



California Regulatory Notice Register

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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z2012-0327-01 449
Multi-County: Lassen Community College District

TITLE 2. MENTAL HEALTH SERVICES OVERSIGHT AND ACCOUNTABILITY COMMISSION

Conflict of Interest Code — Notice File No. Z2012-0326-02 450

TITLE 2. STATE PERSONNEL BOARD

Hearings and Appeals — Notice File No. Z2012-0327-03 450

TITLE 5. EDUCATION AUDIT APPEALS PANEL

Audits of K-12 LEAs — FY 2012-13 — Notice File No. Z2012-0327-07 453

TITLE 14. FISH AND GAME COMMISSION

Election of Commission Officers — Notice File No. Z2012-0326-01 455

TITLE 18. BOARD OF EQUALIZATION

Collection of Use Tax by Retailers — Notice File No. Z2012-0327-05 456

TITLE 18. FRANCHISE TAX BOARD

*Notice Required of Receiver, Assignee for the Benefit of Creditors or Other Like Fiduciary —
Notice File No. Z2012-0327-08* 463

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Population Monitoring of California Least Terns 465

DEPARTMENT OF HEALTH CARE SERVICES

Reversible Long-Acting Contraceptives Dispensing Fee 465

PHYSICAL THERAPY BOARD OF CALIFORNIA

*Notice of Correction concerning Hearing Time and Address for May 10, 2012 Public Hearing re: Response to
Board Inquiries and Mandatory Fingerprinting Requirements* 466

(Continued on next page)

*Time-
Dated
Material*

DECISION NOT TO PROCEED

BOARD OF CHIROPRACTIC EXAMINERS

Decision Not to Proceed with Omnibus Consumer Protection Regulations 466

ERRATUM NOTICE

DEPARTMENT OF HEALTH CARE SERVICES

Concerning the Department of Health Care Services' General Public Notice, published March 30, 2012, Register 2012, No. 13-Z, p. 437-439 466

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 466
Sections Filed, November 2, 2011 to March 28, 2012 470

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

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, 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**

MULTICOUNTY: Lassen Community College
District

A written comment period has been established commencing on **April 6, 2012** and closing on **May 21, 2012**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 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 Direc-

tor of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **May 21, 2012**. 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 respec-

tive 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. MENTAL HEALTH SERVICES
OVERSIGHT AND ACCOUNTABILITY
COMMISSION**

**NOTICE OF INTENTION TO AMEND
THE CONFLICT-OF-INTEREST CODE
OF THE MENTAL HEALTH SERVICES
OVERSIGHT AND
ACCOUNTABILITY COMMISSION**

NOTICE IS HEREBY GIVEN that the Mental Health Services Oversight and Accountability Commission (MHSOAC), pursuant to the authority vested in it by Section 87306 of the Government Code proposes amendments to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of Sections 87300 through 87302, and Section 87306 of the Government Code.

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

This amendment based on a comprehensive management review, updates or deletes some titles, adds 8 new position titles to the list of designated employees (Appendix A) and makes other technical changes to reflect the current organizational structure of the MHSOAC. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than May 21, 2012 or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than May 4, 2012, by contacting the Contact Person set forth below.

The MHSOAC has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on

which the amendments are based may be obtained by contacting the Contact Person set forth below.

The MHSOAC has determined that the proposed amendments:

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

In making these proposed amendments, the MHSOAC has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

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

Filomena Yeroshek
Counsel
1300 17th Street, Suite 1000
Sacramento, CA 95811
(916) 445-8696
Fax (916) 445-4927
MHSOAC@mhsoc.ca.gov

TITLE 2. STATE PERSONNEL BOARD

**California Code of Regulations, title 2,
Division 1, Chapter 1, Subchapters 1.2,
Hearings and Appeals and 1.3,
Examinations and Appointments**

Notice is hereby given that the State Personnel Board (Board) is proposing to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding the proposed regulations (proposals) will be held on May 22, 2012, at 9:00 a.m. in Room 312 at 801 Capitol Mall, Sacramento, CA. Room 312 is wheelchair accessible. At the hearing, any person

may present statements or arguments, in written or oral form, relevant to the proposals described in the Informative Digest.

WRITTEN COMMENT PERIOD

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

Julia Johnson
 Appeals Division
 State Personnel Board
 801 Capitol Mall
 Sacramento, CA 95814

Comments may also be submitted by e-mail to jjohnson@spb.ca.gov. The written comment period closes at 5:00 p.m. on May 24, 2012. The Board will only consider comments received by the Board by that time.

ADOPTION OF PROPOSALS

Following the public hearing, the Board may thereafter adopt proposals that are in substantially the same form as those described below and modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposals will be made available for 15 days prior to their adoption. Such modified proposals will also be mailed to those persons who: 1) submit written comments related to the proposals; 2) provide oral testimony at the public hearing; or 3) have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Government Code section 18701, together with sections 18671.1 and 18214, authorizes the Board to adopt the proposed amendments to the California Code of Regulations, title 2, Division 1, Chapter 1, Subchapters 1.2 and 1.3. Such amendments are implementing and refer to the following statutes, case law, and other legal provisions:

Education Code section 87164.

Evidence Code sections 225, 250, and 915.

Government Code sections 8547.8, 18214, 18670, 18671, 18671.1, 18672, 18672.1, 18673, 18674, 18675, 18683, 19180, and 19570, 19576, 19582, 19584, 19586, 19170, 19173, 19180, 19253.5, 19585, 19630, 19683, 19700–19706, 11425.40, 11430.10, 11430.20, 11430.30, 11430.40, 11430.50, 11430.60, 11511.5, 11511.7, and 11512.

California Code of Judicial Ethics, Canon 2.
Swepton v. State Personnel Board (1987) 195 Cal.App.3d 92.

REGULATION SECTIONS AFFECTED

The Board is proposing to amend sections 51.2, 52.1, 52.4, 52.8, 53.2, 53.3, 54.1, 55.2, 56.3, 56.4, 57.1, 58.2, 59.1, 59.3, 60.1, 60.3, and 321.

The Board is proposing to adopt sections 51.4, 52.11, 56.5, 58.12, 58.13, 61, and 62.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Personnel Board (Board) is a neutral body responsible for administering a merit system of civil service employment within California State Government. As part of its responsibility, the Board conducts hearings and appeals to resolve alleged violations of civil service laws and rules. Government Code section 18701 provides the Board with broad authority to prescribe, amend, and repeal rules in accordance with law for the administration and enforcement of the Civil Service Act and other Government Code sections over which the Board is specifically assigned jurisdiction.

In 2010, the Board proposed and the Office of Administrative Law approved substantial amendments to the Board’s hearing and appeals regulations to provide clarity to parties that appear before the Board and to function in a more orderly and efficient manner.

While the 2010 amendments generally improved the functionality of the Board’s hearings and appeals processes, the Board also recognized that certain regulations needed further clarification. Therefore, the Board proposes to provide additional clarification for parties to the Board’s hearings and appeals.

The Board also proposes to amend Section 321 to correct an outdated reference (from Section 52.3 to Section 52.6), which would benefit the parties because it would accurately reflect the current state of the law.

Such proposed amendments would benefit the parties to the Board’s hearing and appeals, promote fairness among the parties, and increase transparency in the Board’s operations. The proposed amendments would not impact public health and safety, worker safety, or the environment.

The proposed amendments are not inconsistent or incompatible with existing state regulations.

LOCAL MANDATE

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

FISCAL IMPACT ESTIMATES

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

COSTS OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

BUSINESS IMPACT/SMALL BUSINESSES

The Board has made an initial determination that the proposals would not have any significant statewide adverse economic impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Additionally, the Board has determined that the proposals do not affect small businesses, as defined in Government Code section 11342.610, as they only apply to state agencies, employees of state agencies, and such employees' representatives in appeals before the Board.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Board has determined that the proposals will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

The Board has determined that the proposals will benefit state employees and state agencies, promote fairness, and increase transparency in government.

COST IMPACTS ON REPRESENTATIVE 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.

EFFECT ON HOUSING COSTS

None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that otherwise has been identified and brought to the

agency's attention would be more effective in carrying out the purpose for which the adoption of these regulations 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 Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed adoption of these regulations and written comments may be directed to Julia Johnson at jjohnson@spb.ca.gov or (916) 651-6532. The back-up contact person for such inquiries is Paul Ramsey, Chief, Appeals Division, at pramsey@spb.ca.gov or (916) 651-6888.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Ms. Johnson.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Johnson at the above address.

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 www.spb.ca.gov.

**TITLE 5. EDUCATION AUDIT
APPEALS PANEL**

Audits of K–12 Local Education Agencies
Fiscal Year 2012–13

The Education Audit Appeals Panel (EAAP) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to Carolyn Pirillo.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at **5:00 p.m. on Monday, May 21, 2012**. EAAP will consider only written comments received by that time. Written comments for EAAP’s consideration should be directed to:

Carolyn Pirillo, Staff Counsel
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, CA 95814

Fax: (916) 445–7626
e-mail: cpirillo@eaap.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Section 14502.1, Education Code.
Reference: Sections 14502.1, 14503, and 41020, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The regulations in Title 5 of the California Code of Regulations, Division 1.5, Chapter 3, constitute the audit guide required by Education Code sections 14503 and 41020. The audit guide provides guidance, through definitions of terms and specification of procedures, to auditors in the conduct of statutorily required financial and compliance audits of local education agencies.

Article 2, Audit Reports, provides definitions of terms (Section 19816), and specifies which sections of the audit guide are applicable to each audit year (Section 19816.1).

Amendments are proposed to section 19816 subparagraph (h) to add (1) to designate the number of audit procedures for 2011–12. Subparagraph (h)(2) is added to specify the numbers of audit procedures proposed for inclusion in the audit guide for fiscal year 2012–13.

Amendments are proposed to section 19816.1 to add sections that are applicable to audits of fiscal year 2012–13, including new subparagraph (a)(10) for Article 3, new subparagraph (b)(10) for Article 3.1, and new subparagraph (c)(8) for Article 4. Subparagraph (c)(7) was edited to improve clarity.

Article 3.1, Section 19845.2 addresses the audit steps to be performed if a school district or charter school received Class Size Reduction Program funding for the year audited, and specifies ranges and penalty percentages to be used by the auditor. This section has been amended to modify the introductory sentence to indicate its applicability through fiscal year 2013–14 (Section 31 of Chapter 7 of the Statutes of 2011 (S.B. 70, eff. March 24, 2011)).

We do not anticipate that these proposed amendments would create specific benefits for the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, nor the increase in openness and transparency in business and government. These regulations make technical and conforming changes to the K–12 audit guide to ensure its consistency and compatibility with existing state statutes and regulations.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS

These regulations will be part of the audit guide for California K–12 LEAs, as required by Education Code sections 14502.1 and 14503. The audit guide provides guidance, through definitions of terms and specification of procedures, to auditors in the conduct of the annual financial and compliance audits required of K–12 local education agencies (LEAs) by Education Code Section 41020. The proposed amendments to

these regulations for the 2012–13 fiscal year are made pursuant to Education Code Section 14502.1.

Staff performed an economic impact assessment of the proposed regulations amending sections 19816, 19816.1, and 19845.2 in Chapter 3 of Division 1.5 of Title 5, of the California Code of Regulations, relating to audits of California local education agencies (LEAs) that serve kindergarten and any of grades 1 through 12 (K–12). This assessment was performed in compliance with Government Code section 11346.3(b).

The assessment determined that the regulations will not create specific benefits for the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, nor the increase in openness and transparency in business and government. Further, adoption of these regulations will not:

- create or eliminate jobs within California
- create new businesses or eliminate existing businesses within California
- affect the expansion of businesses currently doing business within California
- impact small businesses
- create costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action
- create significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Mandate on local agencies and school districts pursuant to Government Code Section 17500 et seq.: None.
2. Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
3. Cost or savings to any state agency: None.
4. Other non–discretionary cost or savings imposed upon local educational agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Significant effect on housing costs: EAAP has made an initial determination that the proposed regulatory action would not affect housing costs.
7. Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

CONSIDERATION OF ALTERNATIVES

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

EAAP invites interested persons to present statements or arguments regarding alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action may be directed to Carolyn Pirillo, Staff Counsel, at (916) 445–7745 or by e-mail: cpirillo@eaap.ca.gov. The back-up contact person for general inquiries is Mary Kelly, Executive Officer, at (916) 445–7745.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file will be available for inspection and copying throughout the rulemaking process at EAAP’s 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, and the initial statement of reasons. A copy may be obtained by contacting Carolyn Pirillo at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, and a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified

regulations should be sent to the attention of Carolyn Pirillo at the address stated above. EAAP will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion of the Final Statement of Reasons, a copy may be obtained by contacting Carolyn Pirillo at the above address or from EAAP's website.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, text of the regulations in underline and strikeout, any changed or modified text, and Final Statement of Reasons will be accessible, through the EAAP website: www.eaap.ca.gov.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Section 102 of the Fish and Game Code and to implement, interpret or make specific Section 102 of said Code, proposes to repeal Section 660, Title 14, California Code of Regulations, relating to Election of Commission Officers.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law (Section 102, Fish and Game Code) provides that the Fish and Game Commission (Commission) has the authority to elect one of their number as President and one as Vice President.

Current regulations outline the procedures for election of President and Vice President of the Commission. The President shall be the most senior member and the Vice President shall be the next most senior member. Where the member declines to serve as President or Vice President, the next most senior member shall be elected to that office.

The current regulations establish succession provisions to elect the President and Vice President of the Commission. There were concerns raised about the continuity of election of officers as outlined in regulations in Section 660, Title 14, CCR, at the Commission's February 2, 2012 meeting. The Commission is proposing to repeal these regulations to be able to hold an official election of Commission officers.

The proposed regulatory action will benefit the Commission with a more democratic process to elect its officers.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Best Western Plus Beach Resort, La Grande Room, 2600 Sand Dunes Drive, Monterey, California, on Wednesday, May 23, 2012, at 10:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before May 16, 2012 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on May 21, 2012. All comments must be received no later than May 23, 2012, at the hearing in Monterey, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sheri Tiemann at the preceding address or phone number. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address

above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. There are no economic or business impacts foreseen or associated with the proposed regulation change.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California.

The Commission does not anticipate any benefits to the health and welfare of California residents.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission does not anticipate any benefits to the environment.

- (c) Cost Impacts on a Representative Private Person or Business:

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that are Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

- (h) Effect on Housing Costs:

None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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.

TITLE 18. BOARD OF EQUALIZATION

**The State Board of Equalization
Proposes to Adopt Amendments to
California Code of Regulations,
Title 18, Section 1684,
*Collection of Use Tax by Retailers***

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) 1684, *Collection of Use Tax by Retailers*. Regulation 1684 implements, interprets, and makes specific the provisions of RTC sections 6203 and 6226, which collectively require a “retailer engaged in business in this state” to register with the Board and collect California use tax from its California customers, and RTC section 6204, which makes a retailer personally liable for any California use tax it fails to collect from its California customers, as required by section 6203. The proposed amendments make the regulation consistent

with, further clarify, and implement the amendments made to RTC section 6203 by Assembly Bill No. (AB) 155 (Stats. 2011, ch. 313), which changed the definition of “retailer engaged in business in this state.”

PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on May 30–31, 2012. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on May 30 or 31, 2012. 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 1684.

AUTHORITY

RTC section 7051.

REFERENCE

RTC section 6203.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Federal Law Regarding the Collection of State Use Tax

Article I, section 8, clause 3 of the United States Constitution expressly authorizes the United States Congress to “regulate Commerce with foreign Nations, and among the several States” (Commerce Clause). In *Quill Corporation v. North Dakota* (1992) 504 U.S. 298, the United States Supreme Court explained that:

- The Commerce Clause grants Congress affirmative legislative authority and, by its own force, prohibits certain state actions that interfere with interstate commerce (*Id.* at p. 309);
- Subject to Congress’s legislative authority, the Commerce Clause prohibits a state from requiring a retailer engaged in interstate commerce to collect the state’s use tax unless the retailer has a “substantial nexus” with the state (see *id.* at p. 311);
- In the absence of congressional action, the bright line rule, established in *National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois* (1967) 386 U.S. 753, that a retailer must have a

“physical presence” in a taxing state in order for that state to impose a use tax collection obligation on the retailer is still applicable today (see *id.* at pp. 317–318); and

- *National Bellas Hess* interpreted the Commerce Clause as establishing a “safe harbor” prohibiting a state from requiring a retailer to collect that state’s use tax if the retailer’s only connection with customers in the state is by common carrier or the United States mail, which, in the absence of congressional action, is still applicable today (see *id.* at p. 315).

Further, the United States Supreme Court has historically agreed that the safe harbor established in *National Bellas Hess* (and reaffirmed in *Quill*) is limited and does not apply when a retailer’s “connection with the taxing state is not exclusively by means of the instruments of interstate commerce.” (*National Geographic Society v. California Board of Equalization* (1977) 430 U.S. 551, 556 [quoting from and affirming the California Supreme Court’s decision in *National Geographic Society v. State Board of Equalization* (1976) 16 Cal.3d 637, 644].) The United States Supreme Court has specifically found that the safe harbor does not apply to an out-of-state retailer that has established a place of business in the taxing state, even if the retailer’s in-state business activities are unrelated to the retailer’s sales of tangible personal property to customers in that state. (*Id.* at p. 560.) The United States Supreme Court has specifically explained that the safe harbor does not apply if a retailer attempts to negate its connection with a taxing state by organizing itself or its activities in such a way as to “departmentalize” its connection with the taxing state so that the connection is isolated from the retailer’s obvious selling activities. (*Id.* at pp. 560–561.) This is so regardless of whether the connection involves an in-state person who may be characterized as an employee, agent, representative, salesperson, solicitor, broker, or independent contractor, and regardless of whether the activities creating the connection are directly related to the retailer’s sales of tangible personal property to customers in the state. (*Ibid.*; see also *Scripto, Inc. v. Carson Sheriff* (1960) 362 U.S. 207, 211–212.) The United States Supreme Court has also specifically found that the safe harbor does not apply if a retailer has “property within [the taxing] State.” (*National Geographic Society, supra*, 430 U.S. at p. 559 [quoting *National Bellas Hess*].)

In addition, the California Supreme Court previously held that “the slightest [physical] presence” in California would be sufficient to create a substantial nexus between a retailer and this state. (*National Geographic Society, supra*, 16 Cal.3d at p. 644.) However, the United States Supreme Court did not agree with the

California Supreme Court’s slightest presence standard on appeal (*National Geographic Society, supra*, 430 U.S. at p. 556); and the United States Supreme Court subsequently held that a retailer did not have a substantial nexus with a taxing state solely because the retailer licensed a few customers to use software on a few floppy disks located within the taxing state. (*Quill, supra*, 504 U.S. at p. 315, fn. 8.) (The initial statement of reasons contains a more detailed discussion of federal and state case law regarding substantial nexus.)

Current California Law Regarding the Collection of Use Tax

Currently, RTC sections 6203 and 6226 collectively require a “retailer engaged in business in this state” to register with the Board and collect California use tax from its California customers. Also, RTC section 6204 makes a retailer personally liable for any California use tax it fails to collect from its California customers, as required by section 6203. Regulation 1684 requires “[r]etailers engaged in business in this state as defined in Section 6203” to register with the Board, collect California use tax from their California customers, and remit the use tax to the Board. The regulation also provides that retailers are liable for California use taxes that they fail to collect from their customers and remit to the Board, as required.

Currently, the operative provisions of RTC section 6203, subdivision (c)(1) through (3), define the term “retailer engaged in business in this state” by providing that:

“Retailer engaged in business in this state” as used in this section and Section 6202 means and includes any of the following:

- (1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.
- (2) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.
- (3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

The current operative provisions of section 6203, subdivision (d)(1), address the taking of orders over the Internet by providing that:

For purposes of this section, “engaged in business in this state” does not include the taking of orders from customers in this state through a computer

telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of online communications services other than the displaying and taking of orders for products.

In addition, the current operative provisions of section 6203, subdivision (e), provide that a retailer is not a “retailer engaged in business in this state” if that retailer’s “sole physical presence in this state” is to engage in limited convention and trade show activities, as specified.

Currently, Regulation 1684 does not define the full scope of the phrase “retailer engaged in business in this state,” as defined in RTC section 6203. Instead, Regulation 1684, subdivision (a), provides, in relevant part, the following guidance regarding the meaning of the phrase “retailer engaged in business in this state,” as currently defined by section 6203, subdivisions (c) and (d):

Any retailer deriving rentals from a lease of tangible personal property situated in this state is a “retailer engaged in business in this state” and is required to collect the tax at the time rentals are paid by his lessee.

The use of a computer server on the Internet to create or maintain a World Wide Web page or site by an out-of-state retailer will not be considered a factor in determining whether the retailer has a substantial nexus with California. No Internet Service Provider, On-line Service Provider, internetwork communication service provider, or other Internet access service provider, or World Wide Web hosting services shall be deemed the agent or representative of any out-of-state retailer as a result of the service provider maintaining or taking orders via a web page or site on a computer server that is physically located in this state.

A retailer is not “engaged in business in this state” based solely on its use of a representative or independent contractor in this state for purposes of performing warranty or repair services with respect to tangible personal property sold by the retailer, provided that the ultimate ownership of the representative or independent contractor so used and the retailer is not substantially similar. For purposes of this paragraph, “ultimate owner” means a stock holder, bond holder, partner, or other person holding an ownership interest.

Currently, Regulation 1684, subdivision (b), also incorporates the current provisions of section 6203, sub-

division (e), regarding convention and tradeshow activities.

RTC Section 6203 as Amended by AB 155

RTC section 6203, subdivision (c), as amended by AB 155, will define the term “retailer engaged in business in this state” more broadly than current section 6203, subdivision (c), and provide that the term means “any retailer that has substantial nexus with this state for purposes of the commerce clause of the United States Constitution and any retailer upon whom federal law permits this state to impose a use tax collection duty.”

RTC section 6203, subdivision (c)(1) through (3), as amended by AB 155, will provide that the term “retailer engaged in business in this state” specifically includes, but is not limited to, retailers engaged in the activities described in current section 6203, subdivision (c)(1) through (3) (quoted above). Subdivision (c)(4), as added to section 6203 by AB 155, will further provide that “retailer engaged in business in this state” specifically includes, but is not limited to, any retailer that is a member of a “commonly controlled group,” as defined in RTC section 25105, and is a member of a “combined reporting group,” as defined by the Franchise Tax Board (FTB) in Regulation 25106.5, subdivision (b)(3), “that includes another member of the retailer’s commonly controlled group that, pursuant to an agreement with or in cooperation with the retailer, performs services in this state in connection with tangible personal property to be sold by the retailer”

In addition, subdivision (c)(5)(A), as added to RTC section 6203 by AB 155, will provide that the term “retailer engaged in business in this state” specifically includes, but is not limited to “[a]ny retailer entering into an agreement or agreements under which a person or persons in this state, for a commission or other consideration, directly or indirectly refer potential purchasers of tangible personal property to the retailer, whether by an Internet-based link or an Internet Web site, or otherwise,” but only if: (1) “The total cumulative sales price from all of the retailer’s sales, within the preceding 12 months, of tangible personal property to purchasers in this state that are referred pursuant to all of those agreements with a person or persons in this state, is in excess of ten thousand dollars (\$10,000);” and (2) “The retailer, within the preceding 12 months, has total cumulative sales of tangible personal property to purchasers in this state in excess of one million dollars (\$1,000,000).”

However, subdivision (c)(5)(B), as added to RTC section 6203 by AB 155, will provide that: “An agreement under which a retailer purchases advertisements from a person or persons in this state, to be delivered on television, radio, in print, on the Internet, or by any other medium, is not an agreement described in subparagraph (A), unless the advertisement revenue paid to the

person or persons in this state consists of commissions or other consideration that is based upon sales of tangible personal property.” Subdivision (c)(5)(C), as added to section 6203 by AB 155, will provide that: “Notwithstanding subparagraph (B), an agreement under which a retailer engages a person in this state to place an advertisement on an Internet Web site operated by that person, or operated by another person in this state, is not an agreement described in subparagraph (A), unless the person entering the agreement with the retailer also directly or indirectly solicits potential customers in this state through use of flyers, newsletters, telephone calls, electronic mail, blogs, microblogs, social networking sites, or other means of direct or indirect solicitation specifically targeted at potential customers in this state.” Subdivision (c)(5)(D), as added to section 6203 by AB 155, will provide that for purposes of paragraph (c)(5), “retailer” includes “an entity affiliated with a retailer within the meaning of Section 1504 of the Internal Revenue Code.” Also, subdivision (c)(5)(E), as added to section 6203 by AB 155, will provide that paragraph (c)(5) “shall not apply if the retailer can demonstrate that the person in this state with whom the retailer has an agreement did not engage in referrals in the state on behalf of the retailer that would satisfy the requirements of the commerce clause of the United States Constitution.”

Finally, it should be noted that the amendments made to RTC section 6203 by AB 155 will also delete the provisions in current section 6203, subdivision (d), regarding the “taking of orders from customers in this state through a computer telecommunications network,” and renumber current section 6203, subdivision (e)’s provisions regarding convention and tradeshow activities as section 6203, subdivision (d).

The amendments made to RTC section 6203 by AB 155 will become operative on September 15, 2012, if a federal law is not enacted on or before July 31, 2012, authorizing the states to require a seller to collect taxes on sales of goods to in-state purchasers without regard to the location of the seller. If a federal law is enacted on or before July 31, 2012, authorizing the states to require a seller to collect taxes on sales of goods to in-state purchasers without regard to the location of the seller, and the state does not, on or before September 14, 2012, elect to implement that law, the amendments made to section 6203 by AB 155 will become operative on January 1, 2013.

Effect, Objectives, and Benefits of the Proposed Amendments to Regulation 1684

Board staff conducted meetings with interested parties on October 31 and December 20, 2011, in Sacramento, California, and November 2 and December 22, 2011, in Culver City, California, to discuss the effect of

the amendments made to RTC section 6203 by AB 155 and how to best amend Regulation 1684 to make it consistent with the amendments to section 6203, implement the new provisions that were added to RTC section 6203 regarding “substantial nexus,” “commonly controlled group nexus,” and “affiliate nexus,” and provide notice to retailers that AB 155 will require retailers to register to collect California use tax if they have a “substantial nexus” with California.

After discussing AB 155 with the interested parties and reviewing the interested parties’ comments, Board staff recommended that the Board amend Regulation 1684 to:

- Incorporate the new provisions of RTC section 6203, subdivision (c), as amended by AB 155, providing that “retailer engaged in business in this state” means “any retailer that has substantial nexus with this state for purposes of the commerce clause of the United States Constitution and any retailer upon whom federal law permits this state to impose a use tax collection duty,” and incorporate the non-exhaustive examples of retailers with substantial nexus set forth in section 6203, subdivision (c)(1)–(5), as amended by AB 155, including the examples regarding commonly controlled group nexus and affiliate nexus;
- Incorporate the physical presence test established in *National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois* (1967) 386 U.S. 753 (and affirmed in *Quill Corporation v. North Dakota* (1992) 504 U.S. 298) by creating a presumption that a retailer is engaged in business in this state if the retailer has any physical presence in California, and further explain that a retailer may rebut the presumption if the retailer can substantiate that its physical presence is so slight that the United States Constitution prohibits this state from imposing a use tax collection duty on the retailer, that a retailer does not have a physical presence in California solely because the retailer engages in interstate communications with customers in California via common carrier, the United States mail, or interstate telecommunication, including, but not limited to, interstate telephone calls and emails, and that the rebuttable presumption does not apply to a retailer that does not have a physical presence in California;
- Clarify that services are performed in connection with tangible personal property to be sold by a retailer, within the meaning of section 6203, subdivision (c)(4)’s new commonly controlled group nexus provisions, if the services help the retailer establish or maintain a California market for sales of tangible personal property, and clarify

that services are performed in cooperation with a retailer, within the meaning of section 6203, subdivision (c)(4), as added by AB 155, if the retailer and the member of the retailer’s commonly controlled group performing the services are working or acting together for a common purpose or benefit;

- Clarify that the phrases “commission or other consideration” and “commissions or other consideration that is based upon sales of tangible personal property,” as used in section 6203, subdivision (c)(5)’s new affiliate nexus provisions, refer to any “consideration that is based upon completed sales of tangible personal property, whether referred to as a commission, fee for advertising services, or otherwise”;
- Clarify that the determination as to whether a retailer has made the requisite amount of sales to purchasers in California during the preceding 12 month period to be engaged in business in California under section 6203, subdivision (c)(5)’s new affiliate nexus provisions shall be made at the end of each calendar quarter;
- Clarify that, for purposes of section 6203, subdivision (c)(5)’s new affiliate nexus provisions, an individual is in California when the individual is physically present within the boundaries of California and a person other than an individual is in California when there is at least one individual physically present in California on the person’s behalf, and further clarify that the affiliate nexus provisions do not apply to a retailer’s agreement with any person, unless an individual solicits potential customers under the agreement while the individual is physically present within the boundaries of California;
- Create a means by which a retailer may effectively establish that its agreement is not the type of agreement that can give rise to affiliate nexus under section 6203, subdivision (c)(5), by utilizing contractual terms and factual certifications; and expressly excuse retailers from the requirement to obtain a certification if the person from whom the certification is required is dead, lacks the capacity to make such certification, or cannot reasonably be located by the retailer and there is no evidence to indicate that such person did in fact engage in any prohibited solicitation activities in California at any time during the previous year;
- Define the terms “advertisement,” “solicit,” and “solicitation” for purposes of applying the new affiliate nexus provisions of section 6203, subdivision (c)(5) by focusing on the general and

broad nature of advertising and the more actively targeted nature of soliciting;

- Define the term “person” by reference to the definition of “person” set forth in RTC section 6005 and define the term “individual” to mean a “natural person” for purposes of applying the new affiliate nexus provisions of section 6203, subdivision (c)(5);
- Provide three examples illustrating the application of the new affiliate nexus provisions of section 6203, subdivision (c)(5);
- Recognize that a retailer may establish a substantial nexus with California by having its property, including a computer server, in this state; and
- Provide that the amendments made to Regulation 1684 to implement the nexus-expanding provisions of AB 155 will become operative when new section 6203 becomes operative on September 15, 2012, or January 1, 2013, and shall not have a retroactive effect.

During its February 28, 2011, Business Taxes Committee meeting, the Board determined that staff’s recommended amendments are reasonably necessary to accomplish the objectives of making Regulation 1684 consistent with the amendments made to RTC section 6203 by AB 155, implementing and clarifying the new provisions that were added to section 6203 regarding “substantial nexus,” “commonly controlled group nexus,” and “affiliate nexus,” and providing notice to retailers that they will be required to register to collect California use tax if they have a “substantial nexus” with California once the amendments made to section 6203 by AB 155 become operative. (The interested parties process and February 28, 2011, meeting are discussed in more detail in the initial statement of reasons.) The proposed amendments are anticipated to provide the following specific benefits:

- Ensure that Regulation 1684 is consistent with the amendments made to section by AB 155 when the amendments made to section 6203 become operative;
- Ensure that the amendments made to section 6203 by AB 155 are interpreted and administered consistently with United States Supreme Court and California court opinions regarding substantial nexus, including, but not limited to, *National Bellas Hess*, *Quill*, *Scripto*, and *National Geographic Society*;
- Ensure that section 6203’s new affiliate nexus provisions will be interpreted and administered consistently;

- Provide guidance to retailers as to whether their activities create a “substantial nexus” with California and require them to register with the Board to collect use tax; and
- Provide more certainty to retailers regarding their new use tax collection obligations before the amendments made to section 6203 by AB 155 becomes operative.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1684 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 1684 is the only state regulation prescribing retailers’ obligations to collect California use tax. In addition, there is no federal use tax and there are no comparable federal regulations or statutes to Regulation 1684.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1684 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 1684 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 adoption of the proposed amendments to Regulation 1684 will making Regulation 1684 consistent with the amendments to RTC section 6203 made by AB 155, clarify and implement the new provisions that were added to section 6203 by AB 155 regarding “substantial nexus,” “commonly controlled group nexus,” and “affiliate nexus,” and provide notice to retailers that sec-

tion 6203 will require retailers to register to collect California use tax if they have a “substantial nexus” with California once the amendments made by AB 155 become operative. The proposed amendments will not impose any new taxes or expand any retailers’ use tax collection obligation beyond that imposed by section 6203 as amended by AB 155. Therefore, the Board has made an initial determination that the adoption of the proposed amendments to Regulation 1684 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 1684 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 1684 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 1684 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 1684 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective

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

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley 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, 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 May 30, 2012, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Regulation 1684 during the May 30-31, 2012, 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 1684. 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 underscore and strikeout version of the text of Regulation 1684 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.

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

The Board may adopt the proposed amendments to Regulation 1684 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 1684, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

TITLE 18. FRANCHISE TAX BOARD

As required by Section 11346.4 of the Government Code, this is notice of intention to consider the adoption of section 19089 in Title 18 of the California Code of Regulations, pertaining to notice requirements for bankruptcy or receivership fiduciaries. There will not be a public hearing unless requested by an interested person at least 15 days before the close of the written comment period. Any request for a public hearing should be submitted to the agency officer named below. Government Code section 15702, subdivision (b), provides for consideration by the three-member Franchise Tax Board of any proposed regulatory action if any person makes such request in writing.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., May 24, 2012. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer named below.

AUTHORITY AND REFERENCE

Revenue and Taxation Code section 19503 authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with section 17001), Part 10.2 (commencing with section 18401), Part 10.7 (commencing with section 21001) and Part 11 (commencing with section 23001). Revenue and Taxation Code section 19089 requires adoption of this regulation in order to implement the notice requirements specified in that section.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Revenue and Taxation Code section 19089 provides, in part, that "[e]very trustee in a case under Title 11 of the United States Code, receiver, assignee for the benefit of creditors or like fiduciary shall give notice of qualification as such to the Franchise Tax Board in the manner and at the time that may be required by regulations of the Franchise Tax Board" and that "[t]he Franchise Tax Board may by regulation provide any exemptions from the requirements of this section that the Franchise Tax Board deems proper." The Franchise Tax Board has not adopted regulations under this section. The proposed new regulation is designed to implement this section.

The proposed regulation is modeled after Treasury Regulation section 301.6036-1, and implements the notice requirement for bankruptcy or receivership fiduciaries. The proposed regulation is modified from the federal regulation language to eliminate the requirement to give notice in probate cases, since Probate Code section 9202, subdivision (c), already specifies the notice required in estate administration under California probate law.

The proposed language for this regulation addresses who is required to give notice of qualification as a fiduciary in bankruptcy and receivership proceedings; the manner in which parties must provide the Franchise Tax Board with notice; the time requirement for providing the Franchise Tax Board with notice; whether any exemptions to the notice requirement may be appropriate; and the notice to the Franchise Tax Board of administration of bankruptcy by fiduciaries, thereby aiding tax collection functions as anticipated by Revenue and Taxation Code section 19089.

The Franchise Tax Board has evaluated the proposed regulation and determined that the adoption of this regulation is not inconsistent or incompatible with existing state regulations. There are no other comparable existing state regulations.

Anticipated Benefits from the Proposed Regulation

Taxpayers and fiduciaries will benefit from having direction on how to comply with a statute that is not currently self-executing. Franchise Tax Board will save resources by receiving timely notifications rather than having to locate affected taxpayers.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost to directly affected private persons/businesses potential: There may be a very minor impact since currently no notice is being provided. The cost is a result of the statute, not the regulation.

Effect on small business: Based on the 200 notifications received each year, approximately 80 percent of the total businesses affected by this regulation are small businesses.

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Pursuant to Government Code section 11346.3, subdivision (b), the Franchise Tax Board has determined in the economic impact analysis that there are no effects on the creation or elimination of jobs in the state, no effect on the creation of new businesses or elimination or expansion of existing businesses within the state and that the proposed regulation will benefit taxpayers and fiduciaries by providing direction on how to comply with a statute that is not currently self-executing. In addition, the Franchise Tax Board will save resources by receiving timely notifications rather than having to attempt to locate affected taxpayers.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Franchise Tax Board must determine that no reasonable alternative 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 regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

CHANGE OR MODIFICATION OF ACTIONS

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

ADDITIONAL COMMENTS

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

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

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at Franchise Tax Board, Legal Division, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Telephone (916) 845-3306; Fax (916) 845-3648; E-Mail: colleen.berwick@ftb.ca.gov. In addition, all questions on the substance of the proposed regulation can be directed to Amanda Vassigh Sigal; Telephone (916) 845-7689. This notice, the initial statement of reasons and express terms of the proposed regulation are also available at the Franchise Tax Board's website at www.ftb.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice
For Publication April 6, 2012
**PROPOSED RESEARCH ON FULLY
PROTECTED SPECIES**
Breeding Population, Productivity, and
Diet Studies of the California Least Tern
(*Sternula antillarum browni*)

The Department of Fish and Game (Department) received a proposal on February 15, 2012, from Dan Robinette and Meredith L. Elliot, PRBO Conservation Science, Petaluma, California requesting authorization to take the California least tern (*Sternula antillarum browni*), Fully Protected bird, for research purposes, consistent with the protection and recovery of these species. Work will be conducted throughout the range of the least tern in California.

The applicant is in the process of obtaining the required Scientific Collecting Permit (SCP) to take protected species of wildlife. Permit conditions require that the holder of an SCP obtain special authorization from the Department for research on Fully Protected species. The proposed activities include approaching least tern nesting areas to gather necessary data used in monitoring nesting status, habitat suitability and habitat assessments, and to identify threats. The proposed activities also include collecting feces and fish dropped at breeding colonies to analyze diet composition. Data would be collected by observation and monitoring with binoculars/spotting scopes in or near potential and known breeding habitat and locating nests on foot. The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would au-

thorize the applicant to carry out the proposed activities. As these birds are also federally-listed endangered species, applicants are required to possess a valid Federal Threatened and Endangered Species permit.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected birds after 30 days' notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after May 6, 2012, for an initial and renewable term of two years. Contact: Wildlife Branch, 1812 9th Street, Sacramento, CA 95811, Attn.: Esther Burkett.

**DEPARTMENT OF HEALTH CARE
SERVICES**

**Addition of a dispensing fee for
qualifying entities when billing long-acting
reversible contraceptives in the Family PACT
and Medi-Cal Fee-For-Service Programs.**

Effective April 15, 2012, the Department of Health Care Services (DHCS) will reimburse certain clinics a dispensing fee for identified long-acting reversible contraceptives in addition to the entity's actual acquisition cost for the drug as charged by the manufacturer at a price consistent with United States Code, Section 256b, Title 42. Clinics eligible for this reimbursement are community clinics or free clinics licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code or an intermittent clinic operating pursuant to subdivision (h) of Section 1206 of the Health and Safety Code, that has a valid license pursuant to Article 13 (commencing with Section 4180) of Chapter 9 of Division 2 of the Business and Professions Code.

Welfare and Institutions Code (W&I) Section 14132.01 requires eligible entities to bill the Medi-Cal Program, which includes the Family PACT Program, at the actual acquisition cost of the product plus a dispensing fee not to exceed twelve dollars per billing unit as identified in either the Family PACT Policies, Procedures, and Billing Instructions Manual (PPBI), or the Medi-Cal Provider Manual. For claims with a date of service on or after April 15, 2012 the Medi-Cal program will reimburse a dispensing fee for the following long-acting reversible contraceptives: levonorgestrel-releasing intrauterine system, copper uterine contraceptive, etonogestrel implant, and medroxyprogesterone acetate contraceptive injection. Providers should consult the PPBI or the Medi-Cal Provider Manual for additional information on billing and reimbursement policy.

This change in reimbursement policy for long-acting reversible contraceptive methods may increase the number of women prescribed this contraceptive method, potentially saving state and federal money by averting unintended pregnancies and the associated costs.

The California statutes discussed above are available for public review at welfare offices in every county of the State. Written comments (or requests for copies of the statutes and/or copies of the written comments) may be submitted to: California Department of Health Care Services, Pharmacy Benefits Division (Attn: K. Henry), P.O. Box 997417, MS 4604, Sacramento, CA 95899-7417

PHYSICAL THERAPY BOARD OF CALIFORNIA

NOTICE OF CORRECTION

This amendment is to correct the time and address of the public hearing mentioned in the “Notice of Proposed Changes” as published in the California Regulatory Notice Register 2012, No.12-Z, March 23, 2012, page 390. Although the date of the hearing is correct as May 10, 2012, the time is 8:30 a.m., not 9:00 a.m. The address should read: Loma Linda University, Randall Visitors Center, 11072 Anderson St, Loma Linda, CA 92350.

The error was caught and corrected before it was posted to the Web site and sent to interested parties.

The proposed changes add CCR Title 16, Sections 1398.14, 1399.80 and amend section 1399.98(b) pertaining to response to Board inquiries and mandatory fingerprinting requirements.

If you have any questions, please contact Jason Kaiser at (916) 561-8278 (or jason.kaiser@dca.ca.gov) or Elsa Ybarra at (916) 561-8262 (or elsa.ybarra@dca.ca.gov).

DECISION NOT TO PROCEED

BOARD OF CHIROPRACTIC EXAMINERS

NOTICE OF DECISION NOT TO PROCEED WITH RULEMAKING ACTION

The Board of Chiropractic Examiners has decided not to proceed with its rulemaking action described in the Notice published in the California Regulatory Notice Register on June 10, 2011, OAL File # Z2011-

0531-06, concerning Title 16, sections 303, 304, 308, 317.2, 317.3, 321.1, 390.7, and 390.8.

ERRATUM NOTICE

DEPARTMENT OF HEALTH CARE SERVICES

Editorial Note of Correction

Concerning Department of Health Care Services’ General Public Interest
Re: Medi-Cal Drug Product Payment Reductions
As Published March 30, 2012, Register 2012, No. 13-Z, pp. 437-439

The above-referenced General Public Interest Notice contained an incorrect e-mail address on page 438.

The correct e-mail address should be:
Pharbene@dhcs.ca.gov.

We regret any inconvenience this may have caused.

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# 2012-0316-02
BOARD OF EDUCATION
CAHSEE Alternative Means

The Board of Education (BOED) submitted this emergency regulation. As of 1/1/2011, Education Code section 60852.2(b) allows eligible students with disabilities (SWDs) to take an “alternative means” high school exit examination. Education Code section 60852.2(b) authorizes BOED to extend by regulation the 1/1/2011 statutory deadline for up to two years in order to implement the CAHSEE alternative means regulations for the eligible SWDs. An emergency action (OAL File No. 2010-1008-02E (filed 10/18/2010); cert approved in 2011-0215-02 C) adopted title 5,

California Code of Regulations, section 1216.1, which extended the 1/1/2011 statutory deadline to 7/1/2012 for BOED to implement the CAHSEE alternative means regulations. In this submission, the BOED is seeking to extend the implementation deadline once again, from July 1, 2012 to January 1, 2013 (the statutory deadline for implementation).

Title 5
California Code of Regulations
AMEND: 1216.1
Filed 03/26/2012
Effective 03/26/2012
Agency Contact: Cynthia Olsen (916) 319-0584

File# 2012-0316-03
BOARD OF EDUCATION
Administration of Epilepsy Medication

This emergency regulatory action establishes guidelines for training and supervision of volunteer non-medical school personnel so that they can administer emergency anti-seizure medication that has been approved by the federal Food and Drug Administration for the management of seizures by persons without medical credentials.

Title 5
California Code of Regulations
ADOPT: 620, 621, 622, 623, 624, 625, 626, 627
Filed 03/26/2012
Effective 03/26/2012
Agency Contact: Cynthia Olsen (916) 319-0584

File# 2012-0214-03
CALIFORNIA GAMBLING CONTROL
COMMISSION
Revised BGC Forms; Address Change; Investigation and Processing Costs

The California Gambling Control Commission (CGCC) submitted this Section 100 action to update eight forms and the incorporation by reference dates of these forms in nine sections under title 4 of the California Code of Regulations. The updates to most of the forms include updating the address and phone/fax numbers for CGCC, and the deposit amounts that must be submitted to CGCC with the form for background checks that are conducted by the Bureau of Gambling Control, Department of Justice (Bureau). These deposit amounts are established by the Bureau in title 11, California Code of Regulations, section 2037. Title 11, section 2037 was amended in 2011 resulting in increases in the amount of the deposits. CGCC has no discretion in the amount of the deposit as they are established by the Bureau in title 11, section 2037. Changes to the nine title 4 sections are proposed mainly to update

the incorporation by reference date of the forms, and make other nonsubstantive changes.

Title 4
California Code of Regulations
AMEND: 12200, 12200.9, 12200.10A, 12200.11, 12200.13, 12220, 12220.13, 12342, 12464
Filed 03/21/2012
Agency Contact: James Allen (916) 263-4024

File# 2012-0308-02
CALIFORNIA INSTITUTE FOR REGENERATIVE
MEDICINE
Acceptable Research Materials

In this rulemaking action, the California Institute for Regenerative Medicine proposed to amend title 17, California Code of Regulations, section 100080 to add stem cell lines that are derived under license of the Australian National Health and Medical Research Council as acceptable materials for CIRM-funded research.

Title 17
California Code of Regulations
AMEND: 100080
Filed 03/28/2012
Effective 04/27/2012
Agency Contact:
C. Scott Tocher (415) 396-9136

File# 2012-0224-01
DEPARTMENT OF ALCOHOL AND DRUG
PROGRAMS
Programs for Alcohol and Drug Impaired Drivers

This rulemaking action is a resubmittal of a previously withdrawn file and it amends multiple sections within Title 9 of the California Code of Regulations. These changes impact Driving Under the Influence (DUI) programs, which provide education and counseling services to individuals convicted of a DUI offense. These amendments modify the administration and procedures for enrollees and providers in these programs. The regulations clarify the duties of a counselor as opposed to the duties of an administrator. These changes also update the regulations to be consistent with statutory changes in the Health and Safety Code and the Penal Code.

Title 9
California Code of Regulations
AMEND: 9795, 9800, 9801.5, 9801.6, 9804, 9812, 9816, 9820, 9822, 9829, 9836, 9838, 9846, 9848, 9849, 9851, 9852, 9854, 9858, 9862, 9866, 9867, 9868, 9874, 9876, 9876.5, 9878, 9879, 9884, 9886
Filed 03/22/2012
Effective 04/21/2012
Agency Contact:
Elizabeth Geiger (916) 327-8973

File# 2012-0320-07

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Dental and Medical Services Provided to Inmates

This emergency action adopts provisions for dental and medical services provided to inmates pursuant to the the Stipulated Order in *Perez v. Tilton*, CA-05-5241-JSW, and the Stipulation for Injunctive Relief and the Order Approving Receiver's Turnaround Plan of Action in *Plata v. Schwarzenegger*, 3:01-cv-01351-TEH. This action is certified by the Secretary of CDCR as an emergency for operational necessity pursuant to Penal Code section 5058.3.

Title 15

California Code of Regulations

ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358

Filed 03/28/2012

Effective 03/28/2012

Agency Contact: Josh Jugum (916) 445-2228

File# 2012-0315-01

FISH AND GAME COMMISSION

Ocean Salmon Sport Fishing—April Season

This regulatory action establishes the ocean salmon recreational fishing regulations for the 2012 fishing season.

Title 14

California Code of Regulations

AMEND: 27.80

Filed 03/22/2012

Effective 03/22/2012

Agency Contact:

Sherrie Fonbuena (916) 654-9866

File# 2012-0210-01

FRANCHISE TAX BOARD

Motion Picture and Television Film Producers, Distributors & TV Networks

The Franchise Tax Board (FTB) proposed this rule-making action to amend section 25137-8 and adopt section 25137-8.2 of title 18 of the California Code of Regulations. First adopted in 1982, section 25137-8 is an outdated rule that fails to account for many standards of practice changed and new developments made in the film industry over the last 30 years. However, section 25137-8 still applies to some taxpayers who might be negatively affected if FTB were to make retroactive substantive changes to the rule.

Recognizing this issue, FTB decided to simply renumber section 25137-8 to 25137-8.1 and limit its application to taxable years beginning before January 1, 2011. FTB then adopted section 25137-8.2, which ap-

plies to taxable years beginning on or after January 1, 2011. This new section mirrors the old rule in many aspects but has been updated to reflect the current nature of the film industry, and now addresses the treatment of advertising receipts, includes distributors as taxpayers, adds new definitions of "films," and has been thoroughly edited to correct many grammatical errors present in section 25137-8.

Title 18

California Code of Regulations

ADOPT: 25137-8.2 AMEND: 25137-8 (renumbered to 25137-8.1)

Filed 03/26/2012

Effective 04/25/2012

Agency Contact:

Colleen Berwick (916) 845-3306

File# 2012-0210-02

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Prop 65 NSRL For Imazalil (Carcinogen)

This regulatory action provides for a no significant risk level for Imazalil exposure under Proposition 65. The proposed level of 11 micrograms per day is based on findings by the U.S. Environmental Protection Agency regarding the cancer potency of this chemical.

Title 27

California Code of Regulations

AMEND: 25705

Filed 03/26/2012

Effective 04/25/2012

Agency Contact: Monet Vela (916) 323-2517

File# 2012-0307-01

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

San Francisco Bay Plan and San Francisco Waterfront Special Area Plan

This regulatory action by the San Francisco Bay Conservation and Development Commission (BCDC) contains amendments to the San Francisco Waterfront Special Area Plan (SAP), SAP Figures 2 and 3, and Special Area Plan Maps 1 and 2 that were adopted under Resolution 12-01 on March 1, 2012. These amendments to the SAP, an element of the San Francisco Bay Plan, were requested by the Port of San Francisco and require public processes to: (1) develop an open water basin and public plaza in the Fisherman's Wharf area and identify strategies for addressing historic resources along the San Francisco Waterfront that have been closed to occupancy and use for public safety reasons, (2) add findings to explain all policy and implementation requirement changes, and (3) modify, in a variety of ways, the Open Water and Public Plaza Policies and the Plan Implementation Requirements.

Title 14
 California Code of Regulations
 AMEND: 11960
 Filed 03/26/2012
 Effective 03/26/2012
 Agency Contact:
 Lindy L. Lowe (415) 352-3642

File# 2012-0216-02
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
 San Francisco Bay Plan, San Francisco Bay Area Seaport Plan

This regulatory action by the San Francisco Bay Conservation and Development Commission (BCDC) contains an amendment to the San Francisco Bay Plan which was adopted pursuant to Resolution 11-13 on January 19, 2012. The amendment (No. 2-11) amended San Francisco Bay Plan Map 5 and the San Francisco Bay Area Seaport Plan (Seaport Plan) by removing the Port Priority Use Area Designation from the Hunters Point Shipyard.

Title 14
 California Code of Regulations
 AMEND: 11900, 11945
 Filed 03/28/2012
 Effective 03/28/2012
 Agency Contact: Linda Scourtis (415) 352-3644

File# 2012-0314-02
STATE ALLOCATION BOARD
 Leroy F. Greene School Facilities Act of 1998; Prevailing Wage Monitoring

This emergency action submitted by the State Allocation Board amends several sections in Title 2 of the California Code of Regulations. The purpose of these emergency regulations is to implement recent legislative requirements for prevailing wage monitoring provided by the Department of Industrial Relations (DIR). These emergency regulations establish that any public works project paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements unless exempt pursuant to Labor Code section 1771.3(b). These emergency regulations also authorize an additional grant to school districts and charter schools based upon the maximum fee that can be charged by DIR. Additionally these regulations require that all funds be returned to the State for projects that do not meet the appropriate prevailing wage monitoring compliance requirements.

Title 2
 California Code of Regulations
 AMEND: 1859.2, 1859.71.4, 1859.78.1, 1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.163.5, 1859.193
 Filed 03/26/2012
 Effective 03/26/2012
 Agency Contact: Robert Young (916) 375-5939

File# 2012-0207-03
STATE WATER RESOURCES CONTROL BOARD
 Los Angeles River Indicator Bacteria TMDL

This regulatory action amends the basin plan to establish a Total Maximum Daily Load for bacteria in the Los Angeles River Watershed.

Title 23
 California Code of Regulations
 ADOPT: 3939.41
 Filed 03/21/2012
 Effective 03/21/2012
 Agency Contact:
 Nirmal Sandhar (916) 341-5571

File# 2012-0215-06
STATE WATER RESOURCES CONTROL BOARD
 Dominguez Channel and Greater LA/LB Harbor Waters Toxic Pollutant TMDL

On May 5, 2011, the Los Angeles Regional Water Quality Control Board (Regional Board) adopted Resolution No. R11-008, amending the Water Quality Control Plan for the Los Angeles Region (Basin Plan) by establishing a TMDL (total maximum daily load) for Toxic Pollutants in the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters. The State Water Resources Control Board approved the amendment of the Basin Plan in Resolution No. 2012-0008 on February 7, 2012.

Title 23
 California Code of Regulations
 ADOPT: 3939.44
 Filed 03/21/2012
 Effective 03/21/2012
 Agency Contact:
 Thanhloan Nguyen (213) 576-6689

File# 2012-0210-03
STATE WATER RESOURCES CONTROL BOARD
 Colorado River Basin Dissolved Oxygen TMDL

The State Water Resources Control Board (SWRCB) submitted this action pursuant to Government Code section 11353 to amend the Colorado River Basin Plan by adding a total maximum daily load minimum and implementation plan for dissolved oxygen, applicable to the 12-mile segment of the New River downstream

from the international boundary with Mexico. The basin plan amendment is intended to address low dissolved oxygen levels in the New River, which has impaired the river's beneficial uses and which has been determined to be caused mainly by untreated waste discharges from the Mexicali region in Mexico. The basin plan amendment was adopted by the Colorado River Basin Regional Water Quality Control Board in Resolution No. R7-2010-0011 on May 20, 2010 and approved by the SWRCB in Resolution No. 2011-0061 on December 6, 2011. The basin plan amendment is represented in a concise summary adopted in section 3969 of title 23 of the California Code of Regulations.

Title 23
 California Code of Regulations
 ADOPT: 3969
 Filed 03/21/2012
 Effective 03/21/2012
 Agency Contact:
 Nirmal Sandhar (916) 341-5571

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN November 2, 2011 TO
 March 28, 2012**

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 2

- 03/26/12 AMEND: 1859.2, 1859.71.4, 1859.78.1, 1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.163.5, 1859.193
- 03/13/12 AMEND: 1859.2, 1859.82
- 03/06/12 ADOPT: 589.11
- 03/06/12 AMEND: 1189.10
- 03/02/12 AMEND: 560
- 02/16/12 AMEND: 18401.1
- 02/13/12 AMEND: 18943
- 01/31/12 ADOPT 260.1, 261.1 AMEND 258, 260, 262
- 01/31/12 AMEND 640
- 01/26/12 AMEND 37000
- 01/23/12 ADOPT: 1880
- 01/23/12 ADOPT: 18940.1, 18942.2, 18942.3
 AMEND: 18940, 18940.2, 18941,

- 18942, 18942.1, 18943, 18944.1, 18944.2, 18944.3, 18945, 18945.1, 18945.2, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5 REPEAL: 18941.1, 18943, 18945.3, 18946.5
- 01/18/12 AMEND: Div. 8, Ch. 35, Sec. 52400
- 01/10/12 AMEND: 18423, 18539, 18550
- 01/05/12 ADOPT: 18404.2
- 01/05/12 ADOPT: 18227.5, 18247.5 REPEAL: 18247.5
- 12/28/11 AMEND: 1859.76
- 12/21/11 AMEND: 1859.90.2, 1859.81
- 12/07/11 ADOPT: 18316.6, 18361.11 AMEND: 18360, 18361, 18361.4
- 11/22/11 AMEND: 559
- 11/08/11 ADOPT: 18421.31

Title 3

- 03/20/12 AMEND: 1430.5, 1430.6, 1430.35, 1430.36, 1430.37, 1430.38
- 03/09/12 AMEND: 3436(b)
- 03/08/12 AMEND: 3437(b)
- 03/07/12 ADOPT: 1180, 1180.20, 1180.22, 1180.23, 1180.24, 1180.25, 1180.27, 1180.28, 1180.29, 1180.30, 1180.31, 1180.32, 1180.33, 1180.34, 1180.35, 1180.36, 1180.37, 1180.38, 1180.39
 AMEND: 1180.1, 1180.2, 1180.3, 1180.3.1, 1180.3.2, 1180.13, 1180.14, 1180.15, 1180.16, 1180.17, 1180.18, 1180.19, 1180.31, 1180.32, 1180.33, 1180.34, 1180.35, 1180.36, 1180.37, 1180.38, 1180.39, 1180.40, 1180.41
 REPEAL: 1180, 1180.21, 1180.22, 1180.23, 1180.24, 1180.25, 1180.26, 1180.27, 1180.28, 1180.29, 1180.30
- 02/28/12 ADOPT: 2320.1, 2320.2, 2322, 2322.1, 2322.2, 2322.3, 2323 AMEND: 2300, 2300.1, 2302, 2303, 2320, 2321
- 02/23/12 AMEND: 3700(c)
- 02/13/12 AMEND: 3591.2(a)
- 02/06/12 AMEND: 3435(b)
- 02/02/12 AMEND: 3423(b)
- 01/23/12 ADOPT: 588
- 01/18/12 ADOPT: 3591.25
- 01/06/12 AMEND: 3591.2(a)
- 12/29/11 AMEND: 3280
- 12/20/11 AMEND: 3407(e)
- 12/05/11 AMEND: 1408.6
- 11/29/11 AMEND: 3591.15(a)
- 11/14/11 AMEND: 3437(b)
- 11/10/11 AMEND: 6000, 6361, 6400, 6460, 6464, 6470, 6502, 6512, 6524, 6560, 6562, 6564, 6625, 6626, 6625, 6632, 6728, 6761, 6780

11/10/11	AMEND: 3589(a)	AMEND: 11960, 11965, 11969 (renumbered 11968.1), 11969.1
Title 4		Title 8
03/21/12	AMEND: 12200, 12200.9, 12200.10A, 12200.11, 12200.13, 12220, 12220.13, 12342, 12464	03/14/12 AMEND: 32602, 32603, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32647, 32648, 32649, 32650, 32661, 32680, 32690, 61360(a)
03/08/12	AMEND: 10032, 10033, 10034, 10035	02/23/12 AMEND: 1905
03/08/12	AMEND: 60, 60.5	02/16/12 AMEND: 5155
03/06/12	ADOPT: 4075	02/08/12 AMEND: 1675, 3276, 3278
03/05/12	AMEND: 10152, 10153, 10154, 10155, 10157, 10159, 10160, 10161, 10162 REPEAL: 10156, 10158, 10164	02/08/12 ADOPT: 374.2 AMEND: 350.1, 371, 371.1, 376
03/02/12	AMEND: 8070	02/01/12 AMEND 1504, 1591, 1597
02/29/12	AMEND: 8070, 8072, 8073, 8074	01/24/12 AMEND: 5155
02/22/12	AMEND: 10176, 10177, 10178, 10182, 10188	01/19/12 ADOPT: 9708.1, 9708.2, 9708.3, 9708.4, 9708.5, 9708.6
02/16/12	AMEND: 12572	01/18/12 ADOPT: 1615.3 AMEND: 1532.1, 3361, 5042, 5044, 5045, 5047, 5049, 5144, 5191, 5198, 5209, 8355
02/14/12	AMEND: 1844	01/05/12 AMEND: 4188
02/14/12	AMEND: 1843.3	12/29/11 AMEND: 3276, 3287
02/08/12	AMEND: 66	12/29/11 ADOPT: 32802, 32804 AMEND: 32380, 32603, 32604
02/03/12	AMEND: 5000, 5052	12/27/11 AMEND: 343
12/30/11	ADOPT: 4000.1, 4000.2, 4000.3	12/13/11 ADOPT: 8351, 8356, 8376.1, 8378.1, 8387, 8391.1, 8391.2, 8391.4, 8391.5, 8391.6, 8397.6 AMEND: 5194.1, 8354, 8376, 8378, 8384, 8391, 8391.3, 8397.2, 8397.3, 8397.4, 8397.5
12/21/11	ADOPT: 12349	12/12/11 AMEND: 1541.1
12/09/11	ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133	12/07/11 ADOPT: 16450, 16451, 16452, 16454, 16455 AMEND: 16423, 16433 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455
12/07/11	AMEND: 1433	11/07/11 AMEND: 6051
12/05/11	AMEND: 10325(c)(8)	Title 9
11/28/11	AMEND: 1632	03/22/12 AMEND: 9795, 9800, 9801.5, 9801.6, 9804, 9812, 9816, 9820, 9822, 9829, 9836, 9838, 9846, 9848, 9849, 9851, 9852, 9854, 9858, 9862, 9866, 9867, 9868, 9874, 9876, 9876.5, 9878, 9879, 9884, 9886
11/07/11	AMEND: 8070, 8072, 8073, 8074	Title 10
11/03/11	AMEND: 10152, 10153, 10154, 10155, 10157, 10159, 10160, 10161, 10162 REPEAL: 10156, 10158, 10164	03/15/12 AMEND: 2690
Title 5		02/16/12 AMEND: 2498.6
03/26/12	AMEND: 1216.1	02/13/12 AMEND: 2202
03/26/12	ADOPT: 620, 621, 622, 623, 624, 625, 626, 627	02/08/12 AMEND: 2222.12
03/12/12	AMEND: 41000	02/03/12 AMEND: 2699.6700, 2699.6709, 2699.6721, 2699.6725
03/06/12	AMEND: 18600	01/24/12 AMEND: 2548.1, 2548.2, 2548.3, 2548.4, 2548.5, 2548.6, 2548.7, 2548.8, 2548.9, 2548.10, 2548.11, 2548.12, 2548.13, 2548.14, 2548.15, 2548.16, 2548.17, 2548.18, 2548.19, 2548.20,
03/01/12	ADOPT: 30001.5	
02/27/12	AMEND: 42397.2, 42397.6	
02/09/12	ADOPT: 19824.1, 19841, 19851.1, 19854.1 AMEND: 19816, 19816.1, 19824, 19850, 19851, 19854	
02/09/12	ADOPT: 27100, 27101, 27102, 27103	
01/10/12	AMEND: 9510, 9510.5, 9511, 9512, 9513, 9514, 9515, 9516, 9517, 9517.1, 9519, 9520, 9521, 9524, 9525, 18533, 18600	
12/19/11	ADOPT: 30001.5	
12/16/11	AMEND: 53309, 53310	
12/14/11	AMEND: 55150, 55151, 55154, 55155 REPEAL: 55152, 55153	
11/16/11	ADOPT: 11968.5.1, 11968.5.2, 11968.5.3, 11968.5.4, 11968.5.5	

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 14-Z

2548.21, 2548.22, 2548.23, 2548.24,
2548.25, 2548.26, 2548.27, 2548.28,
2548.29, 2548.30, 2548.31
01/11/12 AMEND: 260.204.9
01/09/12 AMEND: 2699.6707
12/19/11 AMEND: 2498.5
12/19/11 AMEND: 2498.4.9
12/19/11 AMEND: 2498.6
12/09/11 AMEND: 2698.302
12/09/11 AMEND: 2699.301
11/21/11 ADOPT: 1580, 1581, 1582, 1583, 1584,
1585, 1586, 1587, 1588, 1589, 1590,
1591, 1592, 1593, 1594, 1595, 1596

Title 11

03/14/12 AMEND: 1005, 1007, 1008
01/03/12 ADOPT: 999.24, 999.25, 999.26, 999.27,
999.28, 999.29 AMEND: 999.10,
999.11, 999.14, 999.16, 999.17, 999.19,
999.20, 999.21, 999.22
12/28/11 AMEND: 101.1
12/27/11 AMEND: 4001, 4002, 4003, 4004, 4005,
4006, 4016, 4017, 4018, 4019, 4021,
4022, 4023, 4024, 4030, 4031, 4032,
4033, 4034, 4035, 4036, 4037, 4039,
4040, 4041, 4045, 4046, 4047, 4048,
4049, 4050, 4051, 4052, 4053, 4054,
4055, 4056, 4057, 4058, 4059, 4060,
4061, 4062, 4063, 4064, 4065, 4066,
4067, 4068, 4069, 4070, 4071, 4072,
4073, 4074, 4075, 4080, 4081, 4082,
4083, 4084, 4085, 4086, 4087, 4090,
4091, 4092, 4093, 4094, 4095, 4096,
4097, 4098, 4099, 4100, 4101, 4102,
4103, 4104, 4105, 4106, 4107, 4108,
4109, 4125, 4126, 4127, 4128, 4129,
4130, 4131, 4132, 4133, 4134, 4135,
4136, 4137, 4138, 4139, 4140, 4141,
4142, 4144, 4145, 4146, 4147, 4148,
4149, 4150, 4151, 4152, 4153, 5455,
5459, 5469, 5470, 5471, 5473, 5480,
5482, 5483, 5484, 5495, 5499 REPEAL:
4020, 4038, 4088, 4089, 4143, 5472,
5481, 5470, 5471
12/15/11 AMEND: 101.2
12/08/11 ADOPT: 117.1
11/14/11 AMEND: 1008

Title 13

02/29/12 AMEND: 553
02/13/12 REPEAL: 158.00
12/14/11 AMEND: 2025
12/14/11 AMEND: 2449, 2449.1, 2449.3
(renumbered to 2449.2), 2775, 2775.1,
2775.2 REPEAL: 2449.2
12/05/11 AMEND: 553.70

11/22/11 AMEND: 1956.8
11/17/11 AMEND: 1233
11/09/11 AMEND: 2027
11/08/11 AMEND: 1

Title 14

03/28/12 AMEND: 11900, 11945
03/26/12 AMEND: 11960
03/22/12 AMEND: 27.80
02/24/12 AMEND: 29.15
02/13/12 AMEND: 29.17, 127
02/08/12 AMEND: 1257
01/31/12 AMEND 29.15
01/26/12 ADOPT 18940, 18941, 18942, 18943,
18944, 18945, 18945.1, 18945.2,
18945.3, 18946, 18947, 18948
01/25/12 AMEND: 18419
01/23/12 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4,
1665.5, 1665.6, 1665.7, 1665.8
01/09/12 AMEND: 7.00, 7.50(b)(68)
01/05/12 ADOPT: 749.7
01/05/12 AMEND: 895.1, 898.1, 1037.3, 1090.17,
1092.18
12/20/11 AMEND: 11900
12/20/11 ADOPT: 4970.24.2 AMEND: 4970.00,
4970.01, 4970.03, 4970.04, 4970.05,
4970.06.1, 4970.07, 4970.07.2, 4970.08,
4970.10.1, 4970.10.2, 4970.10.3,
4970.10.4, 4970.11, 4970.13, 4970.15.1,
4970.15.2, 4970.19, 4970.19.1,
4970.23.1, 4970.23.2, 4970.24,
4970.25.2, 4970.25.3
12/09/11 AMEND: 15062, 15075, 15094,
Appendix D and Appendix E
12/08/11 AMEND: 632
12/07/11 AMEND: 870.17, 870.19
11/22/11 AMEND: 791.7, 870.17
11/17/11 AMEND: 163, 164
11/15/11 AMEND: 700.4, 701, 705 REPEAL: 704

Title 15

03/28/12 ADOPT: 3352.3 AMEND: 3350.1, 3352,
3352.1, 3352.2, 3354, 3354.2, 3355.1,
3358
03/19/12 ADOPT: 3078, 3078.1, 3078.2, 3078.3,
3078.4, 3078.5, 3078.6 AMEND: 3000,
3043, 3075.2, 3097, 3195, 3320, 3323
03/12/12 ADOPT: 3999.11
03/08/12 ADOPT: 8006
03/08/12 AMEND: 3315, 3323
02/22/12 AMEND: 173
02/22/12 ADOPT: 4845, 4849, 4853, 4854,
4939.5, 4961.1, 4977.5, 4977.6, 4977.7,
4983.5 AMEND: 4846, 4847, 4848,
4848.5, 4850, 4852, 4900, 4925, 4926,
4927, 4928, 4929, 4935, 4936, 4937,

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 14-Z

4938, 4939, 4940, 4977, 4978, 4979,
4980, 4981, 4982, 4983
01/19/12 ADOPT: 3076.4, 3076.5 AMEND: 3076,
3076.1, 3076.2, 3076.3
01/11/12 REPEAL: 3999.8
01/05/12 AMEND: 3140
12/22/11 AMEND: 3052, 3062
12/20/11 AMEND: 3040.1, 3043, 3043.6, 3044,
3045.1
12/13/11 ADOPT: 3504.1, 3504.2
12/09/11 AMEND: 3000, 3006, 3170.1, 3172.1,
3173.2, 3315, 3323
12/05/11 ADOPT: 1712.1, 1714.1, 1730.1, 1740.1,
1748.5 AMEND: 1700, 1706, 1712,
1714, 1730, 1731, 1740, 1747, 1747.1,
1747.5, 1748, 1751, 1752, 1753, 1754,
1756, 1760, 1766, 1767, 1768, 1770,
1772, 1776, 1778, 1788 REPEAL: 1757
12/01/11 ADOPT: 3571, 3582, 3590, 3590.1,
3590.2, 3590.3 AMEND: 3000
11/14/11 AMEND: 3341.5, 3375.2, 3377.1
11/10/11 ADOPT: 3359.1, 3359.2, 3359.3, 3359.4,
3359.5, 3359.6 AMEND: 3000

Title 16

03/19/12 AMEND: 4155
03/08/12 AMEND: 318
03/07/12 AMEND: 2615, 2620
03/07/12 AMEND: 1889.2 REPEAL: 1832.5
03/07/12 AMEND: 2615, 2620
03/07/12 AMEND: 1889.2 REPEAL: 1832.5
02/27/12 AMEND: 2, 8.2, 9.1, 26, 49, 58, 59, 62,
65, 75.4, 87, 87.5, 88, 88.1, 88.2, 89, 90,
94 REPEAL: 5.1, 7, 7.2
02/16/12 AMEND: 1397.60, 1397.61, 1397.62,
1397.63, 1397.64, 1397.65, 1397.66,
1397.67, 1397.68, 1397.69, 1397.70,
1397.71
02/09/12 AMEND: 28 REPEAL: 30
02/08/12 ADOPT: 1018.05 AMEND: 1020
02/01/12 ADOPT 3340.16.4 AMEND 3306,
3340.1, 3340.10, 3340.15, 3340.16.5,
3340.17, 3340.22, 3340.22.1, 3340.23,
3340.28, 3340.29, 3340.30, 3340.31,
3340.50, 3351.1 3340.16.4 3306, 3340.1,
3340.10, 3340.15, 3340.16.5, 3340.17,
3340.22, 3340.22.1, 3340.23, 3340.28,
3340.29, 3340.30, 3340.31, 3340.50,
3351.1
01/19/12 ADOPT: 1379.40, 1379.42, 1379.44,
1379.46, 1379.48, 1379.50, 1379.52,
1379.54, 1379.56, 1379.58, 1379.68,
1379.70, 1379.72, 1379.78
01/17/12 ADOPT: 1707.6 AMEND: 1707.2
01/11/12 AMEND: 109, 117, 121

01/10/12 AMEND: 12, 12.5, 98 REPEAL: 9, 11.5
01/10/12 AMEND: 2328.1
01/06/12 ADOPT: 3340.38
12/28/11 AMEND: 1399.157, 1399.160,
1399.160.3, 1399.160.6
12/22/11 ADOPT: 601.6, 601.7, 601.8, 601.9,
601.10 AMEND: 600.1
12/12/11 AMEND: 1361
11/22/11 ADOPT: 858, 858.1, 858.2, 858.3, 858.4,
858.5, 858.6, 858.7, 858.8, 858.9
11/16/11 AMEND: 950.1, 950.4, 950.5 REPEAL:
962.3, 962.4, 962.5, 962.6

Title 17

03/28/12 AMEND: 100080
03/15/12 ADOPT: 58883
03/15/12 AMEND: 6020, 6035, 6051, 6065, 6070,
6075
03/12/12 AMEND: 95307
02/21/12 AMEND: 95486
02/15/12 AMEND: 95802, 95833, 95841.1,
95852, 95852.1.1, 95852.2, 95870,
95891, 95892, 95914, 95920, 95971,
95974, 95975, 95977.1, 95979, 95980,
95981, 95981.1, 95985, 95986, 95987,
95990, 95993, 95994, 96021 REPEAL:
95893, 95943
01/26/12 AMEND 6540
01/17/12 AMEND: 50602, 50604, 50607, 50612,
54326
12/27/11 ADOPT: 54311 AMEND: 54302, 54310,
54314, 54320, 54326, 54332, 54370
12/15/11 AMEND: 6020, 6035, 6051, 6065, 6070,
6075
12/14/11 ADOPT: 95116, 95117, 95118, 95119,
95120, 95121, 95122, 95123, 95129,
95150, 95151, 95152, 95153, 95154,
95155, 95156, 95157 AMEND: 95100,
95101, 95102, 95103, 95104, 95105,
95106, 95107, 95108, 95109, 95110,
95111, 95112, 95113, 95114, 95115,
95130, 95131, 95132, 95133 REPEAL:
95125
12/13/11 ADOPT: 95801, 95802, 95810, 95811,
95812, 95813, 95814, 95820, 95821,
95830, 95831, 95832, 95833, 95834,
95840, 95841, 95841.1, 95850, 95851,
95852, 95852.1, 95852.1.1, 95852.2,
95853, 95854, 95855, 95856, 95857,
95858, 95870, 95890, 95891, 95892,
95910, 95911, 95912, 95913, 95914,
95920, 95921, 95922, 95940, 95941,
95942, 95970, 95971, 95972, 95973,
95974, 95975, 95976, 95977, 95977.1,
95977.2, 95978, 95979, 95980, 95980.1,

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 14-Z

95981, 95981.1, 95982, 95983, 95984, 95985, 95986, 95987, 95988, 95990, 95991, 95992, 95993, 95994, 95995, 96010, 96011, 96012, 96013, 96014, 96020, 96021, 96022
 12/12/11 ADOPT: 95312 AMEND: 95300, 95301, 95302, 95303, 95304, 95305, 95306, 95307, 95308, 95309, 95310, 95311
 11/17/11 REPEAL: 901
 11/10/11 AMEND: 94508, 94509, 94510, 94512, 94515

Title 18

03/26/12 ADOPT: 25137-8.2 AMEND: 25137-8 (re-numbered to 25137-8.1)
 02/27/12 ADOPT: 25136-2
 02/07/12 AMEND: 1807, 1828
 01/11/12 AMEND: 1616
 01/09/12 AMEND: 1532, 1533.1, 1534, 1535
 12/27/11 AMEND: 1570

Title 19

02/16/12 ADOPT: 560.4 AMEND: 557.19, renumber 560.4, 560.5, and 560.6 as 560.5, 560.6, and 560.7, respectively

Title 22

03/15/12 ADOPT: 123000 and Appendices REPEAL: 123000 and Appendices
 02/21/12 AMEND: 51003
 02/21/12 AMEND: 66261.21(a)(3), 66261.21(a)(4)
 02/08/12 AMEND: 66261.33, 66268.40
 02/06/12 AMEND: 80001, 80075, 83000, 83001, 84001, 84061, 86001, 88001
 01/31/12 ADOPT 126010, 126020, 126030, 126040, 126042, 126050, 126055, 126060, 126070, 126072, 126074, 126076, 126090 126010, 126020, 126030, 126040, 126042, 126050, 126055, 126060, 126070, 126072, 126074, 126076, 126090
 01/26/12 AMEND 50273
 12/28/11 AMEND: 97232, 97240, 97247
 12/27/11 AMEND: 51516.1
 12/20/11 ADOPT: 69401, 69401.1, 69401.2, 69402, 69402.1, 69402.2, 69402.3, 69402.4, 69402.5, 69402.6, 69403, 69403.1, 69403.2, 69403.3, 69403.4, 69403.5, 69403.6, 69403.7, 69403.8, 69403.9, 69403.10, 69403.11, 69403.12, 69403.13, 69403.14, 69403.15, 69403.16, 69403.17, 69404, 69404.1,

69404.2, 69404.3, 69404.4, 69404.5, 69404.6, 69404.7, 69404.8, 69404.9, 69404.10, 69405, 69405.1, 69405.2, 69405.3, 69405.4, 69405.5, 69405.6, 69405.7, 69405.8, 69406, 69406.1, 69406.2, 69406.3, 69407, 69407.1, 69407.2
 12/06/11 AMEND: 40741
 11/21/11 AMEND: 66260.11, 66260.12, 66262.53, 66262.56, 66263.32, 66264.12, 66264.71, 66264.72, 66265.12, 66265.71, 66265.72

Title 22/MPP

11/10/11 AMEND: 35000, 35001, 35325, 35326, 35329, 35331, 35333, 35334, 35337, 35339, 35341, 35343, 35344, 35345, 35351, 35352, 35352.1, 35352.2, 45-801, 45-802, 45-803, 45-804, 45-805, 45-806, 45-807 REPEAL: 35327, 35347, 35352.3

Title 23

03/21/12 ADOPT: 3969
 03/21/12 ADOPT: 3939.41
 03/21/12 ADOPT: 3939.44
 03/15/12 ADOPT: 3939.43
 03/12/12 AMEND: 2922
 03/09/12 ADOPT: 3919.11
 02/29/12 ADOPT: 3939.42
 02/27/12 ADOPT: 3919.12
 02/15/12 ADOPT: 20, 21, 22, 23, 24, 25, 26, 27 AMEND: 4, 5, 5.1, 9, 10, 11, 12, 13, 14, 16, 17, 23 (re-numbered to 28), 103, 109, 110, Appendix A REPEAL: 20, 21, 22
 12/29/11 ADOPT: 862
 12/20/11 ADOPT: 3929.8
 12/19/11 ADOPT: 3939.40
 11/03/11 ADOPT: 3949.8

Title 25

03/13/12 ADOPT: 6932 REPEAL: 6932
 02/06/12 ADOPT: 597, 597.1, 597.2, 597.3, 597.4
 02/02/12 ADOPT: 3968

Title 27

03/26/12 AMEND: 25705
 03/15/12 AMEND: 25705
 01/25/12 AMEND: 27001
 01/09/12 AMEND: 25705
 11/28/11 AMEND: 25903(c)

Title MPP

03/15/12 AMEND: 25705