



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (Commission), pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

ADOPTION

MULTI-COUNTY: Regional Water Authority

AMENDMENT

MULTI-COUNTY: Woodland Joint Unified School District

A written comment period has been established commencing on **February 7, 2014** and closing on **March 24, 2014**. Written comments should be directed to the Fair Political Practices Commission, Attention Cyndi Glaser, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

The Executive Director of the Commission, upon her or its own motion or at the request of any interested per-

son, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **March 24, 2014**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 14. DEPARTMENT OF FISH AND WILDLIFE

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt the regulations described below regarding the Hunter Education Instructor Incentive Tags after considering all comments, objections, and recommendations regarding the proposed action. The Department invites interested persons to present statements or arguments with respect to alternatives to the regulations at the scheduled hearing or during the written comment period.

PUBLIC HEARING

The Department will hold a public hearing on March 25, 2014, from 1:30–2:30 p.m., at the Resources Building located at 1416 9th Street, Sacramento, California, twelfth floor in Room 1206. The room is wheelchair accessible. At the public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that the persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

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. All written comments must be received by the Department at the office below not later than 5:00 p.m. on March 25, 2014. All written comments must include the true name and mailing address of the commenter.

Written comments may be submitted by mail, fax, or e-mail as follows:

Roy Griffith, Program Administrator
CDFW — HEI Program
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone: (916) 358-2946
Fax: (916) 653-3772
Email: Roy.Griffith@wildlife.ca.gov

Authority: Sections 200, 202, 203, 220, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207, 458, 459, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code.

INFORMATIVE DIGEST (POLICY STATEMENT OVERVIEW)

Amend Section 360, Title 14, CCR, by adding a new subsection 360(e) providing for Hunter Education Instructor Incentive Tags.

The purpose of the proposed amendment is to add provisions to the regulations which will allow the use of 10 X-Zone deer tags by the Department for use as incentives to volunteer Hunter Education Instructors to join or remain in the program. This proposal would implement Section 3051 of the Fish and Game Code which directs the Department to use up to a maximum of 15 tags as incentives.

BENEFITS OF THE PROPOSED ACTION

The Department anticipates nonmonetary benefits to the protection of public health and safety and to the environment. The Hunter Education Instructors work on a volunteer basis training tens of thousands of California residents each year. Important aspects of the training include firearms safety, first aid, wildlife management and conservation among others. Maintaining a large number of Hunter Education Instructors is vital, and the provision of a very small number of deer tags for the purpose of recruiting and keeping volunteer instructors is both economical and beneficial to the state.

The Department does not anticipate nonmonetary benefits to the protection of worker safety, the prevention of discrimination, the promotion of fairness or social equity, or to the increase in openness and transparency in business and government.

COMPATABILITY WITH EXISTING STATE REGULATIONS

The Department has reviewed the Title 14, CCR, and conducted a search of any similar regulations on this topic and has concluded that the proposed amendments to Section 360 are neither inconsistent nor incompatible with existing state regulations. No other state agency has the authority to promulgate regulations governing incentives for hunter education instructors.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies or school districts: None.
Costs 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.

Other nondiscretionary costs or savings imposed on local agencies: None.

Costs or savings in federal funding to the state: There are no related costs or savings in Federal Funding to the State.

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

Effect on small business: The Department has determined that the proposed regulations are unlikely to affect small business.

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

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, the expansion of businesses in California, or benefits to worker safety.

Benefits to the Health and Welfare of California Residents:

The Department anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. These benefits are maintained by improving the Department's capacity to recruit and retain volunteer Hunter Education Instructors who annually provide training to tens of thousands of California residents. Important aspects of the training include firearms safety, first aid, wildlife management and conservation among others. Maintaining a large number of qualified Hunter Education Instructors is vital, and the provision of a very small number of deer tags for the purpose of recruiting and keeping volunteer instructors is both economical and beneficial to the residents of the state.

Benefits to the State's Environment:

The Department anticipates benefits to the state's environment in the sustainable management of natural re-

sources. It is the policy of this state to encourage the conservation and maintenance of the fish and wildlife resources of the state, for their use and enjoyment by the public. The new regulation will aid the Department's capacity to recruit and retain volunteer Hunter Education Instructors who annually provide training to tens of thousands of California residents regarding hunting ethics, wildlife management and conservation among others.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

MITIGATION MEASURES REQUIRED BY REGULATORY ACTION

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Roy Griffith, Program Administrator
CDFW — HEI Program
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone: (916) 358-2946
Email: Roy.Griffith@wildlife.ca.gov

The backup contact person for these inquiries is:

Craig Stowers
CDFW — Wildlife Branch
1812 9th Street
Sacramento, CA 95811
Telephone: (916) 445-3553
Email: Craig.Stowers@wildlife.ca.gov

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Griffith at the above address.

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying at its offices at the above addresses. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons, the Economic Impact Assessment, the Economic and Fiscal Impact Assessment (STD. Form 399).

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Website Access: The entire rulemaking is available at www.dfg.ca.gov/news/pubnotice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department 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 Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Roy Griffith as indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Roy Griffith as indicated above.

TITLE 16. CONTRACTORS STATE LICENSE BOARD

NOTICE IS HEREBY GIVEN that the Contractors State License Board (CSLB) 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 Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827, at 11:00 a.m. on March 25, 2014. Written comments, including those sent by mail, facsimile, or email to the ad-

resses listed under Contact Person in this Notice, must be received by CSLB at its office not later than 5:00 p.m. on March 24, 2014 or must be received by CSLB at the March 25, 2014 hearing. CSLB, 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 modification is 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 Citations

Pursuant to the authority vested by Sections 7008 and 7059 of the Business and Professions Code (BPC), and to implement, interpret, or make specific Sections 7057, 7058, 7058.5, 7058.7, 7059, and 7065.3 of said Code and Sections 6501.5 and 6501.8 of the Labor Code, the Contractors State License Board is considering changes to Division 8 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

Adopt Section 832.22 — Class C-22 — Asbestos Contractor

Section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act, that are reasonably necessary to carry out the provisions of the chapter of the BPC. Section 7058 establishes the specialty contractor license classification and defines “specialty contractor” as “a contractor whose operations involve the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.” Section 7058.5 establishes the certification program for contractors who perform asbestos-related work, as defined in Section 6501.8 of the Labor Code. Section 7058.7 establishes the certification program for contractors who perform hazardous substance removal or remediation work. Section 7059 authorizes the Board to adopt rules and regulations that are reasonably necessary to effect the classification of contractors. Labor Code Section 6501.5 establishes registration requirements for persons doing asbestos-related work, which is defined in Section 6501.8.

There is no existing regulation regarding an asbestos abatement contractor classification.

This proposal would adopt the regulation in order to establish a specialty classification for an asbestos abate-

ment contractor, including the related scope of work. The proposed specific provisions of Section 832.22 are as described below.

- Subsection (a) establishes the scope of work for the C-22 — asbestos abatement specialty classification that shall be done in accordance with DOSH requirements.
- Subsection (b) requires DOSH registration (or an active application for registration in process) for asbestos classification holders.
- Subsection (c) requires proof of DOSH registration within 90 days after the asbestos abatement contractor license is issued, if applicable.
- Subsection (d) establishes experience requirements for applicants for the asbestos abatement contractor classification.
- Subsection (e) requires proof of current DOSH registration as a condition precedent to the renewal of an asbestos abatement contractor license.
- Subsection (f) limits the scope of work of the C-22 — asbestos abatement classification to exclude other construction-related duties or hazardous substance removal or remediation unless the asbestos abatement contractor is otherwise duly licensed to do so.

Adopt Section 833 — Asbestos Classification and Certification Limitations and Examination Requirement

Section 7057 defines a B — general building contractor. Section 7065.3 sets forth conditions under which an additional classification may be added to an existing contractor license without examination. See above for the provisions of BPC Sections 7008, 7058, 7058.5, and 7059, and Labor Code Sections 6501.5 and 6501.8. There is no existing regulation regarding limitations on or examination requirements for an asbestos abatement contractor classification or the asbestos certification. This proposal would adopt the regulation in order to set forth limitations and requirements for the new asbestos abatement contractor classification and the existing asbestos certification. The proposed specific provisions of Section 833 are as follows:

- Subsection (a) clarifies the stand-alone nature of the C-22 — asbestos abatement contractor classification.
- Subsection (b) clarifies that in order for a B — general building contractor to contract for any project that includes asbestos abatement work, he/she must hold the C-22 — asbestos abatement classification or the Section 7058.5 asbestos certification and DOSH registration or

subcontract with an appropriately licensed contractor.

- Subsection (c) clarifies the overlay nature of the Section 7058.5 asbestos certification, in that it operates in conjunction with other classification(s) held by the licensed contractor.
- Subsection (d) allows for the waiver of the written trade examination for the C-22 — asbestos abatement contractor classification under certain circumstances.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This proposed regulatory action will allow the existing asbestos certification to continue in its current state as an overlay to classification(s) held by the certification holder and will establish a stand-alone asbestos abatement classification with appropriate experience and examination requirements. It will allow contractors who focus their asbestos abatement work in a limited number of classifications to remain with the existing asbestos certification and will allow contractors who specialize in asbestos abatement work throughout a building to obtain the new asbestos abatement specialty classification. This proposal will expand the avenues through which a licensed contractor can be authorized to perform asbestos abatement work.

This regulatory proposal specifically benefits the health and welfare of California residents, worker safety, and the state’s environment because it helps ensure that only those contractors who are qualified to do so are licensed and authorized to perform asbestos abatement work in accordance with DOSH requirements, which is a significant health, safety, and environmental issue.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations, CSLB conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations. This proposal does not conflict with any existing state regulations, it simply clarifies existing law and expands the avenues through which a licensed contractor can be authorized to perform asbestos abatement work.

Local Mandate

The proposed regulatory action does not impose a mandate on local agencies or school districts.

Fiscal Impact on Public Agencies/STD 399

The proposed regulatory action will not result in costs or savings to any state agency, costs or savings to any local agency or school district that are required to be reimbursed under Part 7 of Division 4 (commencing with Section 17500 of the Government Code), other non-

discretionary costs or savings on local agencies, or costs or savings in federal funding to the state.

Cost Impact on Representative Private Person or Business

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

Housing Costs

The proposed regulatory action will not have a significant effect on housing costs.

Effect on Small Business

The proposed regulatory action will not affect small businesses, because it simply establishes a specialty classification for an asbestos abatement contractor, including the related scope of work, and sets forth limitations and requirements for the new asbestos abatement contractor classification and the existing asbestos certification.

Results of the Economic Impact Assessment

CSLB has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California, because it simply establishes a specialty classification for an asbestos abatement contractor, including the related scope of work, and sets forth limitations and requirements for the new asbestos abatement contractor classification and the existing asbestos certification.

This regulatory proposal specifically benefits the health and welfare of California residents, worker safety, and the state's environment because it helps ensure that only those contractors who are qualified to do so are licensed and authorized to perform asbestos abatement work in accordance with DOSH requirements, which is a significant health, safety, and environmental issue.

Contact Person

Inquiries or comments concerning the proposed administrative action may be addressed to:

Contractors State License Board
9821 Business Park Drive
Sacramento, CA 95827
Attn: Betsy Figueira
(916) 255-3369
(916) 255-6335 (FAX)
Betsy.Figueira@cslb.ca.gov

The backup contact person is:

Karen Robinson
(916) 255-4298
(916) 255-6335 (FAX)
Karen.Robinson@cslb.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Betsy Figueira at (916) 255-3369.

Comment Period

Written comments must be received by the Board at the Contractors State License Board, 9821 Business Park Drive, Sacramento, CA 95827 not later than 5:00 p.m. on March 24, 2014 or at the hearing to be held in the Board office at 11:00 a.m. on March 25, 2014.

Availability of Modifications

With the exception of technical or grammatical changes, the full text of any modified proposal will be available from the person designated in this notice as the contact person for 15 days prior to its adoption and will be mailed to those persons who submit written or oral testimony related to this proposed regulatory action or who have requested notification of any changes to the proposal.

Reference to Text and Initial Statement of Reasons

CSLB has prepared a statement of the reasons for the proposed action, which is available to the public upon request. The express terms of the proposed action and all information upon which the proposal is based are available upon request.

Business Impact

CSLB is not aware of any significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, that the proposed regulatory action will have, because it simply establishes a specialty classification for an asbestos abatement contractor, including the related scope of work, and sets forth limitations and requirements for the new asbestos abatement contractor classification and the existing asbestos certification.

Public Hearing

A public hearing will be held at the Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827, at 11:00 a.m. on March 25, 2014.

Federal Mandate

The proposed regulatory action is not mandated by federal law or is not identical to any previously adopted or amended federal regulation.

Consideration of Alternatives

CSLB must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be either 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 proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The actual determination must be part of both the Initial and Final Statement of Reasons.

INFORMATIVE DIGEST

Availability of the Final Statement of Reasons

Interested parties may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the contact person named above.

Website Access

Materials regarding the proposed regulatory action can be found at www.cslb.ca.gov.

A. **Informative Digest/Policy Statement Overview**

Existing law, BPC section 5681, authorizes the LATC to charge a biennial license renewal fee. CCR section 2649 (Fees) specifies the biennial license renewal fee to be \$400. This regulatory proposal would amend CCR section 2649 to temporarily reduce this fee to \$220.

BPC section 128.5 requires agencies within the Department of Consumer Affairs (DCA) to reduce license or other fees if the fund balance meets or exceeds 24 months in reserve at the end of any fiscal year (FY). As of January 2013, the LATC had 19.5 months of funds in reserve, which was approaching a level that would require LATC to take action in accordance with BPC section 128.5. To address the fund condition, the LATC approved revenue savings measures consisting of a negative budget change proposal to reduce LATC's spending authority by \$200,000, and a temporary license renewal fee reduction from \$400 to \$220 for one license renewal cycle. In order to temporarily reduce license renewal fees, a regulatory change proposal to amend 16 CCR Section 2649 is necessary. This regulatory proposal would amend 16 CCR Section 2649, subsection (f), to reduce the fee for the biennial renewal of a license from \$400 to \$220, from July 1, 2015 through June 30, 2017, and would return to \$400 on July 1, 2017.

Additionally, this proposal would amend 16 CCR Section 2649 subsections (b), (e), and (f) to remove outdated references to fees that were in effect before July 1, 2009, since it is unnecessary and no longer relevant to specify these fees.

B. **Anticipated Benefits of Proposal**

As of January 2013, the LATC had 19.5 months of funds in reserve which the Board believes is approaching the maximum 24 months allowable by law. The Board is proposing to temporarily reduce license renewal fees to ensure compliance with existing law. Licensees would benefit from this proposal by temporarily lowering the cost to maintain their license.

This proposal would also amend subsections (b), (e), and (f), to remove outdated references to fees that were in effect before July 1, 2009. This amendment would remove unnecessary language and help avoid confusion.

**TITLE 16. LANDSCAPE ARCHITECTS
TECHNICAL COMMITTEE**

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) 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 office of the **California Architects Board, Landscape Architects Technical Committee, 2420 Del Paso Road, Suite 105, Sacramento, California 95834, on March 24, 2014, at 11:30 a.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **March 24, 2014** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal 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: As a result of legislative reorganization, the Landscape Architects Technical Committee (LATC), established on January 1, 1998, replaced the former Board of Landscape Architects and was placed under the purview of the Board. Pursuant to the authority vested by section 5630 of the Business and Professions Code (BPC) and to implement, interpret, or make specific section 5681 of the BPC, the Board is considering changes to Division 26 of Title 16 of the California Code of Regulations (CCR) as follows:

C. Consistency and Compatibility with Existing State Regulations

After conducting a review for any regulations that would relate to or affect this area, the Board has evaluated this regulatory proposal and it is neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

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

By reducing the license renewal fee from \$400 to \$220 between July 1, 2015 and June 30, 2017, the LATC’s annual revenue would decrease by approximately \$303,840 in FY 2015–16, and would also decrease by approximately \$303,840 in FY 2016–17. The LATC has sufficient reserves to cover this loss in revenue without adversely affecting any of its operations.

Nondiscretionary Costs/Savings to Local Agencies

None.

Local Mandate

None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement

None.

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

AND

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

No businesses or individuals would incur any additional costs as a result of this proposal. This proposal, temporarily reducing license renewal fees, would save money for licensees. While this proposal would also raise the license renewal fee on July 1, 2017, it would only return to the prior level, thus incurring no additional costs.

The table below details the total estimated savings of the affected licensee population over the lifetime of the proposal.

Fiscal Year	* Estimated Total Annual Renewal Fee Revenue	* Estimated Revenue Savings
2013–14	\$675,200	N/A
2014–15	\$675,200	N/A
2015–16	\$371,360	\$303,840
2016–17	\$371,360	\$303,840
2017–18	\$675,200	N/A
Total Estimated Revenue Savings over Lifetime of Proposed Temporary License Renewal Fee Reduction:		\$607,680

* Estimate based on 3,376 licensee population

The savings realized by licensees is projected to be approximately \$303,840 annually or \$607,680 total over the two–year duration of the temporary license renewal fee reduction.

Cost Impact on Representative Private Person or Business

This proposal would reduce the fee for renewal of a license from \$400 to \$220 from July 1, 2015 through June 30, 2017. The license renewal fee would return to \$400 on July 1, 2017. Therefore, the agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs

None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses because it only affects licensees.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This determination was made because the proposed changes, which would spread approximately \$607,680 among nearly 3,400 licensees over the two–year duration of the proposal, are not sufficient to create or eliminate jobs or businesses.

Benefits of Regulation

The Board has determined that this regulatory proposal will have the following benefits to the health and

welfare of California residents, worker safety, and the state's environment:

This regulatory proposal would benefit the welfare of California residents by spreading approximately \$607,680 among nearly 3,400 licensees over the two-year duration of the proposal. The majority of these licensees are California residents.

This regulatory proposal does not affect worker safety because it is not related to worker safety in any manner.

This regulatory proposal does not affect the state's environment because it is not related to the environment in any manner.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial 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 initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Architects Board, Landscape Architects Technical Committee at 2420 Del Paso Road, Suite 105, Sacramento, California 95834, or by contacting the individuals listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND 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 person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: John Keidel
Address: California Architects Board
Landscape Architects Technical
Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 575-7233
Fax No.: (916) 575-7283
E-mail Address: John.Keidel@dca.ca.gov

The backup contact person is:

Name: Trish Rodriguez
Address: California Architects Board
Landscape Architects Technical
Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 575-7230
Fax No.: (916) 575-7283
E-mail Address: Trish.Rodriguez@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.latc.ca.gov.

TITLE 16. DENTAL HYGIENE COMMITTEE OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Dental Hygiene Committee of California ("Committee") 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:

Department of Consumer Affairs
1st Floor Hearing Room
2005 Evergreen Street
Sacramento, California on

March 25, 2014

9:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Committee at its office not later than 5:00 p.m. on March 24, 2014, or must be received by the Committee at the hearing. The Committee, 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 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 1905 and 1906 of the Business and Professions Code, and to implement, interpret or make specific Sections 1917.3 and 1944 of the Business and Professions Code, the Committee is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Business and Professions Code Section 1906 authorizes the Committee to adopt, amend and repeal such rules and regulations as may be reasonably necessary to enable the Committee to effect the provisions of Business and Professions Code sections 1900–1966.6. This proposal would specify requirements for Committee approval of remedial education. There are currently no regulations in this area and the Committee is proposing the following:

- Adopt Section 1108 of Division 11, Title 16 of the California Code of Regulations

Existing statute, Business and Professions Code section 1917.3 requires that after three failures of the clinical examination, or after one failure due to gross trauma, an applicant must complete remedial education before being eligible for re-examination. There are no remedial education

courses at this time. Course provider applicants seeking approval have recommended regulations be pursued to specify what a course provider applicant needs to submit for the Committee's review in order to gain approval to give a remedial education course.

The Committee is proposing regulations that would establish the requirements for approval of remedial education courses and establish a standard application form for course providers to use to apply for approval (DHCC RE-01 12/2013), which is incorporated by reference. These proposed regulations would require the Committee to provide denied course provider applicants with the specific reasons for denial within 90 days, giving timely direction to applicants so they may correct any deficiencies in the application. The proposed regulations provide for course review and withdrawal of approval, and require each approved course provider to submit a biennial report on form DHCC RE-03 (12/2013), which is incorporated by reference. These requirements would ensure that all approved course providers continue to meet the requirements contained in the regulations. The proposed regulations specify requirements for administration, faculty, facilities and equipment, health and safety, curriculum, recordkeeping and learning resources, and establish a standard certificate of completion form to be used by all approved providers to certify a student's successful completion (DHCC RE-02 (12/2013)), which is incorporated by reference.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The Committee's policy is to promulgate regulations for the protection of California consumers. When there is no impact on consumers, the Committee endeavors to pursue regulations that are not burdensome to licensees. This proposal protects California consumers by ensuring that applicants who have failed the clinical examination three times or who have failed due to an instance of gross trauma complete required remedial education to address the lack of skills or knowledge that led to the failure.

Protection of the public is the Committee's primary mission. These regulations benefit the public by specifying the content and administration of a remedial education, so that dental hygiene patients used for clinical examination purposes are protected from dental hygiene applicants who may cause harm during the examination process.

These regulations benefit students of the courses by specifying faculty, facility and health and safety

instructional requirements. Students may need additional instruction in California’s stringent infection control, hazardous waste management and bloodborne and infectious disease–control protocols, particularly if they have graduated from a dental hygiene program in another state. These regulations ensure that students who take a Committee–approved remedial education course will receive instruction from qualified licensed faculty in an educationally optimal environment to learn protocols and procedures to safely perform dental hygiene duties.

The proposal benefits course–provider applicants by standardizing the application process, so applicants know exactly what is needed to apply for and maintain approval to give the course.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Committee has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

Documents incorporated by reference:

1. Application for Approval of a Course in Remedial Education (RE–01 12/2013)
2. Certification of Completion of Remedial Education Course (RE–02 12/2013)
3. Remedial Education Provider Biennial Report (RE–03 12/2013)

FISCAL IMPACT ESTIMATES

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 Sections 17500–17630 Require Reimbursement: None.

Business Impact: The Committee has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Committee has determined that the proposed regulations would not have a significant economic impact on small businesses unless those small businesses were dental offices who wish to hire applicants who have failed the clinical exam three times or due to an instance of gross trauma or dental hygiene educational programs who wish to apply to be course providers. This regulation would require that course providers who give such courses pay a \$300 one–time application fee to be approved to provide remedial education courses. If each course provider teaches the course to 1 student annually (10% of the total current annual need), the one–time cost of the application would be 1% of the annual fees that the course provider may collect from a student taking a remedial education course.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

Benefits of Regulation:

The Committee has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety and state’s environment.

This regulation will benefit the state’s environment and the health of California residents and workers by ensuring that all registered dental hygienists have received education and training in the safe provision of dental hygiene procedures before becoming licensed.

CONSIDERATION OF ALTERNATIVES

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

proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Committee has prepared an initial 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 initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Hygiene Committee of California at 2005 Evergreen Street, Suite 1050, Sacramento, California 95815.

**AVAILABILITY AND LOCATION OF THE FINAL
STATEMENT OF REASONS AND
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 person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Lori Hubble, Executive Officer
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-1978
Fax No.: (916) 263-2688
E-mail Address: Lori.Hubble@dca.ca.gov

The backup contact person is:

Name: Donna Kantner
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 576-5003
Fax No.: (916) 263-2688
E-mail Address: Donna.Kantner@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Committee's website: www.dhcc.ca.gov.

TITLE 18. BOARD OF EQUALIZATION

**The State Board of Equalization Proposes to
Adopt Amendments to California Code of
Regulations Title 18,
Section 1699, *Permits***

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1699, *Permits*, which incorporate and implement, interpret, and make specific RTC section 6070.5's provisions granting the Board authority to refuse to issue seller's permits to persons with outstanding final liabilities and non-natural persons controlled by persons with outstanding final liabilities. The proposed amendments add new subdivision (g) to Regulation 1699 and renumber the regulation's current subdivisions (g) through (j), as subdivisions (h) through (k), respectively. The proposed amendments also added a reference to RTC section 6070.5 to Regulation 1699's reference note.

PUBLIC HEARING

The Board will conduct a meeting in the Auditorium Room, at the California Public Utilities Commission's headquarters, located at 505 Van Ness Avenue, San Francisco, California, on March 25, 2014. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. or as soon thereafter as the matter may be heard on March 25, 2014. At the hearing, any interested person may present or submit oral or

written statements, arguments, or contentions regarding the adoption of the proposed amendments to Regulation 1699.

AUTHORITY

RTC section 7051.

REFERENCE

RTC sections 6066, 6067, 6070, 6070.5, 6071.1, 6072, 6073, 6075, and 6225.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

In general, the Sales and Use Tax Law (Rev. & Tax. Code, § 6001 et seq.) requires every person desiring to engage in or conduct business as a seller of tangible personal property in California to apply to the Board for a seller’s permit. (Rev. & Tax. Code, §§ 6014, 6066.) Under RTC section 6070, if a person fails to comply with any provision of the Sales and Use Tax Law, such as failure to remit payment of taxes, the Board can take action to revoke the person’s seller’s permit. This section also states that, after a person’s seller’s permit is revoked, the Board shall not issue a new permit to that person until it is satisfied the person will comply with the law.

RTC section 6070.5, as enacted by Assembly Bill No. (AB) 1307 (Stats. 2011, ch. 734), authorizes the Board to refuse to issue or revoke a seller’s permit under certain conditions. Prior to the enactment of RTC section 6070.5, the Board did not have express statutory authority to refuse to issue a seller’s permit to a person desiring to engage in the business of selling tangible personal property in California, unless the Board had previously revoked the person’s seller’s permit under RTC section 6070. And, the Board sponsored the enactment of RTC section 6070.5 to “provide additional tools that would assist the [Board] in reducing its growing outstanding accounts receivable balances from [the] failure to remit the taxes that are owed” (September 9, 2011, Assembly Floor Analysis of AB 1307.)

Currently, RTC section 6070.5, subdivision (a), provides that the Board may refuse to issue a permit to any person submitting an application for a seller’s permit as required under RTC section 6066 if the person desiring to engage in or conduct business as a seller in California has an outstanding final liability for any amount due under the Sales and Use Tax Law. RTC section 6070.5, subdivision (b), provides that the Board may also refuse

to issue a seller’s permit if the person desiring to engage in or conduct business as a seller in California is not a natural person or individual and any person controlling the person desiring to engage in or conduct business as a seller within this state has an outstanding final liability as provided in subdivision (a). For purposes of subdivision (b), the word “controlling” has the same meaning as the word “controlling” as defined in Business and Professions Code section 22971. Business and Professions Code section 22971, cited in the statute, provides in relevant part:

(d)(1) “control” or “controlling” means possession, direct or indirect, of the power:

(A) To vote 25 percent or more of any class of the voting securities issued by a person.

(B) To direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement services, or as otherwise provided; however, no individual shall be deemed to control a person solely on account of being a director, officer, or employee of that person.

(2) For purposes of subparagraph (B) of paragraph (1), a person who, directly or indirectly, owns, controls, holds, with the power to vote, or holds proxies representing 10 percent or more of the then outstanding voting securities issued by another person, is presumed to control that other person.

(3) For purposes of this division, the board may determine whether a person in fact controls another person.

RTC section 6005 defines the term “person” for purposes of the Sales and Use Tax Law. It currently provides that the term includes “any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit.” The word “individual,” as used in RTC section 6005, refers to a natural person. A person is “not a natural person or individual” (non-natural person) referred to in RTC section 6070.5, subdivision (b), if the person is not an “individual” under RTC section 6005.

In addition, under RTC section 6070.5, subdivision (c), a liability will not be deemed to be outstanding if the person applying for a seller’s permit has entered into an installment payment agreement pursuant to RTC section 6832 for the payment of the liability and is in full compliance with the terms of the installment payment

agreement. However, RTC section 6070.5, subdivision (d), also provides that if the person submitting an application for a seller's permit has entered into an installment payment agreement as provided in subdivision (c) and fails to comply with the terms of the installment payment agreement, then the Board may seek revocation of the person's seller's permit obtained pursuant to the provisions of subdivision (c).

RTC section 6070.5, subdivision (e), requires the Board to provide a person with written notice of the denial of a seller's permit under RTC section 6070.5. This subdivision also provides that a person who is denied a seller's permit may seek reconsideration of the Board's denial by submitting a written request for reconsideration to the Board within 30 days of the date of the notice of denial. In addition, this subdivision provides that the Board shall provide a person submitting a timely written request for reconsideration a hearing in a manner that is consistent with a hearing provided for by RTC section 6070. However, if no written request for reconsideration is submitted within the 30-day period, the denial of the person's seller's permit becomes final at the end of the 30-day period.

Finally, RTC section 6070.5, subdivision (f), provides that the Board shall consider offers in compromise when determining whether to issue a seller's permit.

Regulation 1699 currently implements, interprets, and makes specific the provisions of RTC sections 6066, 6067, 6070, 6071.1, 6072, 6073, 6075, and 6225. As relevant here:

- Regulation 1699, subdivision (a), generally provides that every person engaged in the business of selling or leasing tangible personal property of a kind the gross receipts from the retail sale of which are subject to sales tax is required to hold a seller's permit for each place of business in this state at which transactions relating to sales are customarily negotiated with his or her customers;
- Regulation 1699, subdivision (f), currently states that a seller's permit may only be held by a person actively engaged in business as a seller of tangible personal property; and
- Regulation 1699, subdivision (f), further states that the Board may revoke a seller's permit where it finds that the person holding the permit is not actively engaged in business as a seller of tangible personal property.

Effect, Objectives, and Benefits of the Proposed Amendments to Regulation 1699

Need for Clarification

Prior to January 1, 2012, the effective date of RTC section 6070.5, if a person had an outstanding final li-

ability with the Board and voluntarily closed its seller's permit before it was revoked under RTC section 6070, the Board could not refuse to issue another seller's permit to that person under RTC section 6070. Therefore, a person who failed to properly remit taxes and had an outstanding final liability could close out its seller's permit and then apply for a new seller's permit from the Board. And, in that situation, because the original permit was not revoked, the Board lacked the authority to refuse to issue the new permit. Under RTC section 6070.5, subdivision (a), however, the Board now has authority to refuse to issue a permit to such a person with an outstanding final liability.

In addition, prior to January 1, 2012, if a person had its seller's permit revoked under RTC section 6070 because the person failed to properly remit taxes and had an outstanding final liability, the person could still obtain a new seller's permit by transferring its business to a non-natural person that the person directly or indirectly controlled and having the non-natural person apply for the new seller's permit. For example, if the Board revoked the seller's permit held by an individual operating a business as a sole proprietorship, then the individual could:

- Form a wholly-owned corporation that the individual could directly control by owning all of the corporation's voting stock, the individual could transfer the business to the corporation and the corporation could apply for a new seller's permit to operate the business; or
- Form a corporation that the individual's relative, such as the individual's spouse, owns and which the individual can indirectly control through means other than direct stock ownership, the individual could transfer the business to the corporation in a sale that was not at arm's length, and the corporation could apply for a new seller's permit to operate the business.

And, in either situation, the Board could not refuse to issue a seller's permit to the non-natural person, under RTC section 6070, because the non-natural person applying for the permit was not the same person who had its seller's permit revoked under RTC section 6070. Under RTC section 6070.5, subdivision (b), however, the Board now has authority to refuse to issue a seller's permit to a non-natural person applying for a new permit if the non-natural person is controlled by a person that has an outstanding final liability with the Board.

Because the enactment of RTC section 6070.5 gave the Board new authority to refuse to issue a seller's permit to a person with an outstanding final liability and to a non-natural person that is controlled by a person with an outstanding final liability, regardless of whether the person had a prior seller's permit revoked. And, there is

an issue because Regulation 1699, which applies to applications for seller's permits, does not currently provide applicants with any notice regarding the Board's new authority under RTC section 6070.5 or provide clear guidance to applicants as to how the Board will implement and interpret RTC section 6070.5. Board staff determined that it was necessary to clarify Regulation 1699 to address this issue.

Interested Parties Process

As a result, Business Taxes Committee staff drafted amendments to Regulation 1699. The draft amendments suggested adding a new subdivision (g) to the regulation, renumbering the regulation's current subdivisions (g) through (j), as subdivisions (h) through (k), respectively, and adding a reference to RTC section 6070.5 to the regulation's reference note.

The draft subdivision (g) prescribed the circumstances under which the Board may refuse to issue a seller's permit to or revoke a permit from a person with an outstanding final liability or a person controlled by a person with an outstanding final liability under RTC section 6070.5. The draft subdivision (g) incorporated the definition of the words "control" and "controlling" provided in Business and Professions Code section 22971, subdivision (d)(1)(B), quoted above. The draft subdivision (g) implemented, interpreted, and made specific the definition of "control" and "controlling" for purposes of RTC section 6070.5 by establishing:

- A presumption that a person has the power to control a non-natural person if the person holds 25 percent or more of any class of the voting securities issued by the non-natural person, as provided in Business and Professions Code section 22971, subdivision (d)(1)(A);
- A presumption that a general partner has the power to control its partnership, a managing member of a limited liability company has the power to control its limited liability company, and a president or director of a closely held corporation has the power to control its corporation; and
- A presumption that a person has the power to control a non-natural person if the person transferred its business to the non-natural person in a sale that was not at arm's length in order to address the situation (described above) in which a person with an outstanding final liability transfers its business to a non-natural person in a sale that was not at arm's length and the non-natural person applies for a new seller's permit to operate the business.

In addition, the presumption regarding whether a person has the power to control another person in draft subdivision (g) specifies that the Board will presume that a

sale of a business is not at arm's length if it is between and among relatives by blood or marriage.

Business Taxes Committee staff subsequently provided its draft amendments to Regulation 1699 to the interested parties and conducted an interested parties meeting to discuss the draft amendments in July 2013. At the meeting, there were questions regarding the term "outstanding final liability."

The questions generally pertained to the nature of and the responsibility for an outstanding final liability. The interested parties wanted to know if the provisions of RTC section 6070.5 applied to certain types of outstanding final liabilities, but not others. For example, a participant asked if a person's outstanding final liability was the result of an audit performed when the person closed its business, the Board's disallowance of the person's claimed exemptions, or an "honest mistake," would those types of liabilities be sufficient for the Board to refuse to issue a seller's permit to that person? In response, staff stated that RTC section 6070.5 does not differentiate between outstanding final liabilities that result from different types of non-compliance issues, but rather, a person having any type of outstanding final liability for any amount due under the Sales and Use Tax Law may be refused a seller's permit under that section. In addition, staff explained that if a person receives a Notice of Determination for understated sales or use tax, the amount due which is not paid after the person's appeals have been exhausted and the person's liability is final is considered a final outstanding liability for purposes of RTC section 6070.5. Staff also explained that a final outstanding liability exists when a person has self-reported a tax liability, but has not paid the liability by the applicable due date.

Further, if an existing non-natural person has a final outstanding liability, an interested party wanted to know who would the liability "follow" and prevent from obtaining a seller's permit. Specifically, the participant wanted to know whether an officer who controlled a corporation with an outstanding final liability could be denied a seller's permit for a different entity due to the corporation's outstanding final liability. Staff responded that if a corporation has an outstanding final liability, the officers in control of that corporation do not automatically have an outstanding final liability for purposes of RTC section 6070.5 and cannot be denied a seller's permit for another entity based solely on the corporation's outstanding final liability. However, if the Board determines that an officer is liable for a corporation's outstanding final liability, as a "responsible person" under RTC section 6829, and any portion of the responsible person liability remains unpaid when that determination becomes final, then the officer will have an outstanding final liability for purposes of RTC section

6070.5 that resulted from the corporation's outstanding final liability. And, in such a situation where a corporate officer is a person with an outstanding final liability, the Board may deny an application for a seller's permit for a non-natural person that is controlled by the officer under RTC section 6070.5.

Staff also noted at the July 2013 meeting that the statute is permissive and that staff's draft amendments to Regulation 1699 do not change the permissive nature of the Board's authority under the statute. Section 6070.5 gives the Board the authority not to issue seller's permits under specified circumstances. However, the statute does not require the Board to refuse to issue a seller's permit to any person with an outstanding final liability.

After the first interested parties meeting, Business Taxes Committee staff revised the draft amendments to Regulation 1699, provided the revised draft to the interested parties, and conducted a second interested parties meeting on September 3, 2013, to discuss the revised draft. The revised draft amendments included language to clarify the presumption regarding non-arm's length transactions among relatives in new subdivision (g)(3)(C). Specifically, language was added to explain that, "[a] transfer is among relatives if the person with the outstanding final liability is either a natural person who is a relative of the person or persons controlling the non-natural person acquiring the business[,] or is a non-natural person controlled by a relative or relatives of the person or persons controlling the nonnatural person acquiring the business." Staff also added language to explain that the presumptions regarding control provided in subdivision (g)(3) are rebuttable presumptions.

At the second interested parties meeting, a participant wanted to know whether the Board could issue a temporary seller's permit to a person while the person is filing a request for reconsideration of the denial of its seller's permit, and waiting for a hearing and the Board's decision on its request for reconsideration, which the participant believes could take an extensive amount of time. The argument was that the California economy could be unnecessarily harmed if the Board's initial decision to refuse to issue a business a seller's permit is based on inaccurate information or is just a bad decision, and the business is prevented from operating while it waits for a hearing and a favorable decision on its request for reconsideration. Staff's response to the question was that RTC section 6070.5 does not expressly provide for the issuance of temporary seller's permits. And, the statute does not expressly allow for the revocation of a seller's permit, except for when a person does not fulfill the terms of the installment payment agreement that they entered into in order to obtain a seller's permit. Therefore, the statute does not provide for the issuance of a temporary seller's permit to a person who was denied a

seller's permit under RTC section 6070.5, and submitting a timely written request for reconsideration to the appropriate district office is a person's only option to appeal the Board's denial of a permit under that section. However, staff also explained that a person with an outstanding final liability may enter into an installment payment agreement to ensure that the person may obtain a new seller's permit. And, staff stated that through policy, the district offices will be asked to expedite their review of requests for reconsideration of denials of seller's permits under RTC section 6070.5 to reduce the time applicants have to wait to address their seller's permit issues.

At the second interested parties meeting on September 3, 2013, staff also explained that the revisions made to the draft of Regulation 1699, subdivision (g)(3), are intended to explain that a person may control a non-natural person through the "ownership of voting securities" or a "contract," but that these are just examples of how a person may control another. And, after the second interested parties meeting, staff revised subdivision (g)(3) further to clarify that the "ownership of voting securities" or the existence of a "contract" are evidence that a person may control a non-natural person and disseminated the revised language on September 5, 2013, to those interested parties who participated in the September 3, 2013, meeting. Staff did not receive any comments on its revised drafts of the amendments to Regulation 1699 by the deadline of September 19, 2013. Therefore, staff prepared Formal Issue Paper 13-008 and distributed it to the Board Members on November 8, 2013, for consideration at the Board's November 19, 2013, Business Taxes Committee meeting.

November 19, 2013 Business Taxes Committee Meeting

Formal Issue Paper 13-008 recommended that the Board approve and authorize the publication of amendments adding new subdivision (g) to Regulation 1699. As explained above, new subdivision (g) implements, interprets, and makes specific the provisions of RTC section 6070.5. It provides that the Board may refuse to issue a seller's permit to a person if they have an outstanding final liability. In addition, it provides that the Board may refuse to issue a seller's permit to a non-natural person if a person with an outstanding final liability controls the non-natural person. Further, it provides that if the Board refuses to issue a seller's permit to a person under RTC section 6070.5, the person may file a timely written request for reconsideration. Or, the person may request to enter into an installment payment agreement or an offer in compromise. Furthermore, it provides that if the installment payment agreement (or plan) is approved, a seller's permit could be issued. And, it provides that if the offer in compromise is approved and the person has paid the amount in full or re-

mains in full compliance with the compromise plan, a seller's permit could also be issued. However, it also provides that the Board will have the authority to revoke a seller's permit if a person fails to meet the terms of the installment payment agreement or offer in compromise the person entered into to obtain the seller's permit.

During the November 19, 2013, Business Taxes Committee meeting, Chairman Horton suggested adding language to the proposed amendments to Regulation 1699 that would prohibit the Board from refusing to issue a permit to a person entering a different line of business, even if that person had an outstanding final liability from a prior business, as long as there was no financial risk to the state. The Board discussed the additional language and determined that it was not necessary at this time because the language staff recommended adding to new subdivision (g) of Regulation 1699 allows the Board to refuse to issue a seller's permit under certain circumstances, but does not require the Board to refuse to issue a seller's permit when doing so would not pose a financial risk to the state. Also, the language staff recommended adding to new subdivision (g) of Regulation 1699 provides for persons with outstanding final liabilities to enter into installment payment agreements and offers in compromise in order to establish that they are satisfying their outstanding final liabilities and that they qualify for the issuance of a seller's permit. Therefore, new subdivision (g) already provides procedures for a person with an outstanding final liability to establish that there is no financial risk in issuing the person a seller's permit and new subdivision (g) does not prohibit the Board from issuing a seller's permit to a person when there is no longer a financial risk to the state.

No members of the public appeared at the November 19, 2013, Business Taxes Committee meeting.

Therefore, at the conclusion of the Board's discussion of Formal Issue Paper 13-008 during the November 19, 2013, Business Taxes Committee meeting, the Board Members unanimously voted to propose the amendments to Regulation 1699 recommended in the formal issue paper. The Board determined that the proposed amendments to Regulation 1699 are reasonably necessary to have the effect and accomplish the objectives of implementing, interpreting, and making specific RTC section 6070.5 and addressing the issue that Regulation 1699 does not currently provide applicants for seller's permits with notice of and clear guidance regarding the Board's new authority under RTC section 6070.5.

The Board anticipates that the proposed amendments will benefit applicants for seller's permits and Board staff by:

- Making Regulation 1699 consistent with RTC section 6070.5;
- Providing additional notice that an application for a seller's permit may be denied, under RTC section 6070.5, if the applicant has an outstanding final liability or the applicant is controlled by a person with an outstanding final liability;
- Helping applicants with outstanding final liabilities and applicants controlled by a person with an outstanding final liability clearly understand that their applications for seller's permits will not be denied, under RTC section 6070.5, if they take appropriate steps to pay the final liabilities, including by entering into an installment payment agreement or offer in compromise, so that the liabilities are no longer "outstanding"; and
- Alleviating potential confusion regarding the manner in which RTC section 6070.5 will be implemented and interpreted by the Board.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1699 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because there is no other state regulation implementing, interpreting, or making specific the provisions of RTC section 6070.5. In addition, the Board has determined that there are no comparable federal regulations or statutes to Regulation 1699 or the proposed amendments to Regulation 1699.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1699 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1699 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed

on local agencies, or cost or savings in federal funding to the State of California.

**NO SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS**

The Board has made an initial determination that the adoption of the proposed amendments to Regulation 1699 will 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 adoption of the proposed amendments to Regulation 1699 may affect small business.

**NO COST IMPACTS TO PRIVATE PERSONS
OR BUSINESSES**

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

**RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT REQUIRED BY GOVERNMENT
CODE SECTION 11346.3, SUBDIVISION (b)**

The Board has determined that the proposed amendments to Regulation 1699 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Regulation 1699 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. Furthermore, the Board has determined that the adoption of the proposed amendments to Regulation 1699 will not affect the benefits of Regulation 1699 to the health and welfare of California residents, worker safety, or the state's environment.

**NO SIGNIFICANT EFFECT ON
HOUSING COSTS**

The adoption of the proposed amendments to Regulation 1699 will not have a significant effect on housing costs.

**DETERMINATION REGARDING
ALTERNATIVES**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Erin Dendorfer, Tax Counsel, by telephone at (916) 322-3283, by e-mail at Erin.Dendorfer@boe.ca.gov, or by mail at State Board of Equalization, Attn: Erin Dendorfer, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on March 25, 2014, or as soon thereafter as the Board begins the public hearing regarding the adoption of the proposed amendments to Regulation 1699 during the March 25, 2014, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Regulation 1699. The Board will only consider written comments received by that time.

**AVAILABILITY OF INITIAL STATEMENT OF
REASONS AND TEXT OF
PROPOSED REGULATION**

The Board has prepared an underscored and strikeout version of the text of Regulation 1699 illustrating the

express terms of the proposed amendments. The Board has also prepared an initial statement of reasons for the adoption of the proposed amendments to Regulation 1699, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are 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 amendments and the initial statement of reasons are also available on the Board's Website at www.boe.ca.gov.

**SUBSTANTIALLY RELATED CHANGES
PURSUANT TO GOVERNMENT CODE
SECTION 11346.8**

The Board may adopt the proposed amendments to Regulation 1699 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

**AVAILABILITY OF FINAL STATEMENT
OF REASONS**

If the Board adopts the proposed amendments to Regulation 1699, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

TITLE 18. BOARD OF EQUALIZATION

**The State Board of Equalization Proposes to
Adopt Amendments to California Code of
Regulations, Title 18,
Section 1603, Taxable Sales of Food Products**

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1603, *Taxable Sales of Food Products*. The proposed amendments add subdivision (u) to the regulation to describe the term "mobile food vendors," provide that, "[for sales made on and after July 1, 2014, unless a separate amount for tax reimbursement is added to the price, mobile food vendors' sales of taxable items are presumed to be made on a tax included basis," and provide that the "presumption does not apply when a mobile food vendor is making sales as a 'caterer' as defined in" subdivision (h)(1) of the regulation. The proposed amendments are intended to make the regulation consistent with the current practice in the mobile food industry, which is for mobile food vendors to include sales tax reimbursement in their menu prices.

PUBLIC HEARING

The Board will conduct a meeting in the Auditorium Room, at the California Public Utilities Commission's headquarters, located at 505 Van Ness Avenue, San Francisco, California, on March 25, 2014. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. or as soon thereafter as the matter may be heard on March 25, 2014. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Regulation 1603.

AUTHORITY

RTC section 7051.

REFERENCE

RTC sections 6006, 6012, 6359, 6359.1, 6359.45, 6361, 6363, 6363.5, 6363.6, 6363.8, 6370, 6373, 6374, and 6376.5.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Current Law

California imposes sales tax on retailers for the privilege of selling tangible personal property at retail. (RTC § 6051.) Unless an exemption or exclusion applies, the tax is measured by a retailer’s gross receipts from the retail sale of tangible personal property in California. (RTC §§ 6012, 6051.) Although sales tax is imposed on retailers, retailers may collect sales tax reimbursement from their customers.

Civil Code section 1656.1 provides that whether a retailer may add sales tax reimbursement to the sales price of the tangible personal property sold at retail to a purchaser depends solely upon the terms of the agreement of sale. The sales tax reimbursement may be shown as a separately stated amount added to the stated sales price of the tangible personal property or the sales tax reimbursement may be included in the total price charged for tangible personal property. Under Civil Code section 1656.1, it shall be presumed that the parties agreed to the addition of sales tax reimbursement to the sales price of tangible personal property if the retailer posts in his or her premises in a location visible to purchasers, or includes on a price tag or in an advertisement or other printed material directed to purchasers, a notice to the effect that reimbursement for sales tax will be added to the sales price of all items or certain items, whichever is applicable.

Regulation 1700 contains a general presumption that taxable tangible personal property is sold at a price which includes tax reimbursement if the retailer posts a specified sign to that effect.

In 2001, Regulation 1574, *Vending Machine Operators*, was amended to delete the specific requirement that vending machine operators post a sign providing that their sales are made on a tax–included basis and to instead provide that sales of tangible personal property through vending machines are presumed to be made on a tax–included basis notwithstanding the fact that the signage discussed in Civil Code section 1656.1 is not present. The amendments were based on the nature of the vending machine industry and the expectation from customers purchasing items through vending machines that all taxable sales are made on a tax–included basis.

Effect, Objective, and Benefits of the Proposed Amendments to Regulation 1603

Mobile food vendors sell food for immediate consumption from motorized vehicles, such as food trucks, or un–motorized carts, such as hot dog carts. Mobile food vendors do not generally have point–of–sale systems to calculate tax on individual transactions. Additionally, they often make sales in multiple tax districts

in a given day and as a result, their sales are often subject to varying tax rates. Therefore, similar to vending machine operators, whose sales are discussed in Regulation 1574, it is common practice in the mobile food industry for mobile food vendors to make sales on a tax–included basis and to round their menu prices to the nearest quarter or dollar. And, similar to the vending machine operators, mobile food vendors intend for the prices that they charge for the meals that they sell to include all applicable taxes, and their customers expect that amounts for sales tax reimbursement are included in the prices charged by the mobile food vendors.

While the industry practice is for mobile food vendors to include sales tax reimbursement in their menu prices, during recent audits, many mobile food vendors did not have a sign posted stating that tax reimbursement was included in their menu prices.

Interested Parties Process

The Board’s Business Taxes Committee (BTC) staff drafted amendments adding a new subdivision (u) to Regulation 1603 to address the mobile food vendors’ signage issue. The draft amendments suggested adding provisions to the regulation to describe the term “mobile food vendors” by providing that mobile food vendors include retailers who sell food and beverage for immediate consumption from motorized vehicles or un–motorized carts, and provide that mobile food vendors include vendors operating food trucks, coffee carts, and hot dog carts. The draft amendments also provided that effective July 1, 2014, sales by mobile food vendors are presumed to be made on a tax–included basis, unless a separate amount for tax reimbursement is added to the price. And, the draft amendments provided that this presumption does not apply when a mobile food vendor is making sales as a “caterer” as defined in subdivision (h)(1) of Regulation 1603.

BTC staff subsequently provided its draft amendments to Regulation 1603 to the interested parties and conducted an interested parties meeting in August 2013, to discuss the draft amendments. During the August meeting, participants discussed the effect of the presumption and asked BTC staff whether the new presumption might have some unintended effects, such as:

- Making it more likely for a person to be held personally liable for sales tax liabilities owed by its mobile food vending business under RTC section 6829;
- Making it more likely for a mobile food vendor to receive the 40 percent penalty imposed under RTC section 6597; and
- Potentially restricting mobile food vendors’ participation in the Board’s Offers in Compromise Program under RTC section 7093.6.

However, as explained in more detail in the initial statement of reasons, BTC staff determined that the potential effect of the new presumption was limited, particularly because the presumption may be overcome. And, BTC staff indicated that it was not necessary to revise the proposed amendments to Regulation 1603 to address the interested parties' questions because the new presumption, by itself, would not result in personal liability under RTC section 6829 or the imposition of the 40 percent penalty under RTC section 6597, and would not prevent a mobile food vendor from participating in the Offers in Compromise Program.

Following the interested parties meeting, other Board staff recommended that new subdivision (u) be revised to remove the language indicating that the new presumption will be "[e]ffective July 1, 2014" and instead include new language stating that it will apply to "[s]ales made on or after July 1, 2014." BTC staff agreed that the changes would make the application of the new presumption more clear and revised the draft amendments to the regulation, accordingly.

November 19, 2013, BTC Meeting

Subsequently, BTC staff prepared Formal Issue Paper 13-009 and distributed it to the Board Members for consideration at the Board's November 19, 2013, BTC meeting. Formal Issue Paper 13-009 recommended that the Board propose to add new subdivision (u) to Regulation 1603 which generally describes "mobile food vendors," and provides that, "[f]or sales made on and after July 1, 2014, unless a separate amount for tax reimbursement is added to the price of meals, a mobile food vendors' sales of taxable items are presumed to be made on a tax included basis," and provide that "[t]his presumption does not apply when a mobile food vendor is making sales as a 'caterer'" as defined in subdivision (h)(1) of Regulation 1603.

At the conclusion of the Board's discussion of Formal Issue Paper 13-009 during the November 19, 2013, Business Taxes Committee meeting, the Board Members unanimously voted to propose the amendments to Regulation 1603 recommended in the formal issue paper.

The Board anticipates that the proposed amendments to Regulation 1603 will promote fairness and benefit taxpayers, Board staff, and the Board by providing regulatory provisions consistent with industry practice and the understanding of mobile food vendors and their customers that mobile food vendors' sales are made on a tax-included basis.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1603 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are

not inconsistent or incompatible with existing state regulations. This is because the proposed amendments to Regulation 1603 are consistent with the 2001 amendments to Regulation 1574, discussed above, and there are no other sales and use tax regulations that specifically apply to mobile food vendors' collection of sales tax reimbursement. In addition, the Board has determined that there are no comparable federal regulations or statutes to Regulation 1603 or the proposed amendments to Regulation 1603.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1603 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1603 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Regulation 1603 will 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 adoption of the proposed amendments to Regulation 1603 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

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

**RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT REQUIRED BY GOVERNMENT
CODE SECTION 11346.3, SUBDIVISION (b)**

The Board has determined that the proposed amendments to Regulation 1603 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Regulation 1603 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. Furthermore, the Board has determined that the adoption of the proposed amendments to Regulation 1603 will not affect the benefits of Regulation 1603 to the health and welfare of California residents, worker safety, or the state's environment.

**NO SIGNIFICANT EFFECT ON
HOUSING COSTS**

The adoption of the proposed amendments to Regulation 1603 will not have a significant effect on housing costs.

**DETERMINATION REGARDING
ALTERNATIVES**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Cary Huxsoll, Tax Counsel III, by telephone at (916) 323-3092, by e-mail at Cary.Huxsoll@boe.ca.gov, or by mail at State Board of Equalization, Attn: Cary Huxsoll, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed

administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on March 25, 2014, or as soon thereafter as the Board begins the public hearing regarding the adoption of the proposed amendments to Regulation 1603 during the March 25-26, 2014, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Regulation 1603. The Board will only consider written comments received by that time.

**AVAILABILITY OF INITIAL STATEMENT OF
REASONS AND TEXT OF
PROPOSED REGULATION**

The Board has prepared an underscored and strikethrough version of the text of Regulation 1603 illustrating the express terms of the proposed amendments. The Board has also prepared an initial statement of reasons for the adoption of the proposed amendments to Regulation 1603, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are 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 amendments and the initial statement of reasons are also available on the Board's Website at www.boe.ca.gov.

**SUBSTANTIALLY RELATED CHANGES
PURSUANT TO GOVERNMENT CODE
SECTION 11346.8**

The Board may adopt the proposed amendments to Regulation 1603 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a suf-

ficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1603, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

TITLE 18. FRANCHISE TAX BOARD

As required by Section 11346.4 of the Government Code, the Franchise Tax Board hereby gives notice of its intention to adopt California Code of Regulations, title 18, section 17942, pertaining to the limited liability company ("LLC") fee. There will not be a public hearing unless requested by an interested person at least 15 days before the close of the written comment period. Any request for a public hearing should be submitted to the agency officer named below. Government Code section 15702, subdivision (b), provides for consideration by the three-member Franchise Tax Board of any proposed regulatory action if any person makes such request in writing.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., March 27, 2014. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officers named below.

AUTHORITY & REFERENCE

Revenue and Taxation Code ("RTC") section 19503 authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with section 17001), Part 10.2 (commencing with section 18401), Part 10.7 (commencing with section 21001) and Part 11 (commencing with section 23001). Regulating under RTC section 17942 is neces-

sary to provide guidance and examples for the proper application and implementation of RTC section 17942.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

LLCs doing business in California are required to pay an annual fee to the Franchise Tax Board based on the total amount of income attributable to California during the taxable year. In 2007, the requirement to pay an annual fee was amended to address concerns that the fee was based in part on income not attributable to California. The objective of this proposed regulation is to provide clarification and offer guidance to LLCs doing business in California, and thus, those that are required to pay the annual fee, as to the proper methodology to be used in calculating such fee.

Regulation section 17942, subsection (a) — General Rule

Subsection (a) of the regulation restates the general rule that every LLC subject to California taxation must pay an annual fee determined by the "total income from all sources derived from or attributable to this state." This fee is in addition to the tax imposed on LLCs pursuant to RTC section 17941.

Regulation section 17942, subsection (b) — Definitions

Subsection (b) defines "total income from all sources derived from or attributable to this state," and is a restatement of the rule outlined in RTC section 17942(b)(1)(A):

(b) "Total income from all sources derived from or attributable to this state" means gross income, as defined in Revenue and Taxation Code section 24271, plus the cost of goods sold that is paid in or incurred in connection with the trade or business of the taxpayer. This amount does not include, however, any allocation or attribution of income or gain or distributions made to the limited liability company in its capacity as a member or holder of an economic interest in another limited liability company, so long as the income of the limited liability company that earned the income was itself subject to the fee described in Revenue and Taxation Code section 17942.

Subsection (b) also provides an example of the application of the definition. The example illustrates the meaning of a taxpayer being "subject to" an LLC fee. In the example, LLC A owns an interest in another LLC, LLC B, which has \$200,000 of total income from all sources derived from or attributable to California. The example concludes that because LLC B has income below \$250,000, it is not required to pay an LLC fee. Furthermore, in determining the fee owed by LLC A, LLC

A's distributive share of LLC B's income will not be included in LLC A's total income from all sources attributable to this state because LLC B's income was "subject to" the LLC fee even though it does not owe the fee.

Regulation section 17942, subsection (c) — Treatment of Pass-through Entities

Subsection (c) of the regulation explains that income and distributions received from pass-through entities, other than LLCs that are also subject to the fee, must be included in the base for calculating the LLC fee. These amounts include an LLC's distributive share of a pass-through entity's cost of goods sold. Subsection (c) further provides that items of income received from pass-through entities not subject to the LLC fee must be computed and assigned for purposes of the LLC fee, just like any item of income derived directly by the LLC. The subsection provides:

(c) "Items of total income from all sources derived from or attributable to this state that a limited liability company receives from pass-through entities, other than other limited liability companies that are themselves subject to the fee, must be computed and assigned for purposes of the limited liability company fee calculation. This means that a limited liability company's distributive share of items allocated to it by another pass-through entity that is not itself a limited liability company must be adjusted to include cost of goods sold, if applicable, in order to compute the correct amount of total income for fee purposes.

The example in subsection (c) illustrates how an LLC with a 50 percent interest in a partnership will be allocated not only 50 percent of the partnership's total income, it will also be allocated 50 percent of the partnership's cost of goods sold for purposes of calculating the LLC fee.

Regulation section 17942, subsection (d) — Assignment Rules

Subsection (d) explains that to determine total income from all sources derived from or attributable to this state, the assignment rules of RTC sections 25135 and 25136, and the regulations thereunder, as modified by regulations under RTC section 25137, other than those provisions that exclude receipts from the sales factor, are to be utilized. Subsection (d)(1) explains that for LLC fee purposes, income derived from the passive holding of intangible property must be assigned to the location where the intangible property is managed. The example in subsection (d)(1) posits an Indiana LLC that holds a portfolio of bonds and employs a portfolio manager who is located in Nevada. Under the example, the interest income from the bonds will be assigned to Nevada for LLC fee purposes. This subsection is necessary

because the rules contained in Regulation section 25137(c)(1)(C) may exclude these receipts and not assign them to a location. However, in the context of the LLC fee, these receipts must be assigned to a location pursuant to RTC section 17942(b)(1)(B). By providing a clear rule, the fee calculation is made more certain, consistent with a comment made during the Interested Parties Meeting process.

Regulation section 17942, subsection (d)(2) — Occasional Sales and Single Sales Factor

Subsection (d)(2) provides that while an occasional sale may be excluded from the sales factor of the apportionment formula pursuant to Regulation section 25137, for LLC fee purposes RTC sections 25135 and 25136 apply, and the occasional sale must be assigned pursuant to the rules contained therein. In addition, this subsection clarifies by example that if a taxpayer elects the single-factor sales apportionment methodology pursuant to RTC section 25128.5, then the taxpayer must apply the same assignment rules for purposes of calculating the LLC fee. This subsection is necessary because of RTC section 17942(b)(1)(B), which provides that the provisions of RTC section 25137 that exclude receipts from the sales factor do not apply to the calculation of the LLC fee.

Regulation section 17942, subsection (d)(3) — Assignment of Pass-through Income

Subsection (d)(3) provides a rule that total income received from a pass-through entity, other than as provided in subsection (b) of the regulation, shall be assigned to the state where the partnership assigns the income on the Schedule K-1 provided to the LLC. This rule constitutes a catch-all provision for the assignment of receipts from pass-through entities that is easy to apply because it relies on information already provided to the holder of the interest, the Schedule K-1.

Regulation section 17942, subsection (e) — Simplification Rule for Intrastate Businesses

Subsection (e) explains that if an LLC conducts all of its business in California, then it may calculate its total income without regard to the above assignment rules because the same amount of LLC fee will result under either method.

Regulation section 17942, subsection (f) — Alternative Method

Subsection (f) provides an alternative method for assigning total income from all sources derived from or attributable to this state. This alternative method is provided in response to comments made during the Interested Parties Meeting process that there should be a way to calculate the fee that does not require looking at each item of income individually, especially when it is clear that the LLC will easily exceed the \$5 million threshold for the imposition of the maximum LLC fee.

Regulation section 17942, subsection (f)(1) — Alternative Method for Sales Factor Over \$5 Million

Subsection (f)(1) provides that if the LLC reports to its members a sales factor numerator over \$5 million, the Franchise Tax Board will accept that amount as a proxy for “total income from all sources derived from or attributable to this state” for purposes of calculating the LLC fee because reporting any larger amount will have no impact on the fee. The use of the sales factor numerator is reasonable because similar rules are used to assign each item of income for fee purposes to those used for apportionment purposes in calculating the sales factor numerator for California.

Regulation section 17942, subsection (f)(2) — Alternative Method for Sales Factor Under \$5 Million

Subsection (f)(2) provides that if an LLC reports a sales factor numerator below \$5 million, it may still choose to use the alternative method. However, in calculating the LLC fee it must adjust the numerator by including all items of total income that were previously characterized as nonbusiness income for apportionment purposes. (Subsection (f)(2)(A).) In addition, the numerator must be adjusted to include all items of total income that were excluded from the sales factor entirely pursuant to regulations under RTC section 25137. (Subsection (f)(2)(B).) Lastly, the numerator must be adjusted to remove all items of total income received from other LLCs that were also subject to the LLC fee (subsection (f)(2)(C)), consistent with subsection (b) of this regulation.

Regulation section 17942, subsection (g)

Subsection (g) provides that the proposed regulation would be retroactive in application to January 1, 2012. Under RTC section 19503, subdivision (b)(1), no regulation relating to Part 10 (commencing with Section 17001) “shall apply to any taxable year ending before the date on which any notice substantially describing the expected contents of any regulation is issued to the public.” The Franchise Tax Board issued notice substantially describing the expected contents for this regulation to the public during the Interested Parties Meeting on October 4, 2011. Accordingly, the Franchise Tax Board may prescribe that this regulation be applied retroactively to 2012 or thereafter.

Anticipated Benefits from the Proposed Regulation

Taxpayers will benefit from guidance in the proposed regulation, thus reducing the burdens and costs of calculating the LLC annual fee. Moreover, the rules outlined in the proposed regulation will result in fewer disputes arising from calculating the LLC fee, reducing taxpayers’ time and costs to pursue such disputes. The Franchise Tax Board will also save resources through enhanced taxpayer compliance.

Consistency and Compatibility with Existing State Regulations

During the process of developing this regulation, the Franchise Tax Board, per Government Code section 11346.5(a)(3)(D), has conducted a search of any similar regulations on this topic and has concluded that this regulation is neither inconsistent nor incompatible with existing regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agencies: None.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non-discretionary cost or savings imposed upon local agencies: 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 impact to directly affected private persons/businesses potential: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on small business: The department has made an initial determination that the adoption of the proposed regulation will not affect small businesses. The proposed regulation merely clarifies existing requirements imposed by RTC section 17942, and does not impose any additional requirements. The department does not expect the proposed regulation to have any impact on the number of small businesses, nor does it create additional reporting requirements for small businesses.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Pursuant to Government Code section 11346.3, subdivision (b), the Franchise Tax Board has determined in the economic impact analysis that there are no effects on the creation or elimination of jobs in the state, no effect on the creation of new businesses or elimination or expansion of existing business with the state, and that the proposed Regulation section 17942 will benefit taxpayers by clarifying the rules for calculating the annual LLC fee.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment: None. For additional information on benefits,

please see “Anticipated Benefits” under the Informative Digest/Policy Statement Overview.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Franchise Tax Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons that the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Franchise Tax Board has prepared an initial statement of reasons for the proposed regulatory action. The express terms of the proposed regulatory action, the initial statement of reasons for the regulatory action, and all the information upon which the proposed regulatory action is based are available upon request from the agency officer named below. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board’s website at www.ftb.ca.gov.

CHANGE OR MODIFICATION OF ACTIONS

The regulations and amendments may also be adopted with modifications if the changes are non-substantive or the resulting regulations are sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulations as modified could result from that originally proposed. The text of the regulations as modified will be made available to the public at least 15 days prior to the date on which the regulations are adopted. Requests for copies of any modified regulations should be sent to the attention of the agency officer named below.

ADDITIONAL COMMENTS

If a hearing is held, the hearing room will be accessible to persons with physical disabilities. Any person who is in need of a language interpreter, including sign language, should contact the officer named below at least two weeks prior to any scheduled hearing so that the services of an interpreter may be arranged.

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at Franchise Tax Board, Legal Division, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Telephone: (916) 845-3306; Fax: (916) 845-3648; E-Mail: Colleen.Berwick@ftb.ca.gov. In addition, all questions on the application of Regulation section 17942 should be directed to Doug Barish; Telephone: (916) 845-7839 or E-Mail: Douglas.Barish@ftb.ca.gov. This notice, the initial statement of reasons and express terms of the proposed regulation are also available at the Franchise Tax Board’s website at www.ftb.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF MOTOR VEHICLES

Invitation to Pre-notice Public Discussions on Proposed Regulations Autonomous Vehicles

Pursuant to Government Code section 11346.45, the Department of Motor Vehicles (department) has set the time and place for the public to participate in discussions to facilitate the development of proposed regulations related to the operation of Autonomous Vehicles.

The department will hold the workshop beginning at 10:00 a.m. on Tuesday, March 11, 2014, at the department’s headquarters office at 2415 First Avenue, Sacramento, California. The workshop will be held in the Assembly Room, which is accessible to persons with disabilities. The Assembly Room is located in a secure area of the building so please check in at the security station. Parking near the headquarters complex is limited so please plan accordingly.

Senate Bill 1298 (Chapter 570; Statutes of 2012) enacted Vehicle Code Section 38750 which requires the department to adopt regulations establishing certain vehicle equipment requirements, equipment performance standards, safety certifications, and any other matters that the department concludes is necessary to ensure the safe operation of autonomous vehicles on public roads, with or without the presence of a driver inside the vehicle. This public workshop will focus on the department’s second regulatory proposal related to the deployment or operation of autonomous vehicles on public roads in situations other than testing. The operation of autonomous vehicles on public roads for the purpose of testing is the subject of a separate regulatory proposal (See Regulatory Notice No. 2013-1113-02, which was published in the Notice Register).

To ensure public participation, the department requests that you send notice to the e-mail address provided at the bottom of this notice, indicating that you will be participating in the workshop. At the workshop, any interested person may present statements, arguments, or contentions (orally, in writing, or both) that are relevant to the development of the regulations required by Vehicle Code Section 38750 as described above. A full agenda will be provided prior to the workshop and will be available on the department's web site. Those planning to attend and participate in the workshop should notify the department of their attendance at the contact e-mail listed below by February 28, 2014. Failure to provide notification **does not** preclude any interested parties from participating in this workshop.

Participation in the workshop will be in addition to, and not in substitution for, any participation in the formal rulemaking process. This invitation does not constitute Notice of Proposed Action under the Administrative Procedure Act. Consequently, comments (oral or written) received in connection with the workshop will not be included in the formal rulemaking file. Similarly, the department is not required to respond to comments received in connection with the workshop. Therefore, if you wish to have comments included in the rulemaking file, or to require the department to respond to them as part of the process by which it adopts the regulations, you must present your comments during the formal public comment period according to the procedures outlined in the Notice of Proposed Action at the time that document is issued, regardless of whether the comments have been made in connection with the workshop.

If you have any questions, please contact Randi Calkins at (916) 657-6469 or by e-mail at LRegulations@dmv.ca.gov.

DEPARTMENT OF MOTOR VEHICLES

Invitation to Pre-notice Public Discussions on Proposed Regulations Eligibility and Required Documentation for a Driver's License

Pursuant to Government Code section 11346.45, the Department of Motor Vehicles (department) has set the time and place for the public to participate in discussions to facilitate the development of proposed regulations related to the eligibility and documentation re-

quirements for a driver's license applicant who is unable to provide satisfactory proof that his or her presence in the United States is authorized under federal law.

The department will hold the workshop from **6:00 p.m. to 8:00 p.m.** on **Thursday, February 13, 2014**, at:

**Bell Community Center
6250 Pine Avenue
Bell, California 90201**

Assembly Bill 60 (Chapter 524; Statutes of 2013) requires the department to issue an original driver license to an applicant who is unable to submit satisfactory proof that his or her presence in the United States is authorized under federal law if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identity and California residency. AB 60 additionally requires the department to develop regulations and consult with interested parties in an effort to assist the department in identifying documents that will be acceptable for purposes of providing documentation to establish identity and residency.

At the workshop, any interested person may present statements, arguments, or contentions (orally, in writing, or both) that are relevant to the development of the regulations as required by AB 60. A sign-in sheet will be provided at the workshop in order to conduct an orderly meeting.

Participation in the workshop will be in addition to, and not in substitution for, any participation in the formal rulemaking process. This invitation does not constitute Notice of Proposed Action under the Administrative Procedure Act. Consequently, comments (oral or written) received in connection with the workshop will not be included in the formal rulemaking file. Similarly, the department is not required to respond to comments received in connection with the workshop. Therefore, if you wish to have comments included in the rulemaking file, or to require the department to respond to them as part of the process by which it adopts the regulations, you must present your comments during the formal public comment period according to the procedures outlined in the Notice of Proposed Action at the time that document is issued, regardless of whether the comments have been made in connection with the workshop.

If you have any questions, please contact Brian Soublet at (916) 657-6469 or by e-mail at LRegulations@dmv.ca.gov.

DEPARTMENT OF TOXIC SUBSTANCES
CONTROL

AAD DISTRIBUTION AND DRY CLEANING
SERVICES, INC.

PROPOSED CONSENT DECREE
(SETTLEMENT AGREEMENT)

30-Day Public Comment Period: February 7 through
March 10, 2014

WHAT IS BEING PROPOSED: The California Department of Toxic Substances Control (“DTSC”) invites the public to review and comment on a proposed Consent Decree regarding the former AAD Distribution and Dry Cleaning Services, Inc. (“AAD”) facility located at 2306 East 38th Street in Vernon, California (“Site”) as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). On January 21, 2014, DTSC lodged the proposed Consent Decree in *Department of Toxic Substances Control v. Allen’s Formal Wear, Inc., et al.*, Case No. CV13-5068-GHK (JCGx), with the United States District Court for the Central District of California. The proposed Consent Decree resolves claims against Allen’s Formal Wear, Inc., Allied Waste Services of NA, LLC, Bayside Cleaners & Laundry Corp., Beverley Crest Cleaners, COTT Services, Inc., Continental Cleaners, Continental Heat Treating, Inc., Four Seasons Resort Club Management, Inc., Four Seasons Hotel Limited, Burton Way Hotels, LLC, ACC Company, Grand Laundry, Inc., Keyes Auto Body Inc., Mandalay Corp., Peninsula Beverly Hills Hotel Management Inc., Power Professional Cleaners Corp, Rohr, Inc., Scott Robinson Pontiac, Inc., and Westside Investments, Inc., for their contributions to contamination at the Site as a result of sending hazardous waste to the AAD facility.

Investigations conducted at the Site have detected the presence of perchloroethylene (“PCE”) in the soil be-

neath the Site. The Site remains contaminated with hazardous substances, including PCE, and remains the source of threatened releases of hazardous substances into the environment. Although DTSC has not selected a final remedy for the Site, the PCE contamination at, beneath, and/or from the Site requires further action by DTSC.

WHERE DO I GET MORE INFORMATION: Copies of the proposed Consent Decree and other Site-related documents are available by contacting the DTSC Project Manager listed below; online at the DTSC EnviroStor website: http://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=19000031 on the Activities tab; or at the DTSC Regional Records Office, File Room (by appointment only), 9211 Oakdale Avenue, Chatsworth, CA 91311, Phone: Glenn Castillo (818) 717-6522.

WHERE TO SEND COMMENTS: Comments concerning the proposed Consent Decree should include “AAD CD Comment” in the subject line of your e-mail or letter. All comments must be postmarked or e-mailed by March 10, 2014 and submitted to:

Lori Parnass
DTSC Project Manager
9211 Oakdale Avenue
Chatsworth, California 91311-6505
Lori.Parnass@dtsc.ca.gov
(818) 717-6597

For more information, contact:
Mary Sue Maurer
Public Participation Specialist
Mary.Maurer@dtsc.ca.gov
(818) 717-6566

For media inquiries, contact:
Sandy Nax
Public Information Officer
Sandy.Nax@dtsc.ca.gov
(916) 327-6114

Aviso Público

La misión del DTSC es proteger a la gente y al medio ambiente de California de los efectos dañinos de sustancias tóxicas a través de la restauración de recursos contaminados, aplicación, regulación y prevención de la contaminación.

AAD DISTRIBUTION AND DRY CLEANING SERVICES, INC. DECRETO PROPUESTO DE CONSENTIMIENTO (ACUERDO DE RESOLUCIÓN)

Periodo de Comentarios Públicos de 30 días: 7 de febrero al 10 de marzo de 2014

¿QUÉ ESTÁ PROPUESTO?: El Departamento de Control de Sustancias Tóxicas de California ("DTSC", por sus siglas en inglés) invita al público a revisar y comentar acerca de un Decreto propuesto de Consentimiento en relación con la antigua instalación AAD Distribution and Dry Cleaning Services, Inc. ("AAD", por sus siglas en inglés) ubicada en el 2306 de East 38th Street en Vernon, California ("el Sitio") según lo autorizado por la Ley Integral de Respuesta, Compensación y Responsabilidad Civil Ambiental ("CERCLA", por sus siglas en inglés). El 21 de enero de 2014 el DTSC interpuso un Decreto propuesto de Consentimiento en *Department of Toxic Substances Control v. Allen's Formal Wear, Inc., et al.*, Caso No. CV13-5068-GHK (JCGx), ante el Tribunal de Distrito de los Estados Unidos para el Distrito Central de California. El Decreto propuesto de Consentimiento resuelve demandas en contra de Allen's Formal Wear, Inc., Allied Waste Services of NA, LLC, Bayside Cleaners & Laundry Corp., Beverley Crest Cleaners, COIT Services, Inc., Continental Cleaners, Continental Heat Treating, Inc., Four Seasons Resort Club Management, Inc., Four Seasons Hotel Limited, Burton Way Hotels, LLC, ACC Company, Grand Laundry, Inc., Keyes Auto Body Inc., Mandalay Corp., Peninsula Beverly Hills Hotel Management Inc., Power Professional Cleaners Corp, Rohr, Inc., Scott Robinson Pontiac, Inc. y Westside Investments, Inc., por su contribución a la contaminación en el Sitio como resultado del envío de residuos peligrosos a la instalación AAD.

Las investigaciones realizadas en el Sitio han detectado la presencia de percloroetileno ("PCE") en el suelo debajo del Sitio. El Sitio permanece contaminado con sustancias peligrosas, incluyendo PCE y continúa siendo la fuente de amenazantes emisiones de sustancias peligrosas al ambiente. A pesar de que el DTSC no ha seleccionado un remedio final para el Sitio, la contaminación por PCE en, debajo y/o desde el Sitio requiere nuevas medidas por parte del DTSC.

¿DÓNDE PUEDO OBTENER MÁS INFORMACIÓN?: Copias del Decreto propuesto de Consentimiento y otros documentos relativos al Sitio se encuentran disponibles contactando al Gerente de Proyecto del DTSC, mencionado posteriormente; en línea al sitio web EnviroStor del DTSC:

http://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=19000031 en la pestaña Activities; o en la Sala de Archivos de la Oficina Regional de Registros del DTSC, (únicamente por medio de cita) en el 9211 de Oakdale Avenue, Chatsworth, CA 91311, Teléfono: Glenn Castillo (818) 717-6522.

¿A DÓNDE ENVIAR COMENTARIOS?: Los comentarios relativos al Decreto propuesto de Consentimiento deberán incluir "Comentario AAD CD" en la línea de asunto de su correo electrónico o carta. Todos los comentarios deberán tener sello postal o ser enviados por correo electrónico a más tardar el 10 de marzo de 2014 y dirigidos a:

Lori Parnass
Gerente de Proyecto del DTSC
9211 Oakdale Avenue
Chatsworth, California 91311-6505
Lori.Parnass@dtsc.ca.gov
(818) 717-6597

Para mayor información contacte:
Mary Sue Maurer
Especialista en Participación Pública
Mary.Maurer@dtsc.ca.gov
(818) 717-6566

Para consultas de medios, contacte:
Sandy Nax
Jefe de Información Pública
Sandy.Nax@dtsc.ca.gov
(916) 327-6114

Para mayor información acerca del DTSC visite: www.dtsc.ca.gov.



PROPOSITION 65

**OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE OF INTENT TO LIST A CHEMICAL
BY THE
“FORMALLY REQUIRED TO BE LABELED
OR IDENTIFIED” MECHANISM:
MEGESTROL ACETATE**

FEBRUARY 7, 2014

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemical identified in the table below as known to the State to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986¹. This action is being proposed under the “Formally Required to Be Labeled or Identified” listing mechanism².

Chemical	CAS No.	Toxicological Endpoints	Reference
Megestrol acetate	595-33-5	Cancer	FDA (2012; 2013)

Background on listing via the formally required to be labeled or identified mechanism: A chemical must be listed under Proposition 65³ and its implementing regulations (Section 25902⁴) when a state or federal agency has formally required it to be labeled or identified as causing cancer or reproductive toxicity.

According to Section 25902(b):

- “[F]ormally required’ means that a mandatory instruction, order, condition, or similar command, has been issued in accordance with established policies and procedures of an agency of the state or federal government to a person or legal entity outside of the agency. The action of such agency

may be directed at one or more persons or legal entities and may include formal requirements of general application;”

- “[L]abeled’ means that a warning message about the carcinogenicity or reproductive toxicity of a chemical is printed, stamped, written, or in any other manner placed upon the container in which the chemical is present or its outer or inner packaging including any material inserted with, attached to, or otherwise accompanying such a chemical;”
- “[I]dentified’ means that a required message about the carcinogenicity or reproductive toxicity of the chemical is to be disclosed in any manner to a person or legal entity other than the person or legal entity who is required to make such disclosure”; and
- “As causing cancer” means: “For chemicals that cause cancer, the required label or identification uses any words or phrases intended to communicate a risk of cancer or tumors.”

OEHHA is the lead agency for Proposition 65 implementation. After a state or federal agency has required that a chemical be labeled or identified as causing cancer or reproductive toxicity, OEHHA evaluates whether listing under Proposition 65 is required pursuant to the definitions set out in Section 25902.

OEHHA’s determination: *Megestrol acetate* has been identified or labeled to communicate a risk of cancer (FDA, 2012, 2013) in accordance with formal requirements by the U.S. Food and Drug Administration (FDA). The FDA–approved labels indicate that when assessing the risk–to–benefit ratio of megestrol acetate, consideration be given to the observations of breast and pituitary cancers from studies in dogs and rats receiving much lower doses of megestrol acetate (on a mg/kg/day basis) than the recommended clinical dose.

Language from FDA–approved product labels which meets the requirements of Section 25902 is quoted below:

Megestrol acetate

Cancer Endpoint

1. FDA–approved label Reference ID 3111413 (FDA, 2012)

Under WARNINGS: “(See **PRECAUTIONS: Carcinogenesis, Mutagenesis, Impairment of Fertility.**)” [emphasis in original]

Under PRECAUTIONS: Carcinogenesis, Mutagenesis, Impairment of Fertility: “Data on carcinogenesis were obtained from studies conducted in dogs, monkeys and rats treated with megestrol acetate at doses 53.2, 26.6, and 1.3 times *lower* than the proposed dose (13.3 mg/kg/day) for humans. No males were used in the dog and monkey studies. In female beagles, meges-

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25902.

³ See Health and Safety Code section 25249.8(b).

⁴ All referenced regulatory sections are from Title 27 of the Cal. Code of Regulations.

tol acetate (0.01, 0.1 or 0.25 mg/kg/day) administered for up to 7 years induced both benign and malignant tumors of the breast. In female monkeys, no tumors were found following 10 years of treatment with 0.01, 0.1 or 0.5 mg/kg/day megestrol acetate. Pituitary tumors were observed in female rats treated with 3.9 or 10 mg/kg/day of megestrol acetate for 2 years. The relationship of these tumors in rats and dogs to humans is unknown but should be considered in assessing the risk-to-benefit ratio when prescribing MEGACE Oral Suspension and in surveillance of patients on therapy. (See **WARNINGS.**)” [emphasis in original]

2. FDA-approved label Reference ID 3308551 (FDA, 2013)

Under Carcinogenesis, Mutagenesis, Impairment of Fertility: “Data on carcinogenesis were obtained from studies conducted in dogs, monkeys and rats treated with megestrol acetate at doses up to 0.01 to 0.1-fold the recommended clinical dose (13.3 mg/kg/day) based on body mass. No males were used in the dog and monkey studies. In female beagles, megestrol acetate (0.01, 0.1 or 0.25 mg/kg/day) administered for up to 7 years induced both benign and malignant tumors of the breast. In female monkeys, no tumors were found following 10 years of treatment with 0.01, 0.1 or 0.5 mg/kg/day megestrol acetate. Pituitary tumors were observed in female rats treated with 3.9 or 10 mg/kg/day of megestrol acetate for 2 years. The relationship of these tumors in rats and dogs to humans is unknown but should be considered in assessing the risk-to-benefit ratio when prescribing Megace[®] ES oral suspension and in surveillance of patients on therapy.”

Request for comments: OEHHA is requesting comments as to whether this chemical meets the criteria set forth in the Proposition 65 regulations for listings via the formally required to be labeled or identified mechanism (Section 25902). Because these are ministerial listings, comments should be limited to whether FDA requires that megestrol acetate be labeled to communicate a risk of cancer or tumors. OEHHA cannot consider scientific arguments concerning the weight or quality of the evidence considered by FDA when it established the labeling requirement and will not respond to such comments if they are submitted.

In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Monday, March 10, 2014.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65PublicComments@oehha.ca.gov. Please include “megestrol acetate” in the subject line. Comments sub-

mitted in paper form may be mailed, faxed, or delivered in person to the address below.

Mailing Address: Ms. Cynthia Oshita
Office of Environmental
Health Hazard Assessment
P.O. Box 4010, MS-19B
Sacramento, California
95812-4010
Fax: (916) 323-2265
Street Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Ms. Oshita at cynthia.oshita@oehha.ca.gov or at (916) 445-6900.

References

Food and Drug Administration (FDA, 2012). FDA-approved drug label, Reference ID 3111413, approved 4-08-2012. Available at http://www.accessdata.fda.gov/drugsatfda_docs/label/2012/020264s0171bl.pdf.

Food and Drug Administration (FDA, 2013). FDA-approved drug label, Reference ID 3308551, approved 5-14-2013. Available at http://www.accessdata.fda.gov/drugsatfda_docs/label/2013/021778s0161bl.pdf.

**OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE OF INTENT TO LIST:
NITRITE IN COMBINATION WITH AMINES
OR AMIDES**

February 7, 2014

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) intends to list *nitrite in combination with amines or amides* as known to the State to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ This action is being proposed under the authoritative bodies listing mechanism.²

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.

Chemical	Endpoint	Reference	Occurrence and Uses
Nitrite in combination with amines or amides	Cancer	IARC (2010)	<p>Nitrite is a natural constituent of fresh produce, including spinach and celery, and of fresh uncured meats.</p> <p>Nitrite salts are used to cure meats and meat products, and are used in brines to cure some fish and poultry products.</p> <p>Amines are organic compounds that contain a basic nitrogen atom with a lone electron pair; examples include amino acids, the building blocks of protein, and biogenic amines like histamine.</p> <p>Amides are organic compounds that can be formed from amines, and contain a nitrogen atom and an oxygen atom; examples include proteins.</p>

Background on listing via the authoritative bodies mechanism: A chemical must be listed under the Proposition 65 regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing cancer (Section 25306(d)³).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(e)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(f)).

The International Agency for Research on Cancer (IARC) is one of several institutions designated as authoritative for the identification of chemicals as causing cancer (Section 25306(m)).

OEHHA is the lead agency for Proposition 65 implementation. After an authoritative body has made a determination about a chemical, OEHHA evaluates

whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA’s determination: *Nitrite in combination with amines or amides* meets the criteria for listing as known to the State to cause cancer under Proposition 65, based on findings of the IARC (2010).

Formal identification and sufficiency of evidence for nitrite in combination with amines or amides: In 2010, IARC published Volume 94 in the series *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, entitled Ingested Nitrate and Nitrite, and Cyanobacterial Peptide Toxins* (IARC, 2010). This report satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations for *nitrite in combination with amines or amides*.

IARC concluded “There is *sufficient evidence* in experimental animals for the carcinogenicity of nitrite in combination with amines or amides” (emphasis in original). OEHHA is relying on IARC’s discussion of data and conclusions in the report that nitrite in combination with amines or amides causes cancer in experimental animals. Evidence described in the report includes studies showing that nitrite in combination with amines or amides increased the incidences of malignant and combined malignant and benign tumors in multiple studies in rats:

“In many studies in rats, when sodium nitrite and specific secondary or tertiary amines or amides (e.g. morpholine, butylurea, disulfiram, aminopyrine, diphenhydramine, chlorpheniramine maleate, heptamethylemine hydrochloride, N,N-dimethyldodecylamine-N-oxide or bis(2-hydroxypropyl)-amine) were mixed in the diet or given in the drinking-water or by gastric intubation, an increased incidence of tumours, including benign and malignant oesophageal tumours, haemangiosarcomas, hepatocellular adenomas and carcinomas, lung squamous-cell carcinomas or benign and malignant nasal cavity tumours was observed. In some of these studies, at a constant level of sodium nitrite, the tumour incidence induced was directly related to the levels of amine. When the level of amine was kept constant, tumour yield was also directly related to the level of sodium nitrite. When pregnant rats were given ethylurea [*an amide*] and sodium nitrite in the drinking-water, neurogenic tumours developed in the offspring.

A dose-related increase in the incidence of renal-cell carcinoma was observed when rats were administered nitrite in the drinking-water in combination with varying amounts of fishmeal [*a source of amines and amides*] in the diet. Levels of N-nitrosodimethylamine in the stomach contents also showed a dose-related increase.”

Thus, the IARC (2010) has found that nitrite in combination with amines or amides causes increased inci-

³ All referenced sections are from Title 27 of the Cal. Code of Regulations.

dence of malignant and combined malignant and benign tumors at multiple sites in multiple studies in rats.

Request for comments: OEHHA is requesting comments as to whether *nitrite in combination with amines or amides* meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings. In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Monday, March 10, 2014.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov with “NOIL — nitrite in combination with amines or amides” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
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Sacramento, California
95812-4010

Fax: (916) 323-2265

Street Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Ms. Oshita at cynthia.oshita@oehha.ca.gov or at (916) 445-6900.

References

International Agency for Research on Cancer (IARC, 2010). *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Volume 94, Ingested Nitrate and Nitrite, and Cyanobacterial Peptide Toxins*, IARC, World Health Organization, Lyon, France. Available at: <http://monographs.iarc.fr/ENG/Monographs/vol94/mono94.pdf>.

**OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE OF INTENT TO LIST:
BETA-MYRCENE**

February 7, 2014

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment

(OEHHA) intends to list the chemical beta-myrcene as known to the State to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ This action is being proposed under the authoritative bodies listing mechanism.²

Chemical (CASNo.)	Reference	Occurrence and Uses
beta-Myrcene (123-35-3)	NTP (2010)	Natural constituent of food plants, such as hop, bay, verbena, lemongrass, citrus, pomegranate, and carrot, and of their juices and essential oils. Also synthesized as a high production volume chemical used in the manufacture of alcohols, polymers and other chemicals. Also used as a flavoring agent in food and beverages, and as a fragrance in cosmetics, soaps, and detergents.

Background on listing via the authoritative bodies mechanism: A chemical must be listed under the Proposition 65 regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing cancer (Section 25306(d)³).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(e)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(f)).

The National Toxicology Program (NTP) is one of several institutions designated as authoritative for the identification of chemicals as causing cancer (Section 25306(m)). OEHHA is the lead agency for Proposition 65 implementation. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA’s determination: *Beta-Myrcene* meets the criteria for listing as known to the State to cause cancer under Proposition 65, based on findings of the NTP (NTP, 2010).

Formal identification and sufficiency of evidence for beta-myrcene: In 2010, the NTP published a report on beta-myrcene (β-myrcene), entitled *Toxicology and*

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.

³ All referenced sections are from Title 27 of the Cal. Code of Regulations.

Carcinogenesis Studies of β-Myrcene (CAS No. 123-35-3) in F344/N Rats and B6C3F1 Mice (Gavage Studies), that concludes that the chemical causes cancer (NTP, 2010). This report satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations.

OEHHA is relying on the NTP's discussion of data and conclusions in the report that beta-myrcene causes cancer. The NTP (2010) states in the Conclusion section of the report's Summary (page 5):

"We conclude that β-myrcene caused kidney cancers in male rats and liver cancer in male mice. . ."

The NTP (2010) report states in the Conclusion section of the report's Abstract and main body of the report (pages 8 and 63):

"Under the conditions of these 2-year gavage studies, there was *clear evidence of carcinogenic activity* of β-myrcene in male F344/N rats based on increased incidences of renal tubule neoplasms. . ."

"There was *clear evidence of carcinogenic activity* of β-myrcene in male B6C3F1 mice based on increased incidences of hepatocellular adenoma, hepatocellular carcinoma, and hepatoblastoma."

Thus, the NTP (2010) has found that beta-myrcene causes increased incidences of combined malignant and benign kidney tumors in male rats and malignant and combined malignant and benign liver tumors in male mice.

Request for comments⁴: OEHHA is requesting comments as to whether beta-myrcene meets the criteria set forth in the Proposition 65 regulations for authoritative bodies listings. In order to be considered, **OEHHA must receive comments by 5:00 p.m. on Monday, March 10, 2014.** We encourage you to submit comments via e-mail, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov with "NOIL — beta-myrcene" in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

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Street Address: 1001 I Street
Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Ms. Oshita at cynthia.oshita@oehha.ca.gov or at (916) 445-6900.

References

NTP (2010). National Toxicology Program *Toxicology and Carcinogenesis Studies of β-Myrcene (CAS No. 123-35-3) in F344/N Rats and B6C3F1 Mice (Gavage Studies)*. Technical Report Series No. 557. NIH Publication No. 11-5898. U.S. Department of Health and Human Services, NTP, Research Triangle Park, NC. Available at http://ntp.niehs.nih.gov/ntp/htdocs/LT_rpts/TR557.pdf.

**OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE OF INTENT TO LIST:
ATRAZINE, PROPazine, SIMazine AND
THEIR CHLOROMETABOLITES DACT, DEA
AND DIA**

February 7, 2014

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemicals identified in the table below as known to the State to cause reproductive toxicity under the Safe Drinking Water and Toxic Enforcement Act of 1986.¹ This action is being proposed under the authoritative bodies listing mechanism.²

⁴ Note: OEHHA requested information relevant to the possible listing of beta-myrcene in a notice published in the *California Regulatory Notice Register* on February 10, 2012 (Register 2012, Vol. No. 6-Z). OEHHA received and has responded to those comments in a separate document.

¹ Commonly known as Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986 is codified in Health and Safety Code section 25249.5 *et seq.*

² See Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306.

Chemical	CAS No.	References	Chemical Use	Endpoints
Atrazine	1912-24-9	U.S. EPA (2002a; 2006 a,b)	Herbicides used to control broadleaf and grassy weeds on corn (field and sweet), guavas, macadamia nuts, sorghum, sugar cane and range grasses. Simazine is used extensively on grapes and tree fruits, especially citrus	Developmental toxicity
Propazine	139-40-2	U.S. EPA (2002a; 2005; 2006 a,b,c)		
Simazine	122-34-9	U.S. EPA (2002a; 2006 a,b,d)		
DACT (G-28273; 2,3-diamino-6-chloro-s-triazine)	3397-62-4	U.S. EPA (2002a,b; 2005; 2006 a,b,c,d)	Environmental breakdown product of propazine, simazine and atrazine	Female reproductive toxicity
DEA (G-30033; des-ethyl atrazine)	6190-65-4	U.S. EPA (2002a; 2005; 2006 a,b,c)		
DIA (G-28279; des-isopropyl atrazine)	1007-28-9	U.S. EPA (2002a; 2006 a,b,d)		

Background on listing via the authoritative bodies mechanism: A chemical must be listed under Proposition 65³ and its implementing regulations when two conditions are met:

- 1) An authoritative body formally identifies the chemical as causing reproductive toxicity (Section 25306(d)⁴).
- 2) The evidence considered by the authoritative body meets the sufficiency criteria contained in the regulations (Section 25306(g)).

However, the chemical is not listed if scientifically valid data which were not considered by the authoritative body clearly establish that the sufficiency of evidence criteria were not met (Section 25306(h)).

The U.S. Environmental Protection Agency (U.S. EPA) is one of several institutions designated as authoritative for the identification of chemicals as causing reproductive toxicity (Section 25306(l)).

OEHHA is the lead agency for Proposition 65 implementation. After an authoritative body has made a determination about a chemical, OEHHA evaluates whether listing under Proposition 65 is required using the criteria contained in the regulations.

OEHHA's determination: Atrazine, propazine, simazine and their chlorometabolites 2,3-diamino-

6-chloro-s-triazine (DACT), des-ethyl atrazine (DEA), and des-isopropyl atrazine (DIA) meet the criteria for listing as known to the State to cause reproductive toxicity under Proposition 65, based on findings of the U.S. EPA (2002a, 2002b, 2005, 2006a, 2006b, 2006c, 2006d), as outlined below.

Formal identification and sufficiency of evidence: OEHHA is relying on the U.S. EPA's conclusion that the triazine pesticides atrazine, propazine, simazine and their chlorometabolites DACT, DEA, and DIA cause developmental and reproductive effects through a common mechanism of toxic action. This conclusion meets the requirements of Section 26306(d)(1)⁵ and is made in a number of U.S. EPA documents, including:

- Triazine Cumulative Risk Assessment (U.S. EPA, 2006b)
- 2006 Decision Documents for Atrazine (U.S. EPA, 2006a)
- Atrazine. Toxicology Disciplinary Chapter for the Reregistration Eligibility Decision Document (Second revision) (U.S. EPA, 2002a)
- Memorandum on ATRAZINE/DACT — Fourth Report of the Hazard Identification Assessment Review Committee (U.S. EPA, 2002b)

³ Health and Safety Code section 25249.8(b).

⁴ All referenced sections are from Title 27 of the Cal. Code of Regulations.

⁵ "the chemical . . . is the subject of a report which is published by the authoritative body and which concludes that the chemical causes . . . reproductive toxicity".

- Reregistration Eligibility Decision Document for Simazine (U.S. EPA, 2006d)
- Propazine: Revised HED [Health Effects Division] Risk Assessment for the Tolerance Reassessment Eligibility Decision Document (TRED) (U.S. EPA, 2005)
- Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for Propazine (U.S. EPA, 2006c)

In addition, U.S. EPA established several reference doses (RfDs) on the basis of reproductive and developmental toxicity, relying on endpoints that included luteinizing hormone (LH) surge suppression and estrous cycle alterations and delayed ossification of certain cranial bones in fetuses. This also meets the requirements of Section 26306(d)(1)⁶.

Thus, the findings and regulatory actions in these documents satisfy the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations for listing these chemicals.

In several reports, U.S. EPA concluded that these three triazines and their chlorinated metabolites (DACT, DEA, DIA) cause developmental and reproductive toxicity and that these toxic effects are mediated through a common mechanism of action involving disruption of the hypothalamic–pituitary–gonadal (HPG) axis and suppression of luteinizing hormone (LH) surge. The conclusions in the U.S. EPA reports include the following:

Triazine Cumulative Risk Assessment (U.S. EPA, 2006b):

- “The underlying mechanism of the endocrine-related changes associated with atrazine and similar triazines is understood to involve a disruption of the hypothalamic–pituitary–gonadal (HPG) axis. . . . In particular, the triazine-mediated changes in the HPG relating to neuroendocrine and neuroendocrine-related developmental and reproductive toxicity are considered relevant to humans, and these adverse effects were identified as endpoints for the exposure scenarios selected for consideration in the quantitative cumulative assessment.” (p. 4)
- “Atrazine, Simazine, Propazine, and the metabolites Desethyl-s-atrazine (DEA), Desisopropyl-s-atrazine (DIA), and Diaminochlorotriazine (DACT) may be grouped together based on a common end-point (neuroendocrine and neuroendocrine-related

developmental, reproductive and carcinogenic effects) and a known mechanism of toxicity for this endpoint.” (p. 11)

- In concluding what the critical toxicological effects were for the “common mechanism group (CMG)” triazines (atrazine, simazine, propazine, DEA, DIA, DACT), U.S. EPA stated:

“Neuroendocrine effects are considered the critical endpoints for assessing the health effects of the CMG Triazines. The CMG triazines have been shown to lead to various endocrine-related changes as a result of an effect on the hypothalamic–pituitary–gonadal axis. The consequences of this action include a diminishment of hypothalamic gonadotrophin releasing hormone (GnRH) and norepinephrine levels. These triazines also increase dopamine level which can result in a diminished pituitary secretion of PRL [*prolactin*]. Therefore, the CMG triazines operate at the level of the hypothalamus. In both humans and rats, hypothalamic GnRH controls pituitary hormone secretion (e.g., luteinizing hormone and PRL).

The hypothalamic–pituitary axis is involved in the development of the reproductive system, and its maintenance and functioning in adulthood. Additionally, reproductive hormones modulate the function of numerous other metabolic processes (i.e., bone formation, and immune, central nervous system, and cardiovascular functions). Therefore, altered hypothalamic–pituitary function can potentially broadly affect an individual’s functional status and lead to a variety of health consequences.” (p. 22)

- The selected endpoints for cumulative risk assessment for the CMG triazines for dietary (drinking water) 90-day exposure scenarios was based on LH surge suppression and estrous cycle alterations. (p. 23)

Interim Reregistration Eligibility Decision for Atrazine (U.S. EPA, 2006a):

- “EPA has determined that the triazine pesticides (with a common mechanism group of atrazine, propazine, simazine and their chlorometabolites) have common mechanism of suppression of LH surge and consequent developmental and reproductive effects.” (p. 17)
- Developmental toxicity (“Delayed ossification of certain cranial bones in fetuses”) was the basis of the acute dietary reference dose (RfD) for atrazine and its chlorinated metabolites (p. 19).
- Attenuation of pre-ovulatory LH surge was the basis for the chronic RfD (p. 19).

⁶ “the chemical . . . has otherwise been identified as causing . . . reproductive toxicity by the authoritative body in a document that indicates that such identification is a final action”.

Reregistration Eligibility Decision Document for Simazine (U.S. EPA, 2006d):

- “After subchronic and chronic exposure to simazine, a variety of species were shown to exhibit neuroendocrine effects resulting in both reproductive and developmental consequences that are considered relevant to humans.” (p. 14)
- Increased incidence of fetal “unossified teeth, head, centra vertebrae, sternabrae, and also on rudimentary ribs” was the basis for simazine’s acute RfD for females ages 13–49. (p. 16)
- Estrous cycle alterations and LH surge suppression was the basis for RfDs for chronic dietary, incidental oral intermediate-term, and dermal and inhalation intermediate and long-term exposures. (pp. 16–17)

Report of the FQPA TRED for Propazine (U.S. EPA 2006c):

- “In a sub-chronic developmental study, incomplete or absent bone formation or ossification was observed in fetal rats following exposure of pregnant rats to propazine. These developmental effects are presumed to occur after a single exposure and are therefore appropriate for consideration in the acute exposure scenario for dietary risk from food. These adverse effects were the basis for identification of a developmental endpoint for acute dietary exposure to propazine in females ages 13 to 49.” (p. 3)
- “Propazine’s two chlorinated degradates, DEA and DACT, are considered to have toxicity equal to the parent compound in respect to their common neuroendocrine mechanism of toxicity.” (p. 4)

Propazine: Revised HED Risk Assessment for the TRED (U.S. EPA, 2005):

- Propazine and atrazine’s mechanism of toxicity “involves a central nervous system (CNS) toxicity, specifically, neurotransmitter and neuropeptide alterations at the level of the hypothalamus, which cause cascading changes to hormone levels, e.g., suppression of the luteinizing hormone surge prior to ovulation resulting in prolonged estrus in adult female rats (demonstrated with atrazine and propazine), and developmental delays, i.e., delayed vaginal opening and preputial separation in developing rats (studied in atrazine and propazine). These neuroendocrine effects are considered the primary toxicological effects of regulatory concern.” (p. 17)
- “Propazine is considered to be of equal potency to atrazine, simazine and the chlorinated degradates with respect to their common mechanism of toxicity, based on the available data on simazine and propazine, which indicate comparable

endocrine effects to atrazine. It was concluded that atrazine data can be used as bridging data for propazine because propazine, simazine and atrazine share a common mechanism of toxicity based on neuroendocrine effects, the database for propazine’s potential neuroendocrine effects is less robust than the atrazine database, particularly for the young, and neuroendocrine effects are the effects of primary regulatory concern.

Therefore, for endpoint selection, the team considered atrazine endocrine-related data for selection of endpoints for propazine. Atrazine’s neuroendocrine-related endpoints were selected for all risk assessment scenarios for propazine, except for the acute reference dose which was based on a study conducted with propazine which found developmental effect (incomplete ossification), the nature of which is not clearly linked to an endocrine mechanism.” (pp. 17–18)

OEHHA has reviewed the studies or study descriptions cited by the U.S. EPA (2002a,b, 2005, 2006a,b,c,d) as providing the basis for the Agency’s conclusions regarding the reproductive and developmental toxicity relative to the criteria in Section 25306(g). The criteria for listing atrazine, propazine, simazine and their chlorometabolites DACT, DEA, and DIA through the authoritative bodies mechanism as causing reproductive toxicity (female reproductive and developmental endpoints) have been met.

Request for comments: OEHHA is requesting comments as to whether these chemicals meet the criteria set forth in the Proposition 65 regulations for authoritative bodies listings.

In order to be considered, **comments must be received by OEHHA by 5:00 p.m. on Monday, March 10, 2014.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov with “NOIL — triazines” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita
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Sacramento, California 95814

Comments received during the public comment period will be posted on the OEHHA web site after the close of the comment period.

If you have any questions, please contact Ms. Oshita at Cynthia.Oshita@oehha.ca.gov or at (916) 445-6900.

References

U.S. Environmental Protection Agency (U.S. EPA, 2002a). Atrazine (PC Code: 080803). Toxicology Disciplinary Chapter for the Reregistration Eligibility Decision Document (Second Revision). April 11, 2002.

U.S. Environmental Protection Agency (U.S. EPA, 2002b). Office of Pesticide Programs. Special Docket for Pesticide Reregistration Risk Assessments. Memorandum on ATRAZINE/DACT — Fourth Report of the Hazard Identification Assessment Review Committee. TXRNO. 0050592.

U.S. Environmental Protection Agency (U.S. EPA, 2005). Propazine: Revised HED Risk Assessment for the Tolerance Reassessment Eligibility Decision (TRED) which includes a New Use on Grain Sorghum. PC Code: 080808, DP Barcode: D323271 Memorandum from J. Morales et al. Office of Pesticide Programs and Toxic Substances (OPPTS) Health Effects Division to D. Sherman OPPTS, December 13, 2005.

U.S. Environmental Protection Agency (U.S. EPA, 2006a). Decision Documents for Atrazine. U.S. EPA Office of Prevention, Pesticides and Toxic Substances. Available at http://www.epa.gov/pesticides/reregistration/REDs/atrazine_combined_docs.pdf.

U.S. Environmental Protection Agency (U.S. EPA, 2006b). Triazine Cumulative Risk Assessment (March 28, 2006). Available at http://www.epa.gov/pesticides/cumulative/common_mech_groups.htm#triazine.

U.S. Environmental Protection Agency (U.S. EPA, 2006c). Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for Propazine. U.S. EPA Office of Prevention, Pesticides and Toxic Substances, EPA 738-R-06-009. Available at http://www.epa.gov/opp00001/reregistration/status_page_p.htm.

U.S. Environmental Protection Agency (U.S. EPA, 2006d). Reregistration Eligibility Decision Document for Simazine. U.S. EPA Office of Prevention, Pesticides and Toxic Substances. EPA 738-R-06-008. Available at http://www.epa.gov/opp00001/reregistration/status_page_s.htm.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE OF INTENT TO LIST PULEGONE BY THE LABOR CODE MECHANISM

February 7, 2014

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) intends to list the chemical identified in the table below as known to the State to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986. The Act, commonly known as Proposition 65, is codified in Health and Safety Code section 25249.5 *et seq.* This action is being taken pursuant to the Labor Code mechanism contained in Health and Safety Code section 25249.8(a). OEHHA has determined that pulegone meets the criteria for listing by this mechanism.

Chemical	CASNo.	Endpoint	Reference
Pulegone ¹	89-82-7	Cancer	IARC (2013) Grosse <i>et al.</i> (2013)

¹ Pulegone is a natural constituent of various plants, including mint and other herbs, and of their essential oils.

Background on listing by the Labor Code mechanism:

Labor Code: Health and Safety Code section 25249.8(a) incorporates California Labor Code sections 6382(b)(1) and 6382(d) into Proposition 65. The law requires that certain substances identified by the International Agency for Research on Cancer (IARC) be

listed as known to cause cancer under Proposition 65. Labor Code section 6382(b)(1) refers to substances identified as human or animal carcinogens by IARC. Labor Code section 6382(d) refers to chemicals that are within the scope of the federal Hazard Communications Standard. The Federal Hazard Communications Standard¹ requires chemical manufacturers and employers to provide Safety Data Sheets (SDS) with hazardous chemicals. One of the mandatory requirements for the SDS is to disclose in Section 11 (the “toxicological information” section), “whether the hazardous chemical . . . has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest edition) . . .”. An explanation of the carcinogenicity classifications used by IARC, and the *Monographs* development and peer review by the international Working Groups of scientific experts convened by IARC, may be found at the following URL: <http://monographs.iarc.fr/ENG/Preamble/CurrentPreamble.pdf>.

As the lead agency for the implementation of Proposition 65, OEHHA evaluates whether chemical listings are required by Proposition 65.

OEHHA’s determination: *Pulegone* meets the requirements for listing as known to the state to cause cancer for purposes of Proposition 65 under the Labor Code listing mechanism.

IARC has published on its website a list entitled “Agents Classified by the IARC Monographs, Volume 1–108” (IARC, 2013). IARC concludes that *pulegone* is classified in Group 2B (the agent is “possibly carcinogenic to humans”). IARC concludes that there is “sufficient evidence of carcinogenicity in experimental animals” for *pulegone* (Grosse *et al.*, 2013).

Opportunity for comment: OEHHA is providing this opportunity to comment as to whether the chemical identified above meets the requirements for listing as causing cancer specified in Health and Safety Code section 25249.8(a) and Labor Code sections 6382(b)(1) or 6382(d) or both. Because this is a ministerial listing, comments should be limited to whether IARC has identified the specific chemical or substance as a known or potential human or animal carcinogen. Under this listing mechanism, OEHHA cannot consider scientific arguments concerning the weight or quality of the evidence considered by IARC when it identified this chemical and will not respond to such comments if they are submitted.

OEHHA must receive comments by 5:00 p.m. on Monday, March 10, 2014. We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.Comments@oehha.ca.gov, and

should include “Pulegone NOIL” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the address below.

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Sacramento, California 95814

Any public comments received will be posted after the close of the comment period. If you have any questions, please contact Ms. Oshita at Cynthia.Oshita@oehha.ca.gov or at (916) 445–6900.

References

Grosse Y, Loomis D, Lauby–Secretan B, El Ghissassi F, Bouvard V, Benbrahim–Tallaa L, Guha N, Baan R, Mattock H, Straif K, on behalf of the International Agency for Research on Cancer Monograph Working Group. (2013). Carcinogenicity of some drugs and herbal products. *The Lancet Oncology*. Published online July 5, 2013, doi: 10.1016/S1470–2045(13)70329–2. [URL: <http://www.thelancet.com/journals/lanonc/article/PIIS1470–2045%2813%2970329–2/fulltext>].

International Agency for Research on Cancer (IARC, 2013). Agents Classified by the IARC Monographs, Volumes 1–108. Available at URL: <http://monographs.iarc.fr/ENG/Classification/ClassificationsAlphaOrder.pdf> [Accessed July 16, 2013].

**OAL REGULATORY
DETERMINATION**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATION
(Summary Disposition)**

(Pursuant to Government Code Section 11340.5
and
Title 1, section 270, of the
California Code of Regulations)

The attachments are not being printed for practical reasons or space considerations. However, if you would

¹ Title 29, Code of Federal Regulations, section 1910.1200.

like to view the attachments please contact Margaret Molina at (916) 324-6044 or mmolina@oal.ca.gov.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: January 21, 2014
To: Alfonso Garcia
From: Chapter Two Compliance Unit
Subject: **2014 OAL DETERMINATION NO. 1(S)**
(CTU2013-1202-01)
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))
Petition challenging as an underground regulation Operations Procedure No. 257; Debriefing Program/Phase I and Phase II

On December 2, 2013, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether the rules contained in Operations Procedure No. 257, Debriefing Program/Phase I and Phase II (OP 257), dated March 2013, constitute underground regulations. In particular, you were concerned with the double ceiling rule on page three. OP 257 was issued by the warden at the California State Prison-Corcoran and is attached hereto as Exhibit A. OP 257 is part of a Debriefing Program administered by California State Prison-Corcoran pursuant to a Pilot Program for Security Threat Group Identification, Prevention, and Management. The Pilot Program was duly adopted and filed with the Secretary of State on October 18, 2012. It is found in the California Code of Regulations at title 15, section 3999.13.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant

to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

- (1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a "local rule" adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rules challenged by your petition were issued by California State Prison-Corcoran and apply

² Such a rule is called an "underground regulation" as defined in California Code of Regulations, title 1, section 250, subsection (a):

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

¹"Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

solely to the inmates of the California State Prison—Corcoran in implementation of the Pilot Program. It is the local implementation of a duly adopted Pilot Program. Inmates housed at other institutions are governed by those other institutions’ implementation criteria. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

Also, please note that California Code of Regulations, title 15, section 3269, directly addresses the issue of “double ceiling” and Inmate Housing Assignments. It states in part:

Inmates shall accept Inmate Housing Assignments (IHAs) as directed by staff. It is the expectation that all inmates double cell, whether being housed in a Reception Center, General Population (GP), an Administrative Segregation Unit (ASU), a Security Housing Unit (SHU), or specialty housing unit. If staff determines an inmate is suitable for double ceiling, based on the criteria as set forth in this section, the inmate shall accept the housing assignment or be subject to disciplinary action for refusing. IHAs shall be made on the basis of available documentation and individual case factors. Inmates are not entitled to single cell assignment, housing location of choice, or to a cellmate of their choice.

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/
Debra M. Cornez
Director

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

- (f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.
- (2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:
 - (A) The challenged rule has been superseded.
 - (B) The challenged rule is contained in a California statute.
 - (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
 - (D) The challenged rule has expired by its own terms.
 - (E) **An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** (Emphasis added.)

/s/
Elizabeth A. Heidig
Senior Counsel

Copy:
Dr. Jeffrey Beard
Tim Lockwood

DISAPPROVAL DECISION

Printed below is the summary of an Office of Administrative Law disapproval decision. The full text of the disapproval decision is available at www.oal.ca.gov under the “Publications” tab. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814–4339, (916) 323–6225 — FAX (916) 323–6826. Please request by OAL file number.

VETERINARY MEDICAL BOARD

State of California
Office of Administrative Law

In re:
Veterinary Medical Board
Regulatory Action: Title 16,
California Code of Regulations
Adopt sections: 2064, 2066, 2066.1
Amend sections: 2065, 2065.5, 2065.6, 2065.7,
2065.8, 2065.8.1, 2065.8.2, 2065.8.3, 2065.9.

**DECISION OF DISAPPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

OAL File No. 2013–1205–02S

DECISION SUMMARY

On December 5, 2013, the Veterinary Medical Board (Board) submitted to the Office of Administrative Law (OAL) the proposed adoption of sections 2064, 2066, and 2066.1 and the proposed amendment of sections 2065, 2065.5, 2065.6, 2065.7, 2065.8, 2065.8.1, 2065.8.2, 2065.8.3 and 2065.9 in Article 6 of Division 20 of Title 16 of the California Code of Regulations (CCR) regarding registered veterinary technician school approval.

On January 21, 2014, OAL notified the Board that OAL disapproved the proposed adopted and amended

regulations for failure to comply with specified standards and procedures of the California Administrative Procedure Act (APA). The reasons for the disapproval are summarized below:

- A. the proposed regulations fail to comply with the necessity standard of Government Code sections 11349(a), 11349.1(a)(1) and 11346.2(b)(1) and Title 1 CCR section 10(b);
- B. the proposed regulations fail to comply with the clarity standard of Government Code sections 11349(c) and 11349.1(a)(3); and
- C. the agency failed to comply with various procedural requirements of the Administrative Procedure Act and its implementing regulations regarding:
 - (1) the failure to include in the record minutes of the public hearing that fully and accurately reflected all proceedings applicable to the rulemaking action;
 - (2) the failure to include in the record an estimate of the fiscal effect on local government of reasonable compliance with the regulations;
 - (3) the failure to include in the record a copy of all public comment letters;
 - (4) the failure to use underline and strikeout to indicate additions to and deletions from the CCR;
 - (5) the failure of the Informative Digest to include a concise and clear summary of the effect of the proposed amendments to sections 2065(b), (b)(5), (b)(11), (b)(14), (b)(16), (t)(2), (g), (i), and (k), and the proposed adoption of sections 2065.6(c), 2066(b), and 2066.1;
 - (6) the failure to include in the record an accurate statement of mailing of the notice of the proposed action;
 - (7) the failure to include in the record an economic impact assessment of the proposed amendments to sections 2065(b), (b)(5), (b)(11), (b)(14), (b)(16), (f)(2), (g), (i), and (k), and the proposed adoption of sections 2065.6(c), 2066(b), and 2066.1;
 - (8) the failure of the Initial Statement of Reasons to include factual support for the Board's initial determination that the proposed amendments to sections 2065(b), (b)(5), (b)(11), (b)(14), (b)(16), (f)(2), (g), (i), and (k), and the adoption of proposed sections 2065.6(c), 2066(b), and 2066.1 will not have a significant adverse economic impact on business;
 - (9) the failure to include in the record confirming statements regarding the mailing, if any, of the agency's notices of availability of modified text and of documents added to the rulemaking file; and

- (10) the failure of the agency to transmit to the OAL the text of proposed section 2066(a) as modified by the Board in this rulemaking proceeding.

All issues must be resolved prior to OAL approval of any resubmission of these regulations. Upon resubmission, OAL reserves the right to review these regulations for compliance with all standards of Government Code 11349.1(a) and all procedural requirements of the APA.

CONCLUSION

For the foregoing reasons, OAL disapproves the above-referenced rulemaking action. Pursuant to Government Code section 11349.4(a), the Board may re-submit revised regulations within 120 days of the Board's receipt of this Decision of Disapproval. The Board shall make all substantial regulatory text changes which are sufficiently related to the original text, and all documents added to the rulemaking file upon which it relied in proposing this action, available for at least 15 days for public comment pursuant to Government Code section 11346.8 or 11347.1, as the case may be.

Date: January 28, 2014

Dale Mentink
Senior Counsel

Original: Susan Geranen
Copy: Karen Robison

<p>AVAILABILITY OF INDEX OF PRECEDENTIAL DECISIONS</p>

CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF AVAILABILITY OF PRECEDENTIAL DECISIONS AND DECISION INDEX

Re: Government Code section 11425.60, subdivision (c).

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission), pursuant to the requirements of section 11425.60 of the Government Code, maintains an index of precedential decisions. The index is available to the public by annual email subscription from the Commission. The index and the text of the precedent decisions can be viewed, by appointment, at the Commission's office below. For subscription or additional information, or to schedule an appointment to view precedent decisions, contact:

Russell Johnson, Staff Counsel
 Legal Division
 California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220
 Sacramento, California 95833-4231
 Telephone: (916) 263-1523
 Facsimile: (916) 263-1365
 E-Mail: rjohnson@cgcc.ca.gov

The index and text of the precedential decisions also can be viewed on the Internet at [http://www.cgcc.ca.gov/?pageID=Precedential Decisions&pageName=Laws%20and%20Regs](http://www.cgcc.ca.gov/?pageID=Precedential%20Decisions&pageName=Laws%20and%20Regs), under the section entitled "Precedential Decisions."

<p>SUMMARY OF REGULATORY ACTIONS</p>

**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.

File# 2013-1210-05
BOARD OF PILOT COMMISSIONERS
 Pilot Fitness Regulations

In this rulemaking action, the Board of Pilot Commissioners is repealing section 217 of title 7 of the California Code of Regulations relating to medical examinations determining the fitness for duty of pilots, inland pilots, or pilot trainees. The Board is further adopting new provisions to replace this repealed section 217 with regulations that govern medical assessments of pilots and pilot trainees in more detail. It also removes references to the term "inland pilot," replaces references to absence from duty due to "illness," "sickness" or "injury" with the term "medical reason" or "medical condition," and adds several drugs to a list of drugs that pilots and pilot trainees are required to be tested for.

Title 7
 California Code of Regulations
 ADOPT: 217, 217.5, 217.10, 217.15, 217.20, 217.25, 217.30, 217.35, 217.40, 217.45 AMEND: 202, 216, 218, 219, 221 REPEAL: 217
 Filed 01/24/2014
 Effective 04/01/2014

Agency Contact:
 Amanda Esquivias (916) 324-7514

File# 2013-1218-03
CALIFORNIA EARTHQUAKE AUTHORITY
 Conflict-of-Interest Code

This is a Conflict-of-Interest Code filing that has been approved by FPPC and is being submitted for filing with the Secretary of State and printing only.

Title 2
 California Code of Regulations
 AMEND: 56800
 Filed 01/27/2014
 Effective 02/26/2014
 Agency Contact: Niel Hall (916) 325-3800

File# 2014-0124-02
CALIFORNIA ENERGY COMMISSION
 Conflict-of-Interest Code

This a Conflict-of-Interest Code filing that has been approved by FPPC and is being submitted for filing with the Secretary of State and printing only.

Title 20
 California Code of Regulations
 AMEND: 2401, 2402
 Filed 01/28/2014
 Effective 02/27/2014
 Agency Contact:
 Jennifer Martin-Gallardo (916) 651-3748

File# 2014-0108-01
**CALIFORNIA INSTITUTE FOR REGENERATIVE
 MEDICINE**
 IP Amendments

The California Institute for Regenerative Medicine (CIRM) amended four sections under title 17 of the California Code of Regulations that pertain to intellectual property rights and revenue sharing requirements for non-profit and for-profit grantees of CIRM-funded projects. The amendments refine existing procedures and requirements related to the use of CIRM research funds and exploitation of CIRM-funded intellectual property.

Title 17
 California Code of Regulations
 AMEND: 100600, 100601, 100602, 100608
 Filed 01/27/2014
 Effective 01/27/2014
 Agency Contact: C. Scott Tocher (415) 396-9136

File# 2013-1211-02
**DEPARTMENT OF CORRECTIONS AND
 REHABILITATION**
 Initial Intake and County Reimbursements

This rulemaking by the Department of Corrections and Rehabilitation (CDCR) amends sections 3000 and 3075 of Title 15 of the California Code of Regulations to establish the responsibilities of both the CDCR and the counties in relation to the delivery of new commitment inmates to ensure that inmates are delivered as required by Penal Code section 4016.5. Additionally, the process is outlined in the event that the CDCR is unable to accept delivery of new commitment inmates.

Title 15
California Code of Regulations
AMEND: 3000, 3075
Filed 01/23/2014
Effective 01/23/2014
Agency Contact: Diane Hawkins (916) 322-8447

File# 2013-1218-01
DEPARTMENT OF DEVELOPMENTAL SERVICES
Regional Center Conflict-of-Interest Standards and Procedures

The Department of Developmental Services (Department) submitted this rulemaking action to make substantial amendments to title 17 conflict-of-interest regulations applicable to regional centers that provide services to the public under the Lanterman Developmental Disabilities Services Act. These regional centers are nonprofit entities that have both a statutory and contractual relationship with the Department under the act. The regulations establish criteria that constitute conflicts of interest, and standard reporting and monitoring requirements that pertain to regional center board members, executive directors, employees, and others acting on behalf of a regional center, as specified, that have decisionmaking or policymaking authority or authority to obligate a regional center's resources. The action implements recent changes in the Welfare and Institutions Code made in SB 74 (Stats. 2011, c. 9), and is intended to assure those that are subject to the regulations make decisions with respect to regional center transactions that are in the best interests of a regional center's consumers and families.

Title 17
California Code of Regulations
ADOPT: 54521, 54522, 54523, 54524, 54525, 54526, 54527, 54528, 54529, 54530, 54531, 54532, 54533, 54534, 54535 AMEND: 54500, 54505, 54520 REPEAL: 54521, 54522, 54523, 54524, 54525
Filed 01/28/2014
Effective 01/28/2014
Agency Contact: Christina Morales (916) 654-2685

File# 2014-0121-04
DEPARTMENT OF FOOD AND AGRICULTURE
Mediterranean Fruit Fly Interior Quarantine

This regulatory action establishes the process for adding and removing quarantine areas for the Mediterranean fruit fly.

Title 3
California Code of Regulations
AMEND: 3406(b)
Filed 01/27/2014
Effective 04/01/2014
Agency Contact: Stephen S. Brown (916) 654-1017

File# 2014-0107-04
DEPARTMENT OF FOOD AND AGRICULTURE
Caribbean Fruit Fly Eradication Area

This Certificate of Compliance establishes a Caribbean fruit fly eradication zone for the entire county of Los Angeles. (Previous OAL file #2013-0910-02E)

Title 3
California Code of Regulations
AMEND: 3591.11
Filed 01/23/2014
Effective 01/23/2014
Agency Contact: Stephen S. Brown (916) 654-1017

File# 2013-1230-02
DEPARTMENT OF INSURANCE
Workers' Compensation Classification/Rating Rules

This action amends the California Workers' Compensation Uniform Statistical Reporting Plan — 1995 and the California Workers' Compensation Experience Rating Plan — 1995. The plans are incorporated by reference in title 10, CCR, sections 2318.6 and 2353.1. These amendments are exempt from the APA process and OAL review under the "rate, price or tariff" exemption of GC 11340.9(g).

Title 10
California Code of Regulations
AMEND: 2318.6, 2353.1
Filed 01/28/2014
Effective 01/01/2015
Agency Contact: Christina Carroll (916) 492-3283

File# 2013-1230-01
DEPARTMENT OF INSURANCE
Workers' Compensation Classification/Rating Rules

This action makes amendments to the California Workers' Compensation Uniform Statistical Reporting Plan — 1995, the California Workers' Compensation Experience Rating Plan — 1995 and the Miscellaneous Regulations for the Recording and Reporting of Data. The plans are incorporated by reference in title 10,

CCR, sections 2318.6, 2353.1 and 2354. These amendments are exempt from the APA process and OAL review under the “rate, price or tariff” exemption of GC 11340.9(g).

Title 10
California Code of Regulations
AMEND: 2318.6, 2353.1, 2354
Filed 01/28/2014
Effective 01/01/2014
Agency Contact: Christina Carroll (916) 492-3283

File# 2013-1213-06
DEPARTMENT OF REHABILITATION
Client Assistance Program

This regulatory action repeals several sections regarding the Client Assistance Program (CAP) and makes other conforming changes. The Department of Rehabilitation is no longer the designated agency for the CAP.

Title 9
California Code of Regulations
ADOPT: 7005.5 AMEND: 7005 REPEAL: 7144, 7145, 7146, 7147
Filed 01/28/2014
Effective 01/28/2014
Agency Contact: Shelly Risbry (916) 445-4466

File# 2014-0109-03
STATE TEACHERS RETIREMENT SYSTEM
Conflict-of-Interest Code

This is a Conflict-of-Interest Code filing that has been approved by FPPC on December 24, 2013, and is being submitted for filing with the Secretary of State and printing only.

Title 5
California Code of Regulations
AMEND: 22000
Filed 01/23/2014
Effective 02/22/2014
Agency Contact: Jill E. Lukins (916) 414-1729

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN August 28, 2013 TO
January 29, 2014**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person

listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

11/21/13 ADOPT: 2002(c)(4), 2002(c)(5), 2002(c)(8)
10/29/13 ADOPT: 2000, 2001, 2002, 2003, 2004

Title 2

01/27/14 AMEND: 56800
01/21/14 AMEND: 1194
01/13/14 AMEND: 55300
12/23/13 ADOPT: 18950.2 AMEND: 18942, 18944, 18950, 18950.1, 18950.4 REPEAL: 18727.5, 18950.3
12/23/13 AMEND: 18351
12/02/13 ADOPT: 18417
11/19/13 ADOPT: 21001.1, 21001.2, 21001.3 AMEND: 21000, 21001, 21002, 21003, 21004, 21005, 21006, 21007 (re-numbered to 21004.5), 21008, 21009 (re-numbered to 21005.5)
11/04/13 AMEND: 1859.2, 1859.71, 1859.71.6, 1859.74.5, 1859.77.4, 1859.82, 1859.83
10/30/13 AMEND: 1859.76
10/25/13 ADOPT: 579.3, 579.21, 579.22, 579.25 AMEND: 579.2
10/03/13 AMEND: 18521.5
10/03/13 ADOPT: 18421.5
10/03/13 AMEND: 18239
10/03/13 AMEND: Amend and renumber sections: 7285.0 (11000), 7285.1 (11001), 7285.2 (11002), 7285.4 (11003), 7285.7 (11004), 7286.0 (11005), 7286.1 (11005.1), 7286.3 (11006), 7286.4 (11007), 7286.5 (11008), 7286.6 (11009), 7286.7 (11010), 7286.8 (11011), 7287.0 (11013), 7287.1 (11014), 7287.2 (11015), 7287.3 (11016), 7287.4 (11017), 7287.6 (11019), 7287.7 (11020), 7287.8 (11021), 7287.9 (11022), 7288.0 (11023), 7289.4 (11027), 7289.5 (11028), 7290.6 (11029), 7290.7 (11030), 7290.8 (11031), 7290.9 (11032), 7291.0 (11033), 7291.1 (11031), 7291.2 (11035), 7291.3 (11036), 7291.4 (11037), 7291.6 (11039), 7291.7 (11040), 7291.8 (11041), 7291.9 (11042), 7291.10 (11043), 7291.11 (11044), 7291.12 (11045), 7291.13 (11046), 7291.14 (11047), 7291.16 (11049), 7291.17 (11050), 7291.18 (11051), 7292.0 (11052), 7292.1 (11053), 7292.2 (11054), 7292.3

(11055), 7292.4 (11056), 7292.6
 (11058), 7293.0 (11059), 7293.1
 (11060), 7293.2 (11061), 7293.3(11062),
 7293.4 (11063), 7293.5 (11064), 7293.6
 (11065), 7293.7 (11066), 7293.8
 (11067), 7293.9 (11068), 7294.0
 (11069), 7294.1 (11070), 7294.2
 (11071), 7295.0 (11074), 7295.1
 (11075), 7295.2 (11076), 7295.3
 (11077), 7295.4 (11078), 7295.5
 (11079), 7295.6 (11080), 7295.7
 (11081), 7295.8 (11082), 7295.9
 (11083), 7296.0 (11084), 7296.1
 (11085), 7296.2 (11086), 7297.0
 (11087), 7297.1 (11088), 7297.2
 (11089), 7297.3 (11090), 7297.4
 (11091), 7297.5 (11092), 7297.6
 (11093), 7297.7(11094), 7297.9 (11096),
 7297.10 (11097), 7297.11 (11098), 8101
 (11099), 8102 (11100), 8102.5 (11101),
 8103 (11102), 8104 (11103), 8106
 (11104), 8107 (11105), 8109 (11107),
 8112 (11108), 8113 (11109), 8114
 (11110), 8115 (11111), 8117 (11113),
 8117.5 (11114), 8118 (11115), 8119
 (11116), 8120 (11117), 8200 (11118),
 8201 (11119), 8202 (11120), 8202.5
 (11121), 8203 (11122), 8205 (11124),
 8300 (11125), 8301 (11126), 8302
 (11127), 8303 (11128), 8310 (11130),
 8311 (11131), 8312 (11132), 8400
 (11133), 8401 (11134), 8402 (11135),
 8403 (11136), 8500 (11137), 8501
 (11138), 8503 (11140), 8504 (11141);
 Renumber sections: 7287.5 (11018),
 7288.1 (11024), 7288.2 (11025), 7288.3
 (11026), 7291.5 (11038), 7292.5
 (11057), 7294.3 (11072), 7294.4
 (11073),8108 (11106), 8116 (11112),
 8204 (11123), 8304 (11129), 8502
 (11139) REPEAL: 7285.3, 7285.5,
 7285.6, 7286.9, 7291.15, 7297.8, 7400,
 7401, 7402, 7403, 7404, 7405, 7406,
 7407, 7408, 7409, 7410, 7411, 7412,
 7413, 7414, 7415, 7416, 7417, 7418,
 7419, 7420, 7421, 7422, 7423, 7424,
 7425, 7426, 7427, 7428, 7429, 7430,
 7431, 7432, 7433, 7434, 7435, 7436,
 7437, 7438
 09/23/13 REPEAL: 58700
 09/23/13 REPEAL: 53200
 09/23/13 REPEAL: 53400
 09/23/13 REPEAL: 57100
 09/19/13 AMEND: 2970
 09/16/13 REPEAL: 56500

09/16/13 REPEAL: 59580
 09/12/13 REPEAL: 56400
 09/12/13 REPEAL: 52700
 09/12/13 REPEAL: 54500
 09/09/13 AMEND: 649.56

Title 3

01/27/14 AMEND: 3406(b)
 01/23/14 AMEND: 3591.11
 01/14/14 ADOPT: 1392.13
 01/09/14 AMEND: 1300, 1300.1, 1300.3,
 1300.11, 1300.12, 1300.13, 1300.14,
 1300.15 REPEAL: 1300.2, 1300.4
 12/16/13 AMEND: 3591.12(a) & (b)
 12/05/1 ADOPT: 1280, 1280.1, 1280.8, 1280.10
 AMEND: 1280.73
 11/25/13 AMEND: 3435(b)
 11/13/13 AMEND: 3700(c)
 11/07/13 AMEND: 3591.20(a)
 11/07/13 AMEND: 6512, 6513
 11/06/13 ADOPT: 1180.3.3, 1180.3.4, 1180.3.5,
 1180.3.6, 1180.3.7, 1180.3.8, 1180.3.9
 11/04/13 AMEND: 3591.6(a)
 10/21/13 AMEND: 1380.19(p)
 10/21/13 AMEND: 3701.1, 3701.2, 3701.3,
 3701.4, 3701.5, 3701.6, 3701.7
 10/14/13 AMEND: 3435(b)
 10/07/13 AMEND: 3435(b)
 09/30/13 AMEND: 3435(b)
 09/20/13 AMEND: 3435(b)
 09/12/13 ADOPT: 2320.3, 2320.4(a), 2320.4(b),
 2320.4(c), 2324, 2325 AMEND: 2302,
 2304, 2304(b)(1), 2304(d), 2322, 2322.3
 09/12/13 ADOPT: 3591.11
 09/10/13 AMEND: 3434(b), 3434(c)
 09/06/13 AMEND: 3589(a)

Title 4

01/21/14 ADOPT: 10170.1, 10170.2, 10170.3,
 10170.4, 10170.5, 10170.6, 10170.7,
 10170.8, 10170.9, 10170.10, 10170.11,
 10170.12, 10170.13, 10170.14, 10170.15
 12/26/13 ADOPT: 8034(d)
 12/24/13 AMEND: 8070, 8072
 12/23/13 AMEND: 5000, 5170, 5190, 5205, 5212,
 5230, 5250
 12/19/13 AMEND: 10325
 12/04/13 AMEND: 12200.20, 12220.20, 12480,
 12482, 12500, 12505, 12508 REPEAL:
 12488
 11/21/13 ADOPT: 7113, 7114, 7115, 7116, 7117,
 7118, 7119, 7120, 7121, 7122, 7123,
 7124, 7125, 7126, 7127, 7128, 7129
 11/21/13 AMEND: 1101, 1126, 1373.2, 1374,
 1374.2, 1374.3, 1383.2 REPEAL: 1370,
 1374.1

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10/28/13 AMEND: 4001
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