

Title 21. California Department of Transportation

[July 25, 2003]

NOTICE OF PROPOSED RULEMAKING

The California Department of Transportation (“Department”) and the California Transportation Commission (“CTC”) propose to adopt the amended regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Department and CTC propose to revise their “Environmental Regulations” Sections 1501 through 1513.2 (not consecutive), Chapter 11, Division 2 in Title 21 of the California Code of Regulations (CCR). These sections are the regulations adopted by the Department and the CTC to implement the California Environmental Quality Act of 1970 pursuant to Section 21082 of the Public Resources Code.

PUBLIC HEARING

The Department and the CTC have not scheduled a public hearing on this proposed action. However, pursuant to Government Code Section 11346.8, a public hearing will be held if a written request for a public hearing from any interested person, or his or her authorized representative, is received no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on September 8, 2003. The Department will consider comments received at the Department offices by that time. Submit comments to:

Denise O’Connor
Environmental Program - Mail Station 27
California Department of Transportation
1120 N Street
P.O. Box 942874
Sacramento, CA 94274-0001
Fax Number (916) 653-7757

AUTHORITY AND REFERENCE

Public Resources Code Section 21082 authorizes the Department and the CTC to adopt the proposed regulations, which implement Sections 21000 through 21174 of the Public Resources Code. The implementing regulations for the Department and the CTC are codified in the California Code of Regulations, Title 21, Division 2, Chapter 11, Sections 1501 through 1512.3 (not consecutive).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Department and the CTC propose to amend the California Code of Regulations, Title 21, Division 2, Chapter 11, Sections 1501 through 1512.3 (not consecutive). These regulations were adopted by the Department and the CTC to implement the California Environmental Quality Act (“CEQA”), which is codified in the Public Resources Code Sections 21000 to 21174.

The purpose of the proposed amendments is to clarify the role of the CTC in cases where the Department or another public agency is the lead agency for CEQA. Changes in the funding and development of transportation projects on the state highway system necessitate revisions to the sections regarding the CTC’s roles, responsibility, and procedures under CEQA.

Section 1503.1 sets forth the CTC policies regarding the use of environmental documents. The proposed amendment would add a new subsection that clarifies that the CTC reviews and considers environmental documents and findings as part of its responsibilities to allocate funding for state or local capital projects and to approve the location of state highway routes.

Section 1505 deals with general responsibilities. The amendment would change the Article heading to Procedures and Timelines and would clarify the materials to be submitted to the CTC for its review.

Sections 1504 and 1504.5 define general terms, such as “agency” and “decision making body.” Section 1504.5 further states that the CTC will be lead agency for purposes of adopting or rescinding State highway routes and new public road connections to freeways and expressways. These sections would be deleted.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department and the CTC have made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: The Department and the CTC are not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not:
 - (1) create or eliminate jobs within California
 - (2) create new businesses or eliminate existing businesses within California; or
 - (3) affect the expansion of businesses currently doing business within California.

- Significant effect on housing costs: None.

Small Business Determination

The Department and the CTC have determined that the revision of these regulations will have no cost impact on small businesses because a small business: 1) is not legally required to comply with the regulation; 2) is not legally required to enforce the regulation; 3) does not derive a benefit from the enforcement of the regulation; or 4) does not incur a detriment from the enforcement of the regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department and the CTC must determine that no alternative considered by them 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.

The Department and the CTC invite interested persons to present statements or arguments with respect to alternatives to the proposed action at any hearing that may be requested or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative actions may be directed to:

Ms. Denise O'Connor
Environmental Program - Mail Station 27
California Department of Transportation
1120 N Street, Room 4331
P.O. Box 942874
Sacramento, CA 94274-0001

Telephone: (916) 653-5157
ATSS 8-453-5157

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENT / INTERNET ACCESS

Pursuant to Government Code Section 11346.5, an initial statement of reason and the text (“express terms”) of the proposed regulations have been prepared and are available from the contact person named in this notice. The Department and the CTC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the amended regulations, and the initial statement of reasons. The documents relating to this proposed action may be found on the Department’s website at the following address: <http://www.dot.ca.gov/ser>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After any hearing and considering all timely and relevant comments received, that Department and the CTC may adopt the proposed regulations substantially described in this notice. Pursuant

to Government Code Section 11346.8, if the Department and the CTC make modifications which are substantially related to the originally proposed text, the modified text—with changes clearly indicated—will be made available to the public for at least 15 days before the Department and the CTC adopt the regulations as revised. Any such modifications will also be posted on the Department’s website. Requests for copies of any modified regulations to the attention of Denise O’Connor at the address indicated above. The Department and the CTC will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, the final statement of reasons may be obtained by contacting Ms. Denise O’Connor at the above address. The final statement of reasons will also be posted on the Department’s website at <http://www.dot.ca.gov/ser>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this notice, the initial statement of reasons and the text of the regulations in underline and strikethrough can be accessed through the Department’s website at <http://www.dot.ca.gov/ser>.