the phase-in years.

Proposed Amendments Affecting Heavy-Duty Gasoline Vehicles and Engines

On July 31, 2000, U.S. EPA issued new regulations reducing the exhaust emission standards for non-methane hydrocarbons (NMHC) plus NOx from heavy-duty Otto-cycle (gasoline) engines (over 8,500 pounds GVW) from 4.0 grams per brake horsepower-hour (g/bhp-hr) to 1.0 g/bhp-hr. Although the existing California 2003 and later model standard of 2.5 g/bhp-hr is more stringent than the preexisting federal standard, California would benefit by adopting the new federal 1.0 g/bhp-hr standard. Therefore, staff is proposing that California’s standards be harmonized with the more stringent emission standards now being required federally.

There are three compliance options in the federal rule that allow a manufacturer to select the best

approach for its product line. Option 3 has been designated as the primary NMHC plus NO_x standard at 1.0 g/bhp-hr and is scheduled for introduction with the 2005 model year. The other two options allow manufacturers to delay compliance with this standard by certifying to an interim emission level in the 2003 or 2004 model years but at a less stringent level of 1.5 g/bhp-hr. Staff is proposing adoption of all of these options with a few minor adjustments.

Although the federal regulations treat all heavy-duty engines over 8,500 pounds GVW as one category, the California regulations divide these engines into two categories—one for engines used in incomplete medium-duty gasoline vehicles 8,500 to 14,000 pounds GVW and another for engines used in all gasoline vehicles over 14,000 pounds GVW. The new federal standards apply to both categories of engines for NMHC and NO_x. However, staff is proposing that the existing California medium-duty carbon monoxide (CO) standard of 14.4 g/bhp-hr be retained for ULEVs, and is proposing new standards of 0.5 g/bhp-hr NMHC + NO_x, 7.2 g/bhp-hr CO, and 0.025 g/bhp-hr formaldehyde for optional medium-duty SULEV engines.

Finally, staff is also proposing a reorganization of the test procedures that govern the certification of heavy-duty Otto-cycle engines. These modifications follow the approach used in the earlier revisions to the test procedures for light- and medium-duty vehicles, tracking the organizational structure of the federal certification procedures to make it easier for manufacturers to compare them.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSON

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. Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the ARB's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990. The Board staff has also compiled a record that includes all information upon which the proposal is based. This material is available for inspection upon request to the agency contact person identified below.

The ARB staff has determined that it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a plain English summary of the regulation is available from the agency contact person named in this notice, and is also contained in the ISOR for this regulation action.

To obtain the ISOR in an alternate format, please contact the Air Resources Board's ADA Coordinator at (916) 323-4916, TDD (916) 324-9531,

or (800) 700-8326 for TDD calls from outside the Sacramento area. This notice, the ISOR, and subsequent regulatory documents will also be available on the ARB's Internet site for this rulemaking at: <http://www.arb.ca.gov/regact/mdv-hdgc/mdv-hdgc.htm>.

Further inquiries regarding the proposed amendments should be directed to the agency contact person for this rulemaking, Paul Hughes, Manager, LEV Implementation Section, Mobile Source Control Division at (626) 575-6977.

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 in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other non-discretionary savings to local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The Executive Officer has determined that proposed regulatory action will not have a significant cost impact on directly affected persons or businesses. With regard to the LEV II amendments, the requirements would only apply to vehicles that have already been certified to the federal standards; they accordingly do not independently require any California model to be certified to a new standard. Since the models will already have been federally-certified, the additional costs from marketing the vehicles should be minimal. With regard to the heavy-duty standards, U.S. EPA estimated that the new federal standards will result in a less than \$300 cost increase for heavy-duty Otto-cycle engines by 2010. Since a manufacturer will already have to incur these costs for engines sold in the rest of the country, and there are significant costs incurred in certifying federal and California engines to different standards, adoption of the standards for California should not result in increased costs for manufacturers.

The Executive Officer has also determined that the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not

affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

The Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action will affect small business.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons 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 e-mail before the hearing. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, or 2020 L Street, 4th Floor, Sacramento, California 95814, no later than 12:00 noon, December 6, 2000, or received by the Clerk of the Board at the hearing. To be considered by the ARB, e-mail submissions must be addressed to mdv-hdge@listserv.arb.ca.gov and received at the ARB no later than 12:00 noon, December 6, 2000.

The Board requests but does not require 30 copies of any written submission. Also the ARB requests that written and e-mail 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. The ARB 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

This regulatory action is proposed under that authority granted in sections 39600, 39601, 43013, 43018, 43101, 43104, 43105, and 43806 of the Health and Safety Code; and section 28114 of the Vehicle Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43204, 43205, 43205.5, and 43806 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 nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice 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 Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 4803 and 4804 of the Fish and Game Code and to implement, interpret or make specific sections 4800-4809 of said Code, proposes to amend Section 402, Title 14, California Code of Regulations, relating to issuance of permits to kill Mountain Lions causing damage.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Existing regulations (Section 402, Title 14, California Code of Regulations) contain a provision that allows the Department to prepare a plan for specific areas with a history of mountain lion damage and to issue permits for the take of a specified number of lions prior to additional damage being done. The regulation requires that all such plans must be approved by the Commission. However, the specific statutory authority for this option to prepare a plan for areas with historical problems expired and the regulations need to be amended to conform to existing law. The proposed change to the regulations is necessary to conform with existing law and to prevent confusing the public on options available to deal with damage caused by mountain lions.

In addition, the authority and reference citations for the regulations contain outdated information that needs to be corrected.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Board of Supervisors Chambers, 825 Fifth Street, Eureka, CA on December 8, 2000 at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted at the address given below on or before December 1, 2000, but must be received no later than December 8, 2000, at the hearing in Eureka, CA.

The regulations as proposed in strikeout-underline format, as well as a statement of purpose, including environmental considerations and all information upon which the proposal is based, are on file and available for public review from the agency contact person, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy at the preceding phone number. Copies of the statement of purpose, including the regulatory language, may be obtained from the above address.

AVAILABILITY OF MODIFIED TEXT

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

ECONOMIC IMPACT

The Commission has assessed the potential for significant adverse economic impact on business or private persons that might result from the proposed regulatory action, and it has made the following determinations relative to the required statutory categories:

- (a) Significant Adverse Economic Impact on Businesses, including the Ability of California Businesses to Compete with Businesses in Other States: None. The proposed regulatory changes will delete departmental authority to prepare a plan for taking a specified number of mountain lions and update the authority and reference sections. These changes are not expected to have a significant adverse effect on businesses.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Potential Cost Impact on Private Persons: None.
- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Affect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption/amendment of these regulations may affect small businesses. The regulations have been drafted in plain English pursuant to Government Code sections 11342(e) and 11346.2(a)(1) and are available from the agency contact person named in this notice.

CONSIDERATION OF ALTERNATIVES

In order to take this action, the agency must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 16. DEPARTMENT OF CONSUMER AFFAIRS/BUREAU OF AUTOMOTIVE REPAIR

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

SOUTHERN CALIFORNIA

DATE: December 1, 2000
TIME: 10:00 am–12:00 pm
LOCATION: Ronald Reagan State Building Auditorium
300 South Spring Street
Los Angeles, CA 90013

NORTHERN CALIFORNIA

DATE: December 4, 2000
TIME: 10:00 am–12:00 pm
LOCATION: Department of Consumer Affairs
First Floor Hearing Room
400 R Street, Suite 1030
Sacramento, CA 95814

Written comments must be received by the DCA/BAR at 10240 Systems Parkway, Sacramento, California, 95827, Attention: Jim Allen, Regulations

Coordinator, **not later than 5:00 p.m. on December 4, 2000 or must be received by the DCA/BAR at the hearing.** The DCA/BAR, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 44000, 44001.3, 44001.5, 44002, 44040, and 44091 through 44095 of the Health and Safety Code and Section 9882 of the Business and Professions Code, and to implement, interpret or make specific Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44014.5, 44014.7, 44015, 44017, 44017.1, 44020, 44030, 44036, 44037.1, 44037.2, 44062.1, 44070, 44090 through 44095 of the Health and Safety Code, and Sections 220, 11500, 11519, and 27156 of the Vehicle Code and Section 11505 of the Government Code, the Department of Consumer Affairs/Bureau of Automotive Repair is considering changes to Division 33 of Title 16 of Chapter 1 of Articles 1, 5.5, and 11 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/PLAIN ENGLISH
POLICY STATEMENT OVERVIEW**

Federal law requires California to develop and implement a program to meet emission reduction requirements for cleaner air in California. Therefore, the Smog Check Consumer Assistance Program (CAP) was established for vehicle owners whose vehicles do not meet emissions standards under the Smog Check Program. The Vehicle Retirement option under CAP provides a financial incentive for a motor vehicle owner to voluntarily retire a registered, operable motor vehicle. CAP's Repair Assistance option offers financial assistance to help motorists make emissions-related repairs. Both of these programs began implementation in November 1998. Initially, the Repair Assistance option was provided to motorists based on their income level, as provided in AB 57 (Escutia, Chapter 804, Statutes of 1997).

On July 6, 1999, the Governor signed Assembly Bill (AB) 1105 (Jackson, Chapter 67, Statutes of 1999), a trailer bill to the 1999 Budget Act. AB 1105 required DCA/BAR to modify the income eligibility requirement for the Repair Assistance option from 175% to 185% of the federal poverty level, and to provide

Repair Assistance for vehicle owners required to have a smog inspection at a Test-Only station. Emergency regulations were adopted on March 27, 2000, to implement these provisions.

Further, AB 1105 authorized DCA/BAR to increase the state contribution to assist motorists under the Vehicle Retirement and Repair Assistance programs. In addition, statute (Section 44062.1(e) of the Health and Safety Code) authorizes DCA/BAR to lower the co-payment for income eligibility.

The proposed changes, as provided in Assembly Bill 1105 and Assembly Bill 57, are necessary to increase consumer participation in these programs, and thereby help California consumers comply with the Smog Check Program and help improve California air quality at the same time. The Department is using the flexibility provided in statutes to amend the state contribution and lower the co-payment for Repair Assistance based on a person's income level to increase participation. In addition, the Department is increasing the vehicle retirement contribution to encourage California motorists to voluntarily retire their vehicle when they feel it is not worth repairing after failing a Smog Check inspection. Further, the Department is dropping unnecessary paperwork and documentation requirements for consumers who apply for the Repair Assistance or Vehicle Retirement options. Finally, for purposes of clarity and consistency, the DCA/BAR is consolidating the Repair Assistance and Vehicle Retirement programs under one regulatory section, as these programs are now considered options under a redesigned Smog Check Consumer Assistance Program.

**NON-SUBSTANTIVE CHANGES TO
CURRENT LANGUAGE**

The DCA/BAR proposes to make numerous non-substantive, editorial changes for grammar and punctuation. Sections/subsections have been reworded for clarity, and unnecessary, repetitive phrases have been removed wherever possible to make the language less cumbersome. For purposes of clarity and consistency, the DCA/BAR is consolidating the Repair Assistance and Vehicle Retirement programs under one regulatory section.

**CHANGES WITH REGULATORY EFFECT TO
CURRENT LANGUAGE**

Article 5.5 Motor Vehicle Inspection Program

(1) Amend Section 3340.1. Definitions.

- (v) "Repair Assistance" means a component of the Smog Check Consumer Assistance Program, that provides eligible motor vehicle owners financial assistance to make emissions-related repairs to bring vehicles

into compliance with the requirements of the Smog Check Program.

- (w) "Household" means a family of persons or any group of two or more unrelated persons that reside together and share common living expenses.
- (x) "Vehicle Retirement" means a component of the Smog Check Consumer Assistance Program, that provides payments to eligible vehicle owners who choose to voluntarily retire from operation, rather than repair, their high-polluting vehicles when it does not meet or comply with emissions standards as determined during a Smog Check inspection. Repealed old "x" definition of Smog Check Vehicle Retirement Program (VRP), which is now consolidated under the Consumer Assistance Program's Vehicle Retirement option.
- (y) "Dismantler" provides that a business contracted with DCA/BAR retires vehicles from service.
- (af) Repeal subsection (af), "Nonrevivable Junk Slip," because this definition is no longer referenced in the Consumer Assistance Program.
- (z) "Revivable Junk Receipt" clarifies that this is a receipt proving that the vehicle owner has recorded the vehicle as "junked" with the Department of Motor Vehicles.
- (ag) Repeal subsection (ag), "Vehicle Inspection Report (VIR)," because this is no longer referenced in the text of the regulations.
- (aa) "Consumer Assistance Program (CAP)" clarifies a specific program of the Bureau of Automotive Repair that provides eligible motor vehicle owners the options of the Repair Assistance and Vehicle Retirement.

(2) Article 11. Consumer Assistance Program.

This Article is being amended for purposes of clarity and consistency. The DCA/BAR consolidated the Repair Assistance and Vehicle Retirement programs, which are now considered options under a redesigned Consumer Assistance Program.

(3) Section 3394.1. Purpose and Options of the Consumer Assistance Program.

This section provides the main purpose of the program, which is to improve California air quality by helping eligible consumers comply with the requirements of the Smog Check Program or paying consumers to voluntarily retire their high emitting vehicles or by offering them the following options:

- (1) Payment for voluntarily retiring from operation a registered motor vehicle that fails a biennial Smog Check inspection.
- (2) Financial assistance to make emissions-related repairs to a vehicle that fails a biennial Smog Check inspection, based either on a person's household income level or a requirement that the vehicle be inspected at a Test-Only station.

(4) Section 3394.2. Consumer Assistance Program Administration.

This section clarifies that the Bureau of Automotive Repair administers the program through contracts with licensed automotive dismantlers, licensed smog check test-and-repair stations, and other entities, as necessary.

(5) Section 3394.3. State Assistance Limits.

This section clarifies that an eligible applicant may receive assistance through the DCA/BAR's Smog Check Consumer Assistance Program of up to \$500, versus \$450, in emissions-related repairs under the Repair Assistance option, and up to \$1,000, versus \$450, under the Vehicle Retirement option. The increased payments in state assistance under the Repair Assistance and Vehicle Retirement options are proposed to encourage increased participation in the Consumer Assistance Program.

(6) Section 3394.4. Eligibility Requirements.

This section clarifies the Repair Assistance and Vehicle Retirement options criteria that are used to determine the applicant's and/or the vehicle's eligibility. For example, this section clarifies that a registered owner of an eligible vehicle must meet specific income eligibility requirements in order to participate in Repair Assistance or Vehicle Retirement option based on one's income level. A registered vehicle owner must be at or below 185% of the federal Poverty Guidelines to participate in this Repair Assistance option, with a minimum co-payment of \$20. In addition, this section introduces the Repair Assistance option for Test-Only directed vehicle owners who are required to have a Smog Check inspection at a Test-Only station. If their vehicle fails the Smog Check inspection, the Repair Assistance option is available to them for a minimum co-payment of \$100. The section also specifies other program eligibility criteria, such as vehicle registration, visual and operational qualifications under the Vehicle Retirement option, and other specific requirements.

(7) Section 3394.5. Ineligible Vehicles.

This section identifies the types of vehicles that are not eligible for participation in the Smog Check Consumer Assistance Program.

(8) Section 3394.6. Application and Documentation Requirements.

This section clarifies that a consumer must submit an application for participation in the Smog Check Consumer Assistance Program and provide required documentation as specified in the application.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The DCA/BAR has determined that there are neither costs nor savings to state agencies or in federal funding to the State.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement:

None.

Significant Adverse Economic Impact on Business:

The DCA/BAR finds that the amendments to and adoption of these regulations will have no significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

Consumers may be more willing to allow Smog Check stations to perform more complete and effective repairs when the state is sharing the expenses.

The Consumer Assistance Program (CAP) was designed to offer eligible motor vehicle owners options to comply with the Smog Check Program. Consumer and business participation is strictly voluntary. Registered vehicle owners whose vehicles do not meet emissions standards, as determined at the conclusion of a Smog Check inspection, and who meet the CAP eligibility requirements, will seek CAP assistance. Only test-and-repair stations that meet certain criteria established by the BAR and operate under a contract with BAR can provide Repair Assistance under CAP, and only licensed dismantlers that operate under a contract with BAR can provide Vehicle Retirement services under CAP to eligible consumers.

Nevertheless, there may be some minimal impacts on participating dismantlers due to the proposed action, but which DCA/BAR believes have been mitigated. For example, dismantlers who choose to participate in the Consumer Assistance Program may initially have a negative cash flow because the state contribution has been increased to \$1,000 (formerly \$450 prior to adoption of emergency regulations on July 1, 2000). However, DCA/BAR provides for weekly invoicing to help ease the financial burden for the participating dismantlers throughout the state. In addition, dismantlers who voluntarily participate in the Consumer Assistance Program may have to hire additional staff to provide services for the increased consumer participation. However, DCA/BAR has issued a new Invitation for Bid (IFB), which will allow the dismantlers to bid for the services they provide to the State. The new IFB is expected to be implemented in the Fall 2000.

In addition, other vehicle retirement or buyback programs may be impacted by CAP based on \$1,000 for eligible vehicles. Currently, these other programs are only offering roughly \$500 to \$700 per vehicle, and the vehicle must pass a more stringent equipment and operational inspection pursuant to California Air Resources Board regulations. However, these are often programs operated by local government entities (air districts) responsible for improving air quality in their region, and therefore do not directly impact business operations. These programs are often used to offset emissions created by stationary sources (i.e., businesses).

Impact on Jobs/New Businesses:

The DCA/BAR has determined that this regulatory proposal will not have a significant impact on the creation of jobs or businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Statement of Potential Cost Impact on Private Persons or Business Directly Affected:

The potential cost impact of the proposed regulations on directly affected private persons are that these proposed regulations will have a positive impact on vehicle owners because the state is increasing its contribution towards Smog Check repairs and Vehicle Retirement.

Effect on Housing Costs:

None.

PLAIN ENGLISH REQUIREMENT

The DCA/BAR has determined that the proposed regulations would affect small businesses.

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

CONSIDERATION OF ALTERNATIVES

The DCA/BAR must determine that no alternative which it considered would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearings.

**STATEMENT OF REASONS
AND INFORMATION**

The DCA/BAR has prepared a Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons and other information, if any, may be obtained at the hearing, or prior to the hearing upon written request made to Bureau of Automotive Repair, Attention: Jim Allen, Regulations Coordinator, at 10240 Systems Parkway, Sacramento, CA, 95827.

**AVAILABILITY AND LOCATION OF
THE RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Bureau at the address referenced above.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be addressed to Jim Allen, Regulations Coordinator, Department of Consumer Affairs/Bureau of Automotive Repair, 10240 Systems Parkway, Sacramento, California 95827, or by calling Mr. Allen directly at (916) 255-1379.

**TITLE 18. BOARD OF
EQUALIZATION**

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the requirement of Section 87306 of the Government Code, proposes to amend Regulation 6001, State Board of Equalization Conflict of Interest Code, in Title 18, Division 2.1 of the California Code of Regulation. A public hearing relevant to this action will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be

heard, on December 13, 2000. Any person interested may present statements or arguments orally at that time and place. The State Board of Equalization will consider written statements or arguments if received by December 13, 2000

**INFORMATIVE DIGEST/PLAIN
ENGLISH OVERVIEW**

Regulation 6001, with Appendices A and B, is required by the Political Reform Act, which is found in Government Code sections 81000—91015. Regulation 6001 incorporates by reference the standard Conflict of Interest Code adopted by the Fair Political Practices Commission in Title 2 California Code of Regulation, section 18730. Appendix A lists all designated positions and the applicable designated disclosure categories. Appendix B describes the reporting requirements of each disclosure category.

There are no proposed changes to the Conflict of Interest Code itself. The proposed changes to Appendix A reflect the organization and classification changes that have taken place at the Board since the conflict of interest code was last amended. The proposed change to Appendix B is the addition of the new Ballast Water Management Fee Law to disclosure category 2.

The express terms of the proposed amendment, written in plain English, are available from the agency contact person named in this notice.

**COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the regulation will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings on Federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.5(a)(7), the Board of Equalization finds that the amendment of the proposed regulation will have no significant adverse economic impact on businesses.

The amendment of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment of the proposed regulation will not be detrimental to California businesses in competing with businesses in other states.

The amendment of the proposed regulation may affect small business.

POTENTIAL ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES

No impact

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 6001 has no comparable federal regulation.

PLAIN ENGLISH STATEMENT

Preparation of the proposed regulation included consideration of the "Plain English" requirement. Any technical terms that may be unfamiliar to the intended users, and are not industry recognized, are defined or explained.

AUTHORITY

Section 87306, Government Code.

REFERENCE

Sections 87300-87302 and 87306 Government Code.

CONTACT

Questions regarding the content of the proposed regulation should be directed to Ms. Ani Kindall at P. O. Box 942879, Sacramento, CA 94279-0082, telephone number (916) 324-2195.

Written comments for the Board's consideration or notice to present testimony and bring witnesses to the public hearing should be directed to Ms. Diane Olson, Regulation Coordinator, at P. O. Box 942879, Sacramento, CA 94279-0080, telephone number (916) 322-9569.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared a statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Diane Olson, Regulation Coordinator, (916) 322-9569, at P. O. Box 942879, Sacramento,

CA 94279-0080. The express terms of the proposed regulation are also available on the Internet at the Board's web site <http://www.boe.ca.gov>.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications with are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The Board will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1503, Hospitals, Institutions & Homes for the Care of Persons, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on December 13, 2000. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by December 13, 2000.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Current law, Revenue and Taxation Code section 6363.6, provides that a hospital or other qualified institution is considered the retailer of medical supplies it transferred to its patients if the supply item was "administered" and the institution billed the patient separately for the supply item and for the "administration." In addition, sales of meals and food products by specified institutions to qualified persons are exempt from tax.

Regulation 1503, Hospitals, Institutions & Homes for the Care of Persons, is proposed to be amended to interpret, implement and make specific Revenue and

Taxation Code section 6363.6. Amendments are proposed to: 1) abolish the distinction between administered and non-administered medical supply items so that all facilities covered by the regulation are consumers of tangible personal property used in the performance of the medical services they provide, and retailers of other tangible personal property intended to be taken home by the patient; 2) consider other medical service facilities, such as surgery centers and similar medical care facilities, as consumers of property used in connection with their services, and change the title of Regulation 1503 to include other medical service facilities; and 3) include enteral feeding tubes and feeding bags in the definition of nonreusable items that become component parts of meals when provided to patients of institutions; and 4) to reorganize the regulation.

The State Board of Equalization has determined it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a non-controlling plain English summary of the regulation is available from the agency contact person named in this notice.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments and regulations do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(7), the Board of Equalization finds that the adoption of the amendments to Regulation 1503 will have no significant adverse economic impact on business.

The adoption of the proposed amendment to this regulation and the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed and the new regulations will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulations may affect small business.

POTENTIAL COST IMPACT ON PRIVATE PERSONS/BUSINESSES

No impact.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1503 and the proposed changes have no comparable federal regulations.

PLAIN ENGLISH STATEMENT

Preparation of the proposed amendment to Regulation 1503 included consideration of the "plain English" requirement. Any technical terms that may be unfamiliar to the intended users and are not industry-recognized are defined or explained.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6363.6, Revenue and Taxation Code.

CONTACT

Questions regarding the content of the proposed regulation should be directed to Ms. Leila Khabbaz (916) 324-2952, at 450 N Street, Sacramento, CA 95814.

Written comments for the Board's consideration or notice to present testimony should be directed to Diane Olson, Regulations Coordinator, (916) 322-9569, at 450 N Street, Sacramento, CA 95814.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared a statement of reasons and an underscored version (express terms) of the proposed regulations. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the

proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1591, Medicines and Medical Devices, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on December 13, 2000. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by December 13, 2000.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Current law, Revenue and Taxation Code section 6369, provides that dental bone screws and abutments are excluded from the definition of medicines. In addition, the regulation does not address whether or not certain items of liquid nutrition furnished by medical facilities to persons who cannot ingest foods through the mouth qualify as medicines.

Regulation 1591, Medicines and Medical Devices, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6369. Amendments are proposed to provide that specified items of liquid nutrition are "substances and preparations" and that dental bone screws and abutments qualify as "medicines" within the meaning of the prescription medicine exemption.

The State Board of Equalization has determined it is not feasible to draft the regulation in plain English due to the technical nature of the regulation; however, a non-controlling plain English summary of the regulation is available from the agency contact person named in this notice.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments and regulations do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(7), the Board of Equalization finds that the adoption of the amendments to Regulation 1591 will have no significant adverse economic impact on business.

The adoption of the proposed amendment to this regulation and the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed and the new regulations will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulations may affect small business.

POTENTIAL COST IMPACT ON PRIVATE PERSONS/BUSINESSES

No impact.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1591 and the proposed changes have no comparable federal regulations.

PLAIN ENGLISH STATEMENT

Preparation of the proposed amendment to Regulation 1591 included consideration of the "plain English" requirement. Any technical terms that may be unfamiliar to the intended users and are not industry-recognized are defined or explained.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6369, Revenue and Taxation Code.

CONTACT

Questions regarding the content of the proposed regulation should be directed to Ms. Leila Khabbaz (916) 324-2952, at 450 N Street, Sacramento, CA 95814.

Written comments for the Board's consideration or notice to present testimony should be directed to Diane Olson, Regulations Coordinator, (916) 322-9569, at 450 N Street, Sacramento, CA 95814.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared a statement of reasons and an underscored version (express terms) of the proposed regulations. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

GENERAL PUBLIC INTEREST

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

**Final Decision to Certify
Hazardous Waste Environmental Technologies**

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) has reached a final decision to certify the following company's hazardous waste environmental technology listed below:

APPLICANT

U.S. Department of Navy
Space and Naval Warfare Systems Center
53560 Hull Street
San Diego, CA 92512-5001

TECHNOLOGY

Benthic Flux Sampling Device

Health and Safety Code, section 25200.1.5, authorizes DTSC to certify the performance of hazardous waste environmental technologies. The purpose of the certification program is to provide an in-depth, independent review of technologies to facilitate regulatory and end-user acceptance. Only technologies determined not to pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions may be certified.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with all applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to take any action necessary for protection of public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal to or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's proposed decision to certify the technology was published on June 30, 2000 in the California Regulatory Notice Register 2000, Volume No. 26-Z, pp. 1151-1159.

Additional information supporting DTSC's final decision, including the September 1, 1999 draft report, "*Quantifying In Situ Contaminant Mobility in Marine Sediments*" prepared by Space and Naval and Warfare

Systems Center, San Diego, which describes the Navy's field testing procedures and results, is available at the following location:

California Environmental Protection Agency
 Department of Toxic Substances Control
 Office of Pollution Prevention and
 Technology Development
 P.O. Box 806
 301 Capitol Mall, 1st Floor
 Sacramento, California 95812-0806
 Attn.: Dr. Bruce La Belle (916) 322-3670

A description of the technology to be certified, the final certification statement and the certification limitations for the technology of the company listed above follow.

**CERTIFICATION PROGRAM (AB2060) FOR
 HAZARDOUS WASTE ENVIRONMENTAL
 TECHNOLOGIES**

**FINAL NOTICE OF TECHNOLOGY
 CERTIFICATION**

TECHNOLOGY

Benthic Flux Sampling Device

MANUFACTURER

U.S. Department of Navy
 Space and Naval Warfare Systems Center
 53560 Hull Street
 San Diego, CA 92512-5001

Technology Description

The Benthic Flux Sampling Device (BFSD) is a benthic lander for in-situ measurements of metal contaminant fluxes from or into shallow marine sediments. The BFSD was designed and developed by the U.S. Navy Space and Naval Warfare Systems Center, San Diego (Navy) to further characterize metal contamination problems in bays, harbors and coastal waters resulting from a variety of sources, including ships, shoreside facilities, municipal outfalls, spills and non-point source runoff. The Navy has received a U.S. Patent (#5473952) for the BFSD.

The technology provides a means to assess contaminant mobility by directly measuring and quantifying the contaminant flux across the sediment-water interface. Other techniques for estimating fluxes across the sediment-water interface rely on measurement of sediment pore water concentrations as a basis for calculating a diffusive flux. In contrast, the BFSD collects samples over time to allow a direct determination of the total flux, which may also include exchanges between sediment pore water and the overlying water from biological or other non-diffusive processes.

The BFSD collects seawater samples periodically at timed intervals from a chamber of known volume which encloses a known surface area of sediment. After a laboratory has analyzed the samples, and with knowledge of the time intervals between samples, a flux rate between the sediment and water in mass per surface area per unit time (micrograms per square meter per day [mg/m²/day]) can be calculated. A minimum deployment over three tidal cycles or 72 hours is typically used to perform a flux rate measurement which incorporates overall tidal effects. This time period is intended to balance the need to determine an overall net flux with the recognition that the presence of a benthic lander may affect the benthic environment.

The BFSD consists of an open-bottomed chamber mounted in a modified pyramid-shaped tubular framework with associated sampling gear, sensors, control system, power supply, and deployment and retrieval equipment. The entire device is approximately 1.2 by 1.2 meters from leg to leg and weighs approximately 175 pounds. The lower part of the framework contains the chamber, sampling valves, sampling bottles, and batteries. The upper frame includes a release that is acoustically burn-wire triggered. The BFSD is designed for use in coastal and inland waters to maximum depths of 50 meters. A small boat or vessel equipped with winch and cable may be used to deploy and retrieve the BFSD. Maximum deployment time is approximately four days based on available battery capacity.

The chamber is a bottomless box, approximately 40 centimeters (cm) square by 18 cm tall, with a volume of approximately 30.0 liters. The volume was chosen to allow for a maximum overall dilution of less than 10 percent due to sampling withdrawal into 11 samples of 250 milliliters (ml) each. The chamber is constructed of clear polycarbonate to avoid disrupting any exchanges that may be biologically driven and, thus, light sensitive. To prevent stagnation in the corners of the chamber, triangular blocks of polycarbonate occupy the 90-degree angles. The top of the chamber is hinged at one edge so that it may be left open during deployment, allowing the chamber to fill with water while minimizing sediment disturbance. Once the chamber is in place, the computer control system closes the lid. A gasket around the perimeter of the chamber ensures a positive seal between the chamber and the lid. Exact alignment is not required, because the lid is slightly larger than the sealing perimeter of the gasket and pivots on two sets of hinges. The lid is held closed by four permanent magnets situated along the chamber perimeter. The bottom of the chamber forms a knife-edge. Pressure-compensated switches mounted on the bottom surface of three sides of a flange circling the chamber at

7.6 cm above the base activate a series of three lights visible with a video camera mounted on the upper frame. Illumination of the lights indicates a uniform minimum sediment penetration depth has been achieved and a good probability that a positive seal between the chamber and the sediment has been achieved.

During the deployment or sample collection period, the seawater in the flux chamber is continuously mixed and monitored for key parameters: conductivity, temperature, pressure, salinity, pH, and dissolved oxygen. Water enclosed in the flux chamber is continuously pumped through a recirculation loop including a flow-through sensor system. Mixing is accomplished as recirculated water is returned to chamber through a helical diffuser mounted vertically on the central axis of the chamber such that the hydrodynamics inside the chamber simulate near bottom currents outside the chamber.

The acquisition and control unit is an Ocean Sensors Model OS200 conductivity temperature depth (CTD) instrument, modified to allow control of the BFS. It consists of a data logger that acquires and stores data from sensors, and a control unit that regulates sampling and other functions of the BFS. The data logger collects data from a suite of sensors housed in the CTD and connected to the chamber through a flow-through loop. A small constant-volume pump maintains circulation in the flow-through system to the sensors and is also used to mix the contents of the chamber. The control unit closes the lid, activates the flow-through/mixing pump, activates dissolved oxygen control valves, and controls activation of the synchronized parallel rotary sampling valves.

Discrete samples are obtained using a vacuum collection approach consisting of sample containers, fill lines, in-line filters (with 0.45 micron membrane filters), check valves, and synchronized parallel rotary valves connected to the chamber fill line. Off-the-shelf 250ml Teflon collection bottles are modified to allow filling through the cap. Sampling containers of any volume, material (e.g., glass Teflon, polycarbonate), or shape may be used, provided the cap can be modified to accept the fill line connection, the bottle walls are strong enough to withstand the pressure at the sampling depth, and the cap seal is airtight and watertight at the sampling depth pressure. All valves, fittings, and tubes are made of Teflon or other nonmetallic materials to minimize potential metal contamination of samples and to facilitate cleaning. Samples are drawn from the chamber through a 4-mm Teflon tube connected to the rotary valves and into the sampling bottles. Sampling is initiated by the control system when it activates the valves at preprogrammed intervals. Seawater samples are drawn through the sampling system by a vacuum of 25 inches of mercury

(minimum) which is applied to all sample bottles through check valves mounted in the bottle lids. The check valves are then sealed. Water enters each sample bottle when the rotary valves are activated at timed intervals or when the lid closes and opens a valve attached to its hinge. Filtered seawater flows into each bottle until pressure is equalized, normally yielding at least 240ml.

An oxygen control subsystem prevents anoxic conditions from occurring within the chamber. Based on the oxygen sensor data, the system automatically adds oxygen through a 15-meter long diffusion coil in the flux chamber. The system maintains the dissolved oxygen levels in the chamber within a user-selected window about the measured bottom water oxygen level. This is done because fluxes of metal contaminants are sensitive to redox conditions and most contaminant fluxes are not large enough to be measured in chambers without oxygen regulation; the isolated volume of seawater will become anoxic before significant contaminant fluxes have occurred.

A deployment cable and release line are used to lower the BFS to its intended depth. Following either rapid or slow descent to the bottom, the minimum depth of collection chamber insertion is sensed by pressure-compensated switches, which activate lights mounted on the chamber frame used for video monitoring and inspection of the sampling site. Recovery is accomplished by transmitting a coded acoustic signal to the frame-mounted receiver which in turn releases the marker buoy. The line attached to the buoy is used to lift the BFS aboard the vessel. Stored sensor data is uploaded before detaching the cables.

A more detailed description of the BFS and its components, including the sampling chamber, acquisition and control system, sampling subsystem, circulation subsystem, and oxygen control subsystem, is given in the September 1, 1999 draft report, "*Quantifying In Situ Contaminant Mobility in Marine Sediments*" prepared by Space and Naval Warfare Systems Center, San Diego (September 1, 1999 Draft Report).

Analytical Methods

Cleaning. Prior to each deployment, the BFS sample collection system is cleaned and decontaminated. A sequential process of flowing cleaning fluids through the sampling subsystem using vacuum; of soaking disassembled parts (collection bottles and other parts) in prepared solutions; of physically brushing and rinsing the collection and sensor chambers and the circulation subsystem with prepared solutions is followed. A nitric acid soak/rinse is used, a final rinse is carried out with 18 meg-ohm/cm de-ionized water, then all paths of contamination are sealed/closed until deployment.

Performance Indicators. A series of performance indicators is used to evaluate the data obtained during operational deployments. One performance indicator is the chemistry time-series data for silica. Silica, a common nutrient used in constructing the hard parts of some planktonic organisms, typically shows a continuous flux out of the sediments due to degradation processes. The linear increase in silica concentration with time in the collected sample bottles is therefore used as an internal check for problems such as a poor chamber seal at the lid or sediment surface. A field analytical test set (Hach Model DR2010) is used to assess the silica concentrations immediately following retrieval and before sending collected samples to the analytical laboratory. Also, with a good chamber seal the ongoing bacterial degradation of organic material in the sediment consumes oxygen (which must be regulated by the BFS) and generates carbon dioxide. This gradually lowers the chamber pH. Although the expected relationships of these performance indicators aid in determining normal or successful deployments, natural variability is always present to cloud these relationships. Variations in the pore water reactions at the various sites lead to differences in the observed fluxes of oxygen, silica, and the metals. One major factor contributing to the large variations in fluxes may be burrowing activity. Enhanced biological irrigation (pumping of the overlying seawater through sediment burrows by infaunal organisms) increases the surface area of the sediment-water interface and flow rates across the interface, and may also increase the observed fluxes. The organisms responsible for this biological pumping will also affect oxygen uptake rates and may make interpretation of the analytical results more difficult.

Blank Tests. As part of the performance verification, blank tests were performed by filling the BFS with seawater and holding it in isolation from the surrounding water and sediments while samples were collected in the same manner as with sediment flux experiments. These tests were run in triplicate (triplicate blank test) to determine the lower limit of resolution for flux determinations of various metals. A polycarbonate panel was sealed across the bottom of the chamber, and the BFS was filled with sea water as it was lowered to within several meters of the sediment surface. A standard operational program identical to the demonstration deployments was run for 70 hours. The blank test results are discussed further under the Evaluation Approach and the Field Activities and Test Results sections, below.

Computations. Fluxes are computed from the trace metal concentrations in each sample bottle using a linear regression of concentration versus time after the concentrations are corrected for dilution effects. These dilution effects result from the intake of bottom water

from outside the chamber to replace the water removed for each collected sample. An interactive computational spreadsheet processes most data. Analytical laboratory results, sensor and other measured data, performance indicator results and blank test results are entered into the spreadsheet template and processed. A series of tables, charts and graphs are computed and displayed, including statistical confidence and other data and figures that summarize the results.

Analytical Method. Trace metal analyses of collected seawater for arsenic, cadmium, copper, manganese, nickel, lead, silver, and zinc in seawater, are performed by inductively coupled plasma mass spectroscopy. For the Navy field studies, Battelle Marine Science Laboratories performed the analyses using their Standard Operating Procedure, MSL-1-022-01, "Determination of Elements in Aqueous and Digestate Samples by ICP-MS." Prior to analysis, samples are preconcentrated using a published tetrahydroborate reductive precipitation technique.

Basis for Certification

Evaluation Approach

The evaluation of the BFS was designed to provide the data necessary to draw conclusions on the technology's performance. Key data regarding the technology's performance were collected during field studies performed as part of the evaluation. Additionally, the critical operating parameters and conditions related to the technology's performance, reliability and safety were to be identified. The evaluation included a review of supporting documents and information submitted by the Navy which describes their technology and its intended operation and maintenance. The Navy had previously performed tests on a prototype BFS (Prototype BFS), which was designed and modified as part of their technology development and proof-of-concept efforts. DTSC reviewed these previous Navy studies to provide background on the technology and to help identify key parameters for the field studies.

The Navy conducted two field studies specifically for the certification evaluation, using the current version of the BFS, as described in the technology description, above. These included two deployments at the Paleta Creek area of San Diego Bay, California and two deployments at the Middle Loch and Bishop Point areas of Pearl Harbor, Hawaii. The Navy conducted an additional field demonstration during the certification evaluation at the Alameda Naval Air Station, California which was also reviewed. The Department of Toxic Substances Control (DTSC) reviewed the work plans prior to the demonstrations and agreed with proposed field test objectives and procedures, and data

quality objectives. DTSC staff also provided oversight and were present to observe many, but not all, of the field test activities. Following the completion of the field tests, the Navy submitted their reports providing the data collected and an analysis of the results. Detailed data submitted for the Alameda NAS site included two flux measurements. Additionally, detailed laboratory reports including QA/QC results were requested and reviewed.

The field tests were intended to verify the performance of the BFSD in quantifying the rates of exchange of target metal contaminants at the sediment-water interface. Specifically, the objectives of the BFSD technology demonstrations were to: (1) Evaluate the data to determine if a statistically significant flux was occurring at the test locations; (2) Evaluate the BFSD performance for repeatability; and (3) Evaluate a range of conditions in which the BFSD can be operated.

To determine whether statistically significant fluxes were occurring at the test locations (Objective 1), 12 seawater samples were collected at 7-hour intervals using the BFSD. The water samples were analyzed for metals including cadmium, copper, manganese, nickel, lead, zinc and silica. Sediment samples, when collected, were analyzed for grain size, total solids, total organic carbon (TOC), acid volatile sulfide (AVS), simultaneously extracted metals (SEM), and total metals. Although the sediments may have been contaminated with other constituents, only the flux of the listed metals was evaluated during the demonstrations. Sample concentrations were corrected for dilution introduced by the sample collection process, and a regression curve was generated for each analyte based on the concentration data.

To determine whether calculated fluxes are due to fluxes into or from the sediment, or due to sorption or other interactions of the metals with the BFSD components, flux rates with regression coefficients were compared with the results for each metal obtained during triplicate "blank" BFSD tests (blank tests). These blank tests were performed by filling the chamber with seawater, sealing it, and suspending it above (but isolated from) the surrounding seawater and sediment surface. The data obtained during the blank tests provided a measurement of the repeatability of metal analyses and allowed a determination of any changes in metal concentrations in seawater over time which result from the BFSD itself. The measured sediment flux rate for each metal was then evaluated to determine if a statistically significant flux had been measured when compared with the blank chamber (background) tests.

The BFSD was evaluated for repeatability (Objective 2) by analyzing the results of repeat deployments, two weeks apart, at the same Paleta Creek site.

Demonstration data was also compared with data from the site during Prototype BFSD tests in the same approximate location. Finally, repeatability was evaluated by comparing the results from three blank chamber deployments. Lastly, the range of conditions for operating the BFSD was evaluated (Objective 3) by describing the conditions under which the BFSD operated as claimed, and the projected range of contaminants applicable to the technology.

At the San Diego Bay location (Paleta Creek) two deployments at the same site were made; at the Pearl Harbor location, one deployment at each of two geologically different sites were made (Middle Loch and Bishop Point). Comparison of the results of the two Paleta Creek demonstrations to one another was intended to evaluate repeatability of the technology. Comparison of the results from the two geographically different sites in Pearl Harbor was intended to demonstrate data differences and analysis/interpretation approaches.

Three "blank test" deployments were conducted, during which the BFSD was deployed in seawater with a sealed sampling chamber. Three time series of samples were collected and a baseline was established for each analyte, which provided a statistical estimate of the lower limit of flux detection measurable with the BFSD. The data also served as another measure of repeatability. Previous results obtained at the same location using the Prototype BFSD also provided a general measure of trend repeatability. For each analyte, a rate of flux between the sediment and the water during each deployment was calculated using knowledge of the volume of water enclosed within the BFSD, the surface area of sediment isolated, the time the samples were collected, and the concentrations of the contaminants of interest in the individual samples.

At the Alameda NAS Seaplane Lagoon location the Navy measured metal contaminant fluxes in sediments at four locations in support of an ongoing site characterization study. In addition to the metal analytes mentioned above, the Navy's target metal analytes at this site included arsenic, mercury and silver. OPPTD staff were present to observe deployment and retrieval procedures for two of the deployments. A summary of the results for the four Seaplane Lagoon site deployments was reviewed in addition to the detailed data for the flux measurements made at the SPL-7 and SPL-10 locations. Laboratory reports and QA/QC results for these four flux measurements were not included in the certification evaluation.

Following the completion of the field tests, the Navy prepared a draft report "Quantifying In Situ Contaminant Mobility in Marine Sediments," September 1999, which describes the technology and discusses in detail the results of the San Diego and Pearl Harbor field tests. This report was reviewed by DTSC

staff as part of the evaluation, and incorporates their comments. DTSC staff reviewed the raw data and the statistical analyses used by the Navy as the basis for the report, as well as the data obtained during the Alameda field tests.

Review of Previous Testing of the Technology

Results of previous testing and initial technology development efforts performed by the Navy were reviewed as part of the certification evaluation. Initial development program tests included ex situ (laboratory) and in situ (field) trials of critical components, subsystems, and systems. System development tests were conducted at various locations within San Diego Bay during 1989–91. Full-scale system trials during June 1991 were conducted in Sinclair Inlet, WA, including ten deployments of the Prototype BFSF to characterize flux rates of contaminants from seven shipyard sites and three reference sites (no blank test was conducted). Collected samples were analyzed for the trace metals arsenic (As), cadmium (Cd), chromium (Cr), copper (Cu), mercury (Hg), nickel (Ni), lead (Pb) and zinc (Zn). Following review of the data, an active oxygen control subsystem with sensor feedback was developed and added to the system, along with several other changes to improve operation reliability.

During 1993, four tests of the upgraded version of the Prototype BFSF were conducted at sites within in San Diego Bay: one at Paleta Creek (at its entrance to the bay within Naval Station San Diego); two at a commercial yacht harbor (Shelter Island); and one at an industrial shipping terminal (PACO Industries). The deployments were preceded by blank tests to determine the lower limits of flux that could be resolved with the Prototype BFSF. Results from these deployments showed significant sediment flux rates when compared to blank test results and clear differences between the sites as related to potential trace metal sources. Paleta Creek results showed the highest flux levels for Cd, Cu, Ni and Zn.

Seven more Prototype BFSF deployments in San Diego Bay in support of a sediment quality assessment at Naval Station San Diego were conducted during 1995. Paleta Creek was again included along with five other sites near piers and quay walls and one site outside the study area used as a reference. The work, preceded by a blank test, yielded results that were consistent with the results from the 1993 study and showed Cd, Ni, Zn and Mn all to have positive fluxes. Paleta Creek again showed the highest trace metal fluxes with levels which were generally consistent with those measured in 1993. Correlations between measured trace metal flux levels and complex marine chemistry processes were studied and informative trends were identified. For example in the complex oxidation-reduction (redox) marine environment, it

was found that trace metal fluxes are consistent with oxidation of solid metal sulfides as a sediment source.

Field Activities and Test Results

Blank Tests. The primary purpose for carrying out system blank tests was to establish BFSF minimum performance levels, or detection limits, for assessment of flux data obtained during subsequent demonstration tests. Three replicate 70-hour blank tests were conducted using BFSF between May 14 and 31, 1998. The tests were conducted from the end of SSC, San Diego Pier 159 at approximately two feet off the bottom in seawater ranging from about 14 to 20 feet deep, depending on tidal flow. As expected, the blank results for most metals showed little or no time trend, indicating minimal source or loss of target analytes during the blank experiments. With the exception of lead and manganese, replicate analysis indicates that none of the metal fluxes were significantly different from a zero flux condition at the 95% confidence level. The BFSF blank performance was statistically established and the values obtained were repeatable, precise and accurate enough to allow valid measurement of in situ sediment flux rates.

Paleta Creek, Pearl Harbor, and Alameda NAS Demonstrations Data Assessment. The BFSF performance assurance indicators for the flux measurements made at the three different geographic locations show that: a proper seal was achieved during the deployments and chamber isolation of test water was maintained; oxygen levels were maintained close to ambient levels; and silica, oxygen and pH trends varied as expected. The flux measurements at these sites for the target metals, arsenic, cadmium, copper, lead, nickel and zinc, were determined to be statistically different from the blank, indicating actual fluxes of these metals from or into the sediments were occurring. Data for cadmium, copper, lead, nickel and zinc were obtained from all three field tests, while data for arsenic was obtained only from the tests at Alameda NAS. The results for arsenic, however, showed a high level of confidence (>99%) that the calculated fluxes at this site were statistically different from the blank flux. Additional details and discussion of the results for the San Diego and Pearl Harbor field tests are available in the Navy's report "Quantifying In Situ Contaminant Mobility in Marine Sediments," September 1999. Supporting data for the Alameda field tests are available in the project files.

QA/QC Review

As part of certification evaluation, the DTSC Hazardous Materials Laboratory reviewed the laboratory data packages for 10 selected trace metal analyses performed by Battelle Marine Science Laboratories (Battelle). Review was based on Battelle's Standard Operating Procedure (SOP), MSL-1-022-01, "Deter-

mination of Elements in Aqueous and Digestate Samples by ICP-MS.” The review found that due to possible contamination of the method blanks, some Mn and one copper result should be rejected. Additionally, the review found certain results for Cr, Co, Pb, Sb, Ag and Sn associated with QA/QC results outside the control limits should be used with caution. All other metal results reviewed were found acceptable.

Conclusions

1. The deployments of BFSF at the Paleta Creek, Pearl Harbor, and Alameda NAS demonstrated consistent performance, reliability, and the ability to measure trace metal fluxes at distinctly different sites.
2. The BFSF can provide accurate and repeatable measurements of the mobility of trace metal contaminants to and from shallow water marine sediments when certain prerequisite conditions are met. Statistically significant sediment flux rates can be established when the routine procedures, standard methods and protocols demonstrated during this study are followed. Comparison of measured sediment fluxes with blank-chamber fluxes provides a statistical benchmark for the significance of the measured flux rates. Where statistically significant fluxes are observed, evaluation of impacts on water quality can be carried out, or comparisons can be made to bioaccumulation measurements to help identify exposure pathways.
3. Measurement of manganese flux rates is problematic. The flux rate measured over time does not appear to be linear, possibly due to precipitation chemistry occurring with manganese within the flux chamber. The validity of using the first several time series concentration measurements to determine the flux for manganese was not clearly established.
4. A statistical comparison of the field-measured flux rate to the blank-chamber flux rate is necessary to establish a confidence level (e.g., 80%) that the sediment flux is different from the background variability observed under a no-flux condition. Confidence levels less than 80% indicate that the flux may not be detectable and that the results should be used with caution.
5. The best-fit linear flux rate generally provides the best estimate of the flux from the data. The measured statistical variation in the flux should be reported in terms of the slope of the linear regression line and the 95% confidence limits of the slope.
6. The data obtained from use of this technology should be interpreted by persons who are techni-

cally qualified to assess sediment fluxes and who are familiar with the site-specific applicability of the BFSF.

Certification Statement

Under the authority of Health and Safety Code section 25200.1.5, the Benthic Flux Sampling Device (BFSF), an automated, in situ, water sampling device designed to collect data to quantify the flux of contaminants across the sediment-water interface in marine and aquatic environments, is hereby certified as a site characterization technology subject to the specific conditions including the limitations/disclaimer set forth in the Certification Notice as published on October 20, 2000 in the California Regulatory Notice Register 2000, Volume No. [xx-Z], pages [xxxx-xxxx].

The BFSF, an autonomous benthic chamber lander, encloses a volume of water in an open-bottom chamber over approximately 0.2 square meters of sediment; discrete water samples are collected periodically over a deployment period of up to four days, preserved at the end of the deployment, and delivered to an analytical laboratory for analysis. With knowledge of the sediment surface area, the volume of water, the time the samples are collected, and the concentrations of constituents in the samples, a flux, expressed in mass per unit area per time, can be derived. The method, and resulting data, are valid when the BFSF standard operating procedures, the laboratory quality assurance and control procedures, and the internal quality assurance checks, such as silica flux, oxygen and pH stability, and statistical tests, have been met. The BFSF is capable of:

1. Deployment from a small surface craft using light duty handling equipment;
2. Operation in a marine environment at depths to 20 meters and bottom currents to two knots;
3. Remote real-time video imaging of the bottom site prior to autonomous operations;
4. Programmable, microprocessor-controlled autonomous operation for up to 96 hours;
5. Placement (bottom landing) with minimal disturbance of bottom sediments;
6. Isolation and maintenance of homogenous conditions in approximately 30 liter volume of bottom water for the period of sample collection;
7. Maintenance of oxygen content in the sample chamber within two milliliters per liter (ml/L) of initial conditions;
8. Collection of up to twelve 250 milliliter water samples from the chamber at selected intervals;

9. Measurement and storage of sample chamber depth, dissolved oxygen, pH, conductivity/salinity, and temperature data at selected intervals throughout deployment;
10. Recovery using a portable acoustic signal device to activate a tethered marker buoy;
11. Quantification of flux rates for Arsenic, Cadmium, Copper, Nickel, Lead, and Zinc based on a least-squares, linear regression of concentrations from six to 12 samples;
12. Identification of statistically significant flux rates based on comparison of sediment flux rates measured at the site to flux rates measured in a "blank" BFSF chamber containing sea water isolated from the sediment;
13. Blank BFSF chamber performance meeting the following performance standards:

Metal	Blank Flux (ug/m2/day)	+/- 95% Confidence Interval
Arsenic	- 5.16	2.10
Cadmium	-.052	0.75
Copper	2.82	8.73
Nickel	10.28	7.34
Lead	3.16	1.59
Zinc	-3.38	65.22

14. Verification of proper flux chamber seal and sample collection based on silica concentrations within the chamber during the measurement period;
15. Identification of environmentally significant fluxes on the basis of comparisons/relations such as:
 - a. other known contaminant sources
 - b. hydrodynamic flushing rates of the basin
 - c. remobilization due to other mechanisms such as sediment resuspension
 - d. fluxes measured prior to placement of a containment system such as a cap
 - e. fluxes measured prior to removal of contaminated sediments
 - f. bioaccumulation in marine organisms at the site
 - g. mass balance analysis of input and loss rates for sediment

Specific Conditions

1. Limitation to Specific Metals and Operating Conditions. The certification of the BFSF is specific to flux measurements of arsenic, cadmium, copper, nickel, lead, and zinc under the specified operating conditions. The performance with other metals or under different operating conditions was not addressed as part of the certification evaluation.

2. Requirement for Blank Tests. Except where water quality conditions are equivalent to those where blank test performance has previously been verified for seawater in the BFSF isolated from the sediment, BFSF blank tests shall be performed in accordance with the Navy's procedures to determine the lower limit of resolution for metal flux measurements. Additionally, blank test performance shall be verified for each new BFSF manufactured.
3. Reporting of measured flux rates should include the slope of the best-fit linear regression line (the linear flux rate), the 95% confidence limits of the slope (the measured statistical variation in the flux) and, for statistical comparison purposes, corresponding results of the triplicate blank tests. The statistical confidence level that the field-measured flux rate is measurably different from the blank-chamber flux rate shall also be reported. Flux measurement results should be reported as non-detectable or otherwise flagged when there is a confidence level of less than 80% that the benthic flux measurement is different from the blank flux measurement.
4. Operational Procedures. Users of the BFSF should follow the operational and maintenance procedures developed by the Navy. The procedures for operation, maintenance, sample collection and analysis, and data assessment are set forth in the *September 1999 draft Report*.
5. Compliance with Worker Health and Safety Laws. Operation of the BFSF must be in compliance with applicable federal, state and local regulations relating to the protection of worker health and safety.
6. Personnel Training. The operator shall be properly trained on how to operate the BFSF safely and effectively.
7. Compliance with Applicable Federal, State, Local Regulations. The user shall comply with all applicable federal, state, and local regulatory requirements.
8. Continuous Quality Control/Quality Assurance and Monitoring by DTSC. By accepting this certification the applicant agrees, for the duration of the certification, that the BFSF and its operation and maintenance and other documentation shall be maintained at a quality equal to or better than that in place at the time of certification. The applicant also agrees to be subject to monitoring by DTSC.

9. Modifications and Amendments at the Request of the Applicant. Modifications and amendments to this certification may be requested by the applicant and will be subject to approval by DTSC.
10. Certification Reference. The holder of a valid hazardous waste environmental technology certification is authorized to use the certification seal (California Registered Service Mark Number 046720) and shall cite the certification number and date of issuance in conjunction with the certification seal whenever it is used. When providing information on the certification to the user of the technology or another interested party, the holder of a hazardous waste environmental technology certification shall at a minimum provide the full text of the final certification decision as published in the California Regulatory Notice Register.

Regulatory Implications

There are currently no standards or approved procedures developed by regulatory agencies for use of benthic landers, such as the BFS, for measurement of contaminant metal flux. Although some clean water standards have been set for seawater, only guidelines currently exist for sediments. The interpretation and application of metal flux measurements with the BFS is very site-specific and does not lend itself readily to standardized processes. In many cases, BFS results may be used as an additional factor in a "weight of evidence" approach for risk-based decisions involving regulator concurrence.

Duration of Certification

This certification will remain in effect for three years from the date of issuance, unless it is revoked for cause or unless a duration for certifications different from that specified in this certification is adopted in regulations.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Notice of Intent to Certify Hazardous Waste Environmental Technology

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) intends to certify the following company's hazardous waste environmental technology:

CEM Corporation MARS-X Microwave Accelerated Reaction System, a Laboratory Technology for the Extraction of Organic Compounds from Solid Matrices

Chapter 412, Section 25200.1.5, Health and Safety Code (enacted by Assembly Bill 2060, 1993) authorizes the DTSC to certify the performance of hazardous waste environmental technologies. Hazardous waste environmental technologies are certified pursuant to implementing regulations found in Title 22 of the California Code of Regulations (CCR 22), Chapter 46, Section 68000. Only technologies that are determined not to pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions may be certified. Incineration technologies are explicitly excluded from the certification program. The purpose of the certification program is to provide an in-depth, independent review of technologies at the manufacturer's level to facilitate regulatory and end-user acceptance and to promote and foster growth of California's environmental technology industry.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to require additional measures for protection of the public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's proposed decision to certify is subject to public review and comment. Written comments must be submitted to DTSC no later than 30 days after publication of this Notice. All comments will be considered and appropriate changes will be made prior to publishing DTSC's final decision.

An Evaluation Report supporting the Department's proposed decision is available for review at, and comments should be mailed to:

California Environmental Protection Agency, Department of Toxic Substances Control, Hazardous Materials Laboratory, 2151 Berkeley Way, Berkeley CA 94704-1011, Attn.: Dr. Ruth R. Chang (510) 540-2651.

A description of the technology to be certified, the proposed certification statement, and the certification limitations for the technology of the company listed above follows. DTSC emphasizes that this is a proposed certification decision for public comment and not the final certification.

**CERTIFICATION PROGRAM (AB2060) FOR
HAZARDOUS WASTE ENVIRONMENTAL
TECHNOLOGIES****TECHNOLOGY CERTIFICATION****TECHNOLOGY**

MARS-X Microwave Accelerated Reaction System,
a Laboratory Technology for the Extraction of
Organic Compounds from Solid Matrices

MANUFACTURER

CEM Corporation, P.O. Box 200, Matthews, NC
28106, Tel. (704) 821-7015, <http://www.cem.com>

Technology Description

Microwave energy is a non-ionizing radiation that causes heating by migration of ions and rotation of molecules with dipole moments, but does not cause changes in molecular structure. During the sample extraction process, dipole rotation refers to the alignment of polar solvent-sample molecules due to exposure to the electric component of the microwave field. As the electric field decreases, induced disorder is restored which results in thermal energy being released. The technology combines the speed of microwave heating and closed (sealed) vessel technology to achieve elevated temperatures under controlled conditions. When sample-solvent mixtures are exposed to microwave energy at temperatures above the atmospheric boiling point of the solvent, the analyte desorption rate from the sample is significantly increased. The combined effect of high temperature and rapid heating of the extraction solvent in a closed-vessel system increases the extraction efficiency and significantly reduces the extraction time. The system is equipped with an inboard pressure and a temperature control system for regulating sample extraction conditions via magnetron power output control. The Microwave Accelerated Reaction System (MARS-X) is a closed-vessel heating system designed for laboratory use in extracting a wide range of organic materials from solid matrices. The system can be used for the microwave-assisted process without replacing a non-polar solvent with a polar or co-solvent system. The MARS-X can process 14 samples simultaneously; typical extraction times are 15 to 20 minutes per heating cycle. Samples are limited to a maximum size of 20 grams. Solvent systems commonly used in Soxhlet extraction are applicable for the MARS-X system. Solvent volumes are in general 25 to 30 mL per sample. The maximum operating conditions for the system are 200°C and 200psi for GreenChem™ and 140 psi for CleanChem™, with typical operating conditions at 110–135°C and 100 psi.

Certification Statement

Under the authority of Section 25200.1.5 of the California Health and Safety Code, the Department hereby certifies the MARS-X Microwave Accelerated Reaction System manufactured by CEM Corp. Matthews, NC 28106, as a Laboratory Technology for the extraction of semivolatile organic compounds for PAHs, organophosphorus pesticides, organochlorine pesticides, polychlorinated biphenyls, acid, base and neutral compounds and petroleum hydrocarbons in soil, sediments, and sludges.

According to the instrument operating conditions suggested by the manufacturer, the CEM microwave extraction system is capable of achieving an extraction efficiency equivalent to conventional extraction techniques for most target analytes listed as EPA priority pollutants from various solid matrices. There is little evidence of chemical effects or thermo-degradation for most environmental pollutants during the extraction process. The recoveries of microwave extraction can vary due to the properties of the analyte, the presence of interferences, and matrix factors. Consultation with CEM for special-case applications is recommended.

The MARS-X is equipped with safety features to monitor the cavity for the presence of solvent. The detector shuts the system off automatically, if the solvent concentration reaches 1/10 of its lower explosive limit. An alarm will and post a message for operators. The operator should operate the microwave unit in accordance with the safety recommendations by CEM.

Limitations of Certification

The Department makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The Department has not conducted any bench or field tests to confirm the manufacturer's performance data. Nor does the Department warrant that the manufacturer's product or equipment is free from any defects in workmanship or material caused by negligence, misuse, accident, or other causes.

The Department believes, however, that the manufacturer's product or equipment can achieve performance levels set out in this Certification. Said belief is based on a review of the data submitted by the manufacturer and other information, and is based on the use of the product in accordance with the manufacturer's specifications.

This certification is subject to the regulations found in Title 22 of the California Code of Regulations (CCR 22), Chapter 46, Section 68000, which include the duration of the Certification, the continued monitoring and oversight requirements, and the procedures for certification amendments and decertification.

By accepting this Certification, the manufacturer assumes for the duration of the Certification, responsibility for maintaining the quality of the manufactured materials and equipment at a level equal or better than was provided to obtain this Certification and agrees to be subject to quality monitoring by the Department as required by the law under which this Certification is granted.

Specific Conditions

CEM shall follow their established quality control and quality assurance program to ensure that the materials used in manufacturing and the quality of the instrument meets standards certified under ISO-9002.

CEM shall maintain their standards for ensuring that users receive applicable training in operation and maintenance of the technology. The quality control procedures for sample extraction specified in U.S. EPA SW-846 Method 3500 must be followed to ensure meeting the project specific requirements. A method blank and surrogate compounds must be included in the operation to validate the instrument performance.

Through updates of user guides, the Manufacturer shall inform the user of interferences and matrix effects that potentially affect the performance of the system, as they become known to the Manufacturer.

Users shall follow the manufacturer's instructions for installation, operation, and maintenance. Users shall develop and follow a plan in accordance with their facility's quality management system for validating the system at appropriate intervals according to the guidance set for the MARS-X system.

Basis for Certification

The certification of this technology is proposed on the bases of the information and data packages pertaining to the performance of MES-1000 (an initial Model of closed-vessel microwave solvent extraction system) and MARS-X submitted by the CEM. These performance data substantiate the following findings: (1) The technology extraction efficiency of the CEM MARS-X is comparable to Soxhlet extraction; (2) The technology provides environmental and economic benefits over the conventional solvent extraction methods; (3) The instrument is tested and approved per OSHA guidelines; (4) The company is certified under ISO-9002 standards; and (5) Satisfactory reports were received from user's survey for the MES-1000 and MARS-X closed-vessel microwave extraction systems and service provided by the company. A listing of the documentation available for this evaluation is contained in the Evaluation Report.

Recommended Applications

The CEM MARS-X microwave accelerated solvent extraction system is intended for the extraction of organic compounds from environmental samples in

the laboratory for subsequent analysis using appropriate analytical methods. Applications include extraction of semivolatile organic compounds, including PAHs, chlorinated pesticides, PCBs, organophosphorus pesticides, acid, base, and neutral compounds and total petroleum hydrocarbons from soil, sediments and sludge. The microwave extraction operating in accordance with conditions established by the manufacturer can serve as a viable alternative for conventional solvent extraction methods.

With the advantages of substantial reduction in the sample extraction time and solvent consumption, the MARS-X technology significantly improves the sample turnaround time for data generation for the protection of public health and the environment.

Regulatory Implications

DTSC's certification does not change the regulatory status of the extraction of organic compounds from solid matrices; it is intended, however, to facilitate and encourage the acceptance of this technology where a project's data quality objectives can be met by its use. To this end, regulatory programs are encouraged to consider the Department's findings regarding this technology, depending on each program's objectives and constraint. State-regulated facilities may contact state permitting officers regarding the use of the technology for sample preparation for organic compounds. Other local and state government permitting authorities may take this certification under consideration when making their permitting decisions. Project managers may consider using this technology where its use can contribute to the project and its data quality objectives.

Duration of Certification

Unless amended or revoked for cause, this certification will remain in effect for three years from the date of issuance.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Notice of Intent to Certify Hazardous Waste Environmental Technologies

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) intends to certify the following company's hazardous waste environmental technology:

APPLICANT

U.S. Army Environmental Center
 SFIM-AEC-ETD, Bldg. 4430
 Aberdeen Proving Ground, Maryland 21010-5401

TECHNOLOGY

Site Characterization and Analysis Penetrometer
 System with Hydrosparge VOC Sensor

Chapter 412, Statutes of 1993, Section 25200.1.5., Health and Safety Code, enacted by Assembly Bill 2060 (AB 2060 by Assemblyman Ted Weggeland) authorizes DTSC to certify the performance of hazardous waste environmental technologies. The purpose of the certification program is to provide an in-depth, independent review of technologies at the manufacturers' level to facilitate regulatory and end-user acceptance. Only technologies that are determined to not pose a significant potential hazard to the public health and safety or to the environment when used under specified operating conditions may be certified. Incineration technologies are explicitly excluded from the certification program.

DTSC makes no express or implied warranties as to the performance of the manufacturer's product or equipment. The end-user is solely responsible for complying with the applicable federal, state, and local regulatory requirements. Certification does not limit DTSC's authority to require additional measures for protection of public health and the environment.

By accepting certification, the manufacturer assumes, for the duration of certification, responsibility for maintaining the quality of the manufactured equipment and materials at a level equal to or better than was provided to obtain certification and agrees to be subject to quality monitoring by DTSC as required by the statute under which certification is granted.

DTSC's proposed decision to certify is subject to public review and comment. Written comments must be received by DTSC no later than 30 days after publication of this notice. All comments will be considered and appropriate changes will be made prior to publishing DTSC's final decision.

Additional information supporting DTSC's proposed decision, including the **October 2000** Draft Certification Evaluation Report, is available for review at, and comments should be mailed to:

California Environmental Protection Agency
 Department of Toxic Substances Control
 Office of Pollution Prevention and
 Technology Development
 P.O. Box 806
 301 Capitol Mall, 1st Floor
 Sacramento, California 95812-0806
 Attn: Dr. Bruce La Belle (916) 322-3670

A description of the technology to be certified, the **proposed** certification statement and the certification conditions and limitations for the technology of the company listed above follows. DTSC emphasizes that this is a proposed certification for public comment, and not the final certification.

30-DAY PUBLIC NOTICE
 CERTIFICATION PROGRAM (AB 2060) FOR
 HAZARDOUS WASTE ENVIRONMENTAL
 TECHNOLOGIES

PROPOSED CERTIFICATION
 SITE CHARACTERIZATION AND ANALYSIS
 PENETROMETER SYSTEM—HYDROSPARGE
 VOC SENSOR TECHNOLOGY

TECHNOLOGY

Site Characterization and Analysis Penetrometer
 System with Hydrosparge VOC Sensor

MANUFACTURER

U.S. Army Environmental Center
 SFIM-AEC-ETD, Bldg. 4430
 Aberdeen Proving Ground, Maryland 21010-5401

Background

The Site Characterization and Analysis Penetrometer System (SCAPS) Hydrosparge (HS) VOC Sensor is a near real-time in-situ subsurface screening method for volatile organic compounds (VOCs) in groundwater. The technology was developed by the U.S. Army Corps of Engineers Waterways Experiment Station through the Tri-Service SCAPS program and is one of a planned family of sensors collectively called the Site Characterization and Analysis Penetrometer System, or SCAPS, that will combine remote sensors with a cone penetrometer platform to provide rapid, in-situ, subsurface measurements of many different contaminants.

The conventional or traditional approach to characterizing groundwater contamination plumes depends on the installation of monitoring wells and collection of water samples followed by laboratory analyses, is usually a slow, iterative, and costly process. Significant delays occur in site characterization while samples are analyzed and new monitoring wells are being installed and developed. The SCAPS HS technology was designed to improve upon conventional site characterization by providing rapid qualitative to semi-quantitative information about the subsurface distribution of volatile organic contamination in groundwater.

Technology Description

The SCAPS Hydrosparge VOC Sensor consists of an in-situ sparge module interfaced to an ion trap mass spectrometer (ITMS) to provide near real-time semi-

quantitative field screening analyses of volatile organic compounds (VOCs) in groundwater. The Hydrosparge VOC Sensor was developed for deployment with a standard cone penetrometer (CP) platform using a direct push groundwater sampling tool to create a temporary groundwater sampling point. The CP is used to push the commercially available Hydropunch or Powerpunch groundwater sampling tool to the desired depth. The CP push rods are then retracted, exposing a well screen to create a temporary sampling point. Before the in-situ sparge module is lowered into the temporary sampling point, groundwater is purged until pH, dissolved oxygen, temperature, and conductivity remain constant and the groundwater level has been allowed to stabilize. The Hydrosparge VOC Sensor is then lowered into the well through the push rods to approximately 18 inches below the groundwater surface. The hydrosparge module uses helium gas at a calibrated flowrate to purge VOC analytes from the groundwater and to transfer the analytes via teflon tubing directly into an ITMS on-board the SCAPS truck for real time analysis.

The hydrosparge module consists of an extraction chamber, a conductivity meter, a helium purge tube, and a sample transfer line. Groundwater enters the extraction chamber from an opening at the base of the hydrosparge module. The conductivity meter in the extraction chamber ensures that an air/water interface is maintained. VOCs are sparged from the groundwater with helium at a calibrated flow rate through the purge tube. The helium and VOC vapors then exit the extraction chamber via a Teflon tube at the top which is connected to the ITMS.

The ITMS is comprised of a quadruple ion-trap mass spectrometer, a capillary restrictor interface, and a sample inlet designed for use with the HS for on-site measurement and monitoring. Analysis of the HS samples is performed with the use of a Teledyne 3DQ ITMS or Finnigan ITMS 40 operating in the electron impact mode or chemical ionization mode. The ITMS is directly fitted to a 20 cm DB-5 capillary column with restrictor heated interface operated at 105°C. The capillary interface limits flow into the ITMS at 0.1 to 1.0 mL/min., which is compatible with both electron ionization (EI) and chemical ionization (CI) sources. The ITMS is operated in a full scan mode from masses 40 to 250 amu. Unlike most mass spectrometry systems, the analyte vapors are directly subject to mass spectrometry without prior separation. Therefore, analyte identification is performed entirely by means of mass ion identification. Analytes with the same quantitation mass ions cannot be distinguished from each other and are reported as totals similarly to analytes co-eluting in GC techniques.

Since the ITMS does not have a separation mechanism other than the ion-trap mass spectrometer itself, compounds which produce identical primary characteristic ions, or positional and geometric isomers (e.g., 1,1-dichloroethene and 1,2-dichloroethene), cannot be positively identified by this system unless a characteristic secondary ion is available for monitoring. Compounds with higher molecular weights may produce the same fragment ions which will increase the signal of target analytes. A false positive result may occur when there are VOCs present in the sample which yield molecular ions or ion fragments with the same mass/charge (m/z) values as the characteristic ions of the target VOCs. Therefore, this detection system can only be used to detect or to confirm the presence of target analytes but not for the positive identification of unknown compounds.

Although the sensor provides a nearly linear numerical response over a dynamic range of approximately three orders of magnitude starting from a minimum detection capability as low as 1 μ L, the certification is limited to a qualitative to semiquantitative field screening method because the effectiveness of hydrosparging is site specific, and may vary as a function of the analytes being investigated.

Details of the analytical method for in-situ measurement of VOCs in groundwater with SCAPS HS are described in the document, "Direct Sampling Ion-Trap Mass Spectrometry for the Measurement of Volatile Organic Compounds in Water, Soil and Air," Draft EPA SW-846 Method 8265, 1997. The draft Method 8265 identifies 30 target analytes and their corresponding quantitation ions that can be analyzed by ITMS. The organic work group of U.S. EPA is now considering Method 8265-Volatiles by Direct Sampling Ion-Trap Mass Spectrometry (ITMS) for inclusion in the Update IV B of EPA Test Methods for Evaluating Solid Waste, Physical/Chemical Methods.

The evaluation focused on the use of the Hydrosparge VOC Sensor, including both the in-situ sparge module and the on-board ITMS, for near real-time analysis of selected VOCs in groundwater. The use of direct push sampling points for field screening purposes is a generally accepted practice, and therefore was not evaluated. The evaluation specifically did not address the use of direct push sampling points for obtaining representative groundwater samples, nor did it address any other uses of the CP system. The evaluation report for this technology provides a more detailed description of the CP platform and the direct push groundwater sampling tools that were used in the field studies conducted for this certification evaluation.

Basis for Certification

The Hydrosparge module operation is based on Henry's Law where for low concentrations of low-solubility VOCs in water, the concentration of the VOC in the gas phase is proportional to the concentration in the water phase. For the sparge gas flowrate used in the Hydrosparge module, the VOC concentrations in the water phase remain relatively constant over the measurement time period. The purged VOCs are transferred directly to the ion-trap mass spectrometer for analysis.

The technology evaluation focused on the comparison of field results with those obtained using accepted reference methods for groundwater analyses. The performance parameters used to evaluate the technology included sensitivity, specificity, precision, accuracy, and reliability.

Since the SCAPS HS is considered a field screening technology, performance was primarily evaluated in terms of the potential for false positive and false negative results. Occurrences of false positives and negatives were determined based on results for the in-situ SCAPS HS analyses versus the analyses by reference method, EPA Method 8260B. For field screening technologies, performance is generally considered acceptable if there are fewer than 5% false negatives and fewer than 5% false positives. Of particular concern is the occurrence of false negatives, that is the event of determining a sample is clean or uncontaminated when it is not. Failure to detect a contaminant that is present could have an adverse impact on site or public health management decisions.

The data for the individual field studies were evaluated based on data distribution and data correlation with the reference method. Reported detection limits for all of the analytes were similar for both the SCAPS HS method and reference method (EPA Method 8260B), which were 5 µg/L except for the analytes reported at the Massachusetts Military Reservation site which had detection limits of 1 µg/L. For data distribution, an analytical method's performance is typically evaluated over a range of concentrations of two or more orders of magnitude. Therefore, linear correlations were not calculated for analytes that were not detected over a range of concentrations of two or more orders of magnitude. Field and reference method results were considered to correlate well if the correlation coefficient was greater than or equal to 0.80 ($R^2 \geq 0.80$).

Previous field demonstrations and technology development efforts conducted from May 1995 through June 1997 at NAS Whiting Field, Aberdeen Proving Grounds, and the Massachusetts Military Reservation were reviewed. At the Aberdeen Proving Grounds, one field study was conducted at Building 525 while another field study consisting of two demonstrations

approximately 3 months apart was conducted at the Bush River Study Area (BRSA). These field studies involved the installation of more than 126 temporary wells and the analyses of 126 groundwater samples collected using the SCAPS HS method and conventional groundwater sampling techniques, respectively. The U.S. Army Corps of Engineers (USACE) conducted these studies without DTSC oversight and provided only summary data for DTSC review.

For the certification evaluation, the USACE Waterways Experiment Station conducted field studies at two locations in different geographic areas with different site conditions and contaminant concentrations. The New Jersey Department of Environmental Protection provided oversight for the field study conducted at Fort Dix. OPPTD staff were involved in the review of field demonstration plans prior to conducting the field study for the Davis Global Communication Site (DGCS). At the DGCS, two field demonstrations were conducted within 4 months of each other. Detailed QA/QC data packages were submitted for field studies completed at Fort Dix and the DGCS. OPPTD observed operations and technology validation procedures in the field during the demonstrations conducted at the Davis site.

For QA/QC purposes, splits of selected verification samples were analyzed by an independent laboratory for the November/December 1996 DGCS field demonstration and the Fort Dix field study. DTSC Hazardous Materials Laboratory staff reviewed the data packages for the results of these quality control samples which were analyzed by West Laboratory for the Davis site, and PDP for the Fort Dix site. For the Davis site, comparison of the Hydrosparge and USACE Environmental Chemistry Branch (ECB) results showed good data correlation ($R^2=0.9$) while the West Laboratory results correlated poorly with the Hydrosparge and ECB results. The Fort Dix split results contained insufficient data points for each analyte to perform a regression analysis but the results appeared to be comparable for the three methods.

Data generated from all the field studies were analyzed for false positives, false negatives, and correlation coefficients individually and pooled by analyte. A summary for the analytes certified in this notice is provided below. A discussion on each field study and their results is presented in the evaluation report.

When pooled, the concentrations for trichloroethene (TCE), dichloroethene (DCE), perchloroethylene (PCE), benzene, toluene, xylene, and carbon tetrachloride were distributed over a range of at least two orders of magnitude. Depending on the analyte, the sample concentration distribution was 55–79% for concentrations below the detection limit, 4–264% for concen-

trations between the detection limit and 100 µg/L, and 5–20% for concentrations over 100 µg/L.

Pooled data for TCE, benzene, and carbon tetrachloride met the criteria of less than 5% false positives and negatives and had good correlation ($R^2 \geq 0.80$). Pooled data for PCE, toluene, and xylenes met the criteria of less than 5% false positives and negatives but had poor correlation ($R^2 < 0.80$). Pooled data for DCE met the criteria for less than 5% false positives and had good correlation ($R^2 \geq 0.80$) but did not meet the criteria of less than 5% false negatives. Two DCE false negatives could be considered true positives since the SCAPS HS method provided estimated values which would reduce the false negatives to 5%.

For individual field studies and demonstrations, the percentage of false positives and negatives for xylenes, benzene, and carbon tetrachloride were less than 5% but had poor correlations ($R^2 < 0.80$). For TCE, DCE, and PCE, a few field studies had false positives and negatives which exceeded the 5% criteria and had correlations which varied from poor ($R^2 < 0.80$) to good ($R^2 \geq 0.80$). For toluene, false positives and negatives were below the 5% criteria but correlations varied between poor ($R^2 < 0.80$) to good ($R^2 \geq 0.80$).

Several other factors were also considered in the interpretation of the data. One of these factors was the data distribution. For four of the eight field studies reviewed, the data consisted of less than 20 points where one false positive or negative would cause the percentage of false positives or negatives to exceed 5%. For all the field studies, the pooled data for each analyte contained a large number of data points where the concentration was below the detection limit. With the large number of data points grouped near the origin, the data distributed at higher concentrations were shown to have a greater influence on the correlation coefficient.

Another factor considered was the technology's inability to produce consistent results for a specific analyte at the same location. This was illustrated in the differing correlations presented for demonstrations conducted at the DGCS and the Aberdeen Proving Grounds BRSA (see evaluation report for details). Since field notes on operator field activities and site conditions were not available in the summary reports, OPPTD staff were unable to assess potential effects of these parameters on the results. Differences in the consistency of the SCAPS HS method to report groundwater concentrations between demonstrations could be due to site conditions, personnel operating the SCAPS HS, helium flow rate used in well sparging, and equipment cleaning and calibration methods used. These factors may contribute to inconsistent results for the same site between demonstrations.

Certification Statement

Under the authority of Health and Safety Code section 25200.1.5, the Site Characterization and Analysis Penetrometer System Hydrosparging VOC Sensing System (SCAPS HS) is hereby certified as a hazardous waste **Site Characterization** technology subject to the specific conditions including the limitations/disclaimer set forth in the Certification Notice as published in the California Regulatory Notice Register on [month, day, year], Register No. [xx], Volume No. [xx-Z], pages [xxxx-xxxx]. The SCAPS HS is certified as a near real-time in-situ field screening method for trichloroethene (TCE), benzene, carbon tetrachloride, perchloroethylene (PCE), dichloroethene (DCE), toluene, and xylenes in groundwater. For TCE, benzene, or carbon tetrachloride, the technology was demonstrated to meet the criteria of less than 5% false positives and negatives and had good correlation ($R^2 \geq 0.80$) and is certified as a qualitative to semi-quantitative field screening method for these analytes. For PCE, toluene, and xylenes, the technology was demonstrated to meet the criteria of less than 5% false positives and negatives but had lower correlations ($R^2 < 0.80$) and is certified as a qualitative field screening technology for these analytes. For DCE, the technology was demonstrated to have good correlation ($R^2 \geq 0.80$) but did not meet the criteria of less than 5% false negatives and is certified as a qualitative field screening technology for this analyte. The technology has applicability to other VOCs which can be detected with an ion-trap mass spectrometer (ITMS), provided these compounds can be effectively sparged from the groundwater with SCAPS HS. As a field screening method, SCAPS HS can be used to further delineate the movement and distribution of groundwater contamination at a site and is a means to optimize the placement of additional permanent monitoring wells. Detection thresholds for all analytes achieved in field studies using SCAPS HS are comparable to those of the reference method. SCAPS HS has applicability to field screening for the presence of known contaminants, but not for the identification of an unknown substance unless the ions detected are uniquely characteristic to those substances. Isomers such as 1,1-DCE and 1,2-DCE or other compounds which produce the same quantitation mass ions cannot be distinguished from each other with this method. False positive or high results may occur when there are VOCs present in the sample which yield molecular ions or ion fragments with the same m/z values as the characteristic ions of the target VOCs.

Limitations of Certification

DTSC makes no express or implied warranties as to the performance of the SCAPS Hydrosparge VOC

Sensor. Nor does DTSC warrant that the SCAPS Hydrosparge VOC Sensor is free from any defects in workmanship or materials caused by negligence, misuse, accident or other causes. However, DTSC believes that the SCAPS Hydrosparge VOC Sensor can be used in accordance with the conditions specified in this certification notice to achieve the results specified herein.

Use of the certified technology is limited to field screening for detection or confirmation of target analytes, but not for positive identification of analytes. Since the ITMS does not have a separation mechanism other than the mass spectrometer, compounds which produce identical primary characteristic ions, or positional and geometric isomers (e.g., 1,1-dichloroethene and 1,2-dichloroethene), cannot be positively identified by this system unless a characteristic secondary ion is available for monitoring. Compounds with higher molecular weights may produce the same fragment ions which will increase the signal of target analytes. A false positive result may occur when there are VOCs present in the sample which yield molecular ions or ion fragments with the same m/z values as the characteristic ions of the target VOCs.

Specific Conditions

1. **Applicability.** This certification is limited to use of the SCAPS Hydrosparge VOC Sensor for in-situ analyses of trichloroethene (TCE), benzene, carbon tetrachloride, perchloroethylene (PCE), dichloroethene (DCE), toluene, and xylenes. The technology may also be applied to the analysis of other chlorinated solvent compounds listed as target analytes in draft Method 8265, provided it can be demonstrated with confirmation sample analyses that these compounds are effectively sparged from the groundwater being investigated and detected by the on-board ITMS system.
2. **Use for Groundwater.** This certification is limited to use of the SCAPS Hydrosparge VOC Sensor in groundwater. Prior to SCAPS Hydrosparge analysis of groundwater in the temporary well or sampling point, the groundwater in the sampling point shall be purged until pH, dissolved oxygen, temperature and conductivity remain constant, and the groundwater level has been allowed to stabilize.
3. **Operational Procedures.** The SCAPS Hydrosparge VOC Sensor shall be operated in accordance with specific procedures developed by the U.S. Army Corp of Engineers Waterways Experiment Station and described in the following two documents: (a) Draft Method 8265, Direct Sampling Ion-Trap Mass Spectrometry for the Measurement of Volatile Organic Compounds In Water, Soil, and Air, SW-846 Organic Methods Workgroup, Revision WG 2, July 1997, and (b) Field Screening of VOCs in Groundwater using the Hydrosparge VOC Sensor, submitted to Current Protocol in Field Analytical Chemistry, John Wiley & Sons, Inc. prepared by William M. Davis, John S. Furey, and Beth Porter, 1998. The final version of Method 8265 accepted into SW-846, or any revisions made to the draft method as part of the SW-846 acceptance process, shall supersede the draft method referenced above.
4. **Confirmation Samples.** Confirmatory laboratory analyses of groundwater samples by EPA Method 8260B or equivalent **are required.** For this purpose, representative groundwater samples of the aquifer being investigated shall be collected and analyzed. This requirement is necessary to assess the applicability of the technology to identify specific contaminants present at the site. Different compounds may produce the same characteristic ions which are detected and quantified by the ITMS. Thus, the certified technology is only able to detect or confirm the presence of known specific contaminants. In addition, matrix effects, and even the particular contaminant or contaminants present, may vary with depth. The depth and size of the contaminant plume, and contamination profile of a site should all be considered in a site-specific sampling plan for determining the necessary number and locations of confirmation samples. Site characterization data obtained during prior investigations should also be considered for this requirement.
5. **Direct Push Well Abandonment.** The user shall comply with all applicable state and local regulations regarding the proper abandonment of direct push wells and push holes (i.e., well abandonment requirements). At a minimum, each direct push well shall be grouted from the bottom up using a cement bentonite slurry immediately after groundwater sampling is completed. The specific grout mixture used shall be documented at each site so future investigations or monitoring programs can anticipate the potential for detecting low concentrations of any additives and possible breakdown products. Additionally, water used in the grout mixture and in the grouting process shall be a water of known and documented quality. Examples of the USACE standard operating procedures for abandoning temporary groundwater sampling wells are available in the evaluation report.

6. Probe Cleaning. The steam cleaning system integral to the truck should be used to automatically steam clean the penetrometer rod sections as they are being withdrawn from the push hole and prior to being handled by the field crew and placed onto the storage racks. Spent water from the cleaning process, directed to a storage drum, should be properly classified and managed.
7. Compliance with Worker Health and Safety Laws. Operation of the SCAPS Hydrosparge VOC Sensor must be in compliance with all federal, state and local regulations relating to the protection of worker health and safety. In California these include, but are not limited to, Cal-OSHA and OSHA requirements.
8. Personnel Training. Operators with chemical and analytical knowledge and proper training are required to use this technology. Training includes safe operation and maintenance of the Hydrosparge VOC Sensor, the cone penetrometer platform, the Hydrosparge module and associated sample collection equipment, and the ITMS analytical instrument.
9. Compliance with Applicable Federal, State, Local Regulations. The user shall comply with all applicable federal, state, and local regulatory requirements.
10. Modifications and Amendments at the Request of the Applicant. Modifications and amendments to this certification may be requested by the applicant and will be subject to approval by DTSC.
11. Certification Reference. The holder of a valid hazardous waste environmental technology certification is authorized to use the certification seal (California Registered Service Mark Number 046720) and shall cite the certification number and date of issuance in conjunction with the certification seal whenever it is used. When providing information on the certification to the user of the technology or another interested party, the holder of a hazardous waste environmental technology certification shall at a minimum provide the full text of the final certification decision as published in the California Regulatory Notice Register.
12. The user of the certified technology shall maintain adequate records to document compliance with the conditions of certification. The records shall be maintained onsite and available for inspection.

Regulatory Implications

This certification is for the specific claims, conditions, and limitations outlined in this notice, and is based on DTSC's evaluation of the technology's

performance. The Certification does not change the regulatory status of SCAPS HS technology; it should, however, facilitate and encourage the acceptance of this technology as a field screening method for site characterization, thereby reducing the required number of monitoring wells, as well as the overall time and effort, required to fully characterize the migration and distribution of groundwater contaminant plumes at a given site.

Use of this technology as a field screening method for site characterization does not require a hazardous waste management permit issued by DTSC. However use of the technology may be subject to regulation by other state and local agencies. For each specific application, the end-user must ensure compliance with all applicable regulations and standards established by other state and local agencies.

This Certification is issued under the California Environmental Technology Certification Program, and is therefore subject to the conditions set out in the regulations, such as the duration of the Certification, the continued monitoring and oversight requirements, and the procedures for certification amendments, including decertification.

By accepting this Certification, the manufacturer assumes, for the duration of the Certification, responsibility for maintaining the quality of the manufactured materials and equipment at a level equal or better than was provided to obtain this Certification and agrees to be subject to quality monitoring by DTSC as required by the law, under which this Certification is granted.

Duration of Certification

This certification will remain in effect for three years from the date of issuance, unless it is amended or revoked for cause.

**RULEMAKING PETITION
DECISIONS**

DEPARTMENT OF CORRECTIONS

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

California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Department of Corrections

PETITIONER

Jack Nottingham.

AUTHORITY

Under authority established in Penal Code (PC) Section 5058 the Director may prescribe and amend

regulations for the administration of prisons. PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.

CONTACT PERSON

Please direct any inquiries regarding this action to Rick Grenz, Chief, Regulation and Policy Management Branch, Department of Corrections, P.O. Box 942883, Sacramento, CA 94283-0001, or telephone (916) 324-4331.

AVAILABILITY OF PETITION

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

SUMMARY OF PETITION

Petitioner requests the Department of Corrections amend the California Code of Regulations (CCR), Title 15, Division 3, Section 3375.3(b)(3)(A) and (b)(3)(B) so that the term "last incarceration" includes time spent in the county jail. Petitioner contends that "last incarceration" is a vague term and violates his due process rights.

DEPARTMENT DECISION

The Director of Corrections denies the petition to amend CCR Section 3375.3.

Subsection (b) of Section 3375.3 is entitled "Prior Incarceration Behavior (Boxes 57 through 76x)," and is inclusive of subparagraphs (3)(A) and (3)(B) of which the petitioner requests be changed. In Subsection (b)(1)(A) it states: "prior incarceration behavior in any correctional agency shall include the last 12 consecutive months in custody, going as far back as necessary to attain a total of 12 months, prior to the completion of current processing, which includes behavior while in county jail after conviction, during transportation to or processing at the reception center."

The Department contends that "prior incarceration" and "last incarceration" are not vague terms and do, as defined in Subsection (b)(1)(A), include time served in the county jail. Favorable prior behavior credits are being applied consistently throughout the Department, but if petitioner feels that he was not credited with enough points, he should pursue the inmate appeals process, pursuant to CCR Sections 3084, et seq., to ensure that his particular case was evaluated correctly.

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.

BOARD OF EDUCATION

Criteria and Standards for Budgets and Interim Reports

The Board of Education is adopting, amending and repealing the captioned sections pertaining to criteria and standards for budgets and interim reports. These aforementioned changes are exempt from review by the Office of Administrative Law pursuant to Education Code section 33131.

Title 5

California Code of Regulations

ADOPT : 15479.5 AMEND : 15440, 15442, 15443, 15444, 15445, 15448, 15449, 15451, 15452, 15453, 15454, 15456, 15457, 15458, 15459, 15460, 15461, 15462, 15463, 15467, 15471, 15472, 15475, 15476, 15479, 15480, 15481, 15483, 15484, 15485, 15486, 15487, 15488,

Filed 10/05/00

Effective 11/04/00

Agency Contact: Peggy Peters (916) 657-4440

CALIFORNIA MEDICAL BOARD

Diversion Program

This action updates the regulation that specifies the causes for termination of a physician's participation in an alcohol or drug diversion program, establishes new diversion program records retention requirements, and makes coordinating changes in three existing regulations.

Title 16

California Code of Regulations

ADOPT : 1357.9 AMEND : 1357.1(g), 1357.5, 1357.6, 1357.8(a)

Filed 10/05/00

Effective 11/04/00

Agency Contact: Nancy Grillo (916) 263-2347

DEPARTMENT OF HEALTH SERVICES
Screening for Childhood Lead Poisoning

This emergency regulatory action establishes procedures for screening for childhood lead poisoning

Title 17
California Code of Regulations
ADOPT : 37000, 37005, 37010, 37015, 37020, 37025, 37100
Filed 10/10/00
Effective 10/10/00
Agency Contact:
Charles E. Smith (916) 657-0730

DEPARTMENT OF SOCIAL SERVICES
Community Care Facilities Licensing and Administrative Actions

This regulatory action implements SB 933 (Chapter 311, Statutes of 1998) by requiring additional information from members of the board of directors, executive director, or officer or corporation licensed to or applying for a license to run various types of community care facilities, prohibiting licensure under specified circumstances, and requiring distribution of substantiated complaints to certain persons.

Title 22
California Code of Regulations
ADOPT : 80046, 84045, 87046, 87346, 87846, and 101208 AMEND : 80018, 80030, 80040, 80042, 80061, 87040, 87042, 87218, 87231, 87340, 87342, 87818, 87830, 87840, 87842, 101169, 101181, 101205, and 101206
Filed 10/04/00
Effective 11/03/00
Agency Contact: DeAnna Setzer (916) 657-2586

FISH AND GAME COMMISSION
Monitored Species: Spring-run Chinook Salmon

This rulemaking deletes Sacramento River Spring-run Chinook salmon as a Monitored Species.

Title 14
California Code of Regulations
AMEND : 670.6
Filed 10/04/00
Effective 11/03/00
Agency Contact: John M. Duffy (916) 653-4899

STATE MINING AND GEOLOGY BOARD
Surface Mining and Reclamation Act

This action is the resubmission of regulations that implement a procedure for the Board's selection of private architectural, landscape architectural, engineering, environmental, land surveying and construction project management firms to perform services needed by the Board.

Title 14
California Code of Regulations
ADOPT : 3920, 3921, 3922, 3923, 3924, 3925, 3926, 3927, 3928, 3929, 3930
Filed 10/04/00
Effective 10/04/00
Agency Contact: Kit Gonzales (916) 322-1082

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN JUNE 07, 2000 TO
OCTOBER 11, 2000**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's 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 1

08/23/00 AMEND : 1304, 1321, 1323, 1342, 1350, 1351, 1371, 1390, 1392

Title 2

09/25/00 ADOPT : 20800, 20801 REPEAL : 21912, 21914

09/25/00 ADOPT : 547.80, 547.81

09/21/00 ADOPT : 57900

09/12/00 ADOPT : 1859.79.3 AMEND : 1859.81.1

08/29/00 ADOPT : 21904, 21905 AMEND : 21903

08/15/00 ADOPT : 2270, 2271

07/18/00 AMEND : 18451, 18502.1, 18519.4, 18530.1, 18530.7, 18531.1, 18531.3, 18541, 18550, 18626, 18700, 18944.2

07/17/00 ADOPT : 1859.71.1, 1859.78.3 AMEND : 1859.2, 1859.20, 1859.21, 1859.30, 1859.33, 1859.50, 1859.51, 1859.60, 1859.61, 1859.70, 1859.72, 1859.73.1, 1859.74.1, 1859.75.1, 1859.76, 1859.78.1, 1859.78.2, 1859.81, 1859.81.1, 1859.82, 1859.90, 1859.100, 1859.101

06/26/00 ADOPT : 1859.73.1, 1859.74.2, 1859.75.1, 1859.77.2, 1859.78.2, 1859.105.1 AMEND : 1859.1, 1859.2, 1859.13, 1859.14, 1859.16, 1859.20, 1859.21, 1859.30, 1859.32, 1859.33, 1859.35, 1859.40, 1859.42, 1859.43, 1859.50, 1859.51, 1859.60, 1859.70, 1859.74

06/15/00 AMEND : 1897

Title 3

09/29/00 ADOPT : 6486.7 AMEND : 6772
 09/28/00 AMEND : 1430.37, 1430.38
 09/27/00 ADOPT : 1358.5
 09/07/00 AMEND : 3060.4(a)(1)(C)
 09/05/00 AMEND : 3417(b)
 08/30/00 AMEND : 6860
 08/28/00 AMEND : 3591.6(a)
 08/16/00 AMEND : 3591.13(a)
 08/15/00 AMEND : 6000, 6454
 07/25/00 ADOPT : 3650, 3651, 3652, 3653, 3654,
 3655, 3656, 3657, 3658, 3659, 3660
 07/25/00 AMEND : 3423(b)
 07/17/00 AMEND : 1380.19, 1428.17
 07/14/00 AMEND : 1446.1, 1446.4, 1446.9,
 1454.4, 1454.10, 1454.16, 1462.9,
 1462.10
 07/13/00 AMEND : 1656
 06/22/00 AMEND : 1380.4, 1380.12
 06/15/00 AMEND : 1436.12
 06/15/00 ADOPT : 759.4 AMEND : 759
 06/14/00 AMEND : 3591.16(a)
 06/14/00 ADOPT : 1358.5 AMEND : 1354, 1357,
 1358, 1358.2, 1358.4
 06/08/00 AMEND : 3417(b)

Title 4

10/02/00 AMEND : 8070, 8072, 8073
 09/22/00 ADOPT : 10300, 10302, 10305, 10310,
 10315, 10317, 10320, 10322, 10325,
 10326, 10327, 10328, 10330, 10335,
 10337
 08/16/00 AMEND : TB 117

Title 5

10/05/00 ADOPT : 15479.5 AMEND : 15440,
 15442, 15443, 15444, 15445, 15448,
 15449, 15451, 15452, 15453, 15454,
 15456, 15457, 15458, 15459, 15460,
 15461, 15462, 15463, 15467, 15471,
 15472, 15475, 15476, 15479, 15480,
 15481, 15483, 15484, 15485, 15486,
 15487, 15488
 09/28/00 AMEND : 41100, 41103
 09/28/00 ADOPT : 40508 AMEND : 40500,
 40501, 40503, 40505, 40506, 40507
 09/21/00 ADOPT : 58509
 08/30/00 AMEND : 18070, 18081
 08/30/00 AMEND : 58508
 08/11/00 AMEND : 40409
 08/03/00 ADOPT : 76220, 76230, 76240
 07/14/00 ADOPT : 53301, 53308, 53309, 53310
 AMEND : 51025, 53302, 53311, 53312,
 53314 REPEAL : 53310
 06/26/00 AMEND : 30950
 06/21/00 ADOPT : 80430.2
 06/21/00 ADOPT : 80071.5

Title 8

10/02/00 AMEND : 3656(e)
 10/02/00 AMEND : 344, 344.1, 344.2,
 09/19/00 AMEND : 3441, 3455
 09/07/00 ADOPT : 51700, 51710, 51715, 51725,
 51730, 51735, 51740 AMEND : 32011,
 32700, 32990, 32991, 32992, 32993,
 32994, 32995, 32996, 32997
 08/22/00 AMEND : 9990
 08/21/00 AMEND : 4966(a)
 08/04/00 AMEND : 3207, 3207.1
 07/26/00 AMEND : 2940.2, 2940.6, 2941, Article
 36, Appendix C
 07/21/00 AMEND : 4307.1
 07/10/00 AMEND : 334
 06/27/00 AMEND : 3200
 06/27/00 AMEND : 103
 06/27/00 REPEAL : Footnote (q) in Table AC-1 of
 section 5155
 06/26/00 AMEND : 5198
 06/26/00 ADOPT : 344.90
 06/22/00 AMEND : Figures 1, 2, 3 of Appendix B
 to Article 6
 06/19/00 AMEND : 344, 344.1, 344.2
 06/15/00 ADOPT : 15601, 15604 AMEND :
 15600, 15602, 15603, 15605, 15606,
 15607, 15608, 15609
 06/13/00 AMEND : 15430
 06/07/00 AMEND : 4322

Title 9

09/27/00 ADOPT : 7353.6 AMEND : 7350, 7351,
 7353
 07/18/00 AMEND : 58620

Title 10

09/20/00 ADOPT : 2278, 2278.2, 2278.3, 2278.4,
 2278.5
 09/18/00 AMEND : 3525, 3526, 3527, 3530, 3543,
 3561, 3563, 3567, 3568, 3569, 3570,
 3602, 3603, 3622, 3641, 3662, 3681
 09/05/00 ADOPT : 2699.6817, 2699.6819,
 2699.6821, 2699.6823, 2699.6825
 AMEND : 2699.6500, 2699.6600,
 2699.6607, 2699.6809, 2699.6813
 09/05/00 ADOPT : 5904.1, 5906 AMEND : 5900,
 5901, 5903, 5904, 5905
 08/30/00 AMEND : 1722, 1723
 08/25/00 ADOPT : 2189.1, 2189.2, 2189.3, 2189.4,
 2189.5, 2189.6, 2189.7, 2189.8
 08/14/00 AMEND : 1300.68 REPEAL :
 1300.68.01
 08/14/00 ADOPT : 1300.68.01 AMEND : 1300.68
 07/25/00 ADOPT : 2498.6
 07/18/00 AMEND : 1300.43.3, 1300.43.6,
 1300.43.10, 1300.43.12, 1300.43.13,
 1300.43.14, 1300.43.15, 1300.45,
 1300.47, 1300.51, 1300.51.1, 1300.51.2,

1300.51.3, 1300.52, 1300.52.1, 2272 REPEAL : 2262.2, 2262.3, 2262.4,
1300.52.3, 1300.52.4, 1300.61,
2262.6, 2262.7, 2264.4
1300.61.3, 1300.63, 1300.63.1, 08/02/00 ADOPT : 115.09 , 115.10
1300.63.2, 1300.63.3 07/11/00 AMEND : 1202
07/17/00 ADOPT : 5356.1 AMEND : 5350 07/10/00 ADOPT : 2443.3
07/17/00 AMEND : 2699.6500, 2699.6600;
06/28/00 ADOPT : 77.00, 77.05, 77.10, 77.15,
2699.6705; 2699.6713, 2699.6721,
77.16, 77.17
2699.6813 06/08/00 ADOPT : 200.00
07/10/00 AMEND : 2699.100, 2699.200,
Title 14
2699.201, 2699.400 10/04/00 ADOPT : 3920, 3921, 3922, 3923, 3924,
07/07/00 ADOPT : 2698.70, 2698.71, 2698.72,
3925, 3926, 3927, 3928, 3929, 3930
2698.73, 2698.74, 2698.75, 2698.76,
10/04/00 AMEND : 670.6
2698.77 10/02/00 AMEND : 13870, 13876, 13877, 13890,
06/20/00 AMEND : 2699.6500, 2699.6800,
13891
2699.6805, 2699.6809 09/28/00 AMEND : 550, 551, 552
06/16/00 ADOPT : 2699.6801 AMEND :
09/25/00 AMEND : 502
2699.6500, 2699.6600, 2699.6603,
09/18/00 AMEND : 189
2699.6607, 2699.6611, 2699.13,
09/14/00 ADOPT : 4970.00, 4970.01, 4970.02,
2699.6625, 2699.6800, 2699.6903 4970.03, 4970.04, 4970.05, 4970.06,
06/15/00 AMEND : 3543, 3582, 3681, 3682, 3761 4970.07, 4970.08, 4970.09, 4970.10,
4970.11, 4970.12, 4970.13, 4970.14,
Title 11 970.15, 4970.16, 4970.17, 4970.18,
10/03/00 AMEND : 1005 4970.19, 4970.20, 4970.21, 4970.22,
10/02/00 ADOPT : 999.5 AMEND : 999.2 ,
4970.23, 4970.24, 4970.25, 4970.26
999.5(a)(3) REPEAL : 999.5 09/11/00 ADOPT : 18900, 18901, 18902, 18903,
18904, 18905, 18906, 18907, 18908,
09/11/00 AMEND : 1019 18909, 18910, 18911, 18912, 18913,
08/10/00 AMEND : 1001, 1002, 1004, 1005,
18914, 18915, 18916, 18917, 18918,
Procedure: D-2, F-6 18919, 18920, 18921, 18922, 28923,
07/21/00 AMEND : 1005 18924, 18925, 18926, 18927, 18928,
07/21/00 AMEND : 1003 18929, 18930, 18931, 18932
07/10/00 ADOPT : 313, 314, 315, 316, 317, 318,
09/08/00 ADOPT : 2135, 2135(a), 2135(a)(1),
319, 320, 321, 322, 323, 324, 325, 326,
2135(a)(2), 2135(a)(3), 2135(a)(4),
327 2135(b), 2135(c), 2135(c)(1), 2135(c)(2),
06/29/00 ADOPT : 968.10, 968.11, 968.12, 968.20,
2135(c)(3), 2135(d), 2135(d)(1),
968.30, 968.31, 968.32, 968.33, 968.34, 2135(d)(2), 2135(e), 2135(e)(1),
968.35, 968.36, 968.40, 968.41, 968.42, 2135(e)(1)(A), 2135(e)(1)(B), 2135(e)(2),
968.43, 968.44, 968.45, 968.46, 968.47, 2135(e)(3), 2135(e)(4), 2135(f)
968.48, 968.50, 968.60, 968.70, 968.71,
09/07/00 AMEND : 235
968.80, 968.90, 968.91, 968.95 09/05/00 AMEND : 3550.13
06/12/00 AMEND : 1081(a)(20), 1007(c) 09/01/00 AMEND : 630
Title 13 09/01/00 ADOPT : 1690, 1690.1, 1691, 1692,
10/02/00 AMEND : 272.04 1693, 1694, 1695, 1696, 1697, 1698,
09/27/00 AMEND : 553 1699
09/19/00 AMEND : 595 09/01/00 AMEND : 251.5, 300(a), 300(b), 311,
09/14/00 AMEND : 2470, 2471, 2472, 2473, 2474,
502.1
2475, 2476, 2477, 2478 08/29/00 AMEND : 815.05, 815.07, 816.01,
09/12/00 ADOPT : 28.20, 28.21, 28.22, 28.23 816.02, 816.03, 816.04, 816.05, 816.06,
09/11/00 ADOPT : 2470, 2471, 2472, 2473, 2474,
817.01, 817.02, 817.03, 818.01, 818.02,
2475, 2476, 2477, 2478 818.03, 819.01, 819.03, 820.01
09/05/00 AMEND : 594 08/25/00 AMEND : 18762, 18775, 18794.0,
08/29/00 ADOPT : 2470, 2471, 2472, 2473, 2474,
18800, 18801, 18807, 18810, 18812
2475, 2476 AMEND : 2405, 2425, 2435,
2445.1 08/17/00 AMEND : 7.50(b)(189.5)
08/03/00 ADOPT : 2262, 2262.3, 2262.6 AMEND 08/16/00 AMEND : 231
: 2260, 2261, 2262.1, 2262.5, 2263,
08/11/00 AMEND : 2000, 2045, 2055, 2235, 2240,
2263.7, 2264, 2264.2, 2265, 2266,
2305, 2310, 2320, 2430, 2540
2266.5, 2267, 2268, 2269, 2270, 2271,

08/10/00 ADOPT : 18570, 18571, 18572, 18573,
18574, 18578, 18576, 18577, 18578,
18579, 18580
07/31/00 ADOPT : 17367, 17368, 17369, 17370.1,
17370.2, 18225
07/25/00 AMEND : 1612.2
07/20/00 AMEND : 2125, 2650 REPEAL : 2655
07/14/00 AMEND : 120.3, 180.1
07/13/00 AMEND : 10703(a)
07/11/00 AMEND : 11900
07/11/00 AMEND : 17946.5
07/11/00 AMEND : Div 5, Appendix D
07/06/00 ADOPT : 2135 REPEAL : 2140
07/06/00 ADOPT : 2690 AMEND : 2075, 2090,
2105, 2125, 2425, 2530, 2650
07/05/00 AMEND : 2420, 2425, 2955
06/30/00 AMEND : 795(a)(2)(B), FGOSPR-1929
Form
06/29/00 ADOPT : 17990, 17991, 17992.1,
17992.2, 17992.3, 17992.4, 17993.1,
17993.2, 17993.3, 17993.4, 17993.5,
17993.6, 17993.7, 17994.1, 17994.2,
17994.3
06/28/00 AMEND : 7.50(b)(91.1)
06/22/00 AMEND : 3.00 & 7.50(b)(b2)
06/13/00 ADOPT : 182
06/12/00 AMEND : 28.55

Title 15

09/25/00 AMEND : 3011
08/28/00 AMEND : 3000, 3075.1, 3357
08/25/00 AMEND : 3062
07/14/00 ADOPT : 6000, 6001, 6002, 6003, 6010,
6011, 6020, 6021, 6022, 6023, 6024,
6025, 6026, 6027, 6028, 6029, 6030,
6040, 6041, 6050, 6060, 6061, 6062,
6063, 6070
07/14/00 AMEND : 7001
06/29/00 AMEND : 5000, 5005, 5006, 5007, 5008,
5009, 5010, 5051, 5060, 5100, 5101,
5102, 5103, 5105, 5125, 5126, 5127,
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09/25/00 ADOPT : 390, 390.1, 390.2, 390.3, 390.4,
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09/21/00 ADOPT : 4000, 4001, 4010, 4011, 4012,
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09/21/00 AMEND : 3394.6, CAP/APP (08/00)
09/20/00 ADOPT : 1707

09/18/00 AMEND : 3024
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08/22/00 REPEAL : 1399.551
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 09/22/00 AMEND : 51003, 51321
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 06/29/00 AMEND : 51510.1, 51510.3
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