State of California—Health and Human Services Agency
California Department of Public Health

MARK B HORTON, MD, MSPH
Director

ARNOLD SCHWARZENEGGER
Governor

ACTION: Notice of Proposed Rulemaking
Title 22, California Code of Regulations

SUBJECT: Continuing Education for Registered Environmental Health Specialists, DPH-05-011

PUBLIC PROCEEDINGS: Notice is hereby given that the California Department of Public Health (CDPH) will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW: Pursuant to California Public Health Act of 2006 (Act; S. B. 162, Section 1, Chap. 241, Stats. 2006), effective July 1, 2007, the CDPH has authority to adopt the subject regulations.

The CDPH administers a registration program for environmental health specialists under California Health and Safety Code (HSC) Sections 106600 - 106735. CDPH is authorized to develop regulations establishing the requirements and standards for continuing education for each Registered Environmental Health Specialist (REHS) pursuant to HSC Section 106705. Upon the recommendation of the Environmental Health Specialist Registration Committee, CDPH is proposing to adopt continuing education standards for REHS. The proposed regulations will require a minimum of 24 contact hours of continuing education as a condition for the biennial registration renewal for REHSs. REHSs are employed by private industry, state and local organizations to monitor and enforce environmental and public health laws and regulations. Continuing education will assist in maintaining the competency of REHSs in the dynamic field of environmental health.

The California Environmental Health Association, California Conference of Directors of Environmental Health, California Conference of Local Health Officers, 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. These regulations will be adopted into the California Code of Regulations, Title 22, Division 4, Chapter 23, Article 1, Sections 65800-65808.

The effect of these regulations will be:

- REHSs will be required to complete a minimum of 24 contact hours of approved continuing education every two years in order to apply for biennial environmental health specialist registration renewal. Contact hour time requirement and equivalent conversions are established.
- Organizations may apply to become continuing education Accreditation Agencies.
- Cause for revocation of approval of an Accreditation Agency is established.
- Acceptable topics and subject matter for continuing education are established.
- Criteria for continuing education courses and requirements for recognized providers are established.
- A requirement for continuing education providers to furnish certificates of completion for students is established. Information to be displayed on the certificates is established.
- Criteria for approval of coursework submitted by providers, as well as audit requirements, are established.
- Allowable reasons for exemptions from the continuing education requirements are established. These include serious illness and military service.
- Instructors may receive continuing education credit for each course they teach during the renewal period. Instructors will not be granted credit for the same course or other courses with substantially the same content more than once with the same renewal period.
- A complaint mechanism whereby a provider may appeal a decision of the accreditation agency is specified.

The proposed regulations adopt new Sections 65800, 65801, 65802, 65803, 65804, 65805, 65806, 65807 and 65808 in Title 22, Division 4, Chapter 23, Article 1, California Code of Regulations.

AUTHORITY: Sections 106610, 106705 and 131200, Health and Safety Code.

REFERENCE: Sections 106705, 131050, 131051 and 131052, Health and Safety Code.

COMMENTS: Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on February 9, 2009, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or

2. By fax transmission: (916) 440-5747; or

3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "DPH -05-011" in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES: Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Glenn Takeoka of Drinking Water Branch at (916) 449-5693.

All other inquiries concerning the action described in this notice may be directed to Maureen Miyamura of the Office of Regulations and Hearings at (916) 440-7841, or to the designated backup contact person, Barbara Gallaway, at (916) 440-7689.

CONTACTS: In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-05-011.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS: The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT: The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations and Hearings at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE:

A. Fiscal Effect on Local Government: There is a possible impact on local government if the employer is a local government and it chooses to pay the cost of continuing education for employees. This cost is estimated at $120.00 a year for each employee.

B. Fiscal Effect on State Government: Additional expenditures of approximately $97,000 in the current State Fiscal Year. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources. There is a minor and absorbable cost impact on state government if the state chooses to pay the cost of continuing education for employees. This total cost is estimated at $23,000 a year ($120 x 191 = $23,000) for 191 state employees who are currently registered.

C. Fiscal Effect on Federal Funding of State Programs: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The average cost of this regulation to an individual would be $120.00 annually, based on cost information from continuing education courses that are currently offered.

E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS: 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.

The Department has made an initial 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.

The Department has determined that the regulations would not significantly affect the following:

(1) The creation or elimination of jobs within the State of California.

(2) The creation of new businesses or the elimination of existing businesses within the State of California.

(3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations may affect small business.

The Department has determined that the regulations will have no impact on housing costs.

The proposed regulations require Accreditation Agencies to annually report the findings of approved coursework sample reviews to the Department. It is necessary for the health, safety, or welfare of the people of the state that the regulations apply to business.

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

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Miyoko Sawamura, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, voice (916) 440-7690 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

DPH-05-011

Date:

Mark Horton, M.D., M.S.P.H.
Director