



California Regulatory Notice Register

REGISTER 2015, NO. 9-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

FEBRUARY 27, 2015

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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.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002–931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. “Periodicals Postage Paid in Saint Paul, MN.” **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. CALIFORNIA STATE
AUDITOR'S OFFICE**

**ADOPT SECTIONS 61100 TO 61140,
INCLUSIVE, REGARDING HIGH RISK
LOCAL GOVERNMENT AGENCY AUDIT
PROGRAM**

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the California State Auditor (State Auditor or office, as appropriate) is proposing to adopt the following sections in title 2, division 10 of the California Code of Regulations: 61100 to 61140.

A public hearing has been scheduled for April 13, 2015. The hearing will be held at the California State Auditor's Office located at 621 Capitol Mall, Suite 1200, Sacramento, California, beginning at 10 a.m. and ending at 12 noon.

Notice is also given that any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to:

Patti Alverson
California State Auditor's Office
Office of Legal Services
621 Capitol Mall, Suite 1200
Sacramento, CA 95814
E-mail: PattiA@auditor.ca.gov

All written comments must be received by the office no later than April 13, 2015, the final day of the written comment period, in order for the comments to be considered by the State Auditor.

Following the written comment period, the State Auditor may adopt the proposed regulations substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the State Auditor adopts the resulting regulations. A request for copies of any

modified regulations should be made to the contact person named above. The State Auditor will accept written comments on any modified regulations for 15 days after the date on which they are first made available to the public.

AUTHORITY AND REFERENCE

Pursuant to the authority vested in it by Government Code section 8546, and to implement, interpret, or make more specific Government Code section 8546.10, the office proposes to adopt the regulations identified under the heading Nature of Proceeding above.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Government Code section 8546.10 (as added by Assem. Bill No. 187 (2011–2012 Reg. Sess.), Stats. 2011, ch. 451, as subsequently amended by Stats. 2012, ch. 281) contains provisions that do the following:

- Authorize the State Auditor to establish a high risk local government agency audit program for the purpose of identifying, auditing, and issuing reports on any local government agency, including, but not limited to, any city, county, special district, or other publicly-created entity, whether created by the California Constitution or otherwise, that the State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.
- Authorize the State Auditor, in addition to identifying a local government agency as high risk on the basis of weaknesses identified in audit or investigative reports produced by the State Auditor, to consult with the State Controller, Attorney General, and other state agencies that have oversight responsibilities over any local government agency for the purpose of identifying local governments that are at high risk.
- Require the office of the State Auditor to be responsible for the state costs associated with the high risk local government agency audit program, to conduct the program as funds permit, and to conduct the program only to the extent that doing so does not interfere with duties related to mandated audits and requests from the Joint Legislative Audit Committee.
- Require the State Auditor to notify the Joint Legislative Audit Committee whenever he or she identifies a local government as being at high risk.

- Require the State Auditor to provide the Joint Legislative Audit Committee, at a public hearing of the committee, an annual update of all audits in progress.
- Require the State Auditor, if a local government agency has taken significant corrective measures for deficiencies identified by the State Auditor, to be removed from the high risk local government agency program.
- Require the State Auditor, notwithstanding other general requirements in law regarding the frequency of issuing government reports if the State Auditor establishes the high risk local government agency audit program, to issue audit reports at least once every two years with recommendations for improvements in the local government(s) identified.
- Require that audits conducted under Government Code section 8546.10 be approved by the Joint Legislative Audit Committee.

Proposed Regulations

Government Code section 8546.10 does not prescribe the specific criteria that will be used by the State Auditor to identify a local government as being at high risk. To implement Government Code section 8546.10 in a manner that furthers the intent of the California Legislature and that informs local governments and the general public regarding how a high risk local government agency audit program will operate, the proposed regulations will relate to the following subject areas:

- The definition of key terms, including the criteria and process that will be used to identify a local government agency as being at “high risk.”
- The manner in which the State Auditor will notify the Joint Legislative Audit Committee of a determination that a local government agency is at high risk.
- The requirements that will generally apply to all high risk local government audits, including how a local government may respond to audit recommendations made by the State Auditor.
- The manner in which a local government that has been designated as being at high risk will be removed from the high risk local government agency audit program.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to part 7 (commencing with § 17500) of division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

None.

COST OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

ECONOMIC IMPACT AFFECTING BUSINESS

The State Auditor has made an initial determination that this 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. The proposal does not affect small businesses as defined by Government Code section 11342.610.

ECONOMIC IMPACT ASSESSMENT

The State Auditor has made an initial determination that this proposed regulatory action 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.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

IMPACT ON SMALL BUSINESS

The determination that this proposal would not affect small business is based upon the fact that the proposed regulations implement provisions of Government Code section 8546.10 that addresses this issue of high-risk local government agencies. Based on the limited scope of these regulations, the State Auditor determined that

none of the proposed regulations have a significant adverse economic impact on business.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

The State Auditor conducted pre-rulemaking meetings with interested persons at the following dates and locations:

- July 14, 2014 (1400 K Street, Sacramento, California)—Daniel Carrigg, Legislative Director, League of California Cities.
- July 23, 2014 (1112 I Street, Sacramento, California)—Kyle Packham, Advocacy and Public Affairs Director, and Dorothy Holzem, Legislative Representative, California Special Districts Association.
- July 24, 2014 (1100 K Street, Sacramento, California)—Matt Cate, Executive Director, and Jean Hurst, Legislative Representative, California State Association of Counties.
- August 18, 2014 (1112 I Street, Sacramento, California)—Kyle Packham, Advocacy and Public Affairs Director, and Dorothy Holzem, Legislative Representative, California Special Districts Association; and numerous other representatives from special districts.
- October 1, 2014 (621 Capitol Mall, Sacramento, California)—Jean Hurst, Legislative Representative, and Jennifer Henning, Executive Director of the Litigation Coordination Program, California State Association of Counties; and numerous representatives from California counties.
- December 18, 2014 (621 Capitol Mall, Sacramento, California)—Daniel Carrigg, Legislative Director, and Michael Coleman, Fiscal Policy Advisor, League of California Cities.

ALTERNATIVES CONSIDERED

The State Auditor has determined that no reasonable alternative considered by the State Auditor or that has otherwise been identified and brought to the attention of the State Auditor 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 provisions of law.

CONTACT PERSON

Inquiries relating to this proposed action and written comments may be directed to:

Patti Alverson
California State Auditor's Office
621 Capitol Mall, Suite 1200
Sacramento, CA 95814
Telephone: (916) 445-0255
Fax: (916) 323-0913
E-mail: PattiA@auditor.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND INFORMATION

The State Auditor has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based, including the express terms. The rulemaking file is available for public inspection by making a request to the contact person listed above.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations may be obtained by making a request to the contact person listed above. These proposed regulations may also be viewed and downloaded from the State Auditor's Web site at www.auditor.ca.gov.

If there are substantial changes to the originally proposed regulations, these change(s) will be available for 15 days prior to adoption by the State Auditor. You will be able to obtain a copy of the change(s) by making a written request to the contact person listed above.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

The express terms, the final statement of reasons, and all the information upon which the proposed regulations are based will be contained in the final rulemaking file located at 621 Capitol Mall, Suite 1200, Sacramento, California 95814. The final rulemaking file will be available for public inspection by making a request to the contact person listed above. 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 listed herein.

WEB SITE ACCESS

Materials regarding this proposal can be found at www.auditor.ca.gov.

**TITLE 2. NATIVE AMERICAN
HERITAGE COMMISSION**

**NOTICE OF INTENTION TO AMEND THE
CONFLICT-OF-INTEREST CODE OF THE
NATIVE AMERICAN HERITAGE COMMISSION**

NOTICE IS HEREBY GIVEN that the Native American Heritage Commission, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendments to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Native American Heritage Commission proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment includes position(s) previously not included and makes other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than April 13, 2015, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than March 30, 2015, by contacting the Contact Person set forth below.

The Native American Heritage Commission has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Native American Heritage Commission has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.

3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Native American Heritage Commission must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Terrie L. Robinson, General Counsel
Native American Heritage Commission
1550 Harbor Blvd., Suite 100,
West Sacramento, CA 95691
(916) 373-3716
terrie.robinson@nahc.ca.gov

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

The Department of Food and Agriculture (Department) amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action which was effective on January 2, 2015. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than July 15, 2015.

This notice is being provided to be in compliance with Government Code Section 11346.4.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the

proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to Sara.Khalid@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on April 13, 2015. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Sara Khalid
 Department of Food and Agriculture
 Plant Health and Pest Prevention Services
 1220 N Street
 Sacramento, CA 95814
Sara.Khalid@cdfa.ca.gov
 916.654.1017
 916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (Food and Agricultural Code (FAC) Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322).

Anticipated Benefits from This Regulatory Action

Existing law, FAC Section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which she is directed or authorized to administer or enforce.

Existing law, FAC Section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC Section 5322, provides that the Secretary may establish, maintain, and enforce quaran-

tine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC Section 5321.

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

The amendment of this regulation benefits the citrus industries (nurseries, fruit growers, wholesalers, retailers, exporters) and the environment by having a quarantine program to prevent the artificial spread of ACP over long distances. Most all of the commercial citrus fruit and nursery stock production is located outside this proposed quarantine boundary area.

The national and international consumers of California citrus benefit by having high quality fruit available at lower cost. It is assumed that any increases in production costs will ultimately be passed on to the consumer.

The amendment of this regulation benefits homeowners who grow citrus for consumption and host material which is planted as ornamentals in various rural and urban landscapes.

FAC Section 401.5 states, “the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.” The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State.

Huanglongbing (HLB) is generally distributed in Florida due to ACP being generally distributed there. The University of Florida Institute of Food and Agricultural Sciences Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this regulation which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar effect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

There is no existing, comparable federal regulation or statute regulating the intrastate movement.

The Department considered any other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area, and the only State agency which can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it

is not inconsistent or incompatible with existing state regulations.

AMENDED TEXT

This emergency rulemaking action expanded the quarantine area for ACP into Fresno County by approximately 30 square miles. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area which would be under regulation is now approximately 51,217 square miles.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

Cost or savings in federal funding to the state: None.

The Department has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost impacts on a representative private person or business: Most businesses will not be affected. There are no citrus production nurseries in the affected area that will be impacted. There are no retail nurseries in the affected area. There are two citrus growers in the proposed area. There is no additional cost to growers who take their fruit to a packinghouse inside the current quarantine area. Growers choosing a packinghouse outside the quarantine area have three options: 1. Conduct pre-harvest treatments with an approved pesticide while fruit is still on the trees; 2. Field clean the fruit to remove leaves and stems during harvest; 3. Send the fruit to a packinghouse within the quarantine to be cleaned. Pre-harvest treatments cost growers approximately \$60 per acre and require the fruit to be covered with a tarp while in transit. Tarps range in price from \$2,500–\$3,000 a piece. Field cleaning the fruit will cost the grower approximately \$150–\$320 per acre depending on the citrus variety. Field cleaned fruit does not require a tarp for transport and can be moved within or from the quarantined area. Cleaning at a packinghouse within the quarantine will cost the grower approximate-

ly \$300–\$400 per acre and the fruit must remain within the quarantine area, although the loads do not need to be covered with a tarp. There are two citrus packing houses located within this quarantine area.

Based on the preceding above information, it was determined that due to the amendment of Section 3435(b), the agency is not aware of any cost impact on a representative business or private person. For the vast majority of businesses within the regulated area, no additional costs will be incurred.

Small Business Determination

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

The Department is not aware of any specific benefits the amendment of this regulation will have on worker safety or the health of California residents. The Department believes the amendment of this regulation benefits the welfare of California residents by protecting the economic health of the entire citrus industry. In 2010 the estimated value was \$2.1 billion for citrus fruit and \$28.5 million for citrus nursery stock without all the upstream buyers and downstream retailers included (*Reference: John Gilstrap of California Citrus Nursery Board for citrus nursery stock value and USDA–National Agricultural Statistics Service 2010 data for citrus fruit*). This is a needed source of revenue for the State’s economic health and this amendment will help protect this source of revenue.

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3435(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the FAC.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the FAC.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Sara Khalid, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: Sara.Khalid@cdfa.ca.gov. In her absence, you may contact Stephen Brown at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Sara Khalid.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture (Department) amended subsection 3435(b) of the regulations in

Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid (ACP) Interior Quarantine as an emergency action which was effective on January 26, 2015. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than July 27, 2015.

This notice is being provided to be in compliance with Government Code Section 11346.4.

PUBLIC HEARING

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to Sara.Khalid@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on April 13, 2015. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Sara Khalid
 Department of Food and Agriculture
 Plant Health and Pest Prevention Services
 1220 N Street
 Sacramento, CA 95814
Sara.Khalid@cdfa.ca.gov
 916.654.1017
 916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (Food and Agricultural Code (FAC) Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication

and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322).

Anticipated Benefits from This Regulatory Action

Existing law, FAC Section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which she is directed or authorized to administer or enforce.

Existing law, FAC Section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC Section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in FAC Section 5321.

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal. This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

The amendment of this regulation benefits the citrus industries (nurseries, fruit growers, wholesalers, retailers, exporters) and the environment by having a quarantine program to prevent the artificial spread of ACP over long distances. Most all of the commercial citrus fruit and nursery stock production is located outside this proposed quarantine boundary area.

The national and international consumers of California citrus benefit by having high quality fruit available at lower cost. It is assumed that any increases in production costs will ultimately be passed on to the consumer.

The amendment of this regulation benefits homeowners who grow citrus for consumption and host material which is planted as ornamentals in various rural and urban landscapes.

FAC Section 401.5 states, "the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state." The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State.

Huanglongbing (HLB) is generally distributed in Florida due to ACP being generally distributed there. The University of Florida Institute of Food and Agricultural Sciences Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this regulation which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar effect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

There is no existing, comparable federal regulation or statute regulating the intrastate movement.

The Department considered any other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area, and the only State agency which can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

AMENDED TEXT

This emergency rulemaking action expanded the quarantine area for ACP in the San Jose area of Santa Clara County by approximately 61 square miles. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area which would be under regulation is now approximately 51,278 square miles.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

Cost or savings in federal funding to the state: None.

The Department has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost impacts on a representative private person or business: Most businesses will not be affected. There are no citrus production nurseries in the affected area that will be impacted. There are six retail nurseries in the affected area. There is one citrus grower in the proposed area. There is no additional cost to growers who take their fruit to a packinghouse inside the current quarantine area. Growers choosing a packinghouse outside the quarantine area have three options: 1. Conduct pre-harvest treatments with an approved pesticide while fruit is still on the trees; 2. Field clean the fruit to remove leaves and stems during harvest; 3. Send the fruit to a packinghouse within the quarantine to be cleaned. Pre-harvest treatments cost growers approximately \$60 per acre and require the fruit to be covered with a tarp while in transit. Tarps range in price from \$2,500–\$3,000 a piece. Field cleaning the fruit will cost the grower approximately \$150–\$320 per acre depending on the citrus variety. Field cleaned fruit does not require a tarp for transport and can be moved within or from the quarantined area. Cleaning at a packinghouse within the quarantine will cost the grower approximately \$300–\$400 per acre and the fruit must remain within the quarantine area, although the loads do not need to be covered with a tarp. There are no citrus packing houses located within this quarantine area.

Based on the preceding above information, it was determined that due to the amendment of Section 3435(b), the agency is not aware of any cost impact on a representative business or private person. For the vast majority of businesses within the regulated area, no additional costs will be incurred.

Small Business Determination

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

The Department is not aware of any specific benefits the amendment of this regulation will have on worker safety or the health of California residents. The Department believes the amendment of this regulation benefits the welfare of California residents by protecting the economic health of the entire citrus industry. In 2010 the estimated value was \$2.1 billion for citrus fruit and \$28.5 million for citrus nursery stock without all the upstream buyers and downstream retailers included (*Ref-*

erence: John Gilstrap of California Citrus Nursery Board for citrus nursery stock value and USDA–National Agricultural Statistics Service 2010 data for citrus fruit). This is a needed source of revenue for the State’s economic health and this amendment will help protect this source of revenue.

ALTERNATIVES CONSIDERED

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

AUTHORITY

The Department proposes to amend Section 3435(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the FAC.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the FAC.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Sara Khalid, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, (916) 654–1017, FAX (916) 654–1018, E–mail: Sara.Khalid@cdfa.ca.gov. In her absence, you may contact Stephen Brown at (916) 654–1017. Questions regarding the substance of the proposed regulation should be directed to Sara Khalid.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed actions, has available all the

information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO ADD RULE 1891.1, PENALTY FOR POSSESSION OF ELECTRICAL DEVICE

The California Horse Racing Board (Board or CHRB) proposes to add the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

CHRB proposes to add Board Rule 1891.1, Penalty for Possession of Electrical Device. The proposed rule provides that any licensee found after a hearing before the Board to have violated, or conspired to violate, CHRB Rule 1890, Possession of Contraband, subsection (c), which refers to the possession of an electrical stimulating or shocking device commonly referred to as a battery, or any mechanical device, or any other appliance, used to affect the speed or actions of a horse, shall have his or her license revoked.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, April 16, 2015**, or as soon thereafter as business before the Board will permit, at the **Bay-view Lounge (Turf Club) at Golden Gate Fields, 1100 Eastshore Hwy, Berkeley, California**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. It is requested,

but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on April 13, 2015**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Nicole Lopes–Gravelly,
Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263–6397
Fax: (916) 263–6022
E–mail: nlgravelly@chr.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420, and 19440, Business and Professions Code. Reference Sections: 19460, and 19523, Business and Professions Code. Section 337f(a)(1), Penal Code.

Business and Professions Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific sections 19460 and 19523, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 gives the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held. Business and Professions Code section 19440 states that the Board shall have all powers necessary and proper to enable it to adopt rules and regulations for the protection of the public and the control of horse racing. Business and Professions Code section 19460 provides that all licenses granted by the Board are subject to all rules, regulations, and conditions prescribed by the Board. Business and Professions Code section 19523 gives the Board the authority to remove any employee for dishonest practices, failure to comply with conditions of license, or violation of a law or regulation. Penal Code section 337f(a)(1) defines the use of any device not generally accepted as regulation racing equipment, to stimulate or depress a horse, as a misdemeanor. Board Rule 1890, Possession of Contraband,

subsection (c) states that no person shall have in his possession, on the premises during any recognized meeting, any electrical stimulating or shocking device commonly known as a battery, or any mechanical stimulating device, or any other appliance, which might affect the speed or actions of a horse. Board Rule 1891, Seizure of Contraband, states that contraband defined in Rule 1890 will be confiscated from any person within the inclosure.

The Board proposes adding Rule 1891.1, Penalty for Possession of Electrical Device, providing penalty guidelines for violations of Rule 1890(c). The purpose for proposed Rule 1891.1, subsection (a) is to clarify that any complaint against a licensee for a violation of, or conspiring to violate, Rule 1890(c) shall be referred to the Board for hearing and adjudication. Board Rule 1765, Complaints, states that complaints are filed with the stewards, in writing by any person, alleging misconduct or a violation of Horse Racing Law by any licensee. Currently, the Board delegates to the stewards the responsibility of holding a hearing for any complaint of violation of Rule 1890(c). The steward's jurisdiction to suspend or fine is defined by Board Rule 1528, Jurisdiction of Stewards to Suspend or Fine. The Board, however, considers a violation of Rule 1890(c) to be so egregious that it wants all complaints of violation of Rule 1890(c) to be referred directly to the Board for hearing and adjudication. The purpose of including complaints against licensees "conspiring to violate, Rule 1890(c)" is to prevent owners, trainers, or other licensees from trying to influence jockeys or exercise riders to violate Rule 1890(c).

Proposed Rule 1891.1, subsection (b) states that any licensee found by the Board to have violated, or conspired to violate Rule 1890(c) shall have his or her license revoked. The Board is taking a zero tolerance position on any violation of Rule 1890(c). The purpose of subsection 1891.1(b) is to provide clarification on the consequences of a violation of Rule 1890(c). A license being revoked is the maximum penalty the Board can give. Having his or her license revoked prevents the licensee in violation of Rule 1890(c) from ever again participating in the horse racing industry in any way other than as a member of the public. Revoking the license helps to ensure against any chance of a repeat offense.

Proposed Rule 1891.1, subsection (c) states that a finding by the Board of a violation of Rule 1890(c) shall be referred to the district attorney for the county in which the violation occurred, citing California Penal Code section 337f(a)(1). The purpose of subsection (c) is to clarify that a violation of Rule 1890(c) is not only a violation within the horseracing industry; it is also a criminal offense. California Penal Code section 337f(a)(1) states that use of an electrical device is punishable by a fine not exceeding five thousand dollars, or

by imprisonment in a county jail not exceeding one year, or by both.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed addition of Rule 1891.1 promotes the safety and welfare of horse and rider by protecting the horse from inhumane and unethical treatment. The health and safety of a California race horse is put in jeopardy when an electrical stimulating or shocking device is used to affect the speed or actions of a horse. If the horses' health and safety are protected, the jockeys who ride the horses will have their health and safety protected as well. In addition, if jockeys are complying with the Board's rules, the public will have more confidence in California horse racing, which may result in increased wagering. An increase in wagering will have a positive economic impact on the industry by increasing handle, which in turn may increase purses and commissions. The proposed addition of Rule 1891.1 will promote the public's interest in a fair and honest race product.

The use of any device to encourage a horse, other than a riding crop as authorized and defined by CHRB Rule 1685, Equipment Requirement, is a practice that is both inhumane to the horse and unfair to the wagering public. Proposed Rule 1891.1, Penalty for Possession of Electrical Device, will deter licensees from violating Rule 1890(c) by making the maximum allowable punishment mandatory. By revoking the violator's license, the Board will prevent any chance of a repeat offense. The specific benefits anticipated from the regulation is increased safety for the horse and rider.

CONSISTENCY EVALUATION

During the process of developing this regulation, the CHRB conducted a search of similar regulations on this topic and concluded that this regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies and school districts: none.
Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed addition of Rule 1891.1 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 following studies/relevant data were relied upon in making the above determination: Report of violations of Board Rule 1890 from 1/1/2009 to 5/28/2014.

Cost impact on representative 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.

Significant effect on housing costs: none.

RESULT OF ECONOMIC IMPACT ANALYSIS

The adoption of the proposed addition of Rule 1891.1 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed addition of Rule 1891.1 promotes the safety and welfare of horse and rider by protecting the horse from inhumane and unethical treatment. The health and safety of a California race horse is put in jeopardy when an electrical stimulating or shocking device is used to affect the speed or actions of a horse. If the horses' health and safety are protected, the jockeys who ride the horses will have their health and safety protected as well. In addition, the proposed addition of Rule 1891.1 will promote the public's interest in a fair and honest race product.

Effect on small businesses: none. The proposal to add Rule 1891.1 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on 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.

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

proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Nicole Lopes-Gravelly,
Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: nlgravelly@chr.ca.gov

If the person named above is not available, interested parties may contact:

Andrea Ogden, Manager
Policy and Regulations
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting Nicole Lopes-Gravelly, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Nicole Lopes-Gravelly at the address stated above. The Board will accept written com-

ments on the modified regulation for 15 days after the date on which it is made available.

**AVAILABILITY OF FINAL STATEMENT
OF REASONS**

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Nicole Lopes-Gravely at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

**TITLE 8. OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

General Industry Safety Orders
Sections 3437, 3441 and 3664(b)

Agricultural Personnel Transport Carriers

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **April 16, 2015**, in the **Council Chambers of the Walnut Creek City Hall, 1666 N. Main Street, Walnut Creek, CA**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. The written comment period commences on **February 27, 2015** and closes at 5:00 p.m. on **April 16, 2015**. Comments re-

ceived after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

- By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or
- By fax at (916) 274-5743; or
- By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

On July 8, 2013, the Occupational Safety and Health Standards Board (Board) received a petition, from Wesley Selvidge, Partner, of Buttonwillow Land and Cattle Company requesting that the Board set standards for the entire farming community related to the use of agricultural tractors and Personnel Transport Carriers (PTCs). On July 11, 2013, the Board received a very similar petition request from Darren Filkins, of WM. Bolthouse Farms, Inc. Bolthouse Farms was added as a joint petitioner to Petition 536.

According to the Petitioners, prior to 2011, PTCs had been widely used for more than 25 years. These PTCs travelled through private farm roads and into the fields without a recorded incident. They are used to transport pipe-laying crews to the interior of agricultural fields for low-lying crops in order to access the main line as they install or remove lateral pipes. The use of PTCs was disallowed in 2011 when the Division of Occupational Safety and Health determined that the continued use of PTCs would be a violation of Title 8, Section 3441(a)(2)(B), as their use is considered to be riding on a tractor, which is expressly prohibited.

The purpose of this rulemaking is to provide alternate language that will allow the use of PTCs in level field row crop and irrigation operations, without compromising employee safety. This proposal will have the effect of reducing or averting heat stress induced illnesses and accidents. The use of PTCs alleviates the strenuous work of laying irrigation pipe by greatly reducing the amount of walking through soft or muddy soil during daylight hours under the sun.

To use a PTC, it must be attached to the rear of the tractor via three-point linkage, then a pipe trailer which

is used to load and unload irrigation pipes is attached by a single point hitch at the rear end of the PTC. The General Industry Safety Orders (GISO) Section 3441(a)(2)(B) does not permit riders on agricultural equipment (which includes tractors) other than persons required for instruction or assistance in machine operation. At first observation, the operation of a PTC appears similar to a personnel trailer used to move people around on a farm that is towed with a single-point hitch by a tractor, with the trailer having its own wheels. However, PTC passengers are not physically on or near the body of a tractor, but ride in a carrier that is attached to the rear end of the tractor by the tractor's three-point linkage which is controlled by a hydraulic power lift that can carry the PTC. A PTC does not have its own set of wheels and its operation has been interpreted by the Division as riding on the tractor.

The Board's Decision for Petition 536 directed staff to convene an advisory committee to consider the Petitioner's recommendations. The advisory committee was convened on May 21–22, 2014. The majority of the proposed text came from the conditions of a permanent variance (Grimmway Farms) regarding the use of the PTC. The proposed text was then modified through the careful consideration of the advisory committee. Although growers strongly supported the use of PTCs in farm production fields and for use on private farm roads to transport workers, there were concerns expressed by the Division and Labor such that a consensus to proceed with a rulemaking at this time permitting the use of PTCs on farm roads was premature pending further evaluation of PTC travel on farm roads. Therefore, the purpose for this rulemaking action is to provide safe operating standards for PTCs that may be used during irrigation operations in relatively level, low-lying row crop fields only.

This proposed rulemaking action is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

Federal OSHA has similar standards in 29 CFR 1928.57(a)(6)(ii) that do not permit riders on farm field equipment (including tractors) other than persons required for instruction or assistance in machine operation. Federal OSHA does not have an exception to their standard to address the use of PTCs as outlined in the State's proposal for Section 3441(a)(2)(B) "Exception." The irrigation of row crops with the use of PTCs

is unique to the irrigation methods used and the crops grown in the West Coast and the Southwest Coast of California. The proposal is necessary for California growers that have found this method of irrigating row crops an integral part of their production operations for decades. It is believed that the operation of PTCs at slow, controlled speeds on level fields with the design, training and operating conditions required in the proposal, provide equivalent safety to that of the federal standards.

Anticipated Benefits

Growers indicated that the use of PTCs significantly reduces the amount of fatigue and cumulative stress from the difficult and physically demanding walking required of irrigation workers through soft, cultivated fields during a typical work day. Riding in the PTC provides a brief rest period for field workers and also provides relief from potential heat stress while working in production areas subject to high temperatures that can exceed 100 degrees. Furthermore, utilizing one tractor to transport irrigation workers and the trailers which carry the piping necessary for irrigation activities reduces traffic and the need for multiple vehicles on the farm to perform irrigation operations.

The specific changes are as follows:

General Industry Safety Orders **Article 13. Agricultural Operations.**

Section 3437. Definitions.

Section 3437 provides definitions that are relevant to the provisions in Article 13 for agricultural operations. Several definitions are added for the purpose of providing clarity to the proposed standards in Section 3441(i) related to the use of PTCs.

Section 3441. Operation of Agricultural Equipment.

Section 3441 provides operational instructions and safe work practices for the operation and servicing of agricultural equipment. Existing subsection 3441(a)(2)(B) states that no riders are permitted on agricultural equipment other than persons required for the instruction or assistance in machine operation. An exception to this subsection is proposed in order to permit the use of PTCs in very limited circumstances (irrigation operations in low-lying row crop fields only) with specific conditions and limitations for use as outlined in proposed Section 3441(i).

Subsection (i) Tractor-Mounted Personnel Transport Carriers (PTCs).

Proposed subsection (i) provides requirements such as, but not limited to, PTC design and construction criteria, PTC operating conditions and specific limitations for use, inspections of equipment and employee training. Proposed subsections (i)(1)–(3) will have the effect

of providing the scope and general limitations for the use of PTCs. For example, employees may ride in PTCs only in the furrowed area of fields while performing irrigation activities and the slope of the fields where employees ride on a PTC must be relatively level not to exceed a 5% grade.

Subsection (i)(4) PTC Design and Construction.

Subsection (i)(4) requires that PTCs be approved for their intended use as provided in GISO Section 3206. Existing units built prior to the effective date of the proposal will require that a qualified person inspect and approve the PTC units for structural integrity and design prior to the units being placed into service. PTCs would be required to have approved seat belts and suitable steps and handholds for a three-point contact.

Furthermore, in addition to other requirements of subsection (i)(4), entry and exit openings must be protected and structural elements of the PTC must be constructed of steel. The design criteria and requirements outlined in subsection (i)(4) will have the effect of ensuring the structural integrity and safe operating features for PTCs.

Subsection (i)(5) Operating Conditions.

Subsection (i)(5) includes a number of requirements in order to address the safe operating conditions for the use of PTCs. For example, PTCs are limited to travel at slow speeds in accordance with field conditions not to exceed five miles per hour. Operating conditions prohibit the use of PTCs in hazardous locations or situations such as those outlined in subsections (i)(5)(G) and (H). Seat belts must be provided and used when the tractor is in motion.

Subsection (i)(6) Inspections.

Subsection (i)(6) provides that PTCs must be inspected daily in areas that may be subject to wear. A qualified person must ensure the PTC is in proper condition for use.

Subsection (i)(7) Training.

Training as outlined in proposed subsection (i)(7) is required for all employees involved in irrigation operations using PTCs, including tractor operators, at or prior to the employee's initial work assignment. The training provisions have the effect of ensuring that employees are instructed and familiar with the safe operation of PTCs.

General Industry Safety Orders

Article 25. Industrial Trucks, Tractors, Haulage Vehicles, and Earthmoving Equipment.

Section 3664 Operating Rules.

Existing Section 3664 provides that every employee who operates an agricultural or industrial tractor shall be instructed in the operating rules of this section and in

any other practices dictated by the work environment. In subsection (b), operating instruction number 6 prohibits riding on tractors. Section 3441(a)(2)(B) states that no riders are permitted on agricultural equipment in general, which includes tractors. An exception is provided for Section 3441(a)(2)(B) which permits the operation of PTCs in accordance with Section 3441(i). Therefore, it is necessary for consistency with proposed Section 3441(a)(2)(B) to propose a similar exception for Section 3664(b), instruction No. 6.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies and School Districts:

None.

Cost or Savings to State Agencies: None.

Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:

None.

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

Cost or Savings in Federal Funding to the State:

None.

Cost Impacts on a Representative Private Person Or Business:

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.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals, Including the Ability of California Businesses To Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The proposal gives the regulated public the option of following existing standards related to the transportation of workers on a private farm. However, an employer may opt to use PTCs in accordance with the proposal which would not result in significant or adverse costs. Consequently, there is no significant adverse economic impact associated with the proposal.

Significant Affect on Housing Costs: None.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. There are no costs to any local government or school district which must be reim-

bursed in accordance with Government Code Sections 17500 through 17630.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The small-scale grower producing less than \$250,000 in gross revenues has the option to comply with existing standards for the transportation of workers on the farm. Therefore, no adverse economic costs are imposed. Furthermore, for those small growers opting to use PTCs, it is estimated by stakeholders that the typical small-scale grower would own only one or two of these units. Most growers already own these units but they are currently prohibited from using them without a variance. The amendments for this rulemaking would permit the use of PTCs in accordance with proposal.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposal allows for compliance with existing regulations and does not preclude the employer's option to use traditional transportation vehicles such as trucks, vans, utility carts, all-terrain vehicles (ATVs) or other automotive vehicles to transport workers from one location to another location on farm roads or farm fields. However, growers affected by the proposal confirm that the use of traditional vehicles increases vehicular traffic (and the hazards associated with more traffic) on farms and is not as effective as using PTCs with the tractor and pipe trailer as one unit. In the absence of PTC use, some growers prefer that irrigation employees walk from point to point during the irrigation process, including walking back through soft, deep cultivated fields to continue loading or installing piping from one crop row to another. For a farmer/employer that elects to use PTCs in combination with tractors to transport workers, stakeholders (California Farm Bureaus and advisory committee members) indicate that the vast majority of growers already own PTCs that have been used extensively in past years until recent enforcement actions by the Division prohibited their use in 2011 without a variance. Up until 2011, the Division had not prohibited the use of PTCs and did not consider their use as riding on a tractor.

It is estimated that the typical grower owns approximately four to eight PTC units. In the event that new units are added, a one-time cost may be incurred to ensure that the PTC model being used by a specific grower is compliant with the approval requirements of the proposal regarding the structural integrity and design of the

PTC units. Therefore, it is not expected that there will be an adverse economic impact upon growers/employers that opt to use PTCs in their irrigation operations.

Based on the above, this rulemaking action will not impact the following:

- creation or elimination of jobs within the State of California,
- creation of new businesses or the elimination of existing businesses within the State of California,
- expansion of businesses currently doing business within the State of California.

BENEFITS OF THE PROPOSED ACTION

The proposal promotes worker safety in that the use of PTCs in irrigation operations significantly reduces the amount of fatigue and cumulative stress from the difficult and physically demanding walking required of irrigation workers through soft, cultivated fields during a typical work day. Riding in the PTC provides a brief rest period for field workers and also provides relief from potential heat stress while working in production areas subject to high temperatures that can exceed 100 degrees. In some cases, the increased walking would be required because workers would be walking through cultivated fields from the end of a row crop field back to the storage area for irrigation pipes instead of riding in the PTC.

Growers have the option to provide irrigation employees travel back to pipe storage areas with the use of traditional vehicles such as trucks, vans, utility carts and ATVs. However, growers indicate the additional vehicles create dust, use fuels and create hazards associated with increased traffic on farm roads. For example, ATVs are permitted for employee travel on farms and are widely used in agricultural operations but they also result in a high number of serious accidents. There have been no known records of injuries associated with the use of PTCs for decades.

Furthermore, utilizing one tractor to transport irrigation workers and the trailers which carry the piping necessary for irrigation activities reduces traffic and the need for multiple vehicles on the farm to perform irrigation operations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), 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 either be more effective in carrying out the purpose for which the action is proposed or would

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

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Marley Hart (Executive Officer) and the back-up contact person is Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulation available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and supporting documents. Copies may be obtained by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board 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 at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Hart or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 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 Ms. Hart or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

TITLE 13. CALIFORNIA HIGHWAY PATROL

CALIFORNIA CODE OF REGULATIONS,
DIVISION 2, CHAPTER 6
AMEND ARTICLE 1, SECTIONS 1150-1133

Explosives Routes and Stopping Places (CHP-R-2014-05)

The California Highway Patrol (CHP) proposes to amend regulations in Title 13 of the California Code of Regulations (CCR), related to designated routes, required inspection stops, inspection stops, safe stopping places, and safe parking places for the transportation of explosives.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CHP proposes to amend regulations in Title 13 CCR, Division 2, Chapter 6, Article 1, regarding designated routes and stops for the transportation of explosives.

Pursuant to Division 14, commencing with Section 31600, of the California Vehicle Code (CVC), the CHP shall adopt regulations specifying the routes to be used in the transportation of explosives. The CVC requires the CHP to keep information current in regulations with maps indicating clearly designated routes and a list of locations of required inspection stops, inspection stops, safe stopping places, and safe parking places. The CHP's field commands conduct annual surveys on the explosives routes and stops to determine if changes are necessary. The proposed amendments will not change

any explosives routes except indicating the restriction on transporting explosives through the newly constructed Tom Lantos Tunnels, and will only update the locations of required inspection stops, inspection stops, safe stopping places, and safe parking places to be used by carriers transporting explosives along the designated explosives routes and organize the updated information in a tabulated format for easier future update. These updates are mainly due to business closures or ownership changes.

After CHP field commands inspected the listed business locations of safe stopping and parking places, business owners expressed their willingness to provide their business location and services information in the CCR. Proposed changes received consultation and concurrence from the State Fire Marshal and the California Department of Transportation.

This proposed regulatory action will continue to provide a nonmonetary benefit to the protection of health and welfare of California residents, worker safety, and the state's environment because changes to the application of the regulation are not substantive, and bring the regulation in conformance with existing statute. Updating safe stops designated for carriers transporting explosives is clarifying in nature and all are for transportation safety and public health.

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

PUBLIC COMMENT

Any interested person may submit written comments on the proposed action via facsimile at (916) 322-3154, by electronic mail to cvsregs@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
Attention: Dr. Tian-Ting Shih
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 p.m., April 13, 2015.

PUBLIC HEARINGS

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS) no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text in strikeout and underline format. Requests to review or receive copies of this information should be directed to the CHP at the foregoing address, by facsimile at (916) 322-3154, or by calling the CHP, CVS at (916) 843-3400. Facsimile requests for information should include the following information: The title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a day-time telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, CVS, 601 B North 7th Street, Sacramento, CA 95811. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are available through the CHP's Web site at www.chp.ca.gov/regulations. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on the CHP Web site.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations or the substance of the proposed regulations should be directed to Dr. Tian-Ting Shih. The back up contact person for these inquiries is Sergeant Josh Clements, CHP, CVS at (916) 843-3400.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL IMPACT AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) will involve no nondiscretionary cost or savings to any local agency,

no cost to any local agency or school district for which Government Code Sections 17500–17630 require reimbursement, no cost or savings to any state agency, nor costs or savings in federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) 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.

Benefits of the Proposed Action: The proposed regulation updating safe stops designated for carriers transporting explosives will continue to provide benefits which include a nonmonetary benefit to the protection of public health and safety for residents and workers, and the protection to the environment by providing a regulatory basis for enforcement efforts as they relate to safety compliance ratings.

The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP 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 BUSINESSES

The CHP has determined the proposed regulatory action may affect small businesses. If a business can no longer meet the requirements for safety, they will be deleted from the list of safe stopping and safe parking places. However, due to the very limited amount of highway commercial vehicles transporting explosives on the designated routes in the state, no foreseeable economic impact is projected for the small business to be removed from the list.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or otherwise identified and brought to the attention of the CHP, 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 imple-

menting the statutory policy or other provision of law. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Sections 31611 and 31616, CVC.

REFERENCE

This action implements, interprets, or makes specific Sections 31303, 31304, 31601, 31602, 31607, 31611, 31614, and 31616, CVC.

TITLE 18. BOARD OF EQUALIZATION

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1591, Medicines and Medical Devices

NOTICE IS HEREBY GIVEN that 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) 1591, *Medicines and Medical Devices*. The proposed amendments clarify Regulation 1591, subdivision (a)(9), by providing that products approved by the United States Food and Drug Administration (FDA) means any product for which the FDA cleared a premarket notification or approved an application for premarket approval, and by providing that medicines are further defined in subdivisions (b) and (c). The proposed amendments clarify that articles permanently implanted in the human body to mark the location of a medical condition, such as breast tissue markers, are included in the definition of medicines under Regulation 1591, subdivision (b)(2). The proposed amendments clarify that the specific articles that do not qualify as medicines under the third paragraph in Regulation 1591, subdivision (b)(2), may meet the definition of medicines under a different subdivision of Regulation 1591. In addition, the proposed amendments make non-substantive changes to the regulation to make the regulation grammatically correct and internally consistent.

PUBLIC HEARING

The Board will conduct a meeting in Room 121 at 450 N Street, Sacramento, California on April 28–30, 2015.

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 9:30 a.m. or as soon thereafter as the matter may be heard on April 28, 29, or 30, 2015. 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 1591.

AUTHORITY

RTC section 7051.

REFERENCE

RTC sections 6006, 6369, and Health and Safety Code sections 1200, 1200.1, 1204.1 and 1250.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

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.) The term "gross receipts" means the total amount of the sale price without any deduction for the cost of materials used, labor or service costs, interest paid, losses, or any other expense. (RTC, § 6012, subd. (a)(2).) When sales tax does not apply, use tax is imposed, measured by the sales price of property purchased from a retailer for storage, use, or other consumption in California. (RTC, §§ 6201, 6401.) The use tax is imposed on the person actually storing, using, or otherwise consuming the property. (RTC, § 6202.)

RTC section 6369 provides an exemption from sales and use tax that applies to the sale or use of medicines that are dispensed, furnished, or sold under any of the circumstances prescribed by section 6369, subdivisions (a)(1) through (6) (hereafter "statutorily prescribed circumstances"). As relevant here, section 6369, subdivision (b), defines "medicines" as "any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and commonly recognized as a substance or preparation intended for

that use." Section 6369, subdivision (b), further provides that certain items are excluded from the definition of medicines, including "(2) [a]rticles that are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof." Subdivision (c) of section 6369 describes additional specific items that are medicines, notwithstanding subdivision (b), and subdivision (c)(2) of section 6369 expressly provides that the term "medicines" means and includes "[b]one screws, bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body."

Regulation 1591 implements, interprets, and makes specific RTC section 6369 and the structure of Regulation 1591 closely resembles the structure of RTC section 6369. Regulation 1591, subdivision (a)(9), currently defines "medicines" as follows:

"Medicines" means:

- (A) Except where taxable for all uses as provided in subdivision (c), any product fully implanted or injected in the human body, or any drug or any biologic, when such are approved by the U.S. Food and Drug Administration to diagnose, cure, mitigate, treat or prevent any disease, illness or medical condition regardless of ultimate use, or
- (B) Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for that use.

The term medicines also includes certain articles, devices, and appliances as described in subdivision (b) of this regulation.

Subdivision (c) of Regulation 1591 provides that certain items are excluded from the definition of medicines, including "(2) [a]rticles that are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof. . . ." Notwithstanding subdivision (c), subdivision (b) of Regulation 1591 includes several categories of articles, devices and appliances (generally corresponding with those listed in RTC section 6369, subd. (c)) which are included in the definition of medicines, either generally or for specific uses,

and in some cases, subdivision (b) also identifies specific items that are included in or excluded from those categories. Currently, Regulation 1591, subdivision (b)(2), provides that “medicines” means and includes:

(2) Permanently Implanted Articles. Articles permanently implanted in the human body to assist the functioning of, as distinguished from replacing all or any part of, any natural organ, artery, vein or limb and which remain or dissolve in the body qualify as medicines. An article is considered to be permanently implanted if its removal is not otherwise anticipated. Except for devices excluded from the definition of “medicines,” permanently implanted articles include the interdependent internal and external components that operate together as one device in and on the person in whom the device is implanted. Tax does not apply to the sale or use of articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body when such articles are sold or furnished under one of the conditions provided in subdivisions (d)(1) through (d)(6).

Permanently implanted articles include, but are not limited to, permanently implanted artificial sphincters; bone screws and bone pins; dental implant systems including dental bone screws and abutments; permanently implanted catheters; permanently implanted hydrocephalus devices and their implanted pressure regulating components; implanted defibrillators and implanted leads; pacemakers; tendon implants; testicular gel implants; and ear implants, including the ear implant’s interdependent internal and external components. Sutures are also included whether or not they are permanently implanted. A non–returnable, nonreusable needle fused or prethreaded to a suture is regarded as part of the suture.

Implantable articles that do not qualify as “permanently” implanted medicines include, but are not limited to, Chemoport implantable fluid systems; Port–a–Cath systems used for drug infusion purposes; disposable urethral catheters; temporary myocardial pacing leads used during surgery and recovery; and defibrillator programmer and high voltage stimulator used with an implanted defibrillator. The sale or use of these items is subject to tax.

Also, as relevant here, the Board’s Legal Department has previously determined, as early as 1965, that diagnostic “opaques and dyes” are medicines as defined in RTC section 6369. (See Sales and Use Tax Annotation

425.0580 (9/1/65)). Furthermore, the FDA’s website explains that:

- “The Medical Device Amendments of 1976 to the Federal Food, Drug, and Cosmetic Act (the act) established three regulatory classes for medical devices. The three classes are based on the degree of control necessary to assure that the various types of devices are safe and effective. The most regulated devices are in Class III. The amendments define a Class III device as one that supports or sustains human life or is of substantial importance in preventing impairment of human health or presents a potential, unreasonable risk of illness or injury. Insufficient information exists on a Class III device so that performance standards (Class II) or general controls (Class I) cannot provide reasonable assurance that the device is safe and effective for its intended use. Under Section 515 of the act, all devices placed into Class III are subject to premarket approval requirements. Premarket approval by FDA is the required process of scientific review to ensure the safety and effectiveness of Class III devices.”
- “Each person who wants to market in the U.S., a Class I, II, and III device intended for human use, for which a Premarket Approval (PMA) is not required, must submit a 510(k) to FDA unless the device is exempt from 510(k) requirements of the Federal Food, Drug, and Cosmetic Act (the Act) and does not exceed the limitations of exemptions in .9 of the device classification regulation chapters (e.g., 21 CFR 862.9, 21 CFR 864.9). . . . Before marketing a device, each submitter must receive an order, in the form of a letter, from FDA which finds the device to be substantially equivalent (SE) and states that the device can be marketed in the U.S. This order ‘clears’ the device for commercial distribution.”

Effect, Objective, and Benefit of the Proposed Amendments to Regulation 1591

During the Board’s February 2014 meeting, the Board heard a sales and use tax appeal concerning whether breast tissue markers (BTMs) are medicines and therefore exempt from tax under RTC section 6369 when sold or furnished under the statutorily prescribed circumstances. BTMs are sterile disposable medical devices that are comprised of an introducer needle and applicator as well as a radiographic (i.e., readable by x–ray or other imaging technologies), implantable titanium or metal alloy marker. BTMs are placed in soft breast tissue during surgical or percutaneous (i.e., performed through the skin) biopsies for the purpose of marking the site where the tissue sample was taken so that it can be accurately identified by ultrasound, magnetic reso-

nance imaging (MRI) or other imaging methods at a future date.

During the hearing, it was established that BTMs are fully implanted. BTMs are used to diagnose breast cancer, and perform an almost identical function to diagnostic opaques and dyes that are injected into the body for the purpose of appearing on imaging technologies. And, the BTMs at issue were Class II medical devices that the FDA cleared under the 510(k) process discussed above, but the BTMs were not subject to the FDA's premarket approval process and did not receive the FDA's premarket approval. Therefore, the Board determined that the BTMs at issue are "medicines" for purposes of the exemption provided by RTC section 6369. The Board also recognized that Regulation 1591 does not specifically address medical devices that are permanently implanted to mark the location of a medical condition, and does not clearly explain what type of FDA approval is required in order for a medical device to qualify as a medicine. Therefore, to address the issues, the Board directed Board staff to initiate a rule-making process to clarify the application of Regulation 1591 to Class II medical devices that are fully implanted.

Interested Parties Process

Originally, the Board's Business Taxes Committee (BTC) staff prepared draft amendments to subdivisions (a)(9) and (b)(2) of Regulation 1591 to address the issues discussed above. The draft amendments suggested moving and slightly amending the reference to subdivision (c) in subdivision (a)(9)(A). The draft amendment to subdivision (a)(9) also included language clarifying that products "approved" by the FDA include products for which an application for pre-market notification was cleared and products that received the FDA's pre-market approval. The draft amendment to subdivision (b)(2) clarified that articles permanently implanted in the human body to mark the location of a medical condition, such as breast tissue markers, qualify as medicines. The draft amendments also included non-substantive changes to the regulation to correct grammatical and formatting errors.

BTC staff subsequently provided its draft amendments to the interested parties and conducted an interested parties meeting on June 16, 2014. During the June 2014 meeting, the interested parties supported the proposed amendments to Regulation 1591 regarding FDA approval and BTMs. They did not agree, however, that staff's other proposed amendment would actually clarify subdivision (a)(9)(A) of the regulation. Moreover, Mr. Wade Downey of Downey, Smith & Fier disagreed with staff's analysis with regard to the application of subdivision (a)(9)(A) and contended that it is not clear to taxpayers, from the current text of subdivision

(a)(9)(A), that they must also look to subdivisions (b) and (c) to determine if a product qualifies as a medicine.

On June 26, 2014, staff received letters from Mr. Downey and from Mr. Jacob Bholat of Equity Recovery Solutions, Inc. Mr. Downey's letter stated that staff's proposed changes did not resolve the confusing structure of Regulation 1591 and suggested that any product that is "approved" by the FDA and fully implanted or injected in a patient for a medical purpose should be exempt based on subdivision (a)(9)(A) of the regulation, alone. Mr. Bholat's letter suggested removing language that specifically excludes certain products (other than BTMs) from the definition of medicine in (b)(2).

In response to the interested parties' comments, staff decided not to pursue the proposed amendment moving and slightly amending the reference to subdivision (c) in subdivision (a)(9)(A) of Regulation 1591 because of the interested parties' belief that it did not clarify the regulation. Staff also decided to keep the reference to subdivision (c) in subdivision (a)(9)(A) because the removal of the reference to subdivision (c) would substantially change the meaning of subdivision (a)(9)(A) in a manner that would be inconsistent with RTC section 6369 and because there is no basis to delete the provisions of subdivision (c), which list items, including devices, that are specifically excluded from the definition of medicines.

On August 14, 2014, staff again met with the interested parties to discuss the draft amendments. The interested parties continued to disagree with staff regarding the application of subdivision (a)(9)(A) of Regulation 1591. The interested parties believed that the exclusion from the definition of medicine contained in subdivision (c)(2) of Regulation 1591 did not include all devices. Mr. Bholat also pointed out that the last sentence in subdivision (b)(2) of the regulation, stating that the sale of products specifically excluded from the definition of medicines under that subdivision are subject to tax, does not account for the possibility that such products could meet a different definition of medicine.

On August 28, 2014, staff received an email from Mr. Downey requesting that staff's original proposed amendment to subdivision (a)(9)(A) of Regulation 1591 be reinstated because it read better and that language should be added to the regulation to except fully implanted articles from the exclusion from the definition of medicine in subdivision (c)(2) of Regulation 1591. Mr. Downey included an attachment with his proposed changes. On September 3, 2014, staff received an email from Mr. Bholat which also recommended revised language for subdivision (a)(9)(A) and an exception for fully and permanently implanted articles from the exclusion contained in subdivision (c)(2). Mr. Bholat also recommended adding a sentence to the end of

the third paragraph in subdivision (b)(2) of Regulation 1591 stating that the “sale or use of [the] types of items [specifically excluded from the definition of medicine by that paragraph] would be subject to tax, if intended for temporary placement.” Mr. Bholat also included an attachment with his proposed changes.

November 19, 2014, BTC Meeting

In response to the interested parties’ concerns about clarity, BTC staff recommended inserting a final sentence at the end of subdivision (a)(9) of Regulation 1591 reiterating that the term “medicines” is further defined in subdivisions (b) and (c). Staff did not agree with either of the interested parties’ recommendations to amend subdivision (a)(9)(A) because, as before, staff did not believe the amendments clarified the existing language and because Mr. Bholat’s language would have actually narrowed the definition by removing the phrase “for all uses,” which is currently in subdivision (a)(9)(A). Staff also agreed with Mr. Bholat’s comment from the August 14, 2014, meeting that the items specifically excluded from the definition of medicine under subdivision (b)(2) of Regulation 1591 could meet a different definition of medicine. However, staff believed that Mr. Bholat’s recommended amendment to subdivision (b)(2) (discussed above) would create contradictions within the subdivision, expand the definition of medicine, make the regulation more ambiguous by adding an intent element, and create unnecessary complexity. Accordingly, staff recommended simply removing the final sentence of subdivision (b)(2). In addition, staff did not agree with either of the interested parties’ proposed changes to subdivision (c)(2) of Regulation 1591 because the changes would have expanded the definition of medicine in Regulation 1591 so that it conflicts with the plain language of RTC section 6369.

Subsequently, BTC staff prepared Formal Issue Paper 14–006 and distributed it to the Board Members for consideration at the Board’s November 19, 2014, BTC meeting. Formal Issue Paper 14–006 recommended that the Board: (1) add the language regarding FDA approval and BTMs to Regulation 1591, subdivisions (a)(9) and (b)(2), respectively; (2) add the reference to subdivisions (b) and (c) to the end of Regulation 1591, subdivision (a)(9); (3) remove the final sentence from Regulation 1591, subdivision (b)(2); (4) make non-substantive amendments to make the regulation grammatically correct and internally consistent; and (5) make no changes to Regulation 1591, subdivision (c)(2).

The Board discussed Formal Issue Paper 14–006 during its November 19, 2014, BTC meeting. Mr. Downey and Mr. Bholat appeared in support of their respective proposals. However, during the November 19, 2014, BTC meeting, Mr. Downey clarified that the interested

parties were not necessarily opposed to staff’s recommended amendments to Regulation 1591; the interested parties primarily wanted more specific clarification regarding the relationships between subdivisions (b) and (c) of the regulation; and that they would be satisfied if the Board provided the necessary clarification in its Audit Manual. At the conclusion of the discussion, the Board Members unanimously voted to propose the amendments to Regulation 1591 recommended by staff and did not approve any changes to subdivision (c)(2). The Board also directed staff to draft guidance for inclusion in the Audit Manual that speaks to the interaction between subdivisions (a), (b), and (c) of the regulation, and share it with the interested parties.

The Board determined that the proposed amendments to Regulation 1591 are reasonably necessary to have the effect and accomplish the objective of addressing the issues with Regulation 1591, discussed above, by clarifying the application of tax to medical devices that are permanently implanted to mark the location of a medical condition, and clearly explaining the types of FDA approval that are required in order for a medical device to qualify as a medicine.

The Board anticipates that the proposed amendments to Regulation 1591 will promote fairness and benefit taxpayers, Board staff, and the Board by providing clarity with regard to the application of the exemption provided by RTC section 6369 to medical devices that are permanently implanted to mark the location of a medical condition, the type of FDA approval required by the regulation, and the interrelation between subdivisions (a) through (c) of the regulation.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1591 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 there are no other sales and use tax regulations that specifically prescribe the application of the sales and use tax exemption provided by RTC section 6369 to medicines and medical devices. In addition, the Board has determined that there are no comparable federal regulations or statutes to Regulation 1591 or the proposed amendments to Regulation 1591.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1591 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 ANY STATE
AGENCY, LOCAL AGENCY, OR
SCHOOL DISTRICT**

The Board has determined that the adoption of the proposed amendments to Regulation 1591 will result in no direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no 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 1591 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 1591 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 1591 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 1591 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 1591 will not affect the benefits of Regulation 1591 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 1591 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 Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley Heller, 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 9:30 a.m. on April 28, 2015, or as soon thereafter as the Board begins the public hearing regarding the adoption of the proposed amendments to Regulation 1591 during the April 28-30, 2015, 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 1591. 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 1591 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 1591, 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 1591 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 1591, 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 18416.5, pertaining to the alternative electronic notification method.

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.

PUBLIC HEARING

The Franchise Tax Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period indicated below. The request should be submitted to the agency officer named below.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., April 13, 2015. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer named below.

AUTHORITY & REFERENCE

Section 18416.5 of the Revenue and Taxation Code authorizes the Franchise Tax Board to implement, by regulation, an alternative communication method that would allow the Franchise Tax Board, at the request of the taxpayer or the taxpayer's authorized representative, to provide notification to the taxpayer or taxpayer's authorized representative in a preferred electronic communication method designated by the taxpayer that a bill, notice, or other communication required under Part 10, Part 10.2, or Part 11 of the Revenue and Taxation Code is available for viewing on the Franchise Tax Board's limited access secure website. The proposed regulation also describes the manner in which a taxpayer or taxpayer's authorized representative may use an electronic method to submit a protest, notification, or other correspondence to FTB by way of the MyFTB folder. The proposed regulation by its terms shall apply to elections made and protests or other correspondence

filed on or after July 1, 2015. The proposed regulatory action implements and makes specific section 18416.5 of the Revenue and Taxation Code.

INFORMATIVE DIGEST/PLAIN ENGLISH
OVERVIEW

In 2010, the Legislature enacted AB 2177 (Stats. 2010, Ch. 136) which added Revenue and Taxation Code section 18416.5, authorizing the Franchise Tax Board, by regulation, to implement a paperless notification process for notices, statements, bills or other required communications under Parts 10, 10.2 and 11 of the Revenue and Taxation Code that are currently required to be sent by U.S. mail, at the option of the taxpayer, and to allow taxpayers to submit certain documents electronically that currently are required to be mailed on paper. The statute and proposed regulation are part of a multi-year technology project that began July 1, 2011 and is scheduled to end December 31, 2016. As one of the key elements of this technology project, the Franchise Tax Board has developed a secure online taxpayer folder within the web-based function known as “My FTB Account” where taxpayers and representatives can file tax returns, view tax return data, check processing status of tax returns, access processing timeframes for returns and payments, make and view payments, access, update, and send correspondence, view bills and notices, view and update address and contact information and set contact and delivery preferences.

This proposed regulation would provide key definitions, specify how taxpayers and taxpayer’s authorized representatives may elect into the alternative communication method, the consequences of such an election, a rule that appointment of an authorization representative by a taxpayer constitutes authorization to use the alternative communication method by the taxpayer’s authorized representative, rules governing how to revoke the election into the alternative communication method, and the consequences of delivery failures. Additionally, the proposed regulation describes the manner in which a taxpayer or taxpayer’s authorized representative may use an electronic method to submit a protest, notification, or other correspondence to FTB by way of the MyFTB folder and provides that the proposed regulation shall apply to elections made and protests or other correspondence filed on or after July 1, 2015.

Subsection (a) provides key definitions used in the regulation. Under subsection (a)(1), “MyFTB folder” is defined to refer to a taxpayer’s or a taxpayer’s authorized representative’s secure folder that is accessible through FTB’s Internet website or mobile application. This definition is needed as the taxpayer or taxpayer’s

authorized representative must have established access to the taxpayer’s limited access secure folder or the taxpayer’s authorized representative’s secure folder in order to participate in the alternative communication method.

Subsection (a)(2) defines “PECM” as the preferred electronic communication method, which is the type of communication method selected by the taxpayer or the taxpayer’s authorized representative. Currently, FTB anticipates notification will initially be available by email. However, this definition specifies that it includes other alternate forms of electronic communication that may become available in the future so that FTB may offer additional electronic notification methods the taxpayer or taxpayer’s authorized representative may select as technology permits, such as notification by text or other electronic forms of communication.

Subsection (a)(3) defines “TPEA” as Taxpayer Provided Electronic Address, which may include an email address, text number, or other electronic delivery service address designated by the taxpayer to receive notification and which is accessible by the taxpayer electronically. This definition is drafted to include other electronic delivery service addresses in order to allow a taxpayer to select new electronic methods of communication when new technology becomes available.

Subsection (a)(4) defines “RPEA” as Representative’s Provided Electronic Address, which may include an email address, text number, or other electronic delivery service address designated by the taxpayer’s authorized representative to receive notification and which is accessible by the representative electronically. Like the definition above, this definition will also allow a taxpayer’s authorized representative to select new electronic methods of communication when new technology becomes available.

Subsection (a)(5) defines “successfully transmitted” as the point in time when the document or text is stored as a document or text in the taxpayer’s MyFTB folder. The proposed regulation provides that the taxpayer or taxpayer’s authorized representative should confirm that the document or text is viewable in the taxpayer’s MyFTB folder to verify successful transmission. The term “successful transmission” is used in filing a protest, notification, or other correspondence with FTB under subsection (c) of the proposed regulation. The definition is needed to specify how a taxpayer and taxpayer’s authorized representative may confirm that the documents have been successfully received by FTB through the MyFTB folder. The MyFTB folder will enable immediate viewing of documents transmitted to FTB in this manner, which will then be immediately viewable to the taxpayer or taxpayer’s authorized representative.

Subsection (b) specifies how taxpayers and taxpayer's representatives may elect into the alternative communication method, the consequences of such election, the authorization to use the alternative communication method by the taxpayer's authorized representative, revocation of the election into the alternative communication method, and the consequences of delivery failure, as further described below.

Subsection (b)(1) describes the process by which a taxpayer or a taxpayer's authorized representative elects into receiving notifications by an alternative communication method. A taxpayer and/or taxpayer's authorized representative may select the specific type of available alternative communication method (e-mail, text, or yet to be determined electronic method) from within the MyFTB folder. Since use of this alternative communication method is at the election of the taxpayer, the taxpayer or taxpayer's authorized representative must enter his or her TPEA or RPEA, as applicable, in order for the taxpayer to receive the notices through the selected alternative communication method. By choosing the type of alternative communication method and providing a TPEA or RPEA, as applicable, the taxpayer has elected into the alternative communication method.

Subsection (b)(2) describes the consequences to the taxpayer and the taxpayer's authorized representative of making the election to receive notices through the alternative communication method. Once the taxpayer chooses to receive notices through the alternative communication method, the taxpayer will receive a notification to log on to his or her MyFTB folder and view the notice within the MyFTB folder. If the authorized representative receives notice through the alternative communication method, the authorized representative will receive an electronic notification to log on to his or her MyFTB folder and from the list of clients, may access notices and other portions of the taxpayer's folder that he or she is authorized to view. Notifications sent via the alternative communication method will not contain the actual text of the notice itself due to privacy and security issues posed by current electronic communications. By electing to receive notification through this alternative communication method, the taxpayer agrees that once the Franchise Tax Board sends the notification that a new notice is in the taxpayer's MyFTB folder and makes an image of that notice available to the taxpayer on the taxpayer's MyFTB folder, at that point such notification will be considered legal notification of the content of the notice in the MyFTB folder. Notification(s) on the taxpayer's MyFTB folder by way of the taxpayer's chosen alternative communication method will be treated as if actual notice was mailed to the taxpayer's last known address via United States first-class mail, postage prepaid. The notifications made through the al-

ternative communication method will advise the taxpayer in that message or by a link to the FTB website that failure to take appropriate action set forth in the notice in the MyFTB folder may cause the taxpayer to forgo legal and administrative rights to challenge the proposed action contained within the actual notice.

Subsection (b)(3) provides that when a taxpayer appoints an authorized representative, the taxpayer also authorizes FTB to send notification to the taxpayer's authorized representative using an alternative communication method. This subsection also provides that authorized taxpayer representatives electing to enroll in an alternative communication method to receive notification are subject to the same election, revocation, and consequences of electing to receive notification via the alternative communication method as the taxpayer as described in the proposed regulation.

Subsection (b)(4) describes how a taxpayer or the taxpayer's authorized representative may revoke the taxpayer's election to receive notification by the alternative communication method. A taxpayer or the taxpayer's authorized representative may access the MyFTB folder and make a new election as described under subsection (b)(1). The taxpayer or the taxpayer's authorized representative could then choose a preferred communication method for the taxpayer (United States mail, email, text) and/or revise his or her TPEA or RPEA.

Subsection (b)(5) provides that it is the taxpayer's responsibility to ensure that the TPEA he or she provides is correct and that he or she can receive FTB notification(s) at the TPEA. The taxpayer is in the best position to confirm that the TPEA works and to confirm that he or she is receiving notifications from FTB. If FTB discovers that the delivery of any notification sent via a taxpayer's chosen PECM has failed, FTB may make one or more attempts to re-deliver a notification using the PECM to the TPEA. FTB may then inform the taxpayer of the failure to deliver notification to the TPEA and the need to remedy delivery failures to the TPEA. FTB may revoke the election of the taxpayer's PECM and use standard United States mail delivery to send copies of future notices to the taxpayer. This subsection is necessary because of the important legal consequences of an election to use the alternative communication method rather than simply receiving notices and other forms of communication by U.S. mail, so that once FTB discovers that any notice sent to the TPEA via the taxpayer's chosen PECM has failed, FTB will re-commence mailing notices by U.S. mail to ensure the taxpayer is receiving such notices and other forms of communication. If the taxpayer later wishes to choose a new PECM and to designate a new TPEA, then he or she may simply follow the rules in this regulation and make a new election.

Subsection (c) describes the manner in which a taxpayer or taxpayer's authorized representative may use an electronic method to submit a protest, notification, or other correspondence to FTB by way of the MyFTB folder. This subsection would allow the taxpayer or the taxpayer's authorized representative to file a protest, notification, and/or other communication in a secure electronic manner. This subsection provides that the filing date of a protest, correspondence or notification shall be the date that the document or text provided by the taxpayer or taxpayer's authorized representative is "successfully transmitted" to the FTB (as defined in subsection (a)(5)). The taxpayer or taxpayer's authorized representative should always confirm that the document or text is viewable in the MyFTB folder to verify successful transmission, since there are legal consequences, such as filing deadlines, which the taxpayer and taxpayer's representative remain subject to under the alternative communication method and this regulation.

Subsection (d) provides that the proposed regulation shall apply to elections made and protests or other correspondence filed on or after July 1, 2015.

Anticipated Benefits from the Proposed Regulation

Taxpayers will benefit from the implementation of the alternative communication method, which will add taxpayer convenience of retrieving notices via the internet, thereby reducing the burdens and costs of mailing for both Franchise Tax Board and taxpayers and their authorized representatives.

Consistency and Compatibility with Existing State Regulations

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

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed 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 Franchise Tax 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.

Effect on small business: The Franchise Tax Board is not aware of any effect on small business. This regulation is intended to reduce costs and provide greater efficiency in communications between the Franchise Tax Board and small businesses by providing alternative means of communication with the Franchise Tax Board.

Significant effect on housing costs: None.

Significant effect on the creation or elimination of jobs in the state: None.

Significant effect on the creation of new businesses or elimination of existing businesses within the state: None.

Significant effect on the expansion of businesses currently doing business within the state: None.

RESULTS OF 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 within the state, and that the proposed Regulation section 18416.5 will benefit taxpayers by providing an optional alternative communication method instead of U.S. Mail for receiving notices and transmission of correspondence and protests to the Franchise Tax Board.

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 Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board has determined that no alternative has been identified or brought to the attention of the Board that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to affected private persons and equally effective

tive in implementing the statutory policy or other provision of law as indicated above.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or if a hearing is requested at the scheduled hearing.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

An initial statement of reasons has been prepared setting forth the facts upon which the proposed regulatory action is based. The statement includes the specific purpose of the proposed regulatory action and the factual basis for determining that the proposed regulatory action is necessary.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms of the proposed text of the regulation, the initial statement of reasons referred to above, and the Economic Impact Statement (Form 399). The rulemaking file is available upon request from the agency contact person named in this notice. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below. The notice, text, initial statement of reasons and the final statement of reasons will also be available at the public website for the Franchise Tax Board at www.ftb.ca.gov.

CHANGE OR MODIFICATION OF TEXT

The proposed regulatory action may be adopted after consideration of any comments received during the comment period.

The regulation may also be adopted with modifications if the changes are nonsubstantive or the resulting regulation is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulation as modified could result from that originally proposed.

Copies of any modifications to the regulation will be made available at least 15 days prior to the date on which the regulation is adopted by United States mail to (1) all persons who gave oral comments at the public hearing (if held), (2) to all persons who submitted written comments at the public hearing (if held), (3) all persons who submitted written comments to the persons named below during the written comment period and (4) all persons who specifically requested to be notified of any modifications. Additional requests for copies of any modified regulation can be obtained by sending a request to the Franchise Tax Board representatives

identified below and by downloading the modifications from the Franchise Tax Board's public website at https://www.ftb.ca.gov/Law/Regulatory_Activity.shtml.

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 Teresa Bush-Chavey at the Franchise Tax Board, Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Telephone (916) 845-7847; Fax (916) 855-5525; E-Mail: Teresa.BushChavey@ftb.ca.gov. In addition, all questions on the substance of the proposed regulation can be directed to Nancy Parker; Tel.: (916) 845-7968; E-Mail: Nancy.Parker@ftb.ca.gov. The notice, initial statement of reasons and express terms of the regulation are also available at the Franchise Tax Board's website at www.ftb.ca.gov.

TITLE 21. DEPARTMENT OF TRANSPORTATION/DIVISION OF RIGHT OF WAY AND LAND SURVEYS

The Department of Transportation (Caltrans) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

Caltrans will hold public hearings at the time and place listed below. The meeting facilities are wheelchair accessible. At the hearings, any person may present statements orally, or in writing relevant to the proposed action described in the Informative Digest.

April 20, 2015 6:00 p.m.–8:00 p.m.
Pasadena Convention Center
Conference Center, Lower Level, Rm. 107
300 East Green Street
Pasadena, CA 91101

April 21, 2015 6:00 p.m.–8:00 p.m.
California State University, Los Angeles
Golden Eagle Building
Golden Eagle Ballroom
5151 State University Drive
Los Angeles, CA 90032

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to Caltrans. Comments may also be submitted by facsimile (fax) at (916) 654–6378, or by e-mail to Affordable_Sales_Program@dot.ca.gov. The written comment period closes at 5:00 p.m. on April 13, 2015. Caltrans will consider only comments received by that time.

Please submit comments to:

Jennifer S. Lowden
Assistant Chief, Division of Right of Way and
Land Surveys
ATTN: Affordable Sales Program
California Department of Transportation
1120 N Street, MS 37
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Sections 118 through 118.6 of the Streets and Highways Code authorizes Caltrans to dispose of real property no longer required for transportation uses. Caltrans is implementing, interpreting, and making specific Sections 54235 through 54238.7 of the Government Code which requires that certain properties owned by state agencies be disposed in a manner that will preserve, upgrade, and expand the supply of housing available to affected persons and families of low or moderate income.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Caltrans acquires real property necessary for state transportation purposes, and must, by law, attempt to dispose of properties no longer required for those purposes (Streets and Highways Code section 118.6). Government Code sections 54235 through 54238.7 (the “Roberti Act”) sets forth the priorities and procedures for disposing of surplus residential property for State Route 710 (SR 710) in Los Angeles County.

In 1979, the Legislature reaffirmed its findings that there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing

which persons and families of low or moderate income can afford, and consequently a pressing and urgent need for the preservation and expansion of the low and moderate income housing supply. The Legislature further reaffirmed its findings that highway and other state activities have contributed to the severe shortage of such housing, and that provision of decent housing for all Californians is a state goal of the highest priority. The Legislature stated that actions of state agencies including the sales of surplus residential properties which result in the loss of decent and affordable housing for persons and families of low or moderate income is contrary to state housing, urban development, and environmental policies and is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of Government Code sections 54235 through 54238.7.

Additionally, the Legislature stated that the sale of surplus residential property pursuant to the provisions of the Roberti Act will directly serve an important public purpose. Accordingly, the Legislature intends by the Roberti Act to preserve, upgrade, and expand the supply of housing available to persons and families of low or moderate income. (Government Code section 54235.)

The Los Angeles Superior Court declared in *City of South Pasadena v. The California Department of Transportation* (Super. Ct. Los Angeles County, 2007, No. BC331628) that legal title to all State Route 710 (SR 710) parcels of real property shall remain vested in Caltrans until adoption of an appropriate regulation under the Administrative Procedure Act for their disposal pursuant to Government Code sections 54235 through 54238.7.

After conducting an evaluation for any related regulations, Caltrans has concluded that these are the only regulations concerning the use of surplus transportation property for affordable housing. Therefore, the proposed regulation is not inconsistent or incompatible with existing state regulations or statutes, and do not differ substantially from existing comparable federal regulations or statutes.

The proposed regulation sets forth the procedures that will allow Caltrans to dispose of surplus residential properties originally acquired for the SR 710 extension in the cities of Los Angeles, South Pasadena, and Pasadena in accordance with the Roberti Act. The proposed regulation will increase the number of low and moderate income homeowners by allowing qualified tenants and occupants to purchase homes on the basis of affordability under the program, and will provide a benefit to purchasers by setting forth the standards used to calculate the appropriate purchase prices to fulfill the state’s mission of providing affordable home ownership to

Californians. The proposed regulation will provide the public with guidelines to determine the income levels used to qualify for the program, which in turn promotes fairness and social equity to the buying public. The proposed regulation will provide a non-monetary benefit by setting the guidelines and timelines applicable, which promotes openness and transparency in business and government.

The Regulation proposed in this rulemaking action will:

- Section 1475 — Implement Senate Bill 86 known as the “Roberti Act.” This section defines the purpose and scope of the proposed “Affordable Sales Program” regulation.
- Section 1476 — Define the terms used in the proposed regulation. This section is needed to provide additional detail and further clarify certain words or phrases as they were used in the “Roberti Act” and are used in the proposed regulation.
- Section 1477 — Specify the order of priority for the Conditional Offer Prior to Sale. This section is needed to make specific Government Code sections 54237(a) and (d).
- Section 1478 — Set forth the criteria for Conditions of Offer Prior to Sale. This section is needed to implement, interpret, and make specific the conditions for sale of residential properties including sales price determination, repair requirements, occupancy requirements, and restrictions properties sold at less than fair market value will contain.
- Section 1479 — Set forth the notices for Conditional Offer Prior to Sale. This section is needed to make specific who will receive and how written notice of the Conditional Offer Prior to Sale shall be delivered.
- Section 1480 — Set forth the term of the Conditional Offer Prior to Sale. This section is needed to make specific the term the Conditional Offer Prior to Sale shall remain open.
- Section 1481 — Set forth the terms of acceptance for the Conditional Offer Prior to Sale. This section is needed to make specific the method of acceptance of the Conditional Offer Prior to Sale.
- Section 1482 — Specify the burden is on the prospective buyer to show eligibility for purchase at an affordable price. Required documentation to provide evidence of income, tenure, real property ownership interest, and household size are made specific.
- Section 1483 — Provide grounds for denial based on insufficiency or incompleteness of response to Conditional Offer Prior to Sale. This section is needed to define response time for receipt of incomplete or insufficient financial documentation and required action.
- Section 1484 — Specify that failure to respond will be deemed a rejection of the Conditional Offer Prior to Sale. This section is needed to define the time period for rejection due to lack of response. The Department will notify respondents of rejection.
- Section 1485 — Establish the eligibility for buyers and sets forth priority for purchase. This section is needed to define the Department’s review of documentation and define the priority for more than one equally eligible respondent.
- Section 1486 — Specify the response time for buyers for entering into a Contract for Sale. This section is needed to define the term for acceptance of a Contract for Sale. This section also makes clear the costs for the transaction to be paid by the Department and the costs to be paid by the Buyer. This section also provides for the Department to reimburse the Buyer up to \$3,000 for an agent to facilitate and advise on the purchase transaction.
- Section 1487 — Specify time for close of escrow and the Department’s authority to extend. This section is needed to define the time period allowed for close of escrow and the Department’s discretion to grant an extension.
- Section 1488 — Provide the duty of the buyer upon noncompliance. This section is needed to identify specific noncompliance provisions the Department may pursue due to buyer noncompliance and define the payment amount.

Section 1489 — Specify the monitoring requirement to ensure compliance with the terms of sale. This section is needed to ensure such properties remain available to persons and families of low or moderate income.

Section 1490 — Specify no lender may gain financially from the surplus residential property other than the mortgage lender.

Section 1491 — Specify the role California Housing and Finance Agency (CalHFA) will provide in developing and administering the proposed “Affordable Sales Program” and identify how the Affordable Housing Trust Account, to be established by CalHFA, will be used in furthering affordable housing in the Pasadena, South Pasadena, Alhambra, LaCanada Flintridge, and 90032 postal ZIP code.

The adoption of the proposed regulation will increase the openness and transparency in government regarding the sale of property pursuant to the Roberti Act. Adoption of the proposed regulation will not affect: 1) the protection of public health and safety, worker safety, or the environment; and 2) the prevention of discrimination. Adoption of the proposed regulation will: 1) increase openness and transparency in business and government; and 2) promote fairness and social equity because they make residential properties available to low or moderate income people that would otherwise be unaffordable.

DISCLOSURES REGARDING THE PROPOSED ACTION/RESULTS OF THE STANDARIZED REGULATORY IMPACT ASSESSMENT (SRIA)

Caltrans has made the following determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: An estimated \$25 million savings in the current state fiscal year based on no regulation versus the regulation being adopted.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: Los Angeles County annual savings are estimated to be \$1 million in property tax revenue.

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business or the ability of California

businesses to compete with businesses in other states: None.

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

Adoption of this regulation:

- (a) will affect the creation of jobs within California and will not affect the elimination of jobs in California.
- (b) will not affect the creation of new businesses or the elimination of existing businesses within California.
- (c) will not affect the competitive advantage or competitive disadvantages of businesses currently doing business within California.
- (d) will increase the investment in the state buy selling 412 properties.
- (e) will not provide incentives for innovation in products, materials, or processes.
- (f) will not affect the benefits of the regulation to worker safety and the state’s environment, but will benefit the health and welfare of California residents by providing affordable home ownership to low and moderate income households and the employment from construction in the local area.

Department of Finance had four comments concerning the SRIA. They were concerned with the expected lack of participation by affordable purchasers because available financing may be limited due to the 30-year deed restriction as proposed in a previous version of the draft regulations, they recommended Caltrans adopt an equity sharing model, they expressed concerns with the possible lack of restrictions on the lenders in case of non-compliance and finally they wanted Caltrans to address the impact on the general fund with the selling of the properties and the rent that would no longer be collected.

Caltrans responded that the regulations now include an equity sharing model, so the concern over financing was no longer an issue. The lenders do have the same restrictions that the original purchasers have and finally, Caltrans estimates the rental revenue loss to the general fund would have a minimal impact on the state. The \$4.8 million gross loss per year from the sale of homes would be minimized through increased employment opportunities and goods purchased within the region.

Significant Effect on Housing Costs: None.

Caltrans has determined that the proposed regulation does not affect small businesses because the proposed

regulation applies only to certain state-owned properties, not small businesses.

CONSIDERATION OF ALTERNATIVES

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

The May 30, 2014 proposed regulation proposed a 30-year deed restriction and 100% of the proceeds at the end of the 30-year period would be due to the purchaser of the surplus residential property. From comments received, and in consultation with California Housing and Finance Agency (CalHFA) and Housing and Community Development (HCD), another alternative has been proposed. This regulation proposes an Affordable Housing Trust Account to be created and managed by CalHFA. Proceeds deposited to the Affordable Housing Trust Account will be used to carry out any activity authorized under CalHFA's implementing statutes for the benefit of persons or families of low and moderate income residing exclusively in the Pasadena, South Pasadena, Alhambra, LaCanada Flintridge, and the 90032 ZIP code including any arrangement for the financing of multifamily developments or the purchase of loans made to effectuate the purpose of the Roberti Act. Upon subsequent sale, the difference between the less than fair market value price and the appraised value at the time of the sale from Caltrans would be due to the Affordable Housing Trust Account or split with the Affordable Housing Trust Account and the entity. Any appreciation would be based on an equity sharing model. The appreciation in value upon subsequent sale would be split between the Affordable Housing Trust Account and the persons or families or affordable housing entity that purchased the property from Caltrans based on a sliding scale growing 20% each year after the end of the first year of ownership and ending after the end of the fifth year.

Caltrans invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period and during any of the scheduled public hearings.

CONTACT PERSONS

Inquiries concerning the proposed regulatory action may be directed to:

Jennifer S. Lowden
 Assistant Chief, Division of Right of Way and Land Surveys
 California Department of Transportation
 1120 N Street, MS 37
 Sacramento, CA 95814
 916-654-4790
 Affordable_Sales_Program@dot.ca.gov

Alternate contact person:

Kimberly Erickson
 Senior Right of Way Agent,
 Division of Right of Way and Land Surveys
 California Department of Transportation
 1120 N Street, MS 37
 Sacramento, CA 95814
 916-654-4790
 Affordable_Sales_Program@dot.ca.gov

Please direct requests for copies of the text of the proposed regulation, the initial statement of reasons, or other information upon which the rulemaking is based to Kimberly Erickson at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION AND RULEMAKING FILE

Caltrans will have the entire Rulemaking File available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the Rulemaking File consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Kimberly Erickson at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all written comments received timely, as well as comments received at the scheduled public hearings, Caltrans may adopt the proposed regulation as described in this notice. If Caltrans makes substantive modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before Caltrans adopts the regulation as revised. Copies of any modified regulation may be

obtained by contacting Kimberly Erickson at the address or phone number listed above. Caltrans will accept written comments on any modified regulation 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 Kimberly Erickson at the above address or by visiting Caltrans' Website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout if applicable can be accessed through Caltrans' Website at: <http://www.dot.ca.gov/regulations.htm>.

GENERAL PUBLIC INTEREST

CALIFORNIA ENERGY COMMISSION

NOTICE OF CORRECTION

The California Energy Commission published in the February 13, 2015 edition of the California Regulatory Notice Register (Register 2015, No. 7-Z, page 259) a Notice of Proposed Action concerning the Proposed Amendments to Appliance Efficiency Regulations, California Code of Regulations, Title 20. On Page 1 of the published NOPA the Date for the first public hearing reads:

Wednesday, March 17, 2015

PUBLIC HEARINGS

The Energy Commission's Lead Commissioner for Energy Efficiency will hold a public hearing on the following date and time to receive public comment on the Express Terms: "WEDNESDAY, March 17, 2015" is a typographical error as to the day of public hearing to receive public comments on the Express Terms at the California Energy Commission. The correct day and date is:

"TUESDAY, March 17, 2015."

Any inquiries regarding this correction should be made to Harinder Singh, Project Manager for appliance efficiency rulemaking with the California Energy Commission's Appliance Efficiency Program, 1516 Ninth Street, MS 25 Sacramento, CA 95814-5512, telephone: (916) 654-4091 or e-mail hsingh@energy.ca.gov.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION AND AUGMENTATION OF RECORD

TITLE 27, CALIFORNIA CODE OF REGULATIONS

PROPOSED SECTION 25904 LISTINGS BY REFERENCE TO THE CALIFORNIA LABOR CODE

As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of additional changes to the proposed regulation to add section 25904 to Title 27 of the California Code of Regulations. OEHHA is also augmenting the administrative record for the proposed regulation. The augmentation consists of documents relied upon by OEHHA in the development of this proposed regulation. As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, OEHHA is giving notice of this revision and augmentation.

This regulation was originally the subject of a Notice of Proposed Rulemaking published on January 31, 2014, in the California Regulatory Notice Register (Register 2014, No. 5-Z), which initiated a public comment period. Eight written public comments were received during the comment period that ended April 4, 2014. In addition, OEHHA heard comments at a public hearing on the proposed regulation held on March 21, 2014. On June 20, 2014, OEHHA published a Notice of Modification to Text of Proposed Regulation. The comment period closed on July 7, 2014. Three comments were received. On September 12, 2014, OEHHA published a Notice of Modification to Text of Proposed Regulation. The comment period closed on September 29, 2014. No comments were received during this comment period.

On January 15, 2015, the Office of Administrative Law (OAL) disapproved the proposed regulation for

failing to comply with the clarity standard of Government Code section 11349.1 and for failing to provide sufficiently detailed responses to all comments. After careful consideration of the OAL determination, OEHHA has modified the proposed regulatory language in subsections (a)(1).

Additionally, OEHHA re-reviewed and considered stakeholder comments submitted during the regulatory process concerning subsection (a)(2), and again reviewed the changes to the federal Hazard Communication Standard (HCS) that the federal Occupational Safety and Health Administration (OSHA) adopted in 2012. Following these reviews, OEHHA has decided not to include potential listing under the HCS in this regulatory action. If the OSHA regulation is again amended in the future, OEHHA will consider adopting a regulation concerning listing via Labor Code Section 6382(d). Therefore, Subsection (a)(2) in the proposed regulation and all references to Labor Code section 6382(d) have been deleted from the proposed regulation.

The record is also being augmented to include the Preamble to the IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, and recent changes (effective May 2012) to the federal Hazard Communication Standard regulations found in Title 29 of the Code of Federal Regulations, section 1910.1200. These documents were relied upon by OEHHA during the development of this proposed regulation.

Included with this notice are copies of the proposed regulation with the modified language provided in underline and strikeout (June 20, 2014 amendments), double-underline and double strikeout (September 12, 2014 amendments), and italicized underline and italicized strikeout (February 27, 2015 amendments) format to identify all changes to the originally proposed regulation. A copy of the OAL Decision of Disapproval of Regulatory Action is available from OEHHA upon request. All these materials are also available on the OEHHA website at www.oehha.ca.gov, and may be requested from Monet Vela of the OEHHA Legal Office at (916) 323-2517.

OEHHA will accept written comments on the additional amendments to the proposed regulation until **March 13, 2015 at 5:00 p.m.**

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. Please include "Labor Code" in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the address below. Mailed, faxed or hand-delivered comments should be addressed to:

Monet Vela
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010
Telephone: 916-323-2517
Fax: 916-323-2610
E-mail: P65Public.Comments@oehha.ca.gov

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

ANNOUNCEMENT OF PUBLICATION OF DRINKING WATER PUBLIC HEALTH GOAL AND AVAILABILITY OF FINAL TECHNICAL SUPPORT DOCUMENT FOR PERCHLORATE

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the publication of the updated Public Health Goal (PHG) for perchlorate in drinking water and the availability of the final technical support document for this PHG. The final document is posted on the OEHHA web site at <http://www.oehha.ca.gov/>.

The updated PHG is one part-per-billion (1 ppb) based on the inhibition of iodide uptake into the thyroid gland and the consequent disruption of thyroid hormone production. The update considers recent toxicological and epidemiological literature providing new information on exposures to and possible effects of perchlorate, focuses on infants as a susceptible population, and, pursuant to California Health and Safety Code Section 116365.2, incorporates updated drinking water ingestion rates for infants. These considerations have resulted in a decrease of the perchlorate PHG from 6 ppb to 1 ppb.

The PHG technical support document provides information on the health effects of perchlorate in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur. The California Safe Drinking Water Act of 1996¹ requires OEHHA to develop PHGs based exclusively on public health considerations.² PHGs published by OEHHA are considered by the State Water Resources Control Board in setting drinking water standards (Maximum Contaminant Levels, or MCLs).³

Draft documents for perchlorate have gone through a public workshop, two public comment periods, and ex-

¹ Codified at Health and Safety Code, section 116270 et. seq.

² Health and Safety Code section 116365(c).

³ Health and Safety Code section 116365(a) and (b).

ternal scientific peer review. The first public-review draft was released on January 7, 2011 and a public workshop was held on February 23, 2011. During the first public comment period, an external scientific peer review of the draft PHG document was requested. The peer review was conducted pursuant to Health and Safety Code Section 116365(c)(3)(D). The revised draft document, as well as responses to scientific peer review comments, was released for public review on December 7, 2012. OEHHA has evaluated all the comments received and revised the document as appropriate. The final technical support document is posted on the OEHHA web site along with responses to the major comments received.

If you would like to receive further information on this announcement or have questions, please contact the PHG program at PHG.Program@oehha.ca.gov or (916) 324-7572.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

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

NOTICE OF INTENT TO LIST: STYRENE

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) intends to list *styrene* 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 (CAS No.)	Endpoint	Reference	Occurrence and Uses
<i>Styrene</i> (100-42-5)	Cancer	NTP (2011)	An aromatic hydrocarbon used in the synthesis of polymers and resins that are used to fabricate various industrial and household products including polystyrene packaging, synthetic rubber, fiberglass, automobile parts, and food containers. Also present in tobacco smoke and motor vehicle exhaust.

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 scientific 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 by the State’s Qualified Experts 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: *Styrene* meets the criteria for listing as known to the State to cause cancer under Proposition 65, based on findings of the NTP (2011).

Formal identification and sufficiency of evidence for styrene: In 2011, NTP published the Twelfth Edition of the *Report on Carcinogens* (NTP, 2011). This report satisfies the formal identification and sufficiency of evidence criteria in the Proposition 65 regulations for styrene. NTP concluded that styrene is “*reasonably anticipated to be a human carcinogen*” based on limited evidence of carcinogenicity from studies in humans, sufficient evidence of carcinogenicity from studies in experimental animals, and supporting data on mecha-

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.

nisms of carcinogenesis” (emphasis in original). OEHHA is relying on NTP’s discussion of data and conclusions in the report that styrene causes cancer. Evidence described in the report includes studies showing that styrene increased the incidence of combined malignant and benign lung tumors in two strains of male mice (CD-1 and B6C3F₁) and increased the incidences of malignant and combined malignant and benign lung tumors in female CD-1 mice:

“Styrene caused lung tumors in several strains of mice and by two different routes of exposure. The most robust studies are two-year-studies of inhalation exposure in CD-1 mice (Cruzan *et al.*, 2001) and oral exposure (by stomach tube) in B6C3F₁ mice (NCI, 1979). Inhalation exposure caused benign lung tumors (alveolar/bronchiolar adenoma) and increased the combined incidence of benign and malignant lung tumors (alveolar/bronchiolar adenoma and carcinoma) in CD-1 mice of both sexes; in females it also increased the separate incidence of malignant lung tumors. In male B6C3F₁ mice, oral exposure to styrene increased the combined incidence of benign and malignant lung tumors (alveolar/bronchiolar adenoma and carcinoma), and a positive dose-response trend was observed (NCI 1979).”

Thus, NTP (2011) found that styrene causes increased incidences of combined malignant and benign lung tumors in two strains of male mice, exposed by different routes of administration (*i.e.*, oral and inhalation), and increased incidences of malignant and combined malignant and benign lung tumors in female mice.

A prior Notice of Intent to List styrene as known to cause cancer was published on June 12, 2009 under the Labor Code listing mechanism (Health and Safety Code section 25249.8(a)), based on a monograph published by the International Agency for Research on Cancer that identified styrene as a Group 2B carcinogen with less than sufficient evidence in animals but supporting mechanistic data. The proposed listing was withdrawn based on the Court of Appeal decision published on October 31, 2012 (*Styrene Information and Research Center v. Office of Environmental Health Hazard Assessment* (2013) 210 Cal.App. 4th 1082). In January 2013, OEHHA proposed the listing of styrene under the Labor Code listing mechanism, based on the Report on Carcinogens (twelfth edition) published by the NTP. That notice was withdrawn in March 2013, pending the results of federal litigation and additional peer review of the NTP’s Report on Carcinogens by the National Academy of Sciences of the National Research Council. The litigation was resolved in favor of the NTP and

the National Research Council review confirmed the NTP findings of the carcinogenicity of styrene⁴. In the interim, certain provisions of the federal Occupational Safety and Health Administration regulations were extensively amended. Those regulations no longer identify the NTP as a definitive source for identifying chemicals for listing via the Labor Code mechanism. Therefore, OEHHA is noticing its intent to list styrene via the authoritative bodies listing mechanism based on the NTP report.

Request for comments: OEHHA is requesting comments as to whether *styrene* 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 March 30, 2015.** 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 — *styrene*” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the addresses below:

Mailing	
Address:	Monet Vela 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 website after the close of the comment period.

If you have any questions, please contact Monet Vela at monet.vela@oehha.ca.gov or at (916) 445-6900.

References

Cruzan G, Cushman JR, Andrews LS, Granville GC, Johnson KA, Bevan C, Hardy CJ, Coombs DW, Mullins PA and Brown WR (2001). Chronic toxicity/oncogenicity study of styrene in CD-1 mice by inhalation exposure for 104 weeks. *J Appl Toxicol* **21**(3):185-198.

National Cancer Institute (NCI, 1979). Bioassay of Styrene for Possible Carcinogenicity. Technical Report Series No. 185. Bethesda, MD.

⁴ National Research Council (2014). Review of the Styrene Assessment in the National Toxicology Program 12th Report on Carcinogens. National Research Council of the National Academies. The National Academies Press. Washington, D.C. Available at: http://www.nap.edu/catalog.php?record_id=18725.

National Toxicology Program (NTP, 2011). Report on Carcinogens, Twelfth Edition, U.S. Department of Health and Human Services, Public Health Service, NTP, Research Triangle Park, North Carolina, page 383–391. [Most recent edition of the Report on Carcinogens available at URL: <http://ntp.niehs.nih.gov/pubhealth/roc/roc13/index.html>.]

DECISION NOT TO PROCEED

**DEPARTMENT OF
TRANSPORTATION/DIVISION OF
RIGHT OF WAY AND LAND SURVEYS**

Pursuant to Government Code Section 11347, the Department of Transportation (Caltrans) hereby gives notice that it has decided not to proceed with the rule-making action published in the California Regulatory Notice Register (CRNR), May 30, 2014, OAL notice Z–2014–0520–05. The proposed rulemaking concerned Government Code Sections 54235 through 54238.7 known as the Roberti Act which requires that certain properties owned by state agencies be disposed of in a manner that will preserve, upgrade, and expand the supply of housing available to affected persons and families of low or moderate income.

Any interested person with questions concerning this rulemaking should contact Brent Green at 916–654–4790 or Jennifer Lowden at 916–654–4790 or by e-mail at: affordable_sales_program@dot.ca.gov.

The Department will also publish this Notice of Decision Not to Proceed on its website at <http://www.dot.ca.gov/regulations.htm>.

[An agency is not precluded from taking up this rule-making action again in the future.]

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

File# 2015–0128–01
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Pilot Program for Alternative Treatment Option Model

The Department of Corrections and Rehabilitation submitted this action to repeal section 3999.11 of title 15 of the California Code of Regulations as a change without regulatory effect pursuant to title 1, California Code of Regulations, section 100. This action repeals the pilot program for using the Alternative Treatment Option Model for therapeutic purposes. The pilot program is only allowed to stay in effect for two years pursuant to Penal Code section 5058.1. This pilot program was adopted in 2012 in OAL file no. 2012–0222–03FP and expired as a matter of law on 4/1/2014.

Title 15
California Code of Regulations
REPEAL: 3999.11
Filed 02/11/2015
Agency Contact: Sherri Garcia (916) 445–2266

File# 2015–0115–01
DEPARTMENT OF FOOD AND AGRICULTURE
Noxious Weed Species

This action by the Department of Food and Agriculture amends Title 3, California Code of Regulations, section 4500, regarding the determination of noxious weed species. This rulemaking updates the current list of noxious weed species by adding certain new species and removing certain species which are currently listed.

Title 3
California Code of Regulations
AMEND: 4500
Filed 02/18/2015
Effective 04/01/2015
Agency Contact: Sara Khalid (916) 403–6625

File# 2015–0205–03
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

The Department of Food and Agriculture (DFA) submitted this emergency readopt action to maintain the regulations adopted in OAL file no. 2014–0822–01E, which expanded the quarantine area for the Asian Citrus Psyllid (ACP) *Diaphorina citri* by approximately 97 square miles in the San Luis Obispo area and created a quarantine area for ACP in the Cayucos area of approximately 61 square miles. The amendment provides authority for the state to perform quarantine activities against ACP within these additional areas, along with the existing regulated areas in the entire counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Tulare, and Ventura, and a portion of Fresno, Kern, Madera, Santa Clara, and San

Joaquin counties that are already under quarantine for the ACP, totaling approximately 51,282 square miles.

Title 3
 California Code of Regulations
 AMEND: 3435(b)
 Filed 02/12/2015
 Effective 02/12/2015
 Agency Contact: Sara Khalid (916) 403-6625

File# 2015-0203-01
 DEPARTMENT OF INDUSTRIAL RELATIONS
 Abatement Credit for Division of Occupational Safety and Health Citations

This action amends regulations to implement statutory changes which took effect January 1, 2015. Existing statutes allow the Department of Industrial Relations (DIR), within certain statutory parameters, to issue citations, impose civil penalties, and require abatement for violations of occupational health standards. DIR adopted regulations to implement the statutes and clarify the parameters. The legislature made recent statutory changes to the parameters, causing inconsistencies with portions of the existing regulations. The regulatory changes bring the DIR regulations back into conformity with the amended statutes. To conform to statute, DIR amends the regulations to (1) condition abatement credits upon an employer showing proof of abatement for serious violations; and (2) allow DIR flexibility to adjust earned abatement credits after a citation becomes a final order by operation of regulatory law when an employer provides sufficient proof of timely abatement.

Title 8
 California Code of Regulations
 AMEND: 333, 336
 Filed 02/12/2015
 Effective 02/12/2015
 Agency Contact:
 Christopher P. Grossgart (510) 286-7348

File# 2014-1229-01
 DEPARTMENT OF PUBLIC HEALTH
 HIV Reporting

In this changes without a regulatory effect, the Department of Public Health amended sections 2643.5, 2643.10, and 2643.15 in Title 17 of the California Code of Regulations to allow laboratories to electronically submit reports of HIV test results.

Title 17
 California Code of Regulations
 AMEND: 2643.5, 2643.10, 2643.15
 Filed 02/11/2015
 Agency Contact: Elizabeth Reyes (916) 445-2529

File# 2014-1230-01
 DEPARTMENT OF TRANSPORTATION
 Determination of Excess Real Property

This rulemaking action adds three regulations to Title 21 of the California Code of Regulations specifying the purpose of determining real property owned by the Department of Transportation to be excess real property and the process by which the determination is made and defining related terms.

Title 21
 California Code of Regulations
 ADOPT: 1469, 1470, 1471
 Filed 02/12/2015
 Effective 02/12/2015
 Agency Contact:
 Michael J. Rodrigues (916) 654-3536

File# 2015-0122-03
 STATE WATER RESOURCES CONTROL BOARD
 San Francisco Bay BP to incorporate onsite wastewater system policy

This action (1) revises regulations regarding wet weather overflows and combined sewer overflows; (2) incorporates the State Board's Onsite Wastewater Treatment Systems (OWTS) policy into the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region; (3) updates informational sections on greywater systems; and (4) updates the table of wastewater treatment plant outfall locations. The San Francisco Bay Regional Water Quality Control Board adopted Resolution No. R2-2014-0028 at a hearing on June 11, 2014, adopted by the State Water Resources Control Board as Resolution 2014-0064 on November 18, 2014.

Title 23
 California Code of Regulations
 ADOPT: 3919.14
 Filed 02/17/2015
 Effective 03/19/2015
 Agency Contact: Richard Looker (510) 622-2451

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN September 17, 2014 TO
 February 18, 2015**

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

CALIFORNIA REGULATORY NOTICE REGISTER 2015, VOLUME NO. 9-Z

the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

11/10/14 AMEND: 1, 14, 20
 10/29/14 AMEND: 86

Title 2

02/09/15 AMEND: 1859.76
 02/02/15 AMEND: 18705, 18705.3, 18705.4, 18705.5 REPEAL: 18704, 18704.1, 18704.5
 02/02/15 AMEND: 18450.11
 02/02/15 AMEND: 18740
 01/22/15 AMEND: 54300
 12/31/14 ADOPT: 20620 AMEND: 20610, 20611, 20612, 20613, 20622 and renumber as 20621, 20623 and renumber as 20622, 20624 and renumber as 20623, 20625 and renumber as 20624, 20626 and renumber as 20625, 20627 and renumber as 20626, 20630, 20631, 20632, 20633, 20635 and renumber as 20634, 20636 and renumber as 20635, 20637 and renumber as 20636, 20638 and renumber as 20637, 20639 and renumber as 20638, 20640, 20641, 20642, 20645 and renumber as 20643, 20646 and renumber as 20644, 20650, 20651, 20652, 20653, 20654, 20660, 20661, 20662, 20663, 20670, 20672, 20680, 20681, 20682 REPEAL: 20620, 20621, 20671, Appendices A and B to Chapter 6
 12/18/14 ADOPT: 1859.167.1, 1859.167.2, 1859.167.3 AMEND: 1859.2, 1859.77.4, 1859.106.1, 1859.160, 1859.161, 1859.162, 1859.163, 1859.163.1, 1859.163.4, 1859.163.5, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.167.2 (renumbered as 1859.167.4), 1859.167.3 (renumbered as 1859.167.5), 1859.168, 1859.171, 1859.172
 12/16/14 ADOPT: 557
 12/15/14 AMEND: 18545, 18703.4, 18730, 18940.2
 12/15/14 AMEND: 18704.1, 18705.1
 12/15/14 AMEND: 18704
 12/10/14 ADOPT: 20700, 20701, 20702, 20703, 20704, 20705, 20706, 20707
 12/03/14 AMEND: 51.7
 11/24/14 AMEND: 18942
 11/24/14 AMEND: 18705.2
 11/20/14 AMEND: 1859.73.2, 1859.76, 1859.78.7, 1859.82
 11/03/14 ADOPT: 559.518

10/29/14 AMEND: 18705.3
 10/27/14 AMEND: 10001, 10002, 10005, 10006, 10007, 10008, 10009, 10011, 10012, 10013, 10015, 10021, 10022, 10024, 10025, 10029, 10030, 10031, 10033, 10035, 10037, 10038, 10039, 10041, 10042, 10046, 10047, 10050, 10053, 10054, 10056, 10057, 10061, 10062, 10063, 10065
 10/20/14 AMEND: 18705.2
 10/17/14 AMEND: 3435
 10/17/14 AMEND: 3435(b)
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 12/23/14 AMEND: 1380.19, 1442.7
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 10/23/14 ADOPT: 2326.1, 2326.2
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 11/10/14 ADOPT: 8130, 8131, 8132, 8133, 8134,
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 10/27/14 ADOPT: 10170.16, 10170.17, 10170.18,
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 10/23/14 ADOPT: 4190, 4191
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09/30/14	AMEND: 9792.5.1	
09/23/14	AMEND: 9789.32	
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02/02/15	AMEND: 3528	
01/30/15	ADOPT: 2240.15, 2240.16, 2240.6, 2240.7 AMEND: 2240, 2240.1, 2240.4, 2240.5	
01/20/15	AMEND: 2695.85	

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10/02/14	ADOPT: 6700, 6702, 6704, 6706, 6708, 6710, 6712, 6714, 6716, 6718	11/25/14	AMEND: 1038, 1038.2
10/02/14	ADOPT: 6462	11/24/14	AMEND: 917.2, 937.2, 957.2
09/30/14	ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506, 6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620	11/17/14	AMEND: 1051(a)
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01/23/15	AMEND: 553.70	10/23/14	AMEND: 870.15, 870.17, 870.19, 870.21
01/21/15	AMEND: 1159	10/23/14	ADOPT: 180.6
12/31/14	AMEND: 2025	10/13/14	AMEND: 200.12, 200.29, 200.31
12/17/14	ADOPT: 2416, 2417, 2418, 2419, 2419.1, 2419.2, 2419.3, 2419.4	10/13/14	AMEND: 163, 164
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10/29/14	AMEND: 1239	09/29/14	AMEND: 670.2
10/23/14	AMEND: 423.00	09/22/14	AMEND: 18660.40
10/23/14	AMEND: 115.04	Title 15	
10/22/14	AMEND: 425.01	02/11/15	REPEAL: 3999.11
10/08/14	ADOPT: 2428	02/11/15	REPEAL: 3999.11
09/24/14	AMEND: 156.00, 156.01	02/09/15	ADOPT: 8121
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01/23/15	AMEND: 553.70		
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01/30/15	AMEND: 465, 472		
01/29/15	AMEND: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8		
01/28/15	AMEND: 4351.1 (renumbered as 4351), 4360 REPEAL: 4351		
12/30/14	ADOPT: 1751, 1761, 1777.4, 1780, 1781, 1782, 1783, 1783.1, 1783.2, 1783.3, 1784, 1784.1, 1784.2, 1785, 1785.1, 1786, 1787, 1788, 1789		
12/29/14	AMEND: 1665.7		
12/29/14	AMEND: 670.5		
12/16/14	AMEND: 790, 791.6, 791.7, 795		
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12/04/14 AMEND: Renumber 8125 to 8199

12/03/14 AMEND: Renumber Section 8002 to 8901

12/01/14 AMEND: 4604, 4605

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11/05/14 ADOPT: 1

10/17/14 ADOPT: 3378.1, 3378.2, 3378.3, 3378.4, 3378.5, 3378.6, 3378.7, 3378.8 AMEND: 3000, 3023, 3043.4, 3044, 3077, 3139, 3269, 3269.1, 3314, 3315, 3321, 3323, 3334, 3335, 3341.5, 3375, 3375.2, 3375.3, 3376, 3376.1, 3377.2, 3378 (subds. (c)(6)–(c)(6)(G) re–numbered to 3378.2(c)–(c)(7)), 3378.1 (re–numbered to 3378.5), 3378.2 (re–numbered to 3378.5(e)), 3378.3 (re–numbered to 3378.7), 3504, 3505, 3545, 3561, 3651, 3721

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10/08/14 ADOPT: 3410.2 AMEND: 3000, 3173.2, 3287, 3410.1

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12/17/14 AMEND: 1399.541

12/03/14 AMEND: 2610

11/19/14 AMEND: 950.2, 950.9

11/13/14 AMEND: 3003

11/10/14 AMEND: 3005

11/05/14 ADOPT: 1032.7, 1032.8, 1032.9, 1032.10, 1036.01 AMEND: 1021, 1028, 1030, 1031, 1032, 1032.1, 1032.2, 1032.3, 1032.4, 1032.5, 1032.6, 1033, 1033.1, 1034, 1034.1, 1035, 1036

10/22/14 AMEND: 1018

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02/05/15 AMEND: 6540

01/21/15 ADOPT: 6550, 6551, 6553, 6553.1, 6555, 6557, 6557.1, 6557.2, 6557.3

12/31/14 AMEND: 95802, 95830, 95833, 95852, 95852.2, 95890, 95892, 95895, 95921, 95973, 95975, 95976, 95981, 95983, 95985, 95990

12/31/14 AMEND: 95201, 95202, 95203, 95204

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12/30/14 ADOPT: 30180.1, 30180.2, 30180.3, 30180.4, 30180.5, 30180.6, 30180.7, 30181, 30192.7, 30195.4, 30196, 30237, 30332.9 AMEND: 30180, 30190, 30192.1, 30194, 30195, 30195.2, 30195.3, 30235, 30253, 30254, 30257, 30330, 30332, 30332.5, 30332.6, 30332.8, 30333, 30333.1, 30334, 30336, 30336.1, 30336.5, 30346, 30346.2, 30348.1, 30350 REPEAL: 30192, 30210.2, 30237

12/10/14 AMEND: 94014, 94016

12/05/14 ADOPT: 95660, 95661, 95662, 95663, 95664

10/13/14 AMEND: 2606.4

09/17/14 AMEND: 94501, 94506, 94508, 94509, 94512, 94513, 94515, 94520, 94521, 94522, 94523, 94524, 94525, 94526, 94528, 94700 REPEAL: 94560, 94561, 94562, 94563, 94564, 94565, 94566, 94567, 94568, 94569, 94570, 94571, 94572, 94573, 94574, 94575

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 11/05/14 AMEND: 1603
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