

## **Final Statement of Reasons (FSOR)**

### **Title 22, California Code of Regulations, Division 4, Chapter 23. Continuing Education for Registered Environmental Health Specialists**

This FSOR supersedes the FSOR as submitted in OAL file # 2009-0730-02S.

The information contained in the Initial Statement of Reasons (ISOR) at the time of the Public Notice remains unchanged, with the exception of the following modification:

**Section 65805(a).** The proposed regulation as originally noticed to the public (ISOR, page 4) established the requirement that persons applying for renewal as an REHS must have completed at least 24 hours of continuing education during the two years prior to renewal. Comments received during the 45-day public notice period requested that the implementation date for the new requirement be specified, and that the regulations specify that the requirement would not be in effect for partial biennial registration periods (FSOR, page 14). The Department initially responded to these comments by stating in the response that each individual would be allowed the specified two full years, and that the two-year period would not begin until the REHS's first renewal following adoption of the regulations. Upon reconsideration, the Department directly addressed these requests by adding language to the text in this subsection to specify the implementation date for the continuing education requirement. This change was noticed for a 15-Day Availability, which began September 22, 2009, and ended October 6, 2009, and for which no comments were received.

#### **Local Mandate Determination**

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code, nor are there other non-discretionary costs imposed.

#### **Alternatives Considered**

The Department has determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective and less burdensome to affected private persons than the proposed action.

#### **Impact on Business**

The Department has made a determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### **Summary of Comments Received and Department Response**

Addendum 1 – List of Commenters, Period Ending February 9, 2009

Addendum 2 – Responses to Comments, Period Ending February 9, 2009

## Addendum 1

### List of Commenters, Period Ending February 9, 2009

#	NAME	TITLE	ORGANIZATION
1	RAMSEY, VICKI (LETTER), (E-MAIL)	SENIOR EHS	PLACER COUNTY ENVIRONMENTAL HEALTH
2	OSSAI, JOSEPH	ENVIRONMENTAL HEALTH INSPECTOR, HOUSING	CITY AND COUNTY OF SAN FRANCISCO, DPH, EH SECTION
3	HAWKINS, VINCENT	ENVIRONMENTAL HEALTH SPECIALIST	MARIN COUNTY ENVIRONMENTAL HEALTH SERVICES
4	CALLOW, SCOTT	SR DRINKING WATER /WELL DRILLING SPECIALIST	MARIN COUNTY ENVIRONMENTAL HEALTH SERVICES
5	SMITH-COOKE, DEBORAH	ENVIRONMENTAL HEALTH SPECIALIST	SAN LUIS OBISPO COUNTY ENVIRONMENTAL HEALTH
6	BARNTHOUSE, LAURA	ENVIRON RISK/COMMUNITY OUTREACH SPEC	SONOMA COUNTY, DEPT. OF HEALTH SERVICES, EH DIVISION
7	BUONOMO, HEATHER	SOUTHWEST CHAPTER PRESIDENT	CALIFORNIA ENVIRONMENTAL HEALTH ASSOCIATION
8	KRENZ, MATTHEW	ENVIRONMENTAL HEALTH SPECIALIST	MONTEREY COUNTY HEALTH DEPT., ENVIRONMENTAL HEALTH DIVISION
9	LYON, RICHARD	ENVIRONMENTAL HEALTH SPECIALIST	SOLANO COUNTY ENVIRONMENTAL HEALTH DIVISION
10	MCCAULEY, PHILLIP	ENVIRONMENTAL HEALTH SPECIALIST	SANTA CRUZ COUNTY, ENVIRONMENTAL HEALTH
11	WINKLER, KEITH	DEPUTY HEALTH DIRECTOR FOR EH SERVICES	KINGS COUNTY ENVIRONMENTAL HEALTH SERVICES
12	AVERA, DANIEL	DIVISION CHIEF, ENVIRONMENTAL HEALTH SERV.	SAN BERNARDINO COUNTY, ENVIRONMENTAL HEALTH
13	FORD, TRACEY	PRESIDENT	CALIFORNIA ENVIRONMENTAL HEALTH ASSOCIATION
14	ROSSO, STEVE	ENVIRONMENTAL HEALTH SPECIALIST	MARIN COUNTY, ENVIRONMENTAL HEALTH SERVICES
15	VENTER, ROBERT L.	ENVIRONMENTAL HEALTH SPECIALIST	SAN DIEGO COUNTY
16	BARNETT, MARCY	REHS	CALIFORNIA ENVIRONMENTAL HEALTH ASSOCIATION
17	FILLMORE, TIM	ENVIRONMENTAL HEALTH SPECIALIST	SANTA CRUZ COUNTY HEALTH SERVICES AGENCY
18	HOBBERLIN, JULIE	ENVIRONMENTAL HEALTH SPECIALIST	ORANGE COUNTY HEALTH CARE AGENCY
19	UMEMOTO, DAWN	ENVIRONMENTAL HEALTH SPECIALIST	ORANGE COUNTY HEALTH CARE AGENCY
20	WONG, DARRYL C. F.	CEHA CONTINUING EDUCATION CHAIR	CALIFORNIA ENVIRONMENTAL HEALTH ASSOCIATION
21	WETZEL, MICHAEL	ENVIRONMENTAL HEALTH SPECIALIST III	SAN BERNARDINO COUNTY, ENVIRONMENTAL HEALTH
22	HALLADIN, MARGARET	ENVIRONMENTAL HEALTH SPECIALIST III	MARIN COUNTY ENVIRONMENTAL HEALTH SERVICES
23	MILLER, ROB	SUPERVISING REHS	SAN BERNARDINO COUNTY, DEPARTMENT OF PUBLIC HEALTH
24	YORKEY, DARRYL	PRESIDENT ELECT 2008-09; ADJUNCT PROFESSOR	CEHA; SAN DIEGO STATE UNIVERSITY, GRADUATE SCHOOL OF PUBLIC HEALTH
25	HARRISON, RICHARD	SENIOR ENVIRONMENTAL HEALTH SPECIALIST	SANTA CLARA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
26	HARTMAN, KATHRYN S.	ENVIRONMENTAL HEALTH SPECIALIST III	SAN DIEGO COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
27	BROWN, LAWRENCE A.	ENVIRONMENTAL HEALTH SPECIALIST	KING COUNTY (WASHINGTON)
28	ST. JOHN-HARDER, MELISSA	COMPLIANCE SPECIALIST	GOLDER ASSOCIATES
29	POZZEBON. LEWIS	PRESIDENT	CALIFORNIA CONFERENCE OF DIRECTORS OF ENVIRONMENTAL HEALTH (CCDEH)
30	LEANOS, SAL	EHS IV	VENTURA COUNTY
31	NEWCOMB, LARRY	REHS	JAYHAWK CONSULTANTS

## Addendum 1

### List of Commenters, Period Ending February 9, 2009

#	NAME	TITLE	ORGANIZATION
32	MESAGNO, DAVID	REHS	SONOMA COUNTY
33	THOMAS, SANDER	REHS	EL DORADO COOUNTY
34	GARCIA, GRACIELA	ENVIRONMENTAL HEALTH SPECIALIST IV	VENTURA COUNTY ENVIRONMENTAL HEALTH DEPARTMENT
35	MERRIFIELD, RICK	DIRECTOR	SANTA BARBARA COUNTY ENVIRONMENTAL HEALTH SERVICES
36	BYRNE, MIKE	REHS	VENTURA COUNTY
37	HUFF, ELIZABETH	REHS	VENTURA COUNTY
38	KIRSCHMAN, WILLIAM	REHS	PLACER COUNTY
39	BROWN, RICHARD	REHS	PLACER COUNTY
40	ECHOLS, RALPH	REHS	PLACER COUNTY
41	ELLIS, DANELLE	REHS	PLACER COUNTY
42	FOSTER, WILLIAM	REHS	PLACER COUNTY
43	GANAPATHY, MOHAN	REHS	PLACER COUNTY
44	JONES, BRIAN	REHS	PLACER COUNTY
45	LINDBLOOM, MARC	REHS	LINDBLOOM SEPTIC DESIGN, INC.
46	LINDBLOOM, DAVID	REHS	LINDBLOOM SEPTIC DESIGN, INC.
47	LINEBERRY, VIRGINIA	REHS	PLACER COUNTY
48	RATN, LAURA	REHS	PLACER COUNTY
49	CASO, MICHAEL	REHS	PLACER COUNTY
50	KIRSCHMAN, DEBORAH	REHS	PLACER COUNTY
51	GEREKE, DIANE	REHS	PLACER COUNTY
52	ESTOLAS, LEMUEL	REHS	PLACER COUNTY
53	VENTURA, RONNY	ENVIRONMENTAL HEALTH SPECIALIST IV	VENTURA COUNTY
54	HOLLOWAY, SHARI	EHS IV	VENTURA COUNTY
55	SIREN, REBECCA (WRITTEN TESTIMONY)	OPERATIONS MANAGER, WATER QUALITY	GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
56	POZZEBON, LEWIS	HEALTH OFFICER / DIRECTOR	CITY OF VERNON
57	SIREN, REBECCA (ORAL TESTIMONY)	OPERATIONS MANAGER WATER QUALITY	GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
58	RAMSEY, VICKI (ORAL TESTIMONY)	SENIOR EHS	PLACER COUNTY ENVIRONMENTAL HEALTH

## Addendum 2 Responses to Comments, Period Ending February 9, 2009

The Department solicited written comments on the proposed regulation package, DPH-05-011, and received 56 letters or emails (WT). The Department received a request for a public hearing on January 15, 2009. A public hearing was held on February 9, 2009, and two people presented oral testimony (OT).

### **General Support for Proposed Regulations:**

**Comment:** Many comments were received in support for DPH-05-011 Continuing Education Requirements for Registered Environmental Health Specialists (REHSs). The comments stated that a mandatory continuing education requirement for all REHSs in California is important in maintaining the highest of standards in the profession and ensuring continued professionalism in the field. They also stated that continuing education will reinforce the key role environmental health plays in public health protection and providing the outstanding public and environmental health service all people in California expect. The California Environmental Health Association (CEHA), California Conference of Local Health Officers (CCLHO), California Conference of Directors of Environmental Health (CCDEH), and Environmental Health Specialist Registration Committee (EHSRC) support the efforts of the California Department of Public Health (CDPH) to establish continuing education requirements for REHSs.

Commenter: 3(WT), 4(WT), 5(WT), 6(WT), 7(WT), 8(WT), 9(WT), 10(WT), 11(WT), 12(WT), 13(WT), 14(WT), 15(WT), 16(WT), 17(WT), 18(WT), 19(WT), 20(WT), 21(WT), 22(WT), 23(WT), 24(WT), 25(WT), 26(WT), 28(WT), 29(WT), 35(WT), 56(WT)

**Response:** The California Department of Public Health (CDPH) appreciates the expression of support for the proposed continuing education regulations for registered environmental health specialists.

### **General Opposition to Proposed Regulations:**

**Comment:** Mandating continuing education has been opposed by the majority of REHSs in the past.

Commenter: 37(WT)

**Response:** The California Environmental Health Association (CEHA), California Conference of Directors of Environmental Health (CCDEH), California Conference of Local Health Officers (CCLHO), and members of the environmental health community

have identified continuing education as a key element in the development of competent and effective environmental health professionals. No changes will be made to the proposed regulations.

**Comment:** The comments period set by the Department was unfairly set up. The information was provided to some of the REHSs by the directors of the different jurisdictions. What happened to those REHSs that work for private industry; those that are on leave of absence for an illness or to care for a child; or those that are retired? No effort was made to make them aware of what is being proposed and that will directly affect them. The contact information is required as part of the biennial registration; therefore, it would have been an easy process to send the information to all REHSs. In order to truly determine that REHSs in general agree that continuing education will benefit the profession, all REHSs must be aware of what is being proposed and all must have an opportunity to provide their input. It was inappropriate and may not have even met legal mandates to only distribute the Notice of Proposed rulemaking, Title 22, California Code of regulation to CCLHO, CCDEH and an assortment of “interested persons” but not all REHSs. The public notice was inadequate.

Commenter: 34(WT), 37(WT), 54(WT), 57(OT)

**Response:** The comment period for rulemaking was based on requirements of the Administrative Procedure Act and conducted in accordance with the requirements of Government Code, Title 2, Section 11346.4(a). The law does not require the public notice to be sent to all REHSs. The Department complied with Section 11346.4(a) because it mailed the notice to all the people identified in that subdivision, when required, and to those who it elected to send it to when it had discretion to do so. The Department complied with Section 11346.1(a)(1) because it mailed the notice to all those who filed a request for notice of regulatory actions with the Department. A copy of the rulemaking notification was sent to all Directors of Environmental Health, all Local Health Officers, CEHA and other interested parties, such as a local chapter of CEHA. Pursuant to Government Code, Title 2, Section 11346.4(a)(4), it was determined that this distribution was adequate and reasonable for the notice of proposed rulemaking. The rulemaking notification was also listed in the California Regulatory Notice Register and posted on the program’s webpage on December 26, 2008.

In addition, CEHA notified members of the organization regarding the continuing education rulemaking process and also posted the Department web links with the rulemaking documents for members to review. The Department has been working with the Environmental Health Specialist Registration Committee (EHSRC), CEHA, CCDEH, CCLHO, and other individuals on the continuing education regulations since 1995 when the law was amended to give the Department the authority to adopt regulations. These groups fully represent the profession. The private sector is represented on the EHSRC Committee. These regulations have no impact on retired REHSs. Since that time, the

Department has made numerous presentations to CCDEH, CEHA and other interested parties, such as San Diego County, Orange County, Riverside County, San Bernardino County, Ventura County, and San Luis Obispo County, regarding the proposal for continuing education regulations. Based on feedback from represented groups and individuals, the Department has amended the proposed package several times. In 2004 the EHSRC made a recommendation for the Department to adopt the proposed regulations. A draft of the proposed regulations has been posted on the program's webpage since 2005. No changes to the proposed regulations are necessary based on these comments.

**Comment:** I am not in support of DPH-05-011 Continuing Education Requirements for REHSs unless the number of required units is reduced. Four to five units per year is reasonable. I feel the amount of continuing education units as proposed is totally unrealistic. Quality, not quantity, is a better goal. We who strive to be above the norm in the knowledge and performance of our profession read and study. The amount of continuing education should be reduced so as to allow balance in our life apart from the office.

Commenter: 31 (WT)

**Response:** Continuing education is measured in contact hours, not units. Section 65802 shows how contact hours will be awarded when a course is measured in units. A minimum of 24 contact hours was recommended by the EHSRC as a condition of the biennial registration renewal for REHSs. The EHSRC reviewed continuing education options and recommended 24 hours of continuing education activities each biennial registration period as the best option for maintaining and enhancing the competency of the REHS. The recommendation was determined to be achievable for all REHSs and provides maintenance of a minimum level of competency in the field of environmental health. NEHA has established a national standard for continuing education of 24 hours every two years. Arizona, Florida, Georgia, Nebraska, Nevada, Oregon and Oklahoma all have REHS continuing education programs (equivalent to requiring 24 hours every two years) to ensure the ongoing competency of persons registered as REHSs. No changes will be made to the proposed regulations.

**Comment:** I request that the Department initially implement the proposed continuing education requirements as a voluntary requirement for 5 years and use this time period to determine if these requirements are truly necessary.

Commenter: 54(WT)

**Response:** Regulations are, by definition, requirements, and so the regulations could not be drafted as a voluntary requirement. The Department has determined that these

regulations are necessary, and CEHA, CCDEH, CCLHO and members of the environmental health community have identified continuing education as a key element in the development of competent and effective environmental health professionals, so a trial period is not needed. Health and Safety Code Section 106705 gives CDPH, upon recommendation by the EHSRC, authority to require and set up standards for continuing education for professionals in the rapidly changing and expanding field of environmental health. The Department chose to require standards because the absence of continuing education requirements limits the ability of State and local health jurisdictions to provide adequate public health services since their staff is not required to be current with the latest environmental health issues, trends and technologies. NEHA has established a national standard for continuing education of 24 hours every two years. Arizona, Florida, Georgia, Nebraska, Nevada, Oregon and Oklahoma all have REHS continuing education programs (equivalent to requiring 24 hours every two years) to ensure the ongoing competency of persons registered as REHSs. No changes will be made to the proposed regulations.

**Comment:** We will end up with less opportunity for training with this mandatory system. We will have a lot of providers who are not willing to go through the accreditation process. I would rather see voluntary continuing education.

Commenter: 57(OT)

**Response:** CEHA, CCDEH, CCLHO and members of the environmental health community have identified continuing education as a key element in the development of competent and effective environmental health professionals. CDPH has already received requests from several education providers seeking approval to offer continuing education courses for REHSs including NEHA, CEHA, California State University Northridge (CSUN), TUI University, California Integrated Waste Management Board (CIWMB), American Water Works Association (AWWA), Environmental Health Institute (EHI), the federal Food and Drug Administration (FDA) and some county environmental health offices. An REHS can ask to have any continuing education course reviewed by an Accreditation Agency (AA). The program currently does not have AAs in place, but anticipates approving many AAs and having a variety of approved courses available for REHSs. All REHSs will be allowed the full two years to complete 24 contact hours of continuing education once the requirement is implemented. The two year period does not begin to run until the REHS's first renewal following adoption of the regulations. No changes will be made to the proposed regulations.

**Comment:** The approval process that is proposed for continuing education will actually increase the cost of continuing education for REHSs because of the cost that would be imposed by the Accreditation Agency and Recognized Provider.

Commenter: 58(OT)

**Response:** Many organizations offer continuing education as a means to promote professionalism and guaranteed skills in environmental health. There are many existing course offerings that a registered professional can take to meet the new mandatory requirement. There are a number of providers who have a potential to be approved that offer free continuing education coursework. The CIWMB and FDA offer free continuing education coursework with grants to pay for travel and other per diem costs to local health agencies. In addition, through NEHA, an individual is able to complete continuing education courses that are currently offered nationwide. It is expected that the regulations will result in the availability of a variety of courses, some free, some less expensive than others, on-line courses and on-the-job training courses, to give REHSs a wide range to choose from. No changes will be made to the proposed regulations.

**Comment:** Considering the current economy and the State's budget crisis, now is not the time to implement continuing education requirements for the REHS. Implementation of these regulations will result in increased expenses. The cost of continuing education will be a heavy burden for many REHSs and impose a financial burden on them, the State of California, and local agencies that choose to compensate staff for costs. This will add more hardships to the State, local jurisdictions and REHSs and is an economic blow to them as well as to the public. Tracking CEUs will be costly to State government. Government agencies and private industry will not benefit. There will be a new cost and drain on resources to implement and monitor these regulations. The fiscal impact on local government does not consider the new increased bureaucratic overview or other costs of the continuing education program.

Commenter: 1(Letter), 27(WT), 30(WT), 32(WT), 34(WT), 36(WT), 37(WT), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 56(WT), 58(OT)

**Response:** The state of the economy is beyond the scope of this rulemaking process; however, the burden on the REHS will be alleviated by the variety of courses the program plans to have available. It is anticipated that there will be some free courses, some less expensive courses, on-line courses and on-the-job training courses, to give REHSs a wide range to choose from. No changes will be made to the proposed regulations.

**Comment:** There appears to be no objective evidence that technical incompetency is common in the profession and the process to deal with professional incompetence is already in place. There has not been any supported study showing that there is incompetency amongst REHSs in general and that continuing education is needed. The need for mandatory continuing education for the REHS has not been established.

Commenter: 1(Letter), 27(WT), 30(WT), 34(WT), 37(WT), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 57(OT), 58(OT)

**Response:** Health and Safety Code Section 106705 gives the Registration Program the authority to require and set up standards for continuing education for professionals in the rapidly changing and expanding field of environmental health. The absence of continuing education requirements limits the ability of State and local health jurisdictions to provide adequate public health services because their staff is not required to be current with the latest environmental health issues, trends and technologies. CCDEH, an affiliate of CCLHO, CEHA, an organization for REHSs, and the membership of the profession have identified continuing education as a critical need for all environmental health professionals. Continuing education has already been identified as an important requirement for other professions such as physicians, nurses, pharmacists and attorneys. The REHS program works to protect the health of the citizens of California by solving complex environmental health issues and enforcing statutes, codes and local ordinances relevant to environmental health requirements. The practice of environmental health is recognized as the first line of public health defense against diseases as well as issues that threaten the quality of life within a community. Continuing education is necessary to ensure REHSs are knowledgeable about the most current environmental health trends/issues related to food safety, medical waste disposal, waterborne diseases, recreational health, air quality, solid waste disposal, water quality, housing, bioterrorism and emergency preparedness.

Continuing education establishes the professional credential of the REHS. Mandatory routine, recent and relevant training is a hallmark of professionalism. NEHA has established a national standard for continuing education of 24 hours required every two years. Arizona, Florida, Georgia, Nebraska, Nevada, Oregon and Oklahoma all have REHS continuing education programs (equivalent to requiring 24 hours every two years) to ensure the ongoing competency of persons registered as REHSs. No changes will be made to the proposed regulations.

**Comment:** Mandating continuing education will make recruitment into the profession more difficult.

Commenter: 34(WT), 36(WT), 37(WT)

**Response:** The purpose of continuing education requirements is to strengthen and enhance the profession. Other states, such as Georgia, Nebraska, Nevada, New Jersey, and Minnesota, also have registered environmental health specialists. In these states decreased recruitment has not been cited. No changes will be made to the proposed regulations.

**Comment:** The public will not benefit from these regulations as valuable time and resources would be taken away from inspectors that should be in the field.

Commenter: 36(WT)

**Response:** Continuing education has already been identified as an important requirement for other professions such as physicians, nurses, pharmacists, and attorneys. The public has an expectation that individuals responsible for environmental health inspection activities in the field have the technical knowledge to ensure public health and safety. An REHS works to protect the health of the citizens of California by solving complex environmental health issues and enforcing statutes, codes and local ordinances relevant to new and evolving environmental health requirements. No changes will be made to the proposed regulations.

**Comment:** There is no need to mandate education for those individuals who are currently working in the related fields of environmental health. As an REHS I look forward to promoting the growth of our program not hindering it. These regulations are completely unnecessary as REHSs are already pursuing continuing education.

Commenter: 37(WT), 53(WT)

**Response:** The proposed regulations will establish a mandatory continuing education requirement for all registered REHSs. NEHA has established a national standard for continuing education in environmental health of 24 hours required every two years. Arizona, Florida, Georgia, Nebraska, Nevada, Oregon and Oklahoma all have REHS continuing education programs (equivalent to requiring 24 hours every two years) to ensure the ongoing competency of persons registered as REHSs. There is an expectation by the public that all professionals meet a minimum level of competence based on education, experience and continuing education requirements. As subject matter experts environmental health professionals are often asked to describe their credentials and continuing education requirements for registration during technical meetings and while testifying at judicial proceedings. CEHA, CCDEH, CCLHO, and members of the environmental health community have identified continuing education as a key element in the development of competent and effective environmental health professionals. No changes will be made to the proposed regulations.

**Comment:** Many REHSs hold other professional certifications, such as water treatment certificates or vector control licenses which require continuing education units (CEUs) to renew. Many agencies do not pay the CEUs for the non-REHS certifications. If CEUs are required for the REHS we will have to significantly spend more work and personal time on acquiring units for both professional licenses and the REHS.

Commenter: 30(WT)

**Response:** It is anticipated that existing continuing education programs approved for other professional licenses in the environmental health field will be allowed to meet the proposed continuing education requirements for REHSs. Very few REHSs have multiple continuing education requirements for other professional certifications. No changes will be made to the proposed regulations.

#### **Fiscal Impact Estimate and Determinations:**

**Comment:** In the Fiscal Impact on State Government, include wording that acknowledges funding for the program that was derived from increased REHS fees implemented several years ago.

Commenter: 29(WT), 56(WT)

**Response:** This comment is beyond the scope of this rulemaking process because these regulations do not alter the funding that the program currently receives. No changes will be made to the fiscal impact statement.

**Comment:** Page 10 in the Initial Statement of Reasons states, "The average cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action is estimated to be \$120.00 per employee annually." This amount appears to be way underestimated with the current registration cost for most conferences easily double or triple this amount (travel expenses not included). A cost analysis detailing how this figure was reached is requested for several scenarios, typifying the differing areas of the state where REHSs reside and work. A more rigorous financial analysis is necessary. CDPH has drastically underestimated the cost of this mandate.

Commenter: 1(Letter), 27(WT), 35(WT), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 54(WT), 55(WT), 58(OT)

**Response:** A variety of courses was used to get an average cost per contact hour. The Department conducted a survey of continuing education providers and developed

the annual cost. Free courses, as well as web-based training, workshops and courses, government/agency training, home-study and self-study courses, and college courses were considered and it is anticipated they will be available to different areas within the state. As an example, the FDA offers free continuing education coursework on line and the CIWMB offers free continuing education coursework with grants to local health agencies to pay for travel and other per diem costs to local health agencies. In addition, an individual with membership in NEHA is able to complete continuing education courses through the organization nationwide.

**Section 65800. Definitions:**

**Comment:** The term “Department” should be defined in the regulations.

Commenter: 1(E-Mail)

**Response:** It is not necessary to define the term Department in the proposed regulations. The term Department is defined in California Health and Safety Code Section 131052 (8)(F) to be the Department of Public Health, the department that registers REHSs. Therefore, no amendments to the proposed regulation will be made.

**Comment:** We need language that protects the REHS classification by including language that defines an REHS as a “qualified professional”. Over the years, people from the engineering, building inspection and geologist communities have tried to eliminate the work that we have done professionally for decades by specifically and strategically defining “qualified professional” narrowly. Such attempts to change the language would outlaw some people from performing their jobs, even with 30 years of experience in the field. This has been a pattern and the EHS profession is now dealing with this problem currently with AB885, the statewide septic system regulations, and the newly adopted greywater regulations in the building code.

Commenter: 4(WT)

**Response:** This comment is beyond the scope of this rulemaking process as it deals only with the adoption of continuing education for REHSs. No changes will be made to the proposed regulations.

**Section 65802. Contact Hour:**

**Comment:** The language of this section should be modified to read 1.0 continuing education unit (CEU) = 1 contact hour. This is the accounting system used by virtually all other professional accreditation organizations, including the California Board of

Registered Nurses and the California Medical Association. The accounting under this system provides clarity and is much easier for the accrediting organization, the CEU providers, and the students.

Commenter: 6(WT), 22(WT)

**Response:** A “contact hour” is defined as 50-60 minutes of actual class time. The regulations provide a means for translating CEUs into contact hours for those providers that award contact hours, by making one contact hour equivalent to 0.1 CEU. One CEU is awarded for 10 contact hours of instruction. This is the same accounting system used by the California Board of Registered Nursing for continuing education requirements. Physician CEUs are required and monitored by the Medical Board of California, not the California Medical Association. No changes will be made to the proposed regulations.

#### **Section 65805. Continuing Education Requirements for Renewal of Environmental Health Specialist Registration:**

**Comment:** The contact hours should be increased to 32 contact hours every 2 years to strengthen the knowledge and application of REHSs in the field.

Commenter: 21(WT)

**Response:** A minimum of 24 contact hours of continuing education as a condition for the biennial registration renewal for REHSs has been recommended by the EHSRC. NEHA has established a national standard for continuing education in environmental health of 24 hours every two years. Arizona, Florida, Georgia, Nebraska, Nevada, Oregon and Oklahoma all have REHS continuing education programs (equivalent to 24 hours every two years) to ensure the ongoing competency of persons registered as REHSs. No changes will be made to the proposed regulations.

**Comment:** The 240 required hours is going to be difficult to achieve, particularly at first. This may be more feasible after a couple of years when a sufficient inventory of classes has been established.

Commenter: 23(WT)

**Response:** REHSs will be required to complete 24, not 240, contact hours of continuing education as a condition for the biennial registration renewal for REHSs. A “contact hour” is defined as 50-60 minutes of actual class time. One contact hour is equivalent to 0.1 CEU. One CEU is awarded for 10 contact hours of instruction. No changes will be made to the proposed regulations.

**Comment:** In my experience with the water industry, it is very tough to get 24 units in a three-year period, much less a two-year period. We're going to find that REHSs will be taking the same classes over and over to fulfill their continuing education requirement.

Commenter: 57(OT)

**Response:** The regulations propose a requirement of 24 contact hours and not 24 units. It is anticipated that existing continuing education program approved for other professional licenses will also be approved for REHS CEUs. The program anticipates having a wide variety of courses available for REHSs to choose from. It is expected that on-line training, journal reviews, or book reviews will be approved for continuing education credits. No changes will be made to the proposed regulations.

**Comment:** The implementation date should be specified. I would like to request that the start date be chosen with enough time for the employees to meet their obligations. A full two years should be available to complete the CEU requirement. The regulations should specify that the CEU requirement will not be in effect for a partial biennial registration period.

Commenter: 1(Letter), 4(WT), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 58(OT)

**Response:** The biennial registration renewal will contain information regarding when 24 hours need to be completed, and each individual will be allowed the specified two full years to obtain the required contact hours. The two year period does not begin until the REHS's first renewal following adoption of the regulations. No changes will be made to the proposed regulations. (See page 1 for reconsideration of this issue.)

**Comment:** Section 65808 (a) would require registrants to provide "written documentation" that 24 hours of approved coursework has been completed within the previous 24 months at the time of registration renewal. The regulation should specify what type of documentation would be acceptable, i.e. is a copy of the certificate of completion the only acceptable documentation?

Commenter: 29(WT), 56(WT)

**Response:** Yes, a certificate of completion will be acceptable proof of course completion. The documentation requirement is found in Section 65805 (a), not Section 65808 (a), of the proposed regulations. As specified in Section 65807 (f), all recognized providers shall furnish certificates of completion to all successful participants. The certificate shall contain the name of the participant and name of the provider, title of the

course, number of contact hours, date of completion, course expiration date, course number and the name of the Accreditation Agency. The Department may also review selected continuing education provider enrollment lists to verify attendance. At the time of the biennial renewal, REHSs will be required to list all of their completed courses. They must keep copies of certificates and documentation of completed courses for five years, as random audits will be conducted after each biennial renewal cycle. No changes will be made to the proposed regulations.

**Comment:** If the Accreditation Agency and all the providers are in California, it will become an extreme burden to meet the continuing education requirements, thus resulting in the loss of registration that I have held for close to 36 years. The loss of registration will impact my ability to return to California to work as an Environmental Health Specialist without extreme burden. Page 9 under Alternatives in the Initial Statement of Reasons (ISOR) document (10/15/08) states, "The Department of Public Health (Department) has determined that no reasonable alternative considered by the Department, or otherwise identified and brought to the attention of the Department would be more effective and less burdensome to affected private persons than this proposed action." This letter is notice that it appears that the current regulation as written will cause an extreme burden and that alternatives to remedy my situation were not considered.

Commenter: 27(WT)

**Response:** It is anticipated that there will be courses available that registrants in other states can take. It is not unreasonable to expect REHSs who are licensed in California to take continuing education courses in California. However, it is expected that there will be a variety of national and on-line courses, journal reviews or book reviews that REHSs can choose from to fulfill their 24 contact hour requirement, no matter where they live. The REHS program's goal is to safeguard the public health of persons in California. No changes will be made to the proposed regulations.

**Comment:** I would like to see language that protects the employee from being delisted if they cannot receive time to participate from their employers, since the majority of training offered is scheduled during the workday. Some management in other counties responds to training requests negatively, making training virtually impossible to attend.

Commenter: 4(WT)

**Response:** This comment is beyond the scope of the regulations as the Department does not regulate employers, but only REHSs. Nevertheless, there will be different types of courses available to accommodate all types of work schedules. It is expected that there will be a variety of national and on-line courses, journal reviews or book

reviews that REHSs can choose from to fulfill their 24 contact hour requirement. No changes will be made to the proposed regulations.

**Comment:** Subsection 65805 (c) is not clear if Environmental Health Specialists on Family Medical Leave Act (FMLA) time-off would be eligible for exemption. This exemption should be included and the definition more inclusive of other life events.

Commenter: 29(WT), 56(WT)

**Response:** REHSs may seek exemption from the continuing education requirements for registration renewal on the grounds of serious illness or military service by applying to the Department in writing. The process of requiring written requests for exemption provides the Department with documentation of the request. The Department will review each request to determine if it qualifies for exemption from the continuing education requirement. No changes will be made to the proposed regulations.

**Comment:** DPH-05-011 provides vague information on what would be approved for continuing education credits. Will on-line training, journal reviews, or book reviews be approved for continuing education credits? Different states allow book reviews, video review and computer based trainings to account for continuing education credits for renewal of their REHS certification. This needs to be clearly specified so that we can get a better grasp of how feasible it would be to complete the 24 contact hours. There needs to be flexibility in allowing various methods and channels to complete the 24 contact hours. How would certain seminars and training courses be assigned contact hours and would some of these be worth no contact hours at all?

Commenter: 34(WT), 53(WT)

**Response:** Section 65807(c) lists the requirements for a course to be eligible for continuing education credit. The program currently does not have AAs in place, but anticipates approving many AAs and having a variety of approved courses available for REHSs. It is expected that there will be on-line courses, journal reviews, or book reviews that REHSs can take. The program anticipates that there will be courses of various costs, including free courses, to give REHSs a wide range to choose from. No changes will be made to the proposed regulations.

**Comment:** The regulations should insure that approved CEU training must be affordable; available in a large number of locations throughout the state, including rural areas; of high quality; on a variety of topics/specialties; have sufficient opportunities and frequent offerings; have a sufficient number of home study, web-based training and teleconference options.

Commenter: 1(Letter), 35(WT), 57(OT), 58(OT)

**Response:** There is no requirement that the courses be affordable, but, in fact, the cost for sample courses ranges from free to \$30.00 per contact hour. It is expected that free and other on-line training, journal reviews, or book reviews will be approved for continuing education credits. The program anticipates that there will be courses of various costs, including free courses, to give REHSs a wide range to choose from. CDPH has already received requests from several education providers seeking approval to offer continuing education courses for REHSs, including NEHA, CEHA, California State University Northridge (CSUN), TUI University, California Integrated Waste Management Board (CIWMB), American Water Works Association (AWWA), Environmental Health Institute (EHI), the federal Food and Drug Administration (FDA) and some county environmental health offices. There is nothing to prevent an REHS from recommending that a provider become accredited. No changes will be made to the proposed regulations.

**Comment:** Training programs, such as those provided through FDA, United States Department of Agriculture (USDA), CEHA, NEHA, Southern California Gas Company, and California Environmental Protection Agency (CalEPA) are well attended and provide excellent presentations at an affordable cost, sometimes even for free. If continuing education credits are mandated, the cost for these training seminars would most likely go up due to the higher demand and may become too expensive for many to attend.

Commenter: 34(WT)

**Response:** Based on existing continuing education in multiple fields, the program anticipates that there will be a wide variety of courses available for REHSs to choose from, at a wide range of costs, including free and inexpensive courses. Many of the online courses are free and the program anticipates online courses will be offered at no cost. This was verified during the Department's survey of training providers. Expensive courses may not be well attended, and there will always be a demand for courses that are less expensive. No changes will be made to the proposed regulations.

### **Section 65806. Accreditation Agencies:**

**Comment:** There should be a mechanism to insure that there are Accreditation Agencies approved and functioning prior to implementation. How will registration renewals be processed in the event these agencies have not been established by the date of implementation? Likewise, it must be verified that a sufficient number of Recognized Providers exist prior to implementation.

Commenter: 1(Letter), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 58(OT)

**Response:** The Department is soliciting Accreditation Agencies to begin the implementation process for the continuing education regulations. Information has been sent out to people who provide training so that a sufficient number of Accreditation Agencies will be available when the regulations are approved. There are many professional training organizations that can serve as providers of continuing education for the profession. A number of the organizations have reviewed the proposed regulations and have contacted the Department about becoming an Accreditation Agency or Recognized Provider. The program currently does not have AAs in place, but we anticipate approving many AAs and having a variety of approved courses available for REHSs. Again, all REHSs will be allowed the full two years to complete 24 contact hours of continuing education following adoption of the regulations. No changes will be made to the proposed regulations.

**Comment:** A time limit for processing requests for approval as an Accreditation Agency is missing and should be imposed. A complete application for approval as an Accreditation Agency should be processed by the Department within thirty days.

Commenter: 1(Letter), 1(E-Mail), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 58(OT)

**Response:** It is not necessary to establish an application processing time requirement in regulation. There are no provisions in law that require the Department to establish a regulatory time limit on the processing of requests for approval as an Accreditation Agency. The Department is placing a high priority on completing the application review and approval process of Accreditation Agencies. No changes will be made to the proposed regulations.

**Comment:** An Accreditation Agency should have a time limit to process requests for coursework approval from a recognized provider. A reasonable time limit would be 15 days.

Commenter: 1(Letter), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT)

**Response:** It is not necessary to establish a time requirement for coursework approval in regulation. Section 64807(g) of this regulation states that all coursework shall be approved at least 15 days prior to the course being offered. No changes will be made to the proposed regulations.

**Comment:** The Department should maintain a current list of Accreditation Agencies, with contact information, on the Department website.

Commenter: 1(E-Mail)

**Response:** The Environmental Health Specialist Registration Program will establish a website link with each Accreditation Agency.

**Comment:** The Accreditation Agency should maintain a current list of Recognized Providers and approved coursework. There should be a provision for notification/ listing/posting of approved and revoked Accreditation Agencies, Recognized Providers and coursework. This list should be available to REHSs via phone and website.

Commenter: 1(Letter), 1(E-Mail), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 58(OT)

**Response:** Each Accreditation Agency is expected to have a current list of Recognized Providers and approved coursework on its website. No changes will be made to the proposed regulations.

**Comment:** The Department should have a clearly defined process for responding to complaints regarding Accreditation Agencies. A process for responding to concerns/complaints regarding Accreditation Agencies should be required.

Commenter: 1(Letter), 1(E-Mail), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 58(OT)

**Response:** As regulations are intended to govern the activities of regulated entities, not the Department, there is no need for the Department to include in the regulations a process for responding to complaints regarding Accreditation Agencies. The Department routinely accepts complaints regarding various classes of persons that it regulates, without the process being described in law or regulation. The Department will welcome complaints regarding Accreditation Agencies, and plans to have a complaint form and information on the complaint filing process available on the REHS website at [www.cdph.ca.gov/certlic/occupations/Pages/REHS.aspx](http://www.cdph.ca.gov/certlic/occupations/Pages/REHS.aspx). No changes will be made to the proposed regulations.

**Comment:** REHSs must be able to take coursework from certain Department preapproved sources, without going through the formal Accreditation Agency/Recognized Provider approval. Source examples that should receive such automatic Department approval: accredited educational institutions, UC Extension courses, training sponsored by governmental agencies such as the CIWMB and the SWQCB, RWQCB, NEHA classes, NSF, etc. In the event there is not an approved Accreditation Agency, the Department must serve as the Accreditation Agency, with the same requirements and timeframes.

Commenter: 1(E-Mail)

**Response:** CDPH has already received requests from several education providers seeking approval to offer continuing education courses for REHSs, including NEHA, CEHA, California State University Northridge (CSUN), TUI University, California Integrated Waste Management Board (CIWMB), American Water Works Association (AWWA), Environmental Health Institute (EHI), the federal Food and Drug Administration (FDA) and some county environmental health offices. The Accreditation Agencies are tasked with the responsibility to make sure that coursework meets the subject matter requirements of the regulations. It is anticipated that the Accreditation Agencies will approve many types of courses. The Department chose the process for approval of Accreditation Agencies because utilizing Accreditation Agencies is expected to minimize the amount of resources committed by the Department. No changes will be made to the proposed regulations.

**Comment:** The regulations should include a petition process for CDPH to consider the approval of coursework that Environmental Health Specialists attend and is valid environmental health training, but has not received Accreditation Agency approval. A model can be found in the pharmacy board regulations.

Commenter: 29(WT), 56(WT)

**Response:** It is anticipated that several Accreditation Agencies will approve providers that meet the requirement of the proposed regulations. The Department believes that there is no need for the Department to establish an additional approval structure for continuing education coursework in the regulations because the Accreditation Agency will be able to promptly approve providers. No changes will be made to the proposed regulations.

**Comment:** The Accreditation Agency concept is too restrictive and narrow and will discourage agencies from pursuing applications. There should be multiple approval agencies. Agencies that operate similar course approval programs and national training programs should have reciprocity to approve REHS CEUs. For failsafe purposes, the

Department should also be included as an Approval Agency. It is also recommended that accredited educational institutes, universities, colleges, and associations with established and approved environmental degree/certificate programs be deemed by the Department as "Accreditation Agencies" employing "Recognized Providers".

Commenter: 29(WT), 35(WT), 56(WT)

**Response:** The Accreditation Agency concept is modeled after the Board of Pharmacy and CDPH Laboratory Field Services Branch which use a similar continuing education model. CDPH has already received requests from several education providers seeking approval to offer continuing education courses for REHSs, including NEHA, CEHA, California State University Northridge (CSUN), TUI University, California Integrated Waste Management Board (CIWMB), American Water Works Association (AWWA), Environmental Health Institute (EHI), the federal Food and Drug Administration (FDA) and some county environmental health offices. Utilizing Accreditation Agencies is expected to minimize the amount of resources committed by the Department. In order to maintain consistency and fairness, each Accreditation Agency must meet the same approval criteria. No changes will be made to the proposed regulations.

#### **Section 65807. Requirements for Recognized Providers:**

**Comment:** Prior to implementation of the CEU requirement, the Department needs to insure that there are an adequate number of Recognized Providers throughout the state (and willing to travel throughout the state).

Commenter: 1(Letter), 1(E-Mail), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT)

**Response:** The program currently does not have Accreditation Agencies (AAs) in place, but anticipates approving many AAs that will offer a variety of approved courses for REHSs to choose from through Recognized Providers. It is expected that Recognized Providers will be available in various regions of the state. It is expected that on-line training, journal reviews, or book reviews will be approved for continuing education credits. There is nothing to prevent an REHS from recommending that a provider become accredited. All REHSs will be allowed a full two years to complete 24 contact hours of continuing education after the regulations are adopted. No changes will be made to the proposed regulations.

**Comment:** The field of environmental health is continually changing and expanding. The list of topics and subject matter for approved coursework should be expanded to include other areas of environmental health. The phrase "includes, but is not limited to" as found in the scope of practice in environmental health as set forth in Health and

Safety Code, Section 106615(e), should be inserted in Section 65807(c)(1). Owing to the multi-disciplinary nature of environmental health work, REHSs often partake of educational opportunities that are not aimed exclusively or primarily at the REHS. It would seem that not all traditional providers would undertake the burden of seeking approval for their coursework. These regulations would then diminish the number and range of continuing education activities available to the REHS. Subject areas such as engineering, computer science, social work, environmental law, techniques of investigation and enforcement, professional ethics, aboveground tanks, risk communication, cultural competence, nanotechnology, GIS, and Spanish language should be included in the list of topics.

Commenter: 1(Letter), 2(WT), 11(WT), 27(WT), 29(WT), 33(WT), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT), 56(WT)

**Response:** Section 65807(c) merely provides that certain subjects shall be considered appropriate topics and does not limit the subject matter to the listed topics for approved coursework, as long as they are pertinent to the scope of practice as defined in Health and Safety Code Section 106615(e). No changes will be made to the proposed regulations.

**Comment:** Section 65807 (g) “All coursework shall be approved at least fifteen days prior to the course being offered.” Define “being offered”. Does this mean when the coursework occurs or when course registration begins?

Commenter: 1(E-Mail)

**Response:** “Being offered” is when course registration begins. No changes will be made to the proposed regulations.

**Comment:** What does “other mediated instructional approaches” mean?

Commenter: 1(E-Mail)

**Response:** Other mediated instructional approaches refers to continuing education courses taken outside of a classroom setting where teaching is done through media, such as television, computer, DVD. It is expected that on-line training, journal reviews, or book reviews will be approved for continuing education credits. CDPH has already received requests from several education providers seeking approval to offer continuing education courses for REHSs including NEHA, CEHA, California State University Northridge (CSUN), TUI University, California Integrated Waste Management Board (CIWMB), American Water Works Association (AWWA), Environmental Health Institute

(EHI), the federal Food and Drug Administration (FDA) and some county environmental health offices. Some of these organizations approve these types of training courses. No changes will be made to the proposed regulations.

**Comment:** Recognized Providers should inform all REHSs prior to the coursework if the Accreditation Agency's approval or the Recognized Provider's approval has been revoked and should be required to provide a full refund to REHS registrants if cancellation is required prior to the training.

Commenter: 1(E-Mail)

**Comment:** In the event that an Accreditation Agency's or Recognized Provider's approval is revoked, the revocation should not affect coursework that has already been completed by an REHS. There should be a provision for notification/listing/posting of revocations of Accreditation Agencies and Recognized Providers or coursework approvals.

Commenter: 1(Letter), 1(E-Mail), 38(WT), 39(WT), 40(WT), 41(WT), 42(WT), 43(WT), 44(WT), 45(WT), 46(WT), 47(WT), 48(WT), 49(WT), 50(WT), 51(WT), 52(WT), 55(WT)

**Response:** Section 65807(g) states that a Recognized Provider's approved coursework shall be valid and accepted for three years following the initial presentation. There is nothing in the regulations that states completed coursework will be affected if an AA or RP is later revoked. No changes will be made to the proposed regulations.