



# California Regulatory Notice Register

REGISTER 2013, NO. 10-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

MARCH 8, 2013

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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. FAIR POLITICAL PRACTICES  
COMMISSION**

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

**CONFLICT OF INTEREST CODES**

**AMENDMENT**

STATE AGENCY: Department of Insurance

**ADOPTION**

**MULTI-COUNTY**

AGENCY: Lava Beds/Butte Valley Resource Conservation District

A written comment period has been established commencing on **March 8, 2013** and closing on **April 22, 2013**. Written comments should be directed to the Fair Political Practices Commission, Attention Adrienne Tackley, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **April 22, 2013**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

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

**EFFECT ON HOUSING COSTS  
AND BUSINESSES**

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

**AUTHORITY**

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

**REFERENCE**

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

**CONTACT**

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

**AVAILABILITY OF PROPOSED  
CONFLICT OF INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Adrienne Tackley, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**TITLE 2. STATE ALLOCATION BOARD**

**THE STATE ALLOCATION BOARD PROPOSES  
TO AMEND REGULATION SECTIONS 1859.2  
AND 1859.90.2, ALONG WITH ONE  
ASSOCIATED FORM, AND TO ADOPT  
REGULATION SECTION 1859.97, TITLE 2,  
CALIFORNIA CODE OF REGULATIONS,  
RELATING TO  
LEROY F. GREENE SCHOOL  
FACILITIES ACT OF 1998**

**FORM PROPOSED FOR AMENDMENT:**

*Fund Release Authorization*, Form SAB 50-05, (Revised 06/12 10/12), referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend and adopt the above-referenced Regulation Sections, and to amend the above-referenced associated form, contained in Title 2, California Code of Regulations (CCR). 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 Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

**AUTHORITY AND REFERENCE CITATIONS**

The SAB is proposing to amend/adopt the above-referenced regulation sections under the authority provided by Section 17070.35 of the Education Code. The proposal interprets and makes specific reference Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45 of the Education

Code, and Sections 1771.5 and 1771.7 of the Labor Code.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The SAB, at its October 24, 2012 meeting, adopted emergency regulatory amendments to the SFP Regulations to clarify the requirements for school districts to initiate and enforce Labor Compliance Programs (LCPs) in order to receive school bond apportionments from either:

- the Kindergarten–University Public Education Facilities Bond Act of 2002 (Proposition 47) or
- the Kindergarten–University Public Education Facilities Bond Act of 2004 (Proposition 55).

The LCP requirements are in accordance with Assembly Bill 1506, Chapter 868, Statutes of 2002 (Wesson). The proposed emergency regulations are necessary to ensure that State bond funds authorized by these two Propositions are apportioned only to SFP projects that comply with the LCP requirements. The verification criteria are incorporated from Labor Code Sections 1771.5 and 1771.7, and from the Department of Industrial Relations (DIR) Regulation Section 16432. These criteria ensure various record-keeping, federal and state labor law compliance, and payroll documentation.

Labor Code Section 1771.7(a) allows two LCP compliance methods:

- initiating and enforcing a DIR-approved LCP, or
- contracting with a third party to initiate and enforce a DIR-approved LCP.

The proposed emergency regulatory amendments would add a new regulation section to clarify the LCP “written finding” requirement specified in Labor Code Section 1771.7(d)(2)(13); and provide criteria for districts to receive Proposition 47 or 55 bond funding in cases where a district initiated and enforced an LCP after the construction contract was awarded for the project.

The SAB may not release Proposition 47 or 55 bond funds until it receives a “written finding” [Labor Code Sections 1771.7(d)(1) and (d)(2)(B)] from a school district that it met one of the two permitted LCP compliance methods for its school construction project. A

district failing to meet the LCP requirement jeopardizes its entire bond funding from these two Propositions for an SFP construction project. However, some school districts delayed in having an LCP approved by the DIR or contracting with a third party LCP provider, making it unclear whether the projects meet the statutory LCP requirement to receive funding from these two propositions.

The proposed emergency regulations would resolve this difficulty in making bond funding determinations by allowing such districts to verify their LCP compliance by submitting a report to the OPSC and the DIR prepared by a contracted third party LCP provider that includes:

- verification that the applicable duties of an LCP were performed on the project,
- verification that the performance of the applicable LCP duties began within one month after the commencement of the construction work, and
- a written record of the LCP’s confirmation of monthly payroll records for the project.

The DIR would have 60 days to review the report and determine it to be incorrect, thereby preventing project funding from Proposition 47 or 55. Districts would also need to provide a notice to each worker that the district submitted the report and that the workers may contact the OPSC and DIR concerning the accuracy of the findings.

The emergency regulations would apply to projects with construction contracts awarded prior to January 1, 2012, because different criteria became effective for projects with construction contracts awarded on or after January 1, 2012.

The proposed emergency regulations will significantly improve the determination process for whether a school district has complied with LCP requirements for fund release purposes pursuant to Labor Code Sections 1771.7(d)(2)(B) and 1771.5.

Finally, for districts wishing to accelerate bond funding for their projects through the priority funding process, they must give the DIR 60 calendar days to review the report of an untimely LCP initiation prior to submitting the Form SAB 50–05, (*Fund Release Authorization*). To allow districts sufficient time to comply, this requirement would only apply on or after July 1, 2013.

Attached to this Notice is the specific regulatory language of the proposed emergency action and amendments to Form SAB 50–05. You may also review the proposed regulatory language and Form on the OPSC Web site at [www.dgs.ca.gov/opsc](http://www.dgs.ca.gov/opsc). Copies of the amended regulatory text and form will be mailed to any person requesting this information by using the OPSC contact information set forth below. The proposed

emergency regulations would amend the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

*Anticipated Benefits of the Proposed Emergency Regulations:*

By implementing the criteria of AB 1506, Labor Code Sections 1771.5 and 1771.7, and DIR Regulation Section 16432, the regulatory amendments ensure that State bond funds authorized by Propositions 47 and 55 are apportioned only to SFP projects that comply with the LCP requirements. The regulations also ensure various record-keeping, federal and state labor law compliance, and payroll documentation are maintained.

The proposed emergency regulations promote fairness and social equity by carrying out the intent of AB 1506 that properly paid employees are used on State bond-funded public works projects. This prevents lower quality contractors from using lower cost and/or improper payroll practices to underbid higher quality contractors for school construction projects. In turn, this has a positive impact on the availability of a skilled labor force for California’s construction-related trades and businesses.

An indirect benefit of a better paid and better skilled labor force is the improved health and safety of employees participating in proper apprenticeship programs and training activities. Public health and safety is enhanced through the proposed emergency regulations because a properly paid and trained work force will build school construction projects that are higher quality, structurally Code-compliant and safer for use by pupils, staff, and others on the site.

*The proposed emergency regulatory amendments, adoption of a new regulation section, and amendments to an associated form, are as follows:*

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed emergency amendments change the revision date of the Form SAB 50–05 to “10/12.”

Existing Regulation Section 1859.90.2 (“Priority Funding Process”):

- establishes 30-calendar day application filing periods for school districts and charter schools to apply for apportionments of available State school bond funds, provided that they submit the Form SAB 50–05 in a specified time period.
- projects under the Charter School Facilities Program (CSFP) may apply for advance release of design funds from a Preliminary Charter School Apportionment under specified criteria.

- projects under the Critically Overcrowded School Facilities Program may apply for advance release of environmental hardship site acquisition funds under specified criteria.
- projects under the CSFP may apply for advance release of site acquisition funds from a Preliminary Charter School Apportionment under specified criteria.

The proposed emergency regulatory amendments add a new document submittal criterion to be included in the district or charter school’s written statement accompanying their application to participate in the Priority Funding Process, as follows:

- Acknowledgement that if the district submits the Form SAB 50–05 on or after July 1, 2013 and is required to submit an LCP third party report pursuant to Regulation Section 1859.97(b), the report must be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50–05.

Proposed adoption of Regulation Section 1859.97 would implement the requirements of Labor Code Section 1771.7 that a school district shall initiate and enforce, or contract with a third party to initiate and enforce, an LCP for any project funded in whole or in part from Propositions 47 or 55, and for which the construction contract is awarded prior to January 1, 2012. The district shall submit a “written finding” that it complied with this requirement for applicable projects.

However, if the construction contract was signed either prior to the district’s LCP being approved by the DIR or prior to the district entering into a contract with a third party to implement the LCP, then a district must meet six criteria to establish compliance with the LCP requirement (criterion 3 has three subparts):

1. The DIR has approved either the district’s or the third party LCP, and such approval had not been revoked at the time of implementing the LCP;
2. The district or the third party with whom the district contracted to implement its LCP submitted an application for approval of its LCP in accordance with the DIR’s LCP regulations prior to January 1, 2012;
3. The district submits the report of a third party that has been approved by the DIR to operate an LCP in accordance with the DIR LCP regulations, and such approval has not been revoked as of the date of the report. In the case of a district that has entered into a contract with a third party to implement the LCP, the report must be prepared by a different third party that has been approved by the DIR to implement an LCP, and such approval

had not been revoked as of the date of the report. The report must include all of the following:

- Verification that the applicable duties of an LCP were all performed on the project, as set forth in Labor Code Section 1771.5(b) and DIR regulations; and
- Verification that the performance of the applicable LCP duties began within one month after the commencement of the construction work on the project as set forth in Labor Code Section 1771.7(b); and
- A written record of the LCP’s confirmation of payroll records for each month in which a contractor or subcontractor reports having workers employed on the public work project, pursuant to Title 8, CCR, Section 16432(c).

4. The district shall provide notice to each worker for which confirmation of payroll records has been performed pursuant to Title 8, CCR, Section 16432(c), informing that the district has submitted a written report to the OPSC that the district has initiated and enforced, or contracted with a third party to initiate and enforce, an LCP on the project to monitor and ensure the payment of prevailing wages to workers. The notice shall inform these workers of the manner in which they may contact the OPSC and the DIR concerning the accuracy of the report set forth in #3 above.
5. The district shall provide the DIR a copy of the report set forth in #3 above at the same time the report is submitted to the OPSC. The DIR may notify the OPSC if the DIR determines the verifications in the awarding body’s report to be incorrect.
6. The report shall not be determined to comply with Labor Code Section 1771.7(a) if the DIR submits the notice described in #5 above within 60 calendar days of receiving the report set forth in #3 above.

Existing Form SAB 50–05 is submitted by school districts and charter schools requesting the State to release the approved funding, provided the project is at least 50 percent under contract and the school district has met other specific criteria. The proposed emergency regulatory amendments expand paragraph #3 under General Information by adding document submittal requirements for projects requiring LCP compliance with Labor Code Section 1771.7. These districts must additionally submit:

- A written finding that the district has initiated and enforced, or had contracted with a third party to initiate and enforce, an LCP pursuant to Regulation Section 1859.97(a); and
- If the district is requesting funds be released through the priority funding process on or after July 1, 2013, and if the district’s LCP approval or contract date with an approved LCP third party is later than the construction contract date(s), then the district must have submitted the report specified in Regulation Section 1859.97(b) at least 60 days before submitting the Form SAB 50–05.

In addition, Labor Compliance Program is abbreviated to LCP on page 1 and page 3.

Determination of Inconsistency or Incompatibility with Existing State Regulations:

The SAB may not release Proposition 47 or 55 bond funds until it receives a “written finding” [Labor Code Sections 1771.7(d)(1) and (d)(2)(B)] from the school district that it met one of the two LCP compliance methods for its school construction project. The proposed emergency regulatory amendments would add a new regulation section to clarify the LCP “written finding” requirement and provide an alternative method for districts to receive Proposition 47 or 55 bond funding in cases where a district initiated and enforced a DIR–approved LCP, or contracted with a third party LCP provider to do so, after the construction contract was signed for the project. These districts that were not timely in initiating their LCPs would have the option to submit a report to the OPSC and the DIR from a DIR–approved third party LCP provider documenting LCP compliance. The districts could thereby verify their LCP compliance and qualify for bond funding from Propositions 47 and/or 55.

Labor Code Section 1771.5 specifies:

....

- (b) For purposes of this section, a labor compliance program shall include, but not be limited to, the following requirements:
  - (1) All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter.
  - (2) A prejob conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.
  - (3) Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a

statement of compliance signed under penalty of perjury.

- (4) The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with this chapter.
- (5) The awarding body shall withhold contract payments when payroll records are delinquent or inadequate.
- (6) The awarding body shall withhold contract payments equal to the amount of underpayments and applicable penalties when, after investigation, it is established that underpayment has occurred.
- (7) The awarding body shall comply with any other prevailing wage monitoring and enforcement activities that are required to be conducted by labor compliance programs by the Department of Industrial Relations.
- (c) For purposes of this chapter, “labor compliance program” means a labor compliance program that is approved, as specified in state regulations, by the Director of Industrial Relations.
- (d) For purposes of this chapter, the Director of Industrial Relations may revoke the approval of a labor compliance program in the manner specified in state regulations.

Labor Code Section 1771.7 specifies:

- (a)(1) For contracts specified in (f), an awarding body that chooses to use funds derived from either the Kindergarten–University Public Education Facilities Bond Act of 2002 or the Kindergarten–University Public Education Facilities Bond Act of 2004 for a public works project, shall initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program, as described in subdivision (b) of Section 1771.5, with respect to that public works project.

....

- (b) This section applies to public works that commence on or after April 1, 2003. For purposes of this subdivision, work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, does not constitute the commencement of a public work.

....

- (d)(1) An awarding body described in subdivision (a) shall make a written finding that the awarding body has initiated and enforced, or has contracted with a third party to initiate and enforce, the labor compliance program described in subdivision (a).

- (2)(A) If an awarding body described in subdivision (a) is a school district, the governing body of that school district shall transmit to the State Allocation Board, in a manner determined by that board, a copy of the finding described in paragraph (1).
- (B) The State Allocation Board shall not release the funds described in subdivision (a) to an awarding body that is a school district until the State Allocation Board has received the written finding described in paragraph (1).
- (C) If the State Allocation Board conducts a post-award audit procedure with respect to the award of the funds described in subdivision (a) to an awarding body that is a school district, the State Allocation Board shall verify, in the manner determined by that board, that the school district has complied with the requirements of this subdivision.
- ....
- (f) This section shall only apply to contracts awarded prior to the effective date of regulations adopted by the Department of Industrial Relations pursuant to paragraph (3) of subdivision (a) of Section 1771.3. (The effective date of those DIR regulations was January 1, 2012.)

The regulations have a direct benefit to California businesses because once State bond funding from Propositions 47 and 55 has been released, school districts are able to use the funds for construction projects; thus, expanding construction-related trades and businesses and stimulating the State's economy. These actions are in direct alignment with the Governor's directive. In addition, the dollars associated with these emergency regulatory amendments will benefit the school district communities by stimulating the local economies.

The State has relied upon the SFP as a means to provide an economic stimulus to construction-related trades and businesses while meeting the classroom needs of the State's K-12 student population. However, the SFP Regulations that are currently in place do not allow the SAB the flexibility to apportion Proposition 47 and 55 funds for school projects that had delayed initiation of LCPs. The proposed emergency regulations set forth a fair and uniform process to verify LCP compliance and qualify these projects for bond funding.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed emergency regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed emergency amendments are within the SAB's authority to enact

regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

**IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The Executive Officer of the SAB has determined that the proposed emergency regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require school districts or charter schools to incur additional costs in order to comply with the proposed emergency regulations.

**DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB 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.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- The proposed regulations do not require a report to be submitted other than what is already required by law and existing SFP Regulations. However, if a school district did not initiate and enforce an LCP timely as required for school bond funding from Propositions 47 and/or 55, the regulatory emergency amendments provide such districts the option to hire a DIR-approved LCP third party contractor to review the district's LCP and submit a report to the OPSC and DIR. If the report verifies the required compliance, and if bond funding is available, then project funding from Propositions 47 and/or 55 may occur.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulations create no costs to school districts beyond those required by law, except for 1) the required district contribution toward each project as stipulated in statute, and 2) the option for districts that did not initiate and enforce an LCP timely as set forth in statute to hire a DIR-approved LCP third party contractor to review the district's LCP and submit a report to the OPSC and DIR to verify LCP compliance.

- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Five school construction projects in the amount of \$17.2 million (State share of total project costs) have had their requests for the release of State bond funds (Form SAB 50–05) returned to the school districts due to delayed initiation of an LCP, with another \$441.6 million (State share) in pending projects for which the timeliness of the district’s initiation and enforcement of LCPs is yet unknown.

The proposed emergency regulatory amendments will impact the creation or elimination of an unknown number of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California because up to \$441.6 million in State bond funding for school construction projects may depend upon the LCP verification process in the proposed emergency regulations. It is currently unknown how many of these school construction projects may have delayed the initiation of a DIR–approved LCP because the school districts have not yet asked for the funds to be released through the submittal of the Form SAB 50–05, and many of them may need the proposed framework for LCP verification in order to show their entitlement to bond funding from Propositions 47 and/or 55.

The SAB has determined that the adoption of the regulations will not affect businesses, including small businesses, because they are not required to comply with or enforce the regulation, nor will they benefit from or be disadvantaged by the regulations. There is a negligible difference to California businesses in construction trades and industries because if certain school districts fail to qualify for bond funding from Propositions 47 and 55, those bond funds will be apportioned a project that did meet the LCP compliance statutory requirement.

The proposed emergency regulations promote fairness and social equity by carrying out the intent of AB 1506 that properly paid employees are used on State bond–funded public works projects. This prevents lower quality contractors from using lower cost and/or improper payroll practices to underbid higher quality contractors for school construction projects. In turn, this has a positive impact on the availability of a skilled la-

bor force for California’s construction–related trades and businesses.

#### Benefits to Health and Welfare, Worker Safety, and the State’s Environment:

- There are benefits from the proposed emergency amendments to the health and welfare of California construction employees. They will benefit from properly enforced record–keeping, federal and State labor law compliance, and payroll documentation at public works construction project sites. Properly paid workers strengthen single and family incomes and support the taxpayer base of this State. Legally paying workers will promote a skilled labor force and discourage contractors intending to use cheaper improper labor methods.
- There are benefits to worker safety from the proposed emergency regulatory amendments. Improved health and safety of construction and trades employees comes through proper pay and benefits, apprenticeship programs and training activities. In addition, a properly paid and trained work force will build school construction projects that are higher quality, structurally Code–compliant and safer for use by pupils, staff, and others on the site.
- There is no impact to the State’s environment from the proposed emergency regulations.

The SAB finds the proposed emergency regulations fully consistent with the stated purposes and benefits of AB 1506 and implementing Labor Code Sections 1771.5 and 1771.7, and the applicable DIR Regulation in Title 8, CCR, Section 16432.

#### EFFECT ON SMALL BUSINESSES

It has been determined that the amendments to and adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The regulations only apply to school districts and charter schools for purposes of funding school facility projects.

#### SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e–mail or fax, relevant to the proposed emergency regulatory action. Written comments submitted via U.S. mail, e–mail or fax must be received at the OPSC no later than April 22, 2013, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations  
Coordinator  
Mailing Address: Office of Public School  
Construction  
707 Third Street, Room 1-430  
West Sacramento, CA 95605  
E-mail Address: [lisa.jones@dgs.ca.gov](mailto:lisa.jones@dgs.ca.gov)  
Fax No.: (916) 376-5332

#### AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ron Koepl at (916) 375-2032. If Mr. Koepl is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.

#### ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

#### SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

#### RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.dgs.ca.gov/opsc> under "Resources," then click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

#### ALTERNATIVES

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

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulations coordinator named in this notice or may be accessed on the Web site listed above.

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

Division 4. Plant Industry  
Chapter 2. Field Crops  
Subchapter 2. Commercial Feed  
Article 11. Inspection Tax and Plant Licenses  
(Notice published March 8, 2013)

**NOTICE IS HEREBY GIVEN** that the California Department of Food and Agriculture (Department) proposes to amend Section 2751 of the regulations in Title 3 of the California Code of Regulations pertaining to Licensing.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department 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.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5349 or by e-mail to [gary.castro@cdfa.ca.gov](mailto:gary.castro@cdfa.ca.gov). The written comment period closes at **5:00 p.m. on April 22, 2013**. The Department will only consider comments received at the Department by that time. Submit comments to:

Gary Castro, Branch Chief I  
 Feed, Fertilizer, and Livestock Drug Services Branch  
 California Department of Food and Agriculture  
 1220 N Street, Sacramento, CA 95814  
 Telephone: (916) 900-5022; Fax: (916) 900-5349

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407 and 15051 of the Food and Agricultural Code, and to implement, interpret, or make specific Section 15053 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 15053 of the California Food and Agricultural Code authorizes the Secretary with recommendation from the Feed Inspection Advisory Board, to set the licensing fee between \$100 and \$600. Section 15053(b) allows the Secretary, with recommendation from the Feed Inspection Advisory Board, to reduce the inspection tonnage tax when the operating reserve exceeds 25 percent of the program's operating costs.

Within the authority of California Food and Agricultural Code, Section 15053, the Department is proposing to amend Section 2751 of the California Code of Regulations to set the commercial feed license fee at \$400 per year, effective July 1, 2013. Existing regulation: Sec-

tion 2751(a) exempts retail stores who sell packaged commercial feed labeled by licensed feed manufacturers from the licensing requirement.

There is no existing, comparable federal regulation or statute regulating the commercial feed license fee. The Department is the only agency which can implement regulations pertaining to animal feed. 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.

Benefits of the Proposed Action: This proposed regulatory action will benefit the regulated industry by ensuring that the operating reserve is maintained at 25 percent of the program's operating costs as required by Section 15053(b). Additionally, the increased funds will go towards inspection activities, focusing on feed safety issues (Section 14961) to ensure equity in the marketplace (Section 14901(a)(b)).

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.

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department has determined that the proposed increase in the commercial license fee will not have any impact on a person that makes only retail sales of commercial feed, or a person who manufactures feed exclusively for feeding to his or her own animals as they are exempt from obtaining a commercial feed license. (FAC Section §15051(b)(c)).

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.
- (4) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

Benefits of the Proposed Action: This proposed regulatory action will benefit the regulated industry by ensuring equity in the marketplace (Section 14901(a)(b)) and the increased funds will be focused on feed safety issues (Section 14961).

Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small businesses, the Department concludes that the adverse economic impact, including the ability of California businesses to compete with business in other states, *will not* be significant.

Significant effect on housing costs: None.

#### SMALL BUSINESSES

The proposed regulations may affect small businesses.

#### CONSIDERATIONS OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons 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 Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or, if requested, at a scheduled hearing.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Gary Castro, Branch Chief I  
Feed, Fertilizer, and Livestock Drug Services  
Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

The backup contact person for these inquiries is:

Maria Tenorio Hicks  
Feed, Fertilizer, and Livestock Drug Services  
Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

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

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

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and Feed Inspection Advisory Board meeting minutes dated September 6, 2012. Copies may be obtained by contacting Maria Tenorio Hicks at the address or phone number provided.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Maria Tenorio Hicks at the address provided. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Maria Tenorio Hicks at the address provided.

AVAILABILITY OF DOCUMENTS  
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: <http://www.cdfa.ca.gov/is/regulations.html>.

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

Division 4. Plant Industry  
Chapter 1. Chemistry  
Subchapter 1. Fertilizing Materials  
(Notice published March 8, 2013)

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend Title 3, sections 2302, 2304, 2322, and 2322.3 of the California Code of Regulations (CCR). The Department also proposes to adopt Title 3, sections 2320.3, 2320.4, 2324, and 2325 of the CCR.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department 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 period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5349 or by e-mail to [Amadou.Ba@cdfa.ca.gov](mailto:Amadou.Ba@cdfa.ca.gov). The written comment period closes at **5:00 p.m. on April 22, 2013**. The Department will only consider comments received at the Department by that time. Submit comments to:

Amadou Ba, Environmental Program Manager I  
Feed, Fertilizer, and Livestock Drug Services  
Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

AUTHORITY AND REFERENCE

Notice is hereby given that the California Department of Food and Agriculture, pursuant to the authority vested by sections 14, 401, 407, 14502, 14591, 14601, 14621, 14622, 14623, 14628, 14631, 14641, 14642, 14651.5, 14655, 14681, 14682 of the Food and Agricultural Code (FAC), and to implement, interpret, or make specific sections 14528, 14532, 14533, 14550.5, 14557, 14558, 14583.5, 14591, 14601, 14611, 14523, 14631, 14641, 14642, 14651, 14651.5, 14652, 14655, 14661, 14681, and 14682 of the FAC.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

This rulemaking action clarifies and makes specific organic input material registration, inspection, and labeling requirements.

Food and Agricultural Code section 14601 requires that each label for organic input material shall be registered by the Department. All registrations are required to be renewed in January of an even-numbered year, and shall be valid until December 31 of the following odd-number year, if issued in January of that same year. Food and Agricultural Code section 14501 authorizes the CDFa Secretary to adopt and enforce such regulations relating to the manufacture, guaranteeing, labeling, and distribution of fertilizing material.

The regulations proposed in this rulemaking action would establish conditions when a fertilizing material is considered an organic input material requiring labeling and registration, mandate a laboratory analysis to be included with a product label during registration under specified circumstances, and clarify sampling and recordkeeping requirements.

There is no existing, comparable federal regulation or statute regulating fertilizing materials. The Department is the only agency which can implement regulations pertaining to fertilizing materials. 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.

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.
- 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 person or business: None.

### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department has initially determined that the majority of the proposed regulatory changes are technical in nature and would not have an economic impact. For the proposed changes pertaining to when a biotic claim on a label/labeling is made, the entity is already performing a lab analysis in order to guarantee the number of microorganisms or enzyme concentration in their product label. Currently, entities voluntarily submit these analyses to the Department. However, for clarity and consistency, the Department is proposing regulations mandating the analyses to be submitted. The Department has determined that the costs of submitting a copy of the analyses will be inconsequential since the analyses are already being performed.

For the proposed regulatory changes pertaining to the term “organic” being used on labels, licensees will be required to begin making label changes during registration renewal in January 2014 and all label changes must be completed by December 31, 2015. The Department has determined that these changes can be incorporated in normal business practices of reprinting labels and believes that with the two-year grace period, entities will be able to accomplish this with minimal additional costs. There are approximately 2,300 firms registered with the Department; 136 firms may be required to make label changes.

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.
- (4) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

Benefits of the Proposed Action: This proposed regulatory action will benefit the regulated industry by providing clarifying changes to the definition of Organic Input Material and the use of the term organic on fertilizing material labels. In reviewing the intent of the definition of the term “organic input material,” the Department, in collaboration with the Fertilizer Inspection Advisory Board and the Organic Input Material Subcommittee, determined that if a manufacturer or distributor meet any of the conditions below, they are required to register their label with Cdfa.

- Fertilizing materials making claims of compliance with the National Organic Program, or claims for use in organic production, including, but not limited to submission by the supplier for listing by other third-party reviewers recognized by the NOP.
- Claims on labels, literature or extensions of labels, such as websites, social media outlets, or other electronic claims that the products are suitable for use in the organic crop and food productions systems.

Statewide adverse economic impact directly affecting businesses and individuals: Although the proposed action will directly affect businesses statewide, including small businesses, the Department concludes that the adverse economic impact, including the ability of California businesses to compete with business in other states, will not be significant.

Significant effect on housing costs: None.

### CONSIDERATIONS OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the actions is proposed. It 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 Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or, if requested, at a scheduled hearing.

### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Amadou Ba, Environmental Program Manager I  
Feed, Fertilizer, and Livestock Drug Services  
Branch  
California Department of Food and Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

The backup contact person for these inquiries is:

Maria Tenorio Hicks  
Feed, Fertilizer, and Livestock Drug Services  
Branch California Department of Food and  
Agriculture  
1220 N Street, Sacramento, CA 95814  
Telephone: (916) 900-5022; Fax: (916) 900-5349

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

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

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, Fertilizer Inspection Advisory Board Meeting Minutes dated January 27, 2012, Fertilizer Inspection Advisory Board Meeting Minutes dated June 28, 2012, and a 2012 Report to the Legislature: Organic Input Materials. Copies may be obtained by contacting Maria Tenorio Hicks at the address or phone number provided.

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Maria Tenorio Hicks at the address provided. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF FINAL  
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Maria Tenorio Hicks at the address provided.

**AVAILABILITY OF DOCUMENTS  
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at:  
<http://www.cdfa.ca.gov/is/regulations.html>.

**TITLE 3. DEPARTMENT OF  
PESTICIDE REGULATION**

**Continuing Education Records and Course Approval  
DPR Regulation. No. 13–001**

The Department of Pesticide Regulation (DPR) proposes to amend sections 6512 and 6513 of Title 3, California Code of Regulations. The proposed regulations would require continuing education (CE) sponsors to provide additional information when submitting CE applications to DPR for evaluation and approval; set forth criteria for obtaining approval from DPR for online and correspondence CE courses; require CE sponsors and license and certificate holders to retain additional information in their records; and require CE sponsors to give license and certificate holders a record of their course or program completion. DPR proposes to revise the following application forms: Continuing Education Approval DPR–PML–131 (Rev. 8/11) and Continuing Education Additional Presentation Request DPR–PML–132 (Rev. 8/11). These application forms, incorporated by reference, will be revised to add clarifying language as well as other editorial changes. Copies of the revised forms are included in the rulemaking file and are available upon request from DPR.

**SUBMITTAL OF COMMENTS**

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on April 24, 2013. Comments regarding this proposed action may also be transmitted via e-mail <dpr13001@cdpr.ca.gov> or by facsimile transmission at (916) 324–1452.

A public hearing has been scheduled for the time and place stated below to receive oral comments regarding the proposed regulatory changes.<sup>1</sup>

DATE: April 23, 2013

TIME: 9:30 a.m.

PLACE: California Environmental Protection  
Agency Headquarters Building  
Sierra Hearing Room  
1001 I Street  
Sacramento, California 95814

A DPR representative will preside at the hearing. Persons who wish to speak will be asked to register before the hearing. The registration of speakers will be con-

<sup>1</sup> If you have special accommodation or language needs, please notify DPR. TTY/TDD speech-to-speech users may dial 7–1–1 for the California Relay Service.

ducted at the location of the hearing from 9:00 a.m. to 9:30 a.m. Generally, registered persons will be heard in the order of their registration. Any other person who wishes to speak at the hearing will be afforded the opportunity to do so after the registered persons have been heard. If the number of registered persons in attendance warrants, the hearing officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard. Oral comments presented at a hearing carry no more weight than written comments.

### EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

State and federal law requires that DPR protect human health and the environment by regulating pesticide sales and use. DPR's oversight begins with product evaluation and registration and continues through statewide licensing of commercial and private applicators, pest control businesses, and pest control advisers; environmental and human illness monitoring; residue testing of fresh produce; and finally enforcement to ensure products available for sale are properly registered and pesticide use laws and regulations are adhered to. This structure is set forth in statute primarily in Divisions 6 and 7 of the Food and Agricultural Code (FAC).

Many individuals and businesses that sell or professionally apply pesticides, or recommend pesticide use, are required to get a license or certificate from DPR. The purpose of licensing commercial and private applicators, pest control businesses, and pest control advisers is to ensure that people selling, possessing, storing, handling, applying, and recommending the use of pesticides have the knowledge and ability to use pesticides safely and effectively.

DPR staff administers examinations for two-year licenses and certificates to applicants who meet DPR requirements. After passing the initial qualification examination, license and certificate holders can renew a license or certificate without repeating the examination by taking DPR-approved CE courses. Completion of CE courses ensures license and certificate holders receive current pesticide laws and regulations and pest management information related to proper, safe, and efficient pesticide use, protection of public health and the environment, and safe working conditions for agricultural and pest control workers. Failure to complete the required CE hours results in the loss of the license or

certificate, making re-examination necessary for reinstatement.

DPR reviews CE course applications that have been submitted by CE sponsors during a content evaluation and approval process. Through this process DPR confirms that the material to be presented in each CE course corresponds with the knowledge expectations of DPR's license and certificate holders and assigns the appropriate amount of CE credit (hours) to each course. Current regulations in section 6512 broadly outline what is required of sponsors when submitting CE course applications for content evaluation and approval. However, the current regulations were established when most CE courses were classroom-based. Now, the variety of CE course types submitted to DPR for course evaluation and approval includes correspondence, interactive online, narrated online, and noninteractive (text-based) online type courses.

Current regulation does not provide CE sponsors with clear criteria the Director will use to assess the course length in order to meet the minimum one-hour regulatory requirement for correspondence, interactive online, narrated online, and noninteractive (text-based) online courses. These four types of CE courses are fundamentally different than classroom-based CE courses in that the material is presented to license and certificate holders using different media and in various computer-based styles. The challenge for DPR staff is to remain consistent during the evaluation and approval of all types of CE courses. Updated evaluation criteria that are appropriate for the various types of CE courses are needed to improve CE course quality, standardize CE course evaluation and approval, and maintain a transparent CE approval process.

Currently, section 6513 includes the recordkeeping requirements for CE sponsors and license and certificate holders. CE sponsors are required to keep records in order to maintain an accurate account of each DPR-approved CE course, who attended, and how much CE credit they received. License and certificate holders must keep records for renewal purposes because they are required to provide DPR with information about their completed CE courses.

During the renewal process DPR verifies that the required CE hours have been met by reviewing a summary of CE course information submitted by each license and certificate holder. When license and certificate holders do not submit complete CE course information, or if the information is audited, DPR requires that copies of CE course completion records be submitted. In order to make the renewal process more efficient for license and certificate holders, CE sponsors need to provide each license and certificate holder with his or her CE record upon course completion, or soon thereafter.

This proposed regulatory action would require continuing education (CE) sponsors to provide additional information when submitting CE applications to DPR for evaluation and approval, and set forth criteria for obtaining approval from DPR for online and correspondence CE courses. Additionally, CE sponsors and license and certificate holders would be required to retain additional information in their records, and CE sponsors would be required to give license and certificate holders a record of their course or program completion.

These proposed regulations are not inconsistent or incompatible with existing State regulations.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the state pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code, because the regulatory action does not constitute a “new program or higher level of service of an existing program” within the meaning of section 6 of Article XIII of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts are expected to result from the proposed regulatory action.

#### COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no savings or increased costs to any state agency will result from the proposed regulatory action.

#### EFFECT ON FEDERAL FUNDING TO THE STATE

DPR has determined that no costs or savings in federal funding to the state will result from the proposed action.

#### EFFECT ON HOUSING COSTS

DPR has made an initial determination that the proposed action will have no effect on housing costs.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR has made an initial determination that adoption of this regulation 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.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DPR 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 ANALYSIS

Adoption of these regulations will ensure that all approved CE courses relate to the knowledge expectations of DPR’s license and certificate holders. The proposed changes establish new criteria for obtaining DPR approval for online and correspondence CE courses, standardize the evaluation and approval process for all CE courses, and clarify regulation language to be consistent with State law and easy to understand.

Benefits to the health and welfare of California residents, worker safety, and the state’s environment: Implementation of the proposed regulations will not adversely affect the health and welfare of California residents, worker safety, or the environment. The proposed regulatory action will benefit public health and the environment by ensuring that license and certificate holders remain knowledgeable in the areas of pesticide laws and regulations and pest management.

Impact on the Creation, Elimination, or Expansion of Job/Businesses: DPR has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

#### CONSIDERATION OF ALTERNATIVES

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

#### AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11456 and 11502.5.

**REFERENCE**

This regulatory action is to implement, interpret, or make specific FAC section 11502.5.

**AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

DPR has prepared an Initial Statement of Reasons and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make substantial changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

**AGENCY CONTACT**

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, and the proposed text of the regulation; and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator  
Department of Pesticide Regulation  
1001 I Street, P.O. Box 4015  
Sacramento, California 05812-4015  
916-445-3991

Note: In the event the contact person is unavailable, questions on the substance of the proposed regulatory action may be directed to the following person at the same address as noted below:

Lisa Estridge, Environmental Scientist  
Pest Management and Licensing Branch  
916-445-2489

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are

also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>. Upon request, the proposed text can be made available in an alternate form as a disability-related accommodation.

**AVAILABILITY OF FINAL STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

**TITLE 10. DEPARTMENT OF INSURANCE**

**HEALTH AND DISABILITY FRAUD ASSESSMENT**

**DATE: February 26, 2013**                      **REG-2013-0001**

**SUBJECT OF PROPOSED RULEMAKING**

The California Department of Insurance ("CDI") proposes to amend California Code of Regulations ("CCR"), Title 10, Chapter 5, Subchapter 9, Article 8, § 2698.95. The regulation will implement, interpret, and make specific California Insurance Code ("CIC") § 1872.85(a), which permits CDI to collect an assessment of up to twenty cents (\$.20) for each insured under an individual or group disability insurance policy. As a result of the amendment, the assessment would increase from ten cents to twenty cents for each insured under an individual or group disability insurance policy.

**PUBLIC HEARING**

A public hearing has been scheduled in connection with this proposed action. A public hearing will be held at 1:30 p.m. on April 24, 2013 at the Department of Insurance, 300 Capitol Mall, 16<sup>th</sup> Floor, Sacramento, CA 95814. The sole purpose of such a hearing would be to address the merits of the proposed regulations. The hearing will continue on the date noted above until all testimony has been submitted or 4:00 p.m., whichever is earlier.

**ACCESS TO HEARING ROOM**

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to

notify the contact person(s) for the hearing in order to make special arrangements, if necessary.

**facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

AUTHORITY AND REFERENCE

The proposed regulations will implement, interpret and make specific the provisions of CIC § 1872.85(a), which provides the authority for this rulemaking.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW AND POLICY STATEMENT OVERVIEW

PRESENTATION OF WRITTEN COMMENTS;  
CONTACT PERSONS

All persons are invited to submit written comments on the proposed regulations during the public comment period. The public comment period will end at 4:00 p.m. on April 24, 2013. Please direct all written comments to the following contact person:

Gene Woo, Attorney III  
California Department of Insurance  
45 Fremont Street, 24th Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4496

Health and disability fraud, which is increasing in sophistication, complexity, and volume, is a critical problem for health insurance policyholders, providers, and California’s economy. It unjustly inflates the cost of healthcare, pharmaceuticals, and insurance premiums, since insurance companies ultimately pass the cost of fraud onto consumers. And it weakens the trust between doctors and patients, reduces consumer confidence, and may even compromise the quality of healthcare provided.

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If he is unavailable, inquiries may be addressed to the following backup contact person:

Jamie Katz, Attorney  
California Department of Insurance  
45 Fremont Street, 21st Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4180

CDI’s priority has been to reduce insurance fraud via the Fraud Health & Disability Program. The program is a joint effort between the CDI’s Fraud Division and local district attorneys (“local DAs”) to investigate and prosecute health and disability fraud. Prior to the enactment of AB 2138, per CIC § 1872.85(a) and the original regulation, revenue for the program was derived from a special purpose assessment of ten cents (\$.10) for each insured covered by an individual or group disability insurance policy issued in California.

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by CDI, addressed to one of the contact persons at their respective address listed above, no later than 4:00 p.m. on April 24, 2013. Any written materials received after that time will not be considered.

However, the current assessment is inadequate to fund fraud investigations within the CDI and in California’s largest counties. While the number of suspected fraud claims has increased, no additional funding increases have been provided. As a result of inadequate funding levels, local DAs have only been able to investigate and prosecute a limited number of healthcare and disability fraud cases. And while the Fraud Division has the authority to investigate fraud, every year it closes cases that would otherwise warrant investigation because of a lack of resources. The proposed amendment will provide the resources necessary for the Fraud Division and local DAs to effectively investigate and prosecute health and disability fraud. Existing law permits CDI to collect an annual fee from each admitted disability insurer or other entity liable for any loss due to health insurance fraud doing business in the state. Assembly Bill 2138 was enacted and increased the annual fee to an amount which may not exceed twenty cents annually for each insured under an individual or group insurance policy issued in the state. These funds are to be used to fund increased investigation and prosecution of fraudulent health insurance claims. The proposed regulation will implement Section 1872.85 of the Insurance Code, which was enacted in 1991.

COMMENTS TRANSMITTED BY  
E-MAIL OR FACSIMILE

CDI will accept written comments transmitted by e-mail, provided they are sent to the following e-mail address: [woog@insurance.ca.gov](mailto:woog@insurance.ca.gov). CDI will also accept written comments transmitted by facsimile provided they are directed to the attention of Gene Woo and sent to the following facsimile number: (415) 904-5729. **Comments sent to other e-mail addresses or other**

**COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

**CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

The proposed amendments implement, interpret, and make specific the provisions of Insurance Code Section 1872.85(a) by amending § 2698.95. The proposed amendments are not inconsistent or incompatible with any existing state regulations.

**EFFECT OF PROPOSED ACTION**

The proposed regulation increases the current ten cent annual fee to twenty cents.

**MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

**COST OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING**

CDI has determined that the proposed regulations will result in a fiscal impact on CDI of \$4.2 million in fiscal year 2013–14, but it will not create any 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 the Government Code, or other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

CDI has made an initial determination that the proposed amendment is projected to have very small economic impacts directly affecting insurers and small businesses. Additionally, the ability of California businesses to compete with businesses in other states is not affected. The types of businesses that may be affected

are disability insurers. CDI has considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
2. Consolidation or simplification of compliance or reporting requirements for businesses.
3. The use of performance standards rather than prescriptive standards.
4. Exemption or partial exemption from the regulatory requirements for businesses.

It is not anticipated that California businesses will be required to engage in any reporting, recordkeeping or other compliance activities as a result of these proposed regulations.

**STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

CDI is required to assess any impact the proposed amendment may have on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, the expansion of businesses currently doing business within the State of California, and the benefits of the proposed amendments to the health and welfare of California residents, worker safety, and the state’s environment.

The proposed regulation will create jobs within CDI and local government but potentially eliminate other jobs within the State of California (Government Code § 11346.3(b)(1)(A)). Despite the small net negative effect, the job losses and/or production cost increases borne by insurers will be small enough that they will not affect the creation of new businesses or the elimination of existing businesses within California (Government Code § 11346.3(b)(1)(B)), or the expansion of businesses currently doing business within California (Government Code 11346.3(b)(1)(C)). CDI also determined that the proposed regulation will have positive effects on the health and welfare of California residents, but no effect on the environment (Government Code § 11346.3(b)(1)(D)).

CDI is not aware of any cost impacts that the proposed amendment would cause that would impair the ability of California businesses or insurers to compete with businesses in other states. The regulation is projected to have a very small impact on insurers and small businesses. CDI’s analysis captures this slightly negative effect in three measures: state output, personal or household income and employment. The earnings multiplier of 0.7016 is much smaller than the output multi-

plier so household income would be even less affected than output.

CDI is not aware of any other significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation. CDI has concluded that the proposed amendment will have an immaterial economic impact. CDI has concluded that the proposed amendment will not have an economic impact for the reasons set forth in the Actuarial Data section of the Economic Impact Assessment. Neither the proposed amendments nor the two alternatives discussed in the Economic Impact Assessment will materially affect the cost of health or disability insurance.

CDI has determined that the proposed regulation will be beneficial to the health and welfare of California residents per § 11346.3(b)(1) since insurance fraud is a white collar crime and is typically seen as theft against insurers and their policy holders.

CDI is required to consider proposed alternatives to the proposed amendments. CDI has considered two such alternatives. Under Alternative #1, CDI would not adopt any changes to existing § 2698.95. Under Alternative #2, CDI would increase the amount of the health and disability insurance assessment by an amount less than ten cents. CDI has determined that neither of these two alternatives, which are discussed in the Economic Impact Assessment, would be more effective in carrying out the purpose for which the proposed amendment is proposed or would be as effective and less burdensome to affected private persons than the proposed amendment, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy of Insurance Code Section 1872.85.

The full text of CDI's assessment is set forth in the Economic Impact Assessment, a copy of which is included in the rulemaking record.

#### POTENTIAL COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR ENTITIES/BUSINESSES

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

#### FINDING OF NECESSITY

CDI finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

#### EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

CDI is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. CDI does not foresee that the proposed regulations will have a significant impact on any of the above but invites interested parties to comment on the issue.

#### IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

#### ALTERNATIVES

CDI must determine that no reasonable alternative considered by CDI or that has otherwise been identified and brought to the attention of CDI would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. CDI invites public comment on alternatives to the regulations.

#### IMPACT ON SMALL BUSINESS

CDI is not aware of any other significant cost impacts that the proposed amendments will have on small businesses. Pursuant to Government Code section 11342.610, subdivision (b), paragraph (2), insurers are not small businesses.

#### TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

CDI has prepared an initial statement of reasons that sets forth the reasons for the proposed regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any re-

ports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 45 Fremont Street, 24th Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

#### AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on CDI's mailing list.

#### WEBSITE POSTINGS

Documents concerning this proceeding are available on CDI's website. To access them, go to <http://www.insurance.ca.gov>. On the right side of the page, find the major heading "Quick Links". In this section, scroll down until you see the subheading "Legal Information". Click on the link. On the next page at the top of the page, there will be a link entitled "Proposed Regulations". Click on the link. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or browsing for them by name.

To search, enter "2013-0001" (CDI's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "1872.85") or search by keyword (for example "disability insurance assessment"). Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posed will appear. Find in the list the "Disability Insurance Assessment" link, and click it. Links to the documents associated with these regulations will then be displayed.

#### MODIFIED LANGUAGE

If the regulations adopted by CDI differ from those that have originally been made available 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. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

## TITLE 18. BOARD OF EQUALIZATION

### **The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1685.5, *Calculation of Estimated Use Tax — Use Tax Table***

#### NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1685.5, *Calculation of Estimated Use Tax — Use Tax Table*. Regulation 1685.5 prescribes the manner in which the Board "shall annually calculate the estimated amount of use tax due according to a person's adjusted gross income and by July 30 of each calendar year make available to [the] Franchise Tax Board such amounts in the form of a use tax table," as required by RTC section 6452.1. The proposed amendments update the manner in which the Board shall annually calculate the estimated amount of use tax due according to a person's adjusted gross income (AGI) for calendar year 2013 and subsequent years to account for the expanded use tax registration requirements imposed by Assembly Bill No. (AB) 155 (Stats. 2011, ch. 313) and recent registration activities.

#### PUBLIC HEARING

The Board will conduct a meeting in Room 207, 5901 Green Valley Circle, Culver City, California, on April 24-26, 2013. 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](http://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 24, 25, or 26, 2013. 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 1685.5.

#### AUTHORITY

RTC section 7051.

#### REFERENCE

RTC section 6452.1.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEWCurrent Law

Under RTC sections 6202 and 6453, consumers are primarily liable for reporting and paying use tax imposed on the storage, use, or other consumption of tangible personal property in this state. However, under RTC sections 6203, 6226, and 6453, specified retailers are required to register with the Board, collect use tax from their California customers, and report and pay the use tax to the state. Therefore, under Regulation 1685, *Payment of Tax by Purchasers*, consumers are required to report and pay their own use taxes to the state when they purchase tangible personal property for storage, use, or other consumption in this state from unregistered retailers that do not collect California use tax.

Prior to 2010, consumers could only report and pay their use taxes to the Board. However, RTC section 6452.1 was enacted in 2010 to make it more convenient for consumers to comply with their use tax obligations by permitting consumers to make an irrevocable election to report “qualified use tax” on an “acceptable [income] tax return” filed with the Franchise Tax Board (FTB). RTC section 6452.1, subdivision (d)(2), as enacted by Statutes 2010, chapter 721, defined the term “qualified use tax” to mean a taxpayer’s actual unpaid use tax liability after applying the state use taxes imposed under the Sales and Use Tax Law (RTC § 6001 et seq.) and article XIII of the California Constitution, and the local and district use taxes imposed in conformity with the Bradley–Burns Uniform Local Sales and Use Tax Law (RTC § 7200 et seq.) or in accordance with the Transactions and Use Tax Law (RTC § 7251 et seq.) to the taxpayer’s purchases of tangible personal property subject to use tax.

Senate Bill No. (SB) 86 (Stats. 2011, ch. 14) amended RTC section 6452.1 to make it more convenient for taxpayers to comply with their use tax obligations by giving taxpayers the option to report their “estimated use tax liabilities,” based upon their AGIs for income tax purposes, for one or more single nonbusiness purchases of individual items of tangible personal property each with a sales price of less than one thousand dollars (\$1000), as determined from a use tax table, on their income tax returns, instead of calculating and reporting their actual unpaid use tax liabilities (as described above). In addition, RTC section 6452.1, subdivision (d)(2)(A)(i)(II), as amended by SB 86, requires the Board to “annually calculate the estimated amount of use tax due according to a person’s adjusted gross income and by July 30 of each calendar year make available to [the] Franchise Tax Board such amounts in the

form of a use tax table” for inclusion in the instructions to the FTB’s returns and use by eligible taxpayers.

The Board adopted Regulation 1685.5 on July 26, 2011, to prescribe the specific use tax table that taxpayers could use to estimate their calendar–year 2011 use taxes based upon their AGIs, prescribe the manner in which the Board shall annually calculate the estimated amount of use tax due according to a person’s AGI for calendar–year 2012 and subsequent years, and prescribe the format of the use tax tables the Board would be required to make available to the FTB for calendar–year 2012 and subsequent years. After discussing Regulation 1685.5 with interested parties, the Board adopted amendments to Regulation 1685.5 on March 20, 2012, to update the manner in which the Board annually calculates the estimated amount of use tax due according to a person’s AGI and makes such amounts available to the FTB in the form of a use tax table for calendar–year 2012 and subsequent years. The Notice of Action for the 2012 amendments explained that:

The proposed [2012] amendments to Regulation 1685.5, subdivision (b)(2), will require that the Board multiply the percentage of income spent on taxable purchases during the preceding year by 0.37, which represents the estimated percentage of California consumers’ total purchases of tangible personal property for use in California from all out–of–state retailers that are made from out–of–state retailers that are not registered with the Board to collect use tax from their customers. AB 155 (Stats. 2011, ch. 313) expanded the use tax registration requirements so that they apply to some out–of–state retailers, including Internet retailers, that were previously not required to register with the Board to collect and remit use tax on their sales of tangible personal property to California customers. However, section 6 of AB 155 provides that the new registration requirements will not be operative until either September 15, 2012, or January 1, 2013, and the Board is currently unable to determine whether the new registration requirements will reduce the percentage of California consumers’ total purchases of tangible personal property for use in California from all out–of–state retailers that are made from out–of–state retailers that are not registered with the Board to collect use tax from their customers during 2012 or in subsequent years, and, if so, the extent of such reduction. Therefore, the Board is not proposing to amend Regulation 1685.5 to account for the new registration requirements imposed by AB 155 at this time. However, the Board is continuing to monitor the implementation of AB 155 and

considering whether to propose sufficiently related changes to the original text of the proposed amendments to Regulation 1685.5 to account for the enactment of AB 155 or other events that may change the percentage of taxable purchases that California consumers make from unregistered out-of-state retailers during 2012 or subsequent years.

However, the Board did not make sufficiently related changes to the text of the 2012 amendments to Regulation 1685.5 to account for the enactment of AB 155 because the Board could not determine when AB 155's expanded use tax registration requirements would be operative and could not adequately estimate the effect of the expanded use tax registration requirements when the Board adopted the 2012 amendments. Instead, the Board continued to monitor the implementation of AB 155 and consider whether to propose amendments to Regulation 1685.5 to account for the enactment of AB 155 and the expanded use tax registration requirements' effect on the percentage of taxable purchases that California consumers make from unregistered out-of-state retailers during calendar-year 2013 and subsequent years.

Effect, Objectives, and Benefits of the Proposed Amendments to Regulation 1685.5

The expanded registration requirements (discussed above) became operative on September 15, 2012, in accordance with section 6, subdivision (b)(2), of AB 155. The Board did see an increase in the number of out-of-state retailers registered to collect California use tax around that time, and Board staff was subsequently able to determine that those registration activities, including the registration of some retailers that make substantial sales to California consumers, indicate that there will be an overall decrease in the percentage of taxable purchases California consumers make from unregistered out-of-state retailers during calendar-year 2013, and in subsequent years. In addition, Board staff was able to:

- Calculate adjusted total 2011 United States electronic commerce sales;
- Determine that 86.9 percent of those sales were made by the top 500 Internet retailers and 13.1 percent of those sales were made by other Internet retailers;
- Estimate that 14.4 percent of the top 500 Internet retailers and 78 percent of the other Internet retailers were not registered with the Board to collect use tax after the operative date of AB 155; and
- Arrive at a weighted average percentage of sales made by unregistered Internet retailers of 22.7 percent  $((.869 \times .144) + (.131 \times .78))$ .

Therefore, staff prepared a memorandum dated January 4, 2013, which recommended that "the Board amend Regulation 1685.5, subdivision (b)(2), to change the estimated percentage of California consumers' total purchases of tangible personal property for use in California that are made from out-of-state retailers that are not registered with the Board to collect use tax from their customers from 37 percent to 23 percent to account for the new use tax registration requirements imposed by AB 155 and recent registration activities." And, Board staff submitted the memorandum to the Board Members for their consideration at the Board's January 15, 2013, Business Taxes Committee meeting.

During the January 15, 2013, meeting, Ms. Gina Rodriguez, Vice President of State Tax Policy for the California Taxpayers Association (CalTax), stated that CalTax supports the amendments to Regulation 1685.5 and the Board Members unanimously voted to propose their adoption. The Board determined that the amendments are reasonably necessary to account for the expanded registration requirements imposed by AB 155 operative September 15, 2012, and the recent registration activity discussed above.

The objective of the proposed amendments is to make the Board's calculations of the estimated amount of use tax due according to a person's AGI for calendar-year 2013 and subsequent years as accurate as possible by accounting for the expanded use tax registration requirements imposed by AB 155 and recent registration activities. The Board anticipates that the proposed amendments will promote fairness and generally encourage consumers to use the Board's use tax tables by ensuring that eligible consumers' estimated use tax liabilities are as accurate as possible.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1685.5 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because Regulation 1685.5 is the only state regulation prescribing the manner in which the Board "shall annually calculate the estimated amount of use tax due according to a person's adjusted gross income and by July 30 of each calendar year make available to [the] Franchise Tax Board such amounts in the form of a use tax table," as required by RTC section 6452.1. There is no federal use tax and there are no comparable federal regulations or statutes to Regulation 1685.5.

**NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Board has determined that the adoption of the proposed amendments to Regulation 1685.5 will not impose a mandate on local agencies or school districts,

including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

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

The Board has determined that the adoption of the proposed amendments to Regulation 1685.5 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

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

The Board has made an initial determination that the adoption of the proposed amendments to Regulation 1685.5 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 1685.5 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  
ANALYSIS REQUIRED BY GOVERNMENT  
CODE SECTION 11346.3, SUBDIVISION (b)**

The Board has prepared the economic impact analysis 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 1685.5 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 1685.5 will not affect the health and welfare of California residents, worker safety, or the state's environment.

**NO SIGNIFICANT EFFECT  
ON HOUSING COSTS**

Adoption of the proposed amendments to Regulation 1685.5 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](mailto:Bradley.Heller@boe.ca.gov), or by mail at State Board of Equalization, Attn: Bradley M. 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](mailto: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 24, 2013, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Regulation 1685.5 during the April 24-26, 2013, 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 1685.5. 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 1685.5 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact analysis 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 rule-making 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](http://www.boe.ca.gov).

SUBSTANTIALLY RELATED CHANGES  
PURSUANT TO GOVERNMENT CODE  
SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1685.5 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 amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the original proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting amendments that are received prior to adoption.

AVAILABILITY OF FINAL  
STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1685.5, 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](http://www.boe.ca.gov).

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF HEALTH CARE  
SERVICES**

**THE DEPARTMENT OF HEALTH CARE  
SERVICES QUALITY ASSURANCE FEE  
ON SKILLED NURSING FACILITIES FOR  
THE 2012-13 RATE YEAR**

This notice provides information concerning the Quality Assurance Fee (QAF) assessed for all non-exempt Freestanding Skilled Nursing Facilities Level B (FS/NFB), Freestanding Adult Subacute Nursing Facilities Level B (FSSA/NF-B) and Freestanding Pediatric Subacute Facilities Level B (PSA/NF-B) for rate year August 1, 2012 to July 31, 2013, approved by the Centers for Medicare & Medicaid Services on February 5, 2013. *California Health and Safety Code*, Sections 1324.20 through 1324.30, authorizes the Department of Health Care Services (DHCS) to collect a QAF from all non-exempt FS/NF-Bs, FSSA/NF-Bs and PSA/NF-Bs. The purpose of this fee is to enhance federal financial participation in the Medi-Cal program, provide additional reimbursement to, and support quality improvement efforts in, licensed NF-Bs providing services for the Medi-Cal program.

QAF IMPOSED FOR THE 2012-13 RATE YEAR

DHCS will collect the following QAF on a monthly basis:

FS/NF-Bs, FSSA/NF-Bs and PSA/NF-Bs with total annual resident days equal to or greater than 100,000: \$15.61 per resident day.

FS/NF-Bs, FSSA/NF-Bs and PSA/NF-Bs with total annual resident days less than 100,000: \$14.88, per resident day.

DHCS will send quarterly notices to each non-exempt NF-B and three monthly payment forms. Payments are due on or before the last day of the month following the month for which the fee is imposed.

PUBLIC REVIEW AND COMMENTS

A copy of the California Health and Safety Code sections 1324.20 through 1324.30 may be requested from, and any comments may be sent to:

Mr. Grant Gassman, Chief  
 Long Term Care Section  
 Department of Health Care Services  
 1501 Capitol Avenue, Suite 71.4001  
 MS 4612  
 P.O. Box 997417  
 Sacramento, CA 95899-7417

**PROPOSITION 65**

**OFFICE OF ENVIRONMENTAL  
 HEALTH HAZARD ASSESSMENT**

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

**EXTENSION OF PUBLIC COMMENT PERIOD**

**TITLE 27. CALIFORNIA CODE  
 OF REGULATIONS**

**AMENDMENT TO SECTION 25805  
 SPECIFIC REGULATORY LEVELS:  
 CHEMICALS CAUSING  
 REPRODUCTIVE TOXICITY**

**BISPHENOL A**

**MARCH 8, 2013**

*[NOTE: Posted on the OEHHA web site on  
 February 21, 2013]*

On January 25, 2013, the Office of Environmental Health Hazard Assessment (OEHHA) published in the California Regulatory Notice Register (Register 2013, No 4-Z) a Notice of Proposed Rulemaking to adopt a Maximum Allowable Dose Level for bisphenol A. (Title 27, California Code of Regulations, section 25805). This proposed regulatory action is being taken pursuant to OEHHA's authority under the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, and codified at Health and Safety Code section 25249.5 *et seq.*

Publication of the notice initiated a 45-day public comment period that was scheduled to close on March 11, 2013. OEHHA has received a request from several interested parties, including the Grocery Manufacturers Association, the California Chamber of Commerce, the California League of Food Processors, and the California Manufacturers and Technology Association, seek-

ing an extension of the comment period. **OEHHA hereby extends the public comment period on this proposed amendment to 5:00 p.m., Wednesday, April 10, 2013.** Comments should be addressed to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov) with "MADL-Bisphenol A" in the subject line:

Monet Vela  
 Office of Environmental Health Hazard Assessment  
 P. O. Box 4010  
 1001 I Street  
 Sacramento, California 95812-4010  
 Fax No.: 916-323-2517  
 E-mail: [monet.vela@oehha.ca.gov](mailto:monet.vela@oehha.ca.gov)

Inquiries concerning the action described in this notice may be directed to Monet Vela, in writing at the address given above, or by telephone at (916) 323-2517. Fran Kammerer is a back-up contact person and is available at (916) 445-4693.

**OFFICE OF ENVIRONMENTAL  
 HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC  
 ENFORCEMENT ACT OF 1986**

**(PROPOSITION 65)**

**EXTENSION OF THE  
 PUBLIC COMMENT PERIOD FOR  
 NOTICE OF INTENT TO LIST:  
 BISPHENOL A**

**March 8, 2013**

*[NOTE: Posted on the OEHHA web site on  
 February 21, 2013]*

On January 25, 2013, the California Environmental Protection Agency's (Cal/EPA) Office of Environmental Health Hazard Assessment (OEHHA) published a notice in the *California Regulatory Notice Register* (Register 2013, No. 4-Z) announcing its intent to list Bisphenol A as known to the State to cause reproductive toxicity (developmental endpoint) under the Safe Drinking Water and Toxic Enforcement Act of 1986.<sup>1</sup>

The January 25<sup>th</sup> notice initiated a 30-day public comment period that was scheduled to close on February 25, 2013. OEHHA has received a request from several interested parties, including the Grocery Manufacturers Association, the California Chamber of Commerce, the California League of Food Processors, and the California Manufacturers and Technology Association,

<sup>1</sup> 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.*

tion, seeking an extension of the comment period to allow for the submission of scientific information for Bisphenol A. **OEHHA hereby extends the public comment period until 5 p.m., Wednesday, March 27, 2013.**

We encourage you to submit comments via e-mail, rather than in paper form. Comments transmitted by e-mail should be addressed to [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov) with "NOIL-Bisphenol A" in the subject line. Hard copy comments may be mailed, faxed, or delivered in person to the addresses below:

Mailing Address: Ms. Cynthia Oshita  
Office of Environmental Health  
Hazard Assessment  
P.O. Box 4010, MS-19B  
Sacramento, California  
95812-4010

Fax: (916) 323-8803

Street Address: 1001 I Street  
Sacramento, California 95814

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

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

**OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

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

**NOTICE TO INTERESTED PARTIES  
March 8, 2013**

**TENTATIVE AGENDA FOR  
THE MARCH 18, 2013 MEETING OF THE  
DEVELOPMENTAL AND REPRODUCTIVE  
TOXICANT IDENTIFICATION COMMITTEE**

The Developmental and Reproductive Toxicant Identification Committee of OEHHA's<sup>1</sup> Science Advisory Board identifies chemicals for addition to the list of chemicals known to the State to cause reproductive toxicity (Health and Safety Code section 25249.8). The Committee serves as the "State's Qualified Experts" for

determining whether a chemical has been clearly shown, through scientifically valid testing according to generally accepted principles, to cause reproductive toxicity.

A public meeting of this committee will be held on **Monday, March 18, 2013** in the Byron Sher Auditorium of the California Environmental Protection Agency headquarters building located at 1001 I Street, Sacramento beginning at 10:00 am and continuing until all business is conducted or 5:00 p.m. The meeting will be webcast: The URL for the webcast (not active until the day and time of the meeting) is: <http://calepa.ca.gov/Broadcast/>.

The tentative agenda for this meeting is given below. The order of items on the agenda is provided for general reference only. The order in which items are taken up by the Committee is subject to change at the discretion of the Chair.

For planning purposes of the meeting, if you plan to make public comments in the form of a presentation to the Committee, please provide an estimate of the time you will need, and the reason you are requesting additional time, to Cynthia Oshita at [Cynthia.Oshita@oehha.ca.gov](mailto:Cynthia.Oshita@oehha.ca.gov) by 5:00 p.m. on March 12, 2013. If you have special accommodation or language needs, please contact Ms. Oshita at (916) 445-6900 or at her email address also by March 13, 2013. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

- I. INTRODUCTION AND ADMINISTRATION OF THE OATH OF OFFICE TO NEWLY APPOINTED MEMBERS
- II. CONSIDERATION OF A CHEMICAL AS KNOWN TO THE STATE TO CAUSE REPRODUCTIVE TOXICITY
  - A. Deltamethrin
    - Staff presentation
    - Committee discussion
    - Public comments\*
    - Committee discussion and decision
- III. STAFF UPDATES
- IV. COMMITTEE COMMENTS
- V. PUBLIC COMMENTS
- VI. SUMMARY OF COMMITTEE ACTIONS

\* Generally public comments should be limited to 5 minutes, which may be changed if time allows and at the discretion of the chair. Commenters may ask the chair for additional time in advance by sending a request to Cynthia Oshita at [Cynthia.Oshita@oehha.ca.gov](mailto:Cynthia.Oshita@oehha.ca.gov) at least three business days in advance of the meeting. The request should specify the name(s) of the commenter(s), the amount of time requested, and (briefly) the reasons for additional time. A total of one hour has been allocated for public comments concerning the listing

<sup>1</sup> The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code, section 25249.5 et seq. (commonly known as Proposition 65).

decision, which can be extended at the discretion of the chair.

**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# 2013-0110-01  
AIR RESOURCES BOARD  
Vapor Recovery Certification and Test Procedures

The Air Resources Board (ARB) filed this action to amend five sections in title 17 of the California Code of Regulations. The action updates the incorporation by reference dates of ten ARB documents that include definitions, certification procedures, and test procedures related to the testing and certification of vapor recovery systems and system components used in underground and aboveground gasoline storage tanks. The action also makes amendments to these ten ARB documents that include establishing a permeation limit in gas hoses and clarifying what is meant by "effective date" in Health and Safety Code sections 41954(g)(2) and 41956.1(a).

Title 17  
California Code of Regulations  
AMEND: 94010, 94011, 94016, 94150, 94168  
Filed 02/25/2013  
Effective 04/01/2013  
Agency Contact: Amy Whiting (916) 322-6533

File# 2013-0114-02  
BOARD OF OPTOMETRY  
Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

This rulemaking action by the Board of Optometry amends section 1575 of title 16 of the California Code of Regulations and the incorporated "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" (form DG-4), along with two other related forms (DG-1 and DG-QR1). These changes were adopted to implement legislation resulting from Senate

Bill 1441 (Ch. 548, Stats. 2008), which directed a newly-formed Substance Abuse Coordination Committee to establish a standardized substance abuse monitoring program.

Title 16  
California Code of Regulations  
AMEND: 1575  
Filed 02/27/2013  
Effective 04/01/2013  
Agency Contact: Andrea Leiva (916) 575-7182

File# 2013-0114-01  
BUREAU OF AUTOMOTIVE REPAIR  
Smog Check Inspectors and Repair Technicians Application

The Bureau of Automotive Repair is amending its existing Application for Initial Smog Check Inspector and/or Smog Check Repair Technician License, which is incorporated by reference into section 3340.29 of title 16. This amendment will clarify one's legal right to substitute comparable military training for other prescribed Smog Check training requirements as articulated in Health & Safety Code section 44031.5. It will also now reflect recent requirements mandated by Business & Professions Code section 494.5.

Title 16  
California Code of Regulations  
AMEND: 3340.29  
Filed 02/27/2013  
Effective  
Agency Contact: Vince Somma (916) 403-0159

File# 2013-0206-01  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION  
Inmate Religious Property

This emergency rulemaking by the Department of Corrections and Rehabilitation (DOCS) amends Title 15, sections 3000, 3190, 3213, and 3334 of the California Code of Regulations to provide for a separate Religious Property Matrix, which is incorporated by reference into subsection 3190(b).

Title 15  
California Code of Regulations  
AMEND: 3000, 3190, 3213, 3334  
Filed 02/21/2013  
Effective 02/21/2013  
Agency Contact: Sarah Pollock (916) 445-2266

File# 2013-0111-01  
DEPARTMENT OF CORRECTIONS AND  
REHABILITATION  
Alternative Custody Program

The California Department of Corrections and Rehabilitation (CDCR) submitted this timely certificate of compliance to make permanent the emergency regulations adopted in OAL file no. 2012-0824-03EON. This regulatory action permanently amends and adopts regulations necessary to implement the Alternative Custody Program mandated by Penal Code section 1170.05 as amended by Statutes 2012, chapter 41 (SB 1021). These regulations establish criteria, policies, and procedures whereby eligible female inmates may voluntarily participate in the Alternative Custody Program in lieu confinement in a state prison. As part of these regulations, CDCR is adopting three new forms — CDCR 2234 (07/12), CDCR 2235 (07/12) and CDCR 1516-ACP (06/11) — which are incorporated by reference.

Title 15  
California Code of Regulations  
ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323  
Filed 02/25/2013  
Effective 02/25/2013  
Agency Contact: Diane Hawkins (916) 322-8447

File# 2013-0115-02  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
Automated Needs Assessment Tool

This regulatory action requires the administration of an automated needs assessment tool, which identifies an inmate's criminogenic needs, to be used in making decisions for placement of the inmate in a rehabilitative program. It requires that inmates be administered the tool during the reception center process and during any initial or annual review if one has not already been completed.

Title 15  
California Code of Regulations  
ADOPT: 3375.6 AMEND: 3000, 3375  
Filed 02/25/2013  
Effective 02/25/2013  
Agency Contact: Sarah Pollock (916) 445-2266

File# 2013-0130-03  
DEPARTMENT OF FOOD AND AGRICULTURE  
Asian Citrus Psyllid Interior Quarantine

The Department of Food and Agriculture submitted this timely certificate of compliance action to make permanent the emergency amendment to title 3, California Code of Regulations, section 3435(b) made in OAL File No. 2012-0727-01E. The emergency action expanded the interior quarantine area of Riverside County for the Asian citrus psyllid by approximately 832 square miles.

Title 3  
California Code of Regulations  
AMEND: 3435(b)  
Filed 02/27/2013  
Effective 02/27/2013  
Agency Contact:  
Stephen S. Brown (916) 654-1017

File# 2013-0117-05  
DEPARTMENT OF FOOD AND AGRICULTURE  
Transporters of Inedible Kitchen Grease (IKG)

The Department of Food and Agriculture proposed to amend sections 1180.1, 1180.3.2, and 1180.20 and repeal and readopt section 1180.24 in title 3 of the California Code of Regulations relating to transporters of inedible kitchen grease (IKG). This rulemaking action also incorporates by reference two forms intended to keep track of IKG.

Title 3  
California Code of Regulations  
ADOPT: 1180.24 AMEND: 1180.1, 1180.3.2, 1180.20 REPEAL: 1180.24  
Filed 02/25/2013  
Effective 04/01/2013  
Agency Contact: Nancy Grillo (916) 900-5033

File# 2013-0123-03  
FISH AND GAME COMMISSION  
Permits to Take Fully Protected Animals for Scientific Purposes

This change without regulatory effect by the Fish and Game Commission amends 14 CCR Section 670.7(e) and (f), transferring the authority to issue scientific collecting permits for fully protected species from the Fish and Game Commission to the Department of Fish and Game.

Title 14  
California Code of Regulations  
AMEND: 670.7(e) & (f)  
Filed 02/27/2013  
Effective  
Agency Contact:  
Anita Biedermann (916) 653-1803

File# 2013-0116-01  
FISH AND GAME COMMISSION  
Listing of Mountain Yellow Legged Frog (*R. muscosa* and *R. sierrae*)

This rulemaking by the Fish and Game Commission makes substantive changes to CCR Title 14, by amending section 670.5, with regard to endangered or threatened species. The amendment adds the southern mountain yellow-legged frog to the list of endangered species and the Sierra Nevada yellow-legged frog to the list of threatened species.

Title 14  
 California Code of Regulations  
 AMEND: 670.5  
 Filed 02/25/2013  
 Effective 04/01/2013  
 Agency Contact: Sheri Tiemann (916) 654-9872

Title 23  
 California Code of Regulations  
 ADOPT: 3929.9  
 Filed 02/21/2013  
 Effective 02/21/2013  
 Agency Contact:  
 Shanta Keeling (805) 549-3464

File# 2013-0109-02  
**PUBLIC EMPLOYEES RETIREMENT SYSTEM**  
 Dependent Eligibility Verification Amnesty

This rulemaking by the California Public Employees' Retirement System (CalPERS) amends section 599.506, title 2, of the California Code of Regulations. Specifically, new subdivision (d) is added to section 599.506 to clarify the CalPERS Board of Administration's (Board) ability to pursue available remedies for unlawful enrollments in health benefit plans offered by CalPERS to employees and annuitants. This rulemaking further clarifies the applicable effective dates when the Board corrects the rights, status and obligations of CalPERS and enrollees in accordance with Government Code section 20160, subdivisions (a) through (c). In an effort to promote voluntary termination of ineligible enrollments, this action provides that any voluntary termination of ineligible enrollment prior to June 30, 2013, shall be effective prospectively from the date of voluntary termination and not pursuant to Government Code section 20160(a) through (c).

Title 2  
 California Code of Regulations  
 AMEND: 599.506  
 Filed 02/21/2013  
 Effective 02/21/2013  
 Agency Contact: Ryan Digman (916) 795-0963

File# 2013-0117-06  
**STATE WATER RESOURCES CONTROL BOARD**  
 Central Coast BP Santa Maria River Watershed Fecal Indicator Bact TMDL

This Government Code section 11353 rulemaking action establishes a Total Maximum Daily Load for fecal indicator bacteria for the Santa Maria Watershed with a 15-year implementation target date, which will be achieved through responsible parties' implementations of best management practices along with monitoring and reporting by some parties during, at least, the first three years of implementation. The rulemaking action establishes various numeric targets for fecal coliform, total coliform, and E. Coli, and provides that numeric targets and allocations will be re-evaluated by the Central Coast Water Board if responsible parties demonstrate that controllable sources of pathogens are not contributing to exceedances.

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN October 3, 2012 TO  
 February 27, 2013**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

- Title 1**  
 11/13/12 AMEND: 1, Appendix A
- Title 2**  
 02/21/13 AMEND: 599.506  
 02/14/13 ADOPT: 1896.71, 1896.76, 1896.77, 1896.78, 1896.81, 1896.82, 1896.83, 1896.84, 1896.88, 1896.91, 1896.92, 1896.95, 1896.96, 1896.97 AMEND: 1896.60, 1896.61, 1896.62, 1896.70, 1896.72, 1896.73, 1896.74, 1896.75, 1896.80, 1896.90, 1896.99.100, 1896.99.120 REPEAL: 1896.63, 1896.64, 1896.85, 1896.98  
 01/31/13 AMEND: 649.28  
 01/09/13 ADOPT: 18756  
 01/08/13 AMEND: 18723, 18730  
 01/07/13 AMEND: 18545, 18703.4, 18940.2  
 01/07/13 AMEND: 18705.5  
 01/02/13 AMEND: 22500, 22501, 22502, 22503, 22505, 22506, 22508, 22509 REPEAL: 22504, 22507, 22510, 22511, 22512, 22513, 22514, 22515, 22516, 22517, 22518, 22519  
 12/31/12 ADOPT: 1859.97 AMEND: 1859.2, 1859.90.2  
 12/28/12 AMEND: 18410, 18425, 18435, 18465.1, 18550 REPEAL: 18539  
 12/27/12 AMEND: 649.7  
 12/26/12 ADOPT: 7294.0, 7294.2 AMEND: 7293.5, 7293.6, 7293.7, 7293.8, 7293.9, 7294.0 (renumbered to 7294.1),

**CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 10-Z**

	7294.1(renumbered to 7294.3), 7294.2 (renumbered to 7294.4)	01/08/13	ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133
12/24/12	REPEAL: 60020, 60025, 60030, 60040, 60045, 60050, 60055, 60100, 60110, 60200	12/21/12	ADOPT: 5342, 5343, 5344, 5345, 5346, 5347, 5348
12/11/12	AMEND: 649.15	12/13/12	AMEND: 12391(a)(2)
12/06/12	AMEND: 1859.2, 1859.90.2	12/03/12	AMEND: 10032, 10033, 10034, 10035
11/30/12	ADOPT: 7291.4, 7291.7, 7291.14, 7291.18 AMEND: 7291.2, 7291.3, 7291.4 and renumber 7291.5, 7291.5 and renumber 7291.6, 7291.6 and renumber 7291.8, 7291.7 and renumber 7291.9, 7291.9 and renumber 7291.10, 7291.10 and renumber 7291.17, 7291.11, 7291.12, 7291.13, 7291.15, 7291.16 REPEAL: 7291.8, 7291.14	11/27/12	ADOPT: 4305, 4309 AMEND: 4300, 4302, 4304, 4306, 4307, 4308
		10/30/12	AMEND: 5000, 5052
		10/29/12	ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060
		10/17/12	AMEND: 1656
		10/16/12	ADOPT: 1581.2
		10/10/12	AMEND: 1867
11/29/12	ADOPT: 558.1	<b>Title 5</b>	
11/28/12	AMEND: 54100	02/12/13	AMEND: 19816, 19816.1, 19839
11/09/12	ADOPT: 599.945.4 AMEND: Article 27.5 heading	02/11/13	AMEND: 40405.1, 40405.4, 40500, 40501, 40505, 40506, 40507, 40508
11/08/12	AMEND: 18723	02/07/13	ADOPT: 40203
11/06/12	REPEAL: 56600	02/07/13	ADOPT: 42740
11/06/12	REPEAL: 52000	02/06/13	ADOPT: 9517.3
11/06/12	REPEAL: 52300	01/17/13	ADOPT: 80053.1 AMEND: 80024.6, 80053
11/01/12	ADOPT: 1859.95.1 AMEND: 1859.2, 1859.95	01/14/13	ADOPT: 80048.3.2 AMEND: 80048.3.1
10/23/12	AMEND: 1859.2, 1859.71.6, 1859.77.4, 1859.107, 1859.193, 1859.194, 1859.197	12/27/12	AMEND: 58108
10/22/12	ADOPT: 599.944, 599.946, 599.947	12/27/12	AMEND: 55000, 55023, 55040, 55041, 55043, 58161, 58162, 58166 REPEAL: 55030
10/18/12	AMEND: 1575	12/24/12	ADOPT: 18224.6, 18227, 18227.1 AMEND: 18078, 18409, 18411, 18424, 18426
10/18/12	ADOPT: 577, 578	12/18/12	AMEND: 76120
10/17/12	AMEND: 20804	12/13/12	AMEND: 40601
10/03/12	ADOPT: 18730.1	11/01/12	AMEND: 18407, 18422
<b>Title 3</b>		10/31/12	ADOPT: 620, 621, 622, 623, 624, 625, 626, 627
02/27/13	AMEND: 3435(b)	<b>Title 8</b>	
02/25/13	ADOPT: 1180.24 AMEND: 1180.1, 1180.3.2, 1180.20 REPEAL: 1180.24	01/28/13	ADOPT: 4993.1 AMEND: 1610.3, 1616.3, 4885, 4999, 5001
11/15/12	AMEND: 3435(b)	01/24/13	AMEND: 3210, 3900
10/29/12	ADOPT: 1352.4 AMEND: 1351, 1358.4	12/31/12	ADOPT: 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208 AMEND: 10205, 10205.12
10/23/12	ADOPT: 3639	12/31/12	ADOPT: 15209 AMEND: 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496, 15497
10/23/12	ADOPT: 3439	12/31/12	ADOPT: 9792.5.4, 9792.5.5, 9792.5.6, 9792.5.7, 9792.5.8, 9792.5.9, 9792.5.10, 9792.5.11, 9792.5.12, 9792.5.13, 9792.5.14, 9792.5.15 AMEND: 9792.5.1, 9792.5.3, 9793, 9794, 9795
<b>Title 4</b>			
02/11/13	AMEND: 10325		
02/11/13	AMEND: 8072		
02/07/13	ADOPT: 7100, 7101, 7102, 7103, 7104, 7105, 7106, 7107, 7108, 7109, 7110, 7111, 7112		
02/04/13	AMEND: 8070, 8071, 8072, 8078, 8078.2		
01/28/13	ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060		
01/24/13	ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580		

12/31/12	ADOPT: 37, 10159 AMEND: 1, 11, 11.5, 14, 17, 30, 31.2, 31.7, 33, 35, 35.5, 36, 38, 100, 105, 106, 10160	1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960
12/31/12	ADOPT: 9785.5, 9792.6.1, 9792.9.1, 9792.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.7, 9792.10.8, 9792.10.9 AMEND: 9785, 9792.6, 9792.9, 9792.10, 9792.12	11/15/12 AMEND: 1005, 1007, 1008 11/15/12 AMEND: 1005
12/27/12	ADOPT: 9789.25 AMEND: 9789.20, 9789.21, 9789.22	
12/27/12	ADOPT: 9789.39 AMEND: 9789.30, 9789.31, 9789.32, 9789.33, 9789.36, 9789.37, 9789.38	
12/27/12	AMEND: 9795.1, 9795.3	
12/20/12	ADOPT: 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36 AMEND: 9813.1, 10116.9, 10117, 10118, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 REPEAL: 10133.51, 10133.52	<b>Title 13</b> 02/07/13 AMEND: 2193 01/28/13 ADOPT: 426.00 01/24/13 AMEND: 425.01 01/07/13 AMEND: 553.70 12/31/12 AMEND: 1900, 1956.8, 1960.1, 1961, 1961.2, 1961.3, 1962.1, 1962.2, 1976 12/11/12 AMEND: 2403, 2404, 2407, 2412, 2421, 2423, 2424, 2425, 2425.1, 2426, 2427, 2433, 2447, 2783, 2784 12/10/12 AMEND: 423.00 11/13/12 AMEND: 1200, 1239 11/06/12 ADOPT: 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218 10/15/12 ADOPT: 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17, 2477.18, 2477.19, 2477.20, 2477.21 AMEND: 2477 10/09/12 AMEND: 2260, 2261, 2264, 2265, 2265.1, 2266, 2266.5, 2271 REPEAL: 2258
12/10/12	AMEND: 10210, 10211, 10212, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10228, 10229, 10232, 10232.1, 10232.2, 10245, 10250.1, 10252.1, 10253.1, 10270, 10271, 10273, 10290, 10291, 10293, 10294.5, 10297	
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10/23/12	AMEND: 1593, 3650	
10/18/12	AMEND: 6325	
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01/17/13	AMEND: 7141.5, 7143, 7227, 7350, 7351, 7353.6, 7354, 7355, 7356, 7357, 7358	
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01/17/13	ADOPT: 6410, 6420, 6422, 6424, 6440, 6442, 6444	
01/11/13	AMEND: 2498.4.9, 2498.5, 2498.6	
12/31/12	AMEND: 2695.8(f), 2695.8(g)	
12/19/12	ADOPT: 2523, 2523.1, 2523.2, 2523.3, 2523.4, 2523.5, 2523.6	
12/17/12	AMEND: 2248.14	
12/11/12	AMEND: 3780	
11/19/12	AMEND: 2698.401	
11/13/12	AMEND: 2498.4.9	
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11/26/12	AMEND: 1001, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1018, 1019, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1060, 1070, 1071, 1080, 1081, 1082, 1083, 1084, 1950,	1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960
		11/15/12 AMEND: 1005, 1007, 1008 11/15/12 AMEND: 1005
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10/03/12	AMEND: 300		
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01/17/13	AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2	12/06/12	AMEND: 95920
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10/22/12	AMEND: 3019, 3044, 3091, 3120	10/30/12	AMEND: 100060, 100070
10/18/12	ADOPT: 3999.13	10/03/12	AMEND: 95201, 95202, 95203, 95204, 95205
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10/04/12	ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358	01/14/13	AMEND: 101, 171, 252, 1045
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01/22/13	AMEND: 1399.15	12/17/12	AMEND: 2570.1, 2570.2, 2571, 2572.1, 2572.2, 2573.1, 2573.2, 2573.3
01/15/13	ADOPT: 1399.99.1, 1399.99.2, 1399.99.3, 1399.99.4	<b>Title 20</b>	
01/14/13	AMEND: 1566.1	10/26/12	AMEND: 1601, 1602, 1604, 1605.1, 1605.3, 1606, 1607
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11/13/12	ADOPT: 2333		
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10/31/12	AMEND: 1425		
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