



# California Regulatory Notice Register

REGISTER 2013, NO. 17-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

APRIL 26, 2013

## PROPOSED ACTION ON REGULATIONS

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

*Conflict of Interest Code — Notice File No. Z2013-0416-09* ..... 597  
Amendment

Multi-County Agency: Public Agency Risk Sharing Authority

### TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

*Unattended Weighing Systems — Notice File No. Z2013-0416-04* ..... 598

### TITLE 5. COMMISSION ON TEACHER CREDENTIALING

*Adding a Subject or Content Area — Notice File No. Z2013-0416-08* ..... 600

### TITLE 5. COMMISSION ON TEACHER CREDENTIALING

*English Learner and World Language: ELD — Notice File No. Z2013-0416-07* ..... 604

### TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS

*Workers' Compensation — Self Insurance, Annual Actuarial Reports — Notice File No. Z2013-0416-10* ..... 608

### TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

*MMBA Fact Finding Determination Appeals — Notice File No. Z2013-0416-11* ..... 611

### TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

*State Mediation and Conciliation Service (SMCS) Conducted Elections — Notice File No. Z2013-0416-12* ..... 615

### TITLE 18. BOARD OF EQUALIZATION

*Change in Ownership — Joint Tenancies — Notice File No. Z2013-0415-01* ..... 619

### TITLE 18. FRANCHISE TAX BOARD

*Intercompany Transactions — Notice File No. Z2013-0412-01* ..... 624

### TITLE 22. DEPARTMENT OF HEALTH CARE SERVICES

*Two-Plan Model Modification — Notice File No. Z2013-0416-05* ..... 627

(Continued on next page)

***Time-  
Dated  
Material***

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE	
<i>State Medical Loss Ratio Annual Report — Notice File No. Z2013–0415–02</i> .....	630

**GENERAL PUBLIC INTEREST**

DEPARTMENT OF FISH AND WILDLIFE	
<i>CESA Consistency Determination Request for County Service Area 34 Phase II Winchell Cove Pipeline Project (2080–2013–003–04), Fresno County</i> .....	634

**ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS**

DEPARTMENT OF STATE HOSPITALS	
<i>Administrative Directive No. 655, titled “Copy and Shipping Center,” dated December 11, 2012</i> .....	635

**SUMMARY OF REGULATORY ACTIONS**

Regulations filed with the Secretary of State .....	641
Sections Filed, November 21, 2012 to April 17, 2013 .....	643

**2013 RULEMAKING CALENDAR**

(Incorporated by Reference)

<i>Special Note</i> .....	648
---------------------------	-----

---

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

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

**PROPOSED ACTION ON  
REGULATIONS**

*Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.*

**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 code, will review the proposed/amended conflict of interest code of the following:

**CONFLICT OF INTEREST CODE  
AMENDMENT**

**MULTI-COUNTY**

AGENCY: Public Agency Risk Sharing Authority

A written comment period has been established commencing on **April 26, 2013** and closing on **June 3, 2013**. Written comments should be directed to the Fair Political Practices Commission, Attention Adrienne Tackley, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive 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 **June 3, 2013**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

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

**EFFECT ON HOUSING COSTS  
AND BUSINESSES**

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

**AUTHORITY**

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

**REFERENCE**

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

**CONTACT**

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

**AVAILABILITY OF PROPOSED CONFLICT OF  
INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the 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 4. DEPARTMENT OF FOOD AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to promulgate regulations contained in Title 4, Division 9, Chapter 9, Weighmaster Enforcement.

The Department proposes to promulgate regulations contained in Title 4, Division 9, Chapter 9, to provide clarity and uniformity in the implementation and enforcement of California Business and Professions Code (BPC) Section 12737.

A public hearing regarding this proposal is not currently scheduled. However, any interested person, or duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be scheduled. Following the public hearing, if one is requested, or following the written comment period, if no public hearing is requested, the Department, upon its own motion or at the instance of any interested person, may thereafter adopt the proposal substantially as set forth without further notice.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Food and Agriculture, Division of Measurement Standards (Division), 6790 Florin Perkins Road, Suite 100, Sacramento, California 95828. Comments may also be submitted to Steve Cook, Chief, Enforcement Branch, by facsimile (FAX) at (916) 229-3026 or by e-mail at [DMS@cdfa.ca.gov](mailto:DMS@cdfa.ca.gov). Comments must be submitted prior to 5:00 p.m., June 10, 2013.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

BPC, Division 5, Chapter 7, Section 12737 was added to allow for the use of unattended weighing systems (UWS) for any weighmaster that weighs a vehicle moving construction materials, including, but not limited to, earth, stone, rock, sand, gravel, limestone, ready-mixed concrete, cementitious materials, recycled construction materials, or asphalt paving materials. Additionally, BPC, Division 5, Section 12500.5 requires the Secretary of the Department of Food and Agriculture (Secretary) to require the submission for approval of types and designs of weights, measures, weighing,

measuring, and counting instruments or devices used for commercial purposes. The Secretary is also required to issue certificates of approval for those types or designs of commercial devices that meet the requirements of the BPC and the tolerances and specifications adopted pursuant to it. BPC Section 12107 requires the Department to “adopt, by reference, the latest standards as recommended by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 44 ‘Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,’ except as specifically modified, amended, or rejected by regulation adopted by the Secretary.”

The Department has the authority and responsibility to ensure that any transactions utilizing UWS are accurate and do not facilitate fraud, since a person acting as deputy weighmaster will not be present to witness the weighing event and attest that proper procedures were followed. UWS necessitate additional installation, performance, and recordkeeping requirements to ensure that accurate weighmaster certificates are issued. It is important to clarify these requirements to prevent UWS from manipulating or issuing incorrect or false weighmaster certificates, since the stated weights are used as a basis of payment. The proposed regulations are consistent and compatible with existing weighmaster regulations.

#### **SECTIONS PROPOSED**

##### **Chapter 9, Article 1. General Provision**

##### **4402. Requirement for Zero Load Balance Condition.**

This section makes specific the condition of the scale prior to use, so as to ensure the accuracy of product weighing.

##### **4403. Legally Relevant Data.**

This section makes specific and clear what types of data and records are needed for the completion of a weighmaster certificate.

##### **Chapter 9, Article 12. Unattended Weighing Systems**

##### **4996. Application.**

This section specifies the type of weighmaster operations that can use unattended weighing systems and requires that devices that are used meet the requirements found in California Code of Regulations, Title 4, Division 9, Chapter 1, Sections 4000, 4001, and 4003.

##### **4996.1. Definitions.**

This section defines specific terms used in this article.

##### **4996.2. Conditions of Use.**

This section makes clear and specific the requirements that must be met if a business wishes to use an un-

attended weighing system. The purpose of the listed requirements is to prevent fraud and set up a system whereby weights and measures officials can do inspections at these sites.

**4996.3. Certificate and Records Requirements.**

This section makes clear and specific additional requirements for weighmaster certificates issued by the unattended weighing system as well as what records are required to be documented to support the weighmaster certificates that are issued.

**4996.4. Specifications.**

This section adds additional specifications beyond those listed in Handbook 44 to ensure the weighing process is done accurately and fairly.

**4996.5. License Fees When Updated to Include Unattended Weighing Systems.**

This section makes clear and specific the amount of fees that shall be paid to change the weighmaster license to allow for an unattended weighing system after their new license year has begun.

**4996.6. Additional Requirements.**

This section has additional requirements that are necessary to handle problems that may occur during the process of issuing a weighmaster certificate. It provides clear and specific remedies for users of the system when it malfunctions, when incorrect information is entered by a driver, and what other specifications and tolerances are required for the device.

**COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Department has determined that this proposal does not impose a mandate on local agencies or school districts.

The Department also has determined that this action will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

**EFFECT ON HOUSING COSTS**

The Department has made an initial determination that the proposed action will not affect housing costs.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Department has made an initial determination that the proposed regulations will have a statewide im-

act on those businesses that choose to use UWS; however according to industry members of the California Construction and Industrial Materials Association the efficiencies created by having an unattended weighing system should be mitigate the costs of installation and implementation.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

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

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The Department has made an assessment that the proposed regulation will not: (1) create or eliminate jobs within California; (2) create new businesses within California; or (3) affect the expansion of businesses currently doing business within California. The benefits of this regulation according to industry members polled prior to submittal include a reduction in operating expenses by increasing efficiency of the weighing process and allowing for off-peak loading and moving of materials.

The BPC allows for the use of an unmanned system as an alternative means to a deputy weighmaster on site to issue weighmaster certificates. Some businesses may choose to reduce their number of employees acting as deputy weighmasters. Thus, any elimination of jobs is due to the statutory change and not the regulation. Additional jobs may be created by the statute in the area of technology and services to install and maintain the UWS.

**EFFECT ON SMALL BUSINESS**

The Department believes that the use of UWS will help small businesses because automated systems will speed up delivery time and allow for more deliveries per truck. This will have a positive effect on small trucking companies, which are often paid by the load.

**ALTERNATIVES CONSIDERED**

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought its attention 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 ac-

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

If the Department chose to do nothing, businesses that installed incorrect systems would run the risk of violating device compliance statutes and regulations as well as weighmaster laws. If they violate the law, the companies could be held administratively, civilly, and criminally responsible for the violations that occur. Additionally, the businesses would bear the expense of having paid for a non-compliant system and any additional costs to bring the unattended weighing system into compliance.

Another option would require statutory changes that would outline the specific system requirements for UWS and dictate how the system will address problems that may occur during the process of issuing a weighmaster certificate. This option is more prescriptive and could require one or more years to complete and would be inflexible to changes in technology.

Through promulgation of regulations, the Department can clarify and make specific the requirements for installing and/or utilizing an UWS for construction materials. The Department believes that this is the best solution.

The Department 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.

#### AUTHORITY

Pursuant to Business and Professions Code, Division 5, Sections 12027, 12107, 12500.5, 12735, and 12737.

#### REFERENCE

The Department proposes to amend the current regulations to implement, clarify and make specific the provisions of the Business and Professions Code, Section 12737.

#### CONTACT PERSON

Inquiries about the notice may be directed to Steve Cook, Chief, Enforcement Branch, Division of Measurement Standards at (916) 229-3039 or Kathy de Contreras, Supervising Special Investigator, Division of Measurement Standards at (916) 229-3047.

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

The Department has prepared an initial statement of reasons for the proposed action, has available all the in-

formation upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons, and the proposed regulations in strikeout and underline form may be obtained upon request. The rulemaking file and all information on which the proposal is based are located at the Division of Measurement Standards, 6790 Florin-Perkins Road, Suite 100, Sacramento, California 95828, and may be obtained upon request. Additionally, all documents relating to this rulemaking file are available on the Department's web site located at [www.cdfa.ca.gov/dms](http://www.cdfa.ca.gov/dms).

Following the written comment period, the Department will adopt the proposal substantially as set forth above without further notice. If the regulations adopted by the Department differ from, but are sufficiently related to, the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any interested person may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

A Final Statement of Reasons, when available, may be obtained by contacting Steve Cook, Chief, Enforcement Branch, Division of Measurement Standards, at (916) 229-3039.

### TITLE 5. COMMISSION ON TEACHING CREDENTIALING

#### Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Adding a Teaching or Content Area to a General Education Teaching Credential

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

A public hearing on the proposed actions will be held:

**June 14, 2013**

**8:30 a.m.**

**Commission on Teacher Credentialing**

**1900 Capitol Avenue**

**Sacramento, California 95811**

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by email relevant to the proposed

action. The written comment period closes at 5:00 p.m. on June 10, 2013. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. David Crable, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at [dcrable@ctc.ca.gov](mailto:dcrable@ctc.ca.gov). Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

#### AUTHORITY AND REFERENCE

Education Code section 44225 authorizes the Commission to adopt these proposed regulation amendments. The proposed amendments implement, interpret, and make specific Education Code sections 44225(e), 44274.2 and 44399.1 pertaining to adding a teaching or content area to a general education credential.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### Summary of Existing Laws and Regulations

This rulemaking action proposes amendments to Title 5 of the California Code of Regulations (CCR) related to adding a teaching or content area to a general education teaching credential as approved by the Commission at the March 2013 meeting. The proposed amendments also include general clean-up of the regulation section.

##### ***General Provisions Governing Adding a Teaching or Content Area***

5 CCR section 80499 allows a California credentialed teacher to add a teaching or content area to an existing general education teaching credential without completing the full professional preparation program for the new content area or credential type.

Requirements for earning a Multiple or Single Subject Credential have changed since the last update to this section of regulations in 2000. As a result, the regulation section is no longer consistent with current credential requirements. Several key policy questions related to this issue were discussed at the August 2012 (<http://www.ctc.ca.gov/commission/agendas/2012-08/2012-08-5D.pdf>) and January 2013 (<http://www.ctc.ca.gov/commission/agendas/2013-01/2013-01-3B.pdf>) Commission meetings including the results of a survey of stakehold-

ers on the pertinent issues raised. At the March 2013 Commission meeting (<http://www.ctc.ca.gov/commission/agendas/2013-03/2013-03-2A.pdf>), Commissioners provided staff direction on amendments to the Title 5 regulations.

##### ***Pedagogy Requirement***

A pedagogy course must be completed when an individual is adding a Multiple Subject Credential while holding a Single Subject Credential and vice versa. To obtain the Single Subject Credential, the course must be a departmentalized pedagogy course but regulations do not specify that the departmentalized course be in the content area of the new Single Subject Credential. Current regulations also do not require the holder of a Single Subject Credential adding a new single subject content area to complete a pedagogy course in the content area to be added.

The Commission took action to require that the pedagogy course used to add a content area must align with the specific content area requested for both Multiple and Single Subject Credential holders seeking to add a new credential type or content area.

There are several content areas including science and mathematics in which there is only one pedagogy course in Commission-approved programs for all subject areas within the broad content area. For example, a teacher completing the pedagogy course for a credential in biology would already have satisfied the pedagogy requirement if adding the content area of chemistry. The Commission discussed this question and determined that the Single Subject Credential holder adding a new subject area that falls within the same broad content area would not need to complete additional pedagogy coursework. In addition, Commissioners determined that a Commission-approved program sponsor could grant an equivalency for coursework completed at that institution for candidates seeking to meet the pedagogy requirement to avoid any redundancy in requirements.

##### ***Where the Pedagogy Course is Completed***

Some California institutions have developed "generic" pedagogy courses for individuals to use to earn another general education credential via 5 CCR section 80499 provisions although these institutions do not have a Commission-approved preparation program for the type of credential being sought. These stand-alone courses have not been reviewed by the Commission because they are not part of an accredited preparation program. Thus, these stand-alone courses may not align with current Commission program standards.

The Commission took action to accept pedagogy courses completed in California only if the institution has a Commission-approved program for the credential type or content area sought. The Commission further acted to accept pedagogy courses from states outside of

California only if these courses were completed at a regionally-accredited institution with a professional teacher preparation program.

*Reading/RICA Requirement*

California-prepared Multiple and Single Subject Credential holders complete a self-contained or departmentalized reading course, as appropriate to the credential type, within their preliminary preparation program. In addition, effective October 1, 1998, passage of the Reading Instruction Competency Assessment (RICA) is also required for Multiple Subject Credential candidates. Currently, the holder of a Single Subject Credential seeking a Multiple Subject Credential must complete either the beginning reading requirement or pass the RICA.

The Commission took action to require that Single Subject Credential holders complete both the reading course and pass the RICA if seeking to earn a Multiple Subject Credential.

*English Learner Requirement*

Some individuals using 5 CCR section 80499 to qualify for a new content area or a new credential type do not hold an English Learner Authorization (ELA). The ELA requirement is not currently in 5 CCR section 80499. Therefore, credential holders are not currently required to earn an ELA to use the provisions of 5 CCR section 80499.

The Commission took action that all individuals earning a teaching credential or new content area using the 5 CCR section 80499 provision complete the requirements for earning an English Learner Authorization.

*National Board Certification (NBC)*

Senate Bill (SB) 941 (Chap. 348, Stats. 2011), effective January 1, 2012, added Education Code section 44399.1 which allows individuals to earn an additional credential or add a content area to a general education teaching credential based on National Board Certification (NBC). Previous to this change in statute, holders of Multiple or Single Subject Credentials wishing to add another content area or credential type who earned NBC in a new content area or credential type were required to complete subject-matter competence and other requirements.

Current statute allows the Commission to determine if an individual earning a credential using this new option must also satisfy subject-matter competence by examination to comply with the federal No Child Left Behind (NCLB) Act. While SB 941 was going through the legislative process, Commission staff consulted with the California Department of Education, the California agency responsible for NCLB Compliance. While working with the United States Department of Education, it was determined that the Commission through the

California Department of Education would need to apply to the United States Department of Education for a waiver of the examination requirement based on the submission of a thorough analysis of the content of the NBC assessments.

Therefore, holders of a Single Subject Credential, or previously issued equivalent general education teaching credential, earning a Multiple Subject Credential based on NBC using this new option must pass the California Subject Examination for Teachers (CSET): Multiple Subjects examination. The proposed amendments include language to align this regulation with this addition to statute.

*Out-of-State Credentials*

Statute specifies the requirements for issuance of credentials to out-of-state (OOS) credentialed teachers. The most recent change in statute was the passage of SB 1209 (Chap. 517, Stats. 2006), which amended Education Code section 44274.2 to allow possession of a full credential earned in a state or U.S. territory outside of California to be used to obtain a comparable California credential.

Some California-prepared Multiple or Single Subject Credential holders subsequently earn an OOS credential and want to add that authorization to their California credential. Currently, these individuals are evaluated as OOS-prepared teachers under the provisions of SB 1209 because they hold an OOS credential. This could result in only a preliminary credential being issued to the holder of a California clear credential. If these individuals hold a clear Multiple or Single Subject Credential, they have already met the clear credential requirements and should not need to complete additional requirements except for the ELA requirement if not previously met. If the individual holds a California preliminary credential, he or she should only need to meet the renewal requirements listed on his or her current credential and not additional requirements.

The proposed regulations include two options that would allow possession of a professional level teaching credential issued by another state or U.S. Territory to meet the requirement to add a teaching credential or content area:

- 1) For a Single Subject Credential, an OOS credential with a departmentalized classroom teaching authorization that is comparable to a content area currently issued in California, or
- 2) For a Multiple Subject Credential, an OOS credential with an elementary education or self-contained classroom teaching authorization.

*Non-Substantive Changes*

There are non-substantive changes that need to be included in 5 CCR section 80499 such as to remove all references to "professional" clear credentials and

change the title of the section to better reflect the substance of the regulations. In addition, the option to verify subject-matter competence by completion of a subject-matter program when seeking a Multiple Subject Credential needs to be deleted to align the section with No Child Left Behind.

Objectives and Anticipated Benefits of the Proposed Regulations

The objectives of the proposed regulation amendments are to:

- Implement and clarify recent statutory changes
- General clean-up of section related to adding a teaching or content area to general education credentials to align with previous statutory and regulatory changes
- Implement pedagogy and reading requirements as requested by the Commission
- Add an English Learner requirement as requested by the Commission

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by assuring appropriate preparation for teachers seeking to teach a new content area outside of his/her initially credentialed area. The proposed regulations will promote fairness and prevent discrimination by ensuring uniformity in requirements for individuals serving on general education teaching credentials. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

Determination of Inconsistency/Incompatibility with Existing State Regulations

All proposed regulation amendments are general clean-up to align with previous statute and regulation amendments and, therefore, are not inconsistent or incompatible with existing regulations.

**Documents Incorporated by Reference:** None.

**Documents Relied Upon in Preparing Regulations:**

August 2012 Commission agenda item 5D:

<http://www.ctc.ca.gov/commission/agendas/2012-08/2012-08-5D.pdf>

January 2013 Commission agenda item:

<http://www.ctc.ca.gov/commission/agendas/2013-01/2013-01-3B.pdf>

March 2013 Commission agenda item:

<http://www.ctc.ca.gov/commission/agendas/2013-03/2013-03-2A.pdf>

<http://www.ctc.ca.gov/commission/agendas/2013-03/2013-03-2A-insert.pdf>

DISCLOSURES REGARDING THE PROPOSED ACTIONS

The Commission has made the following initial determinations:

*Mandate to local agencies or school districts:* None.

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

*Cost or savings to any state agency:* None.

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

*Significant effect on housing costs:* None.

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

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

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

*Statement of the Results of the Economic Impact Assessment [Govt. Code § 11346.5(a)(10)]:* The Commission concludes that it is (1) unlikely that the proposal will create any jobs within the State of California; 2) unlikely that the proposal will eliminate any jobs within the State of California; 3) unlikely that the proposal will create any new businesses with the State of California; 4) unlikely that the proposal will eliminate any existing businesses within the State of California; and 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by assuring appropriate preparation for a teacher seeking to teach a new content area outside of his or her initially credentialed area. The proposed regulations will promote fairness and prevent discrimination by ensuring uniformity in requirements for individuals serving on general education teaching credentials. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

*Effect on small businesses:* The proposed regulations will not have a significant adverse economic impact upon business. The proposed regulations apply only to individuals applying for teaching credentials that authorize service in California's public schools.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the proposed actions, or would be more cost-effective to affected, private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearing.

**CONTACT PERSON/FURTHER INFORMATION**

General or substantive inquiries concerning the proposed action may be directed to David Crable by telephone at (916) 323-5119 or David Crable, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Janet Bankovich at (916) 323-7140 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at [www.ctc.ca.gov](http://www.ctc.ca.gov). In addition, all the information on which this proposal is based is available for inspection and copying.

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

The entire rulemaking file is available for inspection and copying, throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, an economic impact assessment/analysis contained in the Initial Statement of Reasons, Commission agenda item 3B from the January 2013 meeting, and Commission agenda item 2A from the March 2013 meeting (including the insert). Copies may be obtained by contacting David Crable at the address or telephone number provided above.

**MODIFICATION OF PROPOSED ACTION**

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsub-

stantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

**AVAILABILITY OF FINAL STATEMENT OF REASONS**

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting David Crable at (916) 323-5119.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikethrough can be accessed through the Commission's website at [www.ctc.ca.gov](http://www.ctc.ca.gov).

**TITLE 5. COMMISSION ON TEACHING CREDENTIALING**

**Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to English Learner Authorizations for California Prepared Teachers and the World Language: English Language Development Content Area Authorization**

The Commission on Teacher Credentialing (Commission) proposes to take the regulatory action described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

A public hearing on the proposed actions will be held:

**June 14, 2013  
8:30 a.m.  
Commission on Teacher Credentialing  
1900 Capitol Avenue  
Sacramento, California 95811**

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e-mail relevant to the proposed action. The written comment period closes at 5:00 p.m.

on June 10, 2013. Comments must be received by that time or may be submitted at the public hearing. You may fax your response to (916) 322-0048; write to the Commission on Teacher Credentialing, attn. Tammy A. Duggan, 1900 Capitol Avenue, Sacramento, California 95811; or submit an email at [tduggan@ctc.ca.gov](mailto:tduggan@ctc.ca.gov).

Any written comments received 15 days prior to the public hearing will be reproduced by the Commission's staff for each member of the Commission as a courtesy to the person submitting the comments and will be included in the written agenda prepared for and presented to the full Commission at the hearing.

#### AUTHORITY AND REFERENCE

Education Code section 44225 authorizes the Commission to adopt these proposed regulation amendments. The proposed amendments implement, interpret, and make specific Education Code sections 44225(e), 44252.1, and 44259.5(a).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### Summary of Existing Laws and Regulations

This rulemaking action proposes amendments to Title 5 of the California Code of Regulations (CCR) pertaining to English learner authorizations for California prepared teachers and the World Language: English Language Development (ELD) content area as approved by the Commission at the March 2013 meeting.

The proposed regulations are based on the work completed during the past three years by the Commission and the English Learner Authorizations Advisory (ELAA) Panel to improve teaching and learning related to English learner students in California public schools. The Commission has heard multiple prior agenda items relating to the work of the ELAA Panel and has taken several related actions pertinent to the topics addressed in this agenda item. One component of this work addressed within the proposed regulations includes the new content area authorization of World Language: ELD for the Single Subject Teaching Credential. The other aspects of the work addressed in the proposed regulations include changes in the scope of the English learner authorizations for future completers of the Multiple Subject, Single Subject, and Education Specialist teacher preparation programs in order to align with the level of preparation provided. The World Language: ELD content area authorization and the revised EL authorization structure for California prepared teachers were previously approved by the Commission in December 2011 as part of the ELAA Panel's recommenda-

tions (<http://www.ctc.ca.gov/commission/agendas/2011-12/2011-12-5B.pdf>).

The purpose of the proposed regulation amendments is to align the authorization structure with the preparation received by beginning teachers and is based on the following rationale:

- After reviewing extensive current research, the ELAA Panel and the Commission determined that current teacher preparation is not sufficient to support a departmentalized authorization for ELD for either multiple or single subject teachers.
- The ELAA Panel recommended that the authorization for providing ELD be limited to instruction that occurs within the scope of the teacher's basic credential authorization, as is consistent with the level of preparation provided by Multiple Subject, Single Subject, and Education Specialist teacher preparation programs. This recommendation was approved by the Commission in December 2011.
- The ELAA Panel determined that ELD represents a separate discipline that should have its own single subject credential within the World Language content area. The Commission approved this recommendation and directed the ELAA Panel to develop the subject matter content needed to underlie this credential.

##### *Revised English Learner Authorization Structure*

The Commission adopted a revised English Learner Authorizations Structure at its December 2011 meeting (<http://www.ctc.ca.gov/commission/agendas/2011-12/2011-12-5B.pdf>). The Commission approved the recommendation of the ELAA Panel that current teacher preparation is not sufficient to support the content area of ELD in a departmentalized setting for either multiple or single subject teachers and concluded that the authorization for providing ELD should be "limited to instruction that occurs within the scope of the teacher's basic credential authorization, as is consistent with the level of preparation provided by Multiple Subject, Single Subject, and Education Specialist teacher preparation programs."

Since the authorization to provide Specially Designed Academic Instruction in English (SDAIE) services is clearly tied in statute to the teacher's underlying prerequisite credential, it is consistent with legislative intent and with the mission of meeting the needs of all of California's diverse students that the ELD authorization provided through Senate Bill (SB) 2042 (Chap. 548, Stats. 1998) and Assembly Bill (AB) 1059 (Chap. 711, Stats. 1999) teacher preparation programs also be tied to the teacher's underlying prerequisite credential.

The revised authorization structure adopted in December 2011 limits the authorization for ELD and

SDAIE services to more closely align with the preparation provided in the teaching credential program and leaves unchanged the authorization for the Crosscultural, Language, and Academic Development (CLAD) Certificate or English learner authorization based on completion of a Commission–approved California Teachers of English Learners (CTEL) program or examination.

*Authorization Scope for the World Language: English Language Development Credential*

As adopted by the Commission in December 2011, the Single Subject Credential in World Language: ELD authorizes the teaching of ELD in departmentalized settings and also SDAIE for additional content areas added to the basic credential or any additional basic credential earned (<http://www.ctc.ca.gov/commission/agendas/2011-12/2011-12-5B.pdf>).

*Implementation Dates*

The proposed regulations include a final date of December 31, 2013 for candidates to enroll in programs based on the current authorization structure as approved by the Commission in August 2012. The proposed regulations also include a transition window, or period of time allowed for completion of the program and authorization for which they were enrolled.

All current holders of valid California credentials with English learner authorizations and those enrolled in California programs prior to the cut-off transition date established by the Commission in the proposed regulations would retain an English learner authorization with the same scope and content that is currently issued for as long as they hold their valid California credential. Therefore, in departmentalized settings, there would still be a considerable pool of teachers eligible to provide departmentalized ELD instructional services. This pool would include but not be limited to teachers with a Multiple or Single Subject Teaching Credential or an Education Specialist Instruction Credential issued with an EL authorization as long as program enrollment occurs by December 31, 2013, holders of a CLAD Certificate or English learner authorization earned through a Commission–approved CTETL program or examination, and teachers with the new Single Subject World Language: ELD Credential.

Objectives and Anticipated Benefits of the Proposed Regulations

The objectives of the proposed regulations amendments are to:

- Establish a new single subject World Language: ELD content area that would authorize the holder to provide ELD within departmentalized settings;

- Retain the SDAIE authorization for future Multiple Subject, Single Subject, and Education Specialist credentialed teachers;
- Limit the authorization for providing ELD instruction for Multiple Subject credentialed teachers to students in self-contained or core classroom settings;
- Limit the authorization for providing ELD instruction for a Single Subject credentialed teacher to students in a departmentalized class in the content area(s) and grades authorized by the basic credential; and
- Limit the authorization for providing ELD instruction for an Education Specialist teacher to students with special needs in the full continuum of placement options indicated in students' Individual Education Program (IEP) and in alignment with the specialty areas authorized by the teacher's credential and authorization(s).

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by aligning the English learner authorization for future completers of the Multiple Subject, Single Subject, and Education Specialist teacher preparation programs with the level of preparation provided; and creating a World Language: ELD content area authorization that will authorize the holder to provide ELD within departmentalized settings upon completion of a Single Subject teacher preparation program.

The proposed regulations will promote fairness and prevent discrimination by ensuring the authorizations issued to teachers of English learner students are properly aligned with the level of preparation completed. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

Determination of Inconsistency/Incompatibility with Existing State Regulations

The Commission has determined that the proposed regulation amendments are not inconsistent or incompatible with existing regulations.

**Documents Incorporated by Reference:** None.

**Documents Relied Upon in Preparing Regulations:**

December 2011 Commission agenda item 5B:

<http://www.ctc.ca.gov/commission/agendas/2011-12/2011-12-5B.pdf>

January 2012 Commission agenda item 3A:

<http://www.ctc.ca.gov/commission/agendas/2012-01/2012-01-3A.pdf>  
 August 2012 Commission agenda item 4F:  
<http://www.ctc.ca.gov/commission/agendas/2012-08/2012-08-4F.pdf>  
 January 2013 Commission agenda items 4B and 4E:  
<http://www.ctc.ca.gov/commission/agendas/2013-01/2013-01-4B.pdf>  
<http://www.ctc.ca.gov/commission/agendas/2013-01/2013-01-4E.pdf>

#### DISCLOSURES REGARDING THE PROPOSED ACTIONS

The Commission has made the following initial determinations:

*Mandate to local agencies or school districts:* None.

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

*Cost or savings to any state agency:* None.

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

*Significant effect on housing costs:* None.

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

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

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

*Statement of the Results of the Economic Impact Assessment [Govt. Code § 11346.5(a)(10)]:* The Commission concludes that it is (1) unlikely that the proposal will create any jobs within the State of California; (2) unlikely that the proposal will eliminate any jobs within the State of California; (3) unlikely that the proposal will create any new businesses with the State of California; (4) unlikely that the proposal will eliminate any existing businesses within the State of California; and (5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

The Commission anticipates that the proposed amendments will benefit the welfare of students attending public schools in the State of California by limiting the time an individual may teach outside of his/her credentialed area (emergency permits) or teach prior to completing a teacher preparation program and satisfying the subject-matter competence requirement (PIPs). The proposed regulations will promote fairness and

prevent discrimination by ensuring uniformity in requirements for individuals serving on teaching and services permits. The Commission does not anticipate that the proposed regulations will result in the protection of public health and safety, worker safety, or the environment, the prevention of social inequity or an increase in openness and transparency in business and government.

*Effect on small businesses:* The proposed regulations will not have a significant adverse impact upon business. The proposed regulations apply only to individuals applying for teaching or services permits that authorize service in California's public schools.

#### CONSIDERATION OF ALTERNATIVES

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

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

#### CONTACT PERSON/FURTHER INFORMATION

General or substantive inquiries concerning the proposed action may be directed to Tammy A. Duggan by telephone at (916) 323-5354 or Tammy A. Duggan, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed to Janet Bankovich at (916) 323-7140 or at the address mentioned in the previous sentence. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at [www.ctc.ca.gov](http://www.ctc.ca.gov). In addition, all the information on which this proposal is based is available for inspection and copying.

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

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date

this notice is published in the Notice of Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, an economic impact assessment/analysis contained in the Initial Statement of Reasons, Commission agenda item 5B from the December 2011 meeting, Commission agenda item 3A from the January 2012 meeting, Commission agenda item 4F from the August 2012 meeting, and Commission agenda items 4B and 4E from the January 2013 meeting. Copies may be obtained by contacting Tammy Duggan at the address or telephone number provided above.

#### MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Tammy A. Duggan at (916) 323-5354.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Commission's website at [www.ctc.ca.gov](http://www.ctc.ca.gov).

### TITLE 8. DEPARTMENT OF INDUSTRIAL RELATIONS

#### OFFICE OF SELF INSURANCE PLANS

##### Workers' Compensation — Self Insurance Regulations

**(Title 8, California Code of Regulations, Sections 15201, 15209, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496 and 15497)**

**NOTICE IS HEREBY GIVEN** that the Director ("Director") of the Department of Industrial Relations ("Department") proposes to amend sections 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496

and 15497 and to adopt new section 15209 of Subchapter 2, Chapter 8, Division 1, Title 8, California Code of Regulations to implement amendments to the California Labor Code regarding the administration of Self Insurance Plans pursuant to SB 863 (Chapter 363, Statutes of 2012), as described below, after considering all comments, objections and recommendations regarding the proposed action. These regulations were amended and adopted on an emergency basis effective January 1, 2013, and are currently in effect in a substantially similar form to that proposed herein.

#### PUBLIC HEARING

The Department will hold a public hearing at 10:30 a.m. on Thursday, June 13, 2013, at 1515 Clay Street, Suite 701, Oakland, California. The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on Monday, June 10, 2013. The Department will only consider comments received at the Office of Self Insurance Plans ("OSIP") by that time. Submit comments to:

Jon Wroten, Chief  
Office of Self Insurance Plans  
2265 Watt Avenue, Suite 1  
Sacramento, CA 95825

Comments may also be submitted prior to the close of the written comment period by e-mail to [OSIPRulemaking@dir.ca.gov](mailto:OSIPRulemaking@dir.ca.gov) or by facsimile, to the attention of Jon Wroten, at (916) 483-1535.

#### AUTHORITY AND REFERENCE

Labor Code sections 55 and 3702.10 authorize the Director to adopt, amend, and repeal regulations reasonably necessary to implement and make specific the provisions of Chapter 2 of Division 1 of the California Labor Code and to carry out the purposes of Article 1 (commencing with section 3700), Article 2 (commencing with section 3710), and Article 2.5 (commencing with section 3740) of the California Labor Code. The proposed regulations implement, interpret and make

specific section 3701, subdivision (c) of the California Labor Code.

INFORMATIVE DIGEST AND POLICY  
STATEMENT OVERVIEW

The objective of the proposed rulemaking action is to exercise the Department’s authority under Labor Code section 3702.10 to adopt and amend regulations necessary to define the content of the annual actuarial reports required by Labor Code section 3701, subdivision (c), to prescribe the qualifications for the actuaries who may prepare those required annual actuarial reports, and to bring the requirements for self-insurers’ security deposits into conformity with Labor Code section 3701, subdivision (c) as amended by SB 863 (Chapter 363, Statutes of 2012).

Existing Labor Code section 3700 requires every employer except the State to secure the payment of compensation by either being insured against liability to pay compensation by one or more insurers duly authorized to write workers’ compensation insurance in this state, or by securing from the Department a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of ability to self-insure and to pay any compensation that may become due to his or her employees. Existing Labor Code section 3701 requires private self-insuring employers, including groups of self-insuring employers, to post security deposits with the Department and specifies how those deposits are to be calculated.

Among other things, SB 863 amended Labor Code section 3701 to change the calculation of security deposits. Effective January 1, 2013, Labor Code section 3701, subdivision (c), as amended, requires that the calculation of a self-insurer’s projected losses and expenses upon which the security deposit is based “be reflected in a written actuarial report that projects ultimate liabilities of the private self-insured employer at the expected actuarial confidence level, to ensure that all claims and associated costs are recognized. The written actuarial report shall be prepared by an actuary meeting the qualifications prescribed by the Director in regulation.”

The regulations proposed in this rulemaking action would define the content of the annual actuarial reports required by Labor Code section 3701, subdivision (c), prescribe the qualifications for the actuaries who may prepare those required annual actuarial reports, and bring the requirements for self-insurers’ security deposits into conformity with Labor Code section 3701, subdivision (c) as amended by SB 863.

The proposed regulations will benefit the health and welfare of California residents and workers employed by private self-insuring employers and employers who

are part of a group of self-insuring employers by implementing the amendments to Labor Code section 3701, subdivision (c) discussed above which are intended to ensure that the security deposits posted by private self-insuring employers and self-insured groups are adequate to cover all of their workers’ compensation claim liabilities and associated costs.

**Inconsistency or Incompatibility with Existing State Regulations:**

None. Proposed new section 15209 and sections 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496 and 15497, amendments to which are proposed by this rulemaking, constitute the entirety of the state regulations addressing the content of the annual actuarial reports required by Labor Code section 3701, subdivision (c), the qualifications for the actuaries who may prepare those required annual actuarial reports, and the requirements for self-insurers’ security deposits. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

**Comparable Federal Statutes and Regulations:**

None.

**Technical, Theoretical or Empirical Studies, Reports or Documents:**

The Department did not rely on any technical, theoretical or empirical studies, reports or documents in proposing this regulatory action.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

The Department has made the following initial determinations:

**Costs or Savings to State Agencies:**

No costs or savings to state agencies will result as a consequence of the proposed action.

**Determination of Mandate:**

The Director has determined that the proposed regulations do not impose a mandate on local agencies or school districts or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed regulations will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California constitution.”

**Cost or Savings to Local Agencies or School Districts Required to be Reimbursed:**

No costs to local agencies or schools are required to be reimbursed in accordance with Government Code Sections 17500 through 17630.

**Other Non–discretionary Costs or Savings Imposed on Local Agencies or School Districts:**

This proposal does not impose non–discretionary costs or savings imposed on local agencies or school districts.

**Costs or Savings in Federal Funding to the State:**

This proposal will not result in costs or savings in federal funding to the state.

**Impact on Housing Costs:**

The Department has made an initial determination that the amendment of these regulations will not have a significant effect on housing costs.

**Cost Impact on Representative Private Persons or Businesses:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Individual private self–insurers may find the new security deposit requirements to be slightly higher than current requirements and may incur some additional costs related to preparation of the required annual actuarial reports, but the increased costs are necessary to ensure that the security deposits posted are adequate to cover the self–insurer’s liabilities.

**Impact on Business:**

The Department has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states.

**Results of Economic Impact Assessment:**

The Department has made an assessment that the proposed regulations will not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California. The proposed regulations will benefit the health and welfare of California residents and workers employed by private self–insuring employers and employers who are part of a group of self–insuring employers by implementing amendments to Labor Code section 3701, subdivision (c) intended to ensure that the security deposits posted by private self–insuring employers and self–insured groups are adequate to cover all of their workers compensation claim liabilities and associated costs.

**Business Reporting Requirement:**

The proposed regulations define the content of the annual actuarial reports that are required by Labor Code section 3701, subdivision (c), and prescribe the qualifications for the actuaries who may prepare those required annual actuarial reports, but the proposed regu-

lations do not impose any additional reporting requirements upon California businesses that are not already required by statute.

**Small Business Impact:**

The Department has determined that the proposed regulations will have no adverse impact on small business because most, if not all, self–insured employers and members of self–insured groups are not small businesses. To the extent that any small businesses are members of self–insured groups, they may find that the new security deposit requirements result in slightly higher contributions to the group than current requirements, but the increased costs, if any, are necessary to ensure that the security deposits posted are adequate to cover the group self–insurer’s liabilities.

CONSIDERATION OF ALTERNATIVES

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

The Department 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.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE/INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the Regulations Coordinator named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the Form 399 and the proposed text of the regulations.

Any interested person may inspect a copy or direct questions about the proposed regulations and any sup-

plemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Office of Self Insurance Plans, 2265 Watt Avenue, Suite 1, Sacramento, California 95825, between 8:00 a.m. and 5:00 p.m., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the Regulations Coordinator.

In addition, the Notice, Initial Statement of Reasons and proposed text of the regulations being proposed may be accessed and downloaded from the Department's website at <http://www.dir.ca.gov/SIP/>. To access them, click on the "Proposed Regulations — Rulemaking" link.

#### CONTACT PERSON FOR GENERAL QUESTIONS

Non-substantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address.

The contact person is:

Tina Freese  
Workers' Compensation Compliance Officer/  
Regulations Coordinator  
Department of Industrial Relations  
Office of Self Insurance Plans  
2265 Watt Avenue, Suite 1  
Sacramento, CA 95825  
E-mail: [OSIPRulemaking@dir.ca.gov](mailto:OSIPRulemaking@dir.ca.gov)

The telephone number of the contact person is (916) 574-0737.

#### CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person above is unavailable, or for questions regarding the substance of the proposed regulations, inquiries should be directed to:

Jon Wroten, Chief  
Department of Industrial Relations  
Office of Self Insurance Plans  
2265 Watt Avenue, Suite 1  
Sacramento, CA 95825  
E-mail: [OSIPRulemaking@dir.ca.gov](mailto:OSIPRulemaking@dir.ca.gov)

The telephone number of this contact person is (916) 574-0300.

#### AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons and the text of the regulations will automatically be sent to those interested persons on the Director's mailing list. If adopted, the regulations with any final amendments will appear in Title 8 of the California Code of Regulations, commencing with section 1. The text of the final regulations also may be available through the website of the Office of Administrative Law at [www.oal.ca.gov](http://www.oal.ca.gov).

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the forty-five (45) day public comment period, the Director may adopt the proposed regulations. As a result of public comments, either oral or written, that are received by the Director regarding this proposal, the Director may determine that changes to the proposed regulation are appropriate. If the Director makes substantive modifications which are sufficiently related to the originally proposed text, the Department will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Director adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Tina Freese at the above address. The Department will accept further written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The Department is required to prepare a Final Statement of Reasons. Once the Department has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests it. Requests for copies should be addressed to the Department Contact Person identified in this Notice.

#### DEPARTMENT INTERNET WEBSITE

The Department maintains an Internet website for the electronic publication and distribution of written material. Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at <http://sip.dir.ca.gov>.

#### TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

The Public Employment Relations Board (PERB or Board) proposes to adopt the regulations described be-

low after considering all comments, objections or recommendations regarding the proposed action.

#### REGULATORY ACTION

The Board proposes to amend sections 32147, 32380 and 32802.

Section 32147 provides that the processing of certain matters may be expedited. The only proposed change here is to add “32802” to subdivision (a), which would allow for expediting an appeal to the Board of a determination as to whether a request for factfinding under the Meyers–Miliias–Brown Act (MMBA) was sufficient.

Section 32380 provides a list of administrative decisions that are not appealable. Section 32802 specifies the process to be followed in MMBA factfinding requests. The proposed amendments to these two sections would delete the prohibition of appealing a Board agent’s determination of the sufficiency of a request for factfinding under the MMBA to the Board.

#### PUBLIC HEARING

The Board will hold a public hearing at 10:00 a.m., on June 13, 2013, in Room 103 of its headquarters building, located at 1031 18th Street, Sacramento, California. Room 103 is wheelchair accessible. At the hearing, any person may orally present statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing. Any person wishing to testify at the hearing is requested to notify the Office of the General Counsel as early as possible by calling (916) 322–3198 to permit the orderly scheduling of witnesses and to permit arrangements for an interpreter to be made if necessary.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on June 11, 2013. Written comments will also be accepted at the public hearing. Submit written comments to:

Jonathan Levy, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327–8387  
FAX: (916) 327–6377  
E-mail: [jlevy@perb.ca.gov](mailto:jlevy@perb.ca.gov)

Or

Katharine Nyman, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327–8386  
FAX: (916) 327–6377  
E-mail: [knyman@perb.ca.gov](mailto:knyman@perb.ca.gov)

#### AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers–Miliias–Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Government Code section 3563 authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer–Employee Relations Act (HEERA). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Governance and Employment Protection Act (Trial Court Act). Pursuant to Government Code sections 3541.3(g) and 71825(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act). In part, Senate Bill 1038 provides, at Government Code section 3603(c), that “The regulations of the Director of Industrial Relations at Subchapter 2.2 (Sections 15800 to 15875.1, inclusive) and Subchapter 7 (Section 17300) of Chapter 8 of Division 1 of Title 8 of the California Code of Regulations shall remain in effect and shall be deemed to be regulations of the Public Employment Relations Board.”

General reference for section 32147: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Gov-

ernment Code; and Section 99561(m), Public Utilities Code. General reference for section 32380: Sections 3505.4, 3509, 3513(h), 3541.3(k) and (n), 3563(j) and (m), 71639.1 and 71825, Government Code; and Section 99561(j) and (m), Public Utilities Code. General reference for section 32802: Sections 3505.4, 3505.5, and 3505.7, Government Code.

### POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB presently administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers-Milias-Brown Act (MMBA) of 1968, which established collective bargaining for California's city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; the Higher Education Employer-Employee Relations Act (HEERA) of 1979 extending the same coverage to the California State University System, the University of California System and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) of 2003, which covers supervisory employees of the Los Angeles County Metropolitan Transportation Authority; and the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, which together provide for collective bargaining rights for most trial court employees. PERB also now has jurisdiction over the In-Home Supportive Services Employer-Employee Relations Act of 2012 (IHSSA), which is applicable to certain in-home supportive services providers, but no changes related to the enactment of that new statute are reflected in this rulemaking package.

As explained in more detail below in the Informative Digest, the changes proposed by this Notice address one area, but also attempt to create a unifying theme of providing more clarity and more transparency in the Board's processes. The area of change concerns the appealability of a Board agent's determination of the sufficiency of a factfinding request made pursuant to the MMBA. This change deletes the regulation text that prohibits an appeal of a determination of the sufficiency

of a factfinding request made pursuant to the MMBA to the Board.

### INFORMATIVE DIGEST

Section 32147 provides that the processing of certain matters may be expedited. The only proposed change here is to add "32802" to subdivision (a), which would allow for expediting an appeal to the Board of a determination as to whether a request for factfinding under the MMBA was sufficient.

Section 32380 provides a list of administrative decisions that shall not be appealable to the Board. The only proposed change here is to delete subdivision (d), which currently prohibits an appeal of a Board agent's determination as to the sufficiency of a request for factfinding under the MMBA.

Section 32802 provides for the process of requesting factfinding under the MMBA. The only proposed change here is to delete subdivision (e), which currently states that a determination as to whether a request for factfinding is sufficient shall not be appealable to the Board itself.

### CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

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

### ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

These regulations and changes will improve the public sector labor environment and the collective bargaining process by clarifying PERB procedures, and by making the Board's processes more transparent and accessible. These proposed regulations would provide parties with the ability to appeal a Board agent's determination of the sufficiency of MMBA factfinding requests — the benefit being the development of precedent to further guide parties and the quick and efficient resolution of pertinent matters.

### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: Initial determination of the agency is that the proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: Initial determination of the agency is that the proposed action would not impose any new costs which must be reimbursed.

Other non-discretionary cost or savings imposed upon local agencies: Initial determination of the agency is that the proposed action would not result in any other non-discretionary cost or savings imposed upon local agencies.

Costs or savings to state agencies: None. These proposed regulations do not apply to or impact state agencies.

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

Cost impact on representative private persons or businesses: 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.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: Initial determination of the agency is that the proposed action will have no impact.

Significant effect on housing costs: The agency's initial determination is that there is no effect on housing costs.

The proposed regulations will not affect small business because they only affect public employers and public employees.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The adoption of the proposed amendment will benefit public employers, employees, employees' representatives and the community at-large by further facilitating the resolution of public sector labor disputes by clarifying PERB procedures, making the Board's processes more transparent and accessible. In so doing, California residents' welfare will receive the benefit of stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that these employers and employees provide to California communities.

#### CONSIDERATION OF ALTERNATIVES

A rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, 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 above-mentioned hearing or during the written comment period.

#### PRELIMINARY ACTIVITIES

PERB staff invited comments on possible regulation changes at PERB Advisory Committee meetings held on January 17, 2013 and February 28, 2013, and circulated discussion drafts of possible regulation changes prior to those meetings. The Board also relied upon the Economic Impact Assessment identified in this Notice in proposing regulatory action.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the address below. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies of these documents and the Final Statement of Reasons, when available, may be obtained by contacting Jonathan Levy or Katharine Nyman at the address or phone number listed below, and are also available on the Board's web site (see address below).

#### ADOPTION OF PROPOSED REGULATIONS, AVAILABILITY OF CHANGED OR MODIFIED TEXT AND FINAL STATEMENT OF REASONS

Following the hearing, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes clearly indicated — shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations and/or the

final statement of reasons should be sent to the attention of Jonathan Levy or Katharine Nyman at the address indicated below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### INTERNET ACCESS

The Board will maintain copies of this Notice, the Initial Statement of Reasons and the text of the proposed regulations on its web site, found at [www.perb.ca.gov](http://www.perb.ca.gov), throughout the rulemaking process. Written comments received during the written comment period will also be posted on the web site. The Final Statement of Reasons or, if applicable, notice of a decision not to proceed will be posted on the web site following the Board's action.

#### CONTACT PERSONS

Any questions or suggestions regarding the proposed action or the substance of the proposed regulations should be directed to:

Jonathan Levy, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327-8387  
E-mail: [jlevy@perb.ca.gov](mailto:jlevy@perb.ca.gov)

or

Katharine Nyman, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327-8386  
E-mail: [knyman@perb.ca.gov](mailto:knyman@perb.ca.gov)

### **TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD**

The Public Employment Relations Board (PERB or Board) proposes to adopt the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

#### REGULATORY ACTION

The Board proposes to designate existing section 32998 as under Article 1 of Subchapter 9, Chapter 1, Division 3, Title 8 and adopt Article 2 to Title 8, Division 3, Chapter 1, Subchapter 9, and to adopt sections 32999, 33000, 33001, 33002, 33003, 33004, 33005, 33006,

33007, 33008, 33009, 33010, 33011, 33012, and 33013.

Proposed Section 32999 describes when the provisions of proposed Article 2 are applicable. Proposed Section 33000 describes ballots as they are to be utilized in elections conducted pursuant to proposed Article 2. Proposed Section 33001 defines "Parties" for the purposes of proposed Article 2. Proposed Section 33002 provides for a stay of election process. Proposed Section 33003 describes the notice of election that the State Mediation and Conciliation Service (SMCS) will provide. Proposed Section 33004 provides for the requirement that a list of voters be submitted by an employer in an election subject to proposed Article 2. Proposed Section 33005 establishes voter eligibility requirements. Proposed Section 33006 provides a process by which a party may challenge the eligibility of a voter. Proposed Section 33007 describes the process of tallying voted ballots. Proposed Section 33008 describes the process by which challenges to ballots are resolved. Proposed Section 33009 provides that any party to an election may file objections to the conduct of elections within a 10-day period. Proposed Section 33010 provides for the powers and duties of a Board agent concerning objections to election conduct. Proposed Section 33011 provides for the withdrawal of objections to an election prior to a final decision by the Board. Proposed Section 33012 provides for the utilization of a hearing on objections and challenges. Proposed Section 33013 provides for the filing of exceptions to a decision on objections or challenges.

#### PUBLIC HEARING

The Board will hold a public hearing at 10:00 a.m., on June 13, 2013, in Room 103 of its headquarters building, located at 1031 18th Street, Sacramento, California. Room 103 is wheelchair accessible. At the hearing, any person may orally present statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing. Any person wishing to testify at the hearing is requested to notify the Office of the General Counsel as early as possible by calling (916) 322-3198 to permit the orderly scheduling of witnesses and to permit arrangements for an interpreter to be made if necessary.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on June 11, 2013.

Written comments will also be accepted at the public hearing. Submit written comments to:

Jonathan Levy, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327-8387  
FAX: (916) 327-6377  
E-mail: [jlevy@perb.ca.gov](mailto:jlevy@perb.ca.gov)

or

Katharine Nyman, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327-8386  
FAX: (916) 327-6377  
E-mail: [knymn@perb.ca.gov](mailto:knymn@perb.ca.gov)

#### AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers-Milias-Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Government Code section 3563 authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer-Employee Relations Act (HEERA). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Governance and Employment Protection Act (Trial Court Act). Pursuant to Government Code sections 3541.3(g) and 71825(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate

the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act). In part, Senate Bill 1038 provides, at Government Code section 3603(c), that "The regulations of the Director of Industrial Relations at Subchapter 2.2 (Sections 15800 to 15875.1, inclusive) and Subchapter 7 (Section 17300) of Chapter 8 of Division 1 of Title 8 of the California Code of Regulations shall remain in effect and shall be deemed to be regulations of the Public Employment Relations Board."

General reference for proposed section 32999: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33000: Sections 3502.5(b) and (d), 3507.1(a) and (c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33001: Sections 3501, 71601, and 71801, Government Code. General reference for proposed section 33002: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33003: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33004: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33005: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33006: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33007: Sections 3502.5(b) and (d), 3507.1(a) and (c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33008: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33009: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33010: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33011: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33012: Reference: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code. General reference for proposed section 33013: Sections 3502.5(b) and (d), 3507.1(c), 71632.5(c), 71636.3, and 71814(c), Government Code.

#### POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB

presently administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers–Milius–Brown Act (MMBA) of 1968, which established collective bargaining for California’s city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California’s public schools (K–12) and community colleges; the State Employer–Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; the Higher Education Employer–Employee Relations Act (HEERA) of 1979 extending the same coverage to the California State University System, the University of California System and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA) of 2003, which covers supervisory employees of the Los Angeles County Metropolitan Transportation Authority; and the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, which together provide for collective bargaining rights for most trial court employees. PERB also now has jurisdiction over the In–Home Supportive Services Employer–Employee Relations Act of 2012 (IHSSA), which is applicable to certain in–home supportive services providers, but no changes related to the enactment of that new statute are reflected in this rulemaking package.

As explained in more detail below in the Informative Digest, the changes proposed by this Notice address one main area, but also attempt to create a unifying theme of providing more clarity and more transparency in the Board’s processes. The Board proposes the adoption of regulations providing for and describing the election services and processes related thereto for representation and agency shop elections conducted by SMCS pursuant to the local rules of an MMBA, Trial Court Act or Court Interpreter Act employer. These proposed regulations define “Parties,” describe ballots, and provide for stays of an election, notice requirements, voter list requirements, voter eligibility requirements, challenge processes, tallying of ballots, resolution of challenges, objection processes, hearings on objections and challenges, and filing of exceptions to decisions on objections and challenges.

#### INFORMATIVE DIGEST

Proposed Section 32999 would provide that the provisions of new Article 2 of Chapter 1, Subchapter 9, are

applicable whenever SMCS conducts representation and agency shop elections pursuant to the local rules of an MMBA, Trial Court Act or Court Interpreter Act employer. This proposed section would also provide that such elections would be conducted by SMCS only pursuant to a Consent Election Agreement. The intent is to provide clarity regarding the pertinent election services provided by SMCS.

Proposed Section 33000 would mandate that all elections pursuant to this Article would be conducted by secret ballot and describes the substance of ballots.

Proposed Section 33001 would define “Parties” for the purposes of this Article.

Proposed Section 33002 would provide that a party to an SMCS–conducted election may request that the Board stay an election and describes the process thereof. This proposed section is intended to effectuate PERB’s policies and allow for timely resolution of allegations of unlawful conduct. This proposed section would also provide for the appealability to the Board itself of a determination to stay an election.

Proposed Section 33003 would describe the SMCS–provided notice of election and posting requirements thereof.

Proposed Section 33004 would provide for the employer to submit a list of eligible voters. This proposed section would also provide for service requirements of the list of voters and require that addresses of voters be confidential and not distributed to any other organization or individual nor utilized for any other purpose.

Proposed Section 33005 would provide voter eligibility requirements.

Proposed Section 33006 would provide for a process to challenge the eligibility of a voter.

Proposed Section 33007 would provide for the process by which SMCS tallies ballots and would allow each party to station an authorized agent at the ballot count. The majority of valid votes cast, under this proposed section, would determine the outcome of an election, unless otherwise authorized by statute.

Proposed Section 33008 would provide for the process by which challenges will be resolved. This proposed section would also provide for the appealability of a Board agent’s determination regarding the eligibility of the challenged voter.

Proposed Section 33009 would allow, within 10 days following the service of the tally of ballots, any party to an election to file objections concerning the conduct of the election. This proposed section would describe the filing requirements for said objections.

Proposed Section 33010 would provide for the powers and duties of a Board agent concerning election objections; including the power to conduct investigatory conferences and to issue written determinations.

Proposed Section 33011 would provide a party the ability to withdraw its objections prior to a final decision by the Board.

Proposed Section 33012 would provide that objections that have not been dismissed and unresolved challenges to ballots sufficient in number to affect the outcome of an election may be resolved through the hearing procedures commencing with Section 32165 of PERB's Regulations.

Proposed Section 33013 would provide for the ability to file exceptions to a Board agent's proposed decision on objections to the conduct of an election or challenged ballots, pursuant to the procedures set forth and commencing with Section 32300 of PERB's Regulations.

#### CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

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

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

These regulations and changes will improve the public sector labor environment and the collective bargaining process by clarifying PERB procedures, and by making the Board's processes more transparent and accessible. These proposed regulations make clear the rights, duties, and responsibilities of parties involved in SMCS-conducted elections. Additionally, these proposed regulations would provide parties with the ability to appeal determinations made during or following SMCS-conducted elections — the benefit being the development of precedent to further guide parties and the quick and efficient resolution of pertinent matters.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: Initial determination of the agency is that the proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: Initial determination of the agency is that the proposed action would not impose any new costs which must be reimbursed.

Other non-discretionary cost or savings imposed upon local agencies: Initial determination of the agency is that the proposed action would not result in any other non-discretionary cost or savings imposed upon local agencies.

Costs or savings to state agencies: None. These proposed regulations do not apply to or impact state agencies.

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

Cost impact on representative private persons or businesses: 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.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: Initial determination of the agency is that the proposed action will have no impact.

Significant effect on housing costs: The agency's initial determination is that there is no effect on housing costs.

The proposed regulations will not affect small business because they only affect public employers and public employees.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The adoption of the proposed amendment will benefit public employers, employees, employees' representatives and the community at-large by further facilitating the resolution of public sector labor disputes by clarifying PERB procedures, making the Board's processes more transparent and accessible. In so doing, California residents' welfare will receive the benefit of stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that these employers and employees provide to California communities.

#### CONSIDERATION OF ALTERNATIVES

A rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private per-

sons 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 above-mentioned hearing or during the written comment period.

#### PRELIMINARY ACTIVITIES

PERB staff invited comments on possible regulation changes at PERB Advisory Committee meetings held on January 17, 2013 and February 28, 2013, and circulated discussion drafts of possible regulation changes prior to those meetings. The Board also relied upon the Economic Impact Assessment identified in this Notice in proposing regulatory action.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the address below. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies of these documents and the Final Statement of Reasons, when available, may be obtained by contacting Jonathan Levy or Katharine Nyman at the address or phone number listed below, and are also available on the Board's web site (see address below).

#### ADOPTION OF PROPOSED REGULATIONS, AVAILABILITY OF CHANGED OR MODIFIED TEXT AND FINAL STATEMENT OF REASONS

Following the hearing, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes clearly indicated — shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Jonathan Levy or Katharine Nyman at the address indicated below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### INTERNET ACCESS

The Board will maintain copies of this Notice, the Initial Statement of Reasons and the text of the proposed regulations on its web site, found at [www.perb.ca.gov](http://www.perb.ca.gov), throughout the rulemaking process. Written comments received during the written comment period will also be posted on the web site. The Final Statement of Reasons or, if applicable, notice of a decision not to proceed will be posted on the web site following the Board's action.

#### CONTACT PERSONS

Any questions or suggestions regarding the proposed action or the substance of the proposed regulations should be directed to:

Jonathan Levy, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327-8387  
E-mail: [jlevy@perb.ca.gov](mailto:jlevy@perb.ca.gov)

or

Katharine Nyman, Regional Attorney  
Public Employment Relations Board  
1031 18th Street  
Sacramento, CA 95811  
(916) 327-8386  
E-mail: [knyman@perb.ca.gov](mailto:knyman@perb.ca.gov)

### TITLE 18. BOARD OF EQUALIZATION

#### **The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 462.040, *Change in Ownership — Joint Tenancies***

#### NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, section (Property Tax Rule) 462.040, Change in Ownership — Joint Tenancies. The proposed amendments to Property Tax Rule 462.040 make the rule consistent with current law, which provides that the transfer of a joint tenancy interest to a trust severs the joint tenancy, Revenue and Taxation Code (RTC) section 62, subdivision (p), and Family Code section 297.5 regarding registered domestic partners, and RTC section 62.3 regarding transfers be-

tween cotenants. The proposed amendments clarify that all transferor(s) must be among the joint tenants for a transfer to be excluded from change in ownership and that the elimination of a joint tenant does not create “original transferor” status (within the meaning of RTC § 65) in any of the remaining joint tenants, consistent with RTC section 65, subdivision (b). The proposed amendments also provide more detailed examples, and make minor grammatical changes.

### PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on June 11, 2013. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s website at [www.boe.ca.gov](http://www.boe.ca.gov) at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. or as soon thereafter as the matter may be heard on June 11, 2013. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Property Tax Rule 462.040.

### AUTHORITY

Government Code section 15606.

### REFERENCE

RTC sections 60, 61, 62, 62.3, 63, 63.1, 65, 65.1, and 67

Evidence Code section 662.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### Current Law

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of 1 percent of the full cash value of real property. For purposes of this limitation, section 2 of article XIII A defines *full cash value* to mean a county assessor’s valuation of real property as shown on the 1975–76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership

has occurred. The California Legislature codified the definition of “change in ownership” in RTC section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership or is excluded from the definition of “change in ownership” in RTC sections 61 through 69.5.

Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board adopted Property Tax Rule 462.040, pursuant to Government Code section 15606, to implement, interpret, and make specific the change in ownership provisions, under article XIII A of the California Constitution and the RTC, applicable to transactions that create, transfer, or terminate joint tenancy interests.

In particular, Property Tax Rule 462.040 implements, interprets, and makes specific RTC section 65, subdivisions (a) through (d), which provide that:

- (a) The creation, transfer, or termination of any joint tenancy is a change in ownership except as provided in this section, Section 62, and Section 63. Upon a change in ownership of a joint tenancy interest only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised.
- (b) There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after such creation or transfer, are among the joint tenants. Upon the creation of a joint tenancy interest described in this subdivision, the transferor or transferors shall be the “original transferor or transferors” for purposes of determining the property to be reappraised on subsequent transfers. The spouses of original transferors shall also be considered original transferors within the meaning of this section.
- (c) Upon the termination of an interest in any joint tenancy described in subdivision (b), the entire portion of the property held by the original transferor or transferors prior to the creation of the joint tenancy shall be reappraised unless it vests, in whole or in part, in any remaining original transferor, in which case there shall be no reappraisal. Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the properties held by all original transferors which were previously excluded from reappraisal pursuant to this section.

(d) Upon the termination of an interest held by other than the original transferor in any joint tenancy described in subdivision (b), there shall be no reappraisal if the entire interest is transferred either to an original transferor or to all remaining joint tenants, provided that one of the remaining joint tenants is an original transferor.

The rule was last amended in 2003 and the 2003 amendments became effective on November 13, 2003. As relevant here, the 2003 amendments added the second to last sentence to Property Tax Rule 462.040, subdivision (b)(1), which provides that “Any joint tenant may also become an original transferor by transferring his or her joint tenancy interest to the other joint tenant(s) through his or her trust if the trust instrument names the other joint tenant(s) as the present beneficiary or beneficiaries.”

In addition, Property Tax Rule 462.040 does not implement, interpret, or make specific the provisions of RTC section 62, subdivision (p), regarding transfers between registered domestic partners and Family Code section 297.5 regarding the rights of registered domestic partners, which became operative after the 2003 amendments to the rule. Furthermore, Property Tax Rule 462.040 does not currently implement, interpret, or make specific the provisions of Assembly Bill No. 1700 (Stats. 2012, ch. 781), which added section 62.3 to the RTC to provide that “change in ownership” does not include a transfer occurring after January 1, 2013, of real property from one cotenant to the other that takes effect upon the death of one cotenant.

Effects, Objectives, and Benefits of the Proposed Amendments

On February 22, 2012, the Board received a petition from the California Assessors’ Association (CAA) requesting that the Board amend Property Tax Rule 462.040. As relevant here, the petition requested that the Board limit the effect of the 2003 amendments regarding transfers to trusts by amending the rule to provide that a transfer of a joint tenancy interest to a trust meeting the requirements specified in Property Tax Rule 462.040, subdivision (b)(1), creates original transferor status (within the meaning of RTC § 65) only if made between the original effective date of the 2003 amendments (November 13, 2003) and the effective date of the CAA’s requested amendment limiting the scope of the 2003 amendments regarding transfers to trusts.

The Board considered the CAA’s petition during its meeting on March 21, 2012, and directed Board staff to conduct two meetings with interested parties to discuss the CAA’s requested amendments. Therefore, Board staff met with interested parties on August 27, 2012,

and January 29, 2013, to discuss amending Property Tax Rule 462.040; and staff subsequently prepared Formal Issue Paper 13–004, and submitted it to the Board for consideration during its March 12, 2013, Property Tax Committee meeting.

In the formal issue paper, Board staff recommended that the Board amend Property Tax Rule 462.040 to:

- Provide in subdivision (b)(1) and renumbered examples 5 and 17 that a transfer of a joint tenancy interest to a trust does not create original transferor status if made after October 1, 2013 (the anticipated effective date of the proposed amendments), consistent with current law, which provides that the transfer of a joint tenancy interest to a trust severs the joint tenancy (Civ. Code, § 683.2, subd. (a)(1); Matthew Bender, *California Wills & Trusts* (2012), section 140.06[9][a]);
- Provide in subdivision (b)(1) that all transferor(s) must be among the joint tenants for a transfer to be excluded from change in ownership, consistent with RTC section 65, subdivision (b);
- Address county assessors’ additional concerns about certain transfers that eliminate a joint tenant or tenants by providing in subdivision (b)(1) that the elimination of a joint tenant does not create “original transferor” status in any of the remaining joint tenants, consistent with RTC section 65, subdivision (b);
- Provide in subdivision (b)(1) that “spouse” includes a registered domestic partner consistent with Family Code section 297.5;
- Provide in subdivision (b)(5) that transfers of joint tenancy interests between registered domestic partners are excluded from change in ownership, consistent with RTC section 62, subdivision (p);
- Include new subdivision (b)(8) incorporating the provisions of RTC section 62.3, which provide that “change in ownership” does not include a transfer occurring after January 1, 2013, of real property from one cotenant to the other that takes effect upon the death of one cotenant;
- Provide more detailed information in renumbered examples 6 through 16 to clarify the status of all transferees and transferors, specifically, whether they are “original transferors” or “other than original transferors”; and
- Make other minor grammatical changes, such as deleting the word “subsequent” from example 3, and replacing the “%” symbol with the word “percent” and consistently using quotation marks around the phrases “original transferor” and “other than original transferor” throughout the rule.

The recommendations were the result of a consensus between staff and the interested parties who participated in the interested parties meetings.

At the conclusion of the March 12, 2013, Property Tax Committee meeting, the Board agreed with staff's recommendations and unanimously voted to propose the adoption of staff's recommended amendments to Property Tax Rule 462.040. The effects and objectives of the amendments are to:

- Address the CAA's petition by making the rule consistent with current law, which provides that the transfer of a joint tenancy interest to a trust severs the joint tenancy;
- Clarify that all transferor(s) must be among the joint tenants for a transfer to be excluded from change in ownership, consistent with RTC section 65, subdivision (b);
- Clarify that the elimination of a joint tenant does not create "original transferor" status in any of the remaining joint tenants, consistent with RTC section 65, subdivision (b);
- Make the rule consistent with RTC section 62, subdivision (p), and Family Code section 297.5 regarding registered domestic partners;
- Make the rule consistent with RTC section 62.3 regarding transfers between cotenants;
- Provide more detailed examples; and
- Make minor grammatical changes.

The Board anticipates that the proposed amendments will promote fairness throughout California's 58 counties by clarifying the types of transfers that create "original transferor" status within the meaning of RTC section 65 and giving the public, local boards of equalization and assessment appeals boards, and county assessors additional notice regarding the provisions of RTC sections 62, subdivision (p), and 62.3, and Family Code section 297.5.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rule 462.040 are inconsistent or incompatible with existing state regulations. The Board has determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because division 1 of title 18 of the California Code of Regulations contains the only state regulations that implement, interpret, and make specific the change in ownership provisions in article XIII A of the California Constitution and the RTC, including Property Tax Rule 462.040, and the proposed amendments are not inconsistent or incompatible with any of the provisions in division 1. In addition, there are no comparable federal regulations or statutes to Property Tax Rule 462.040.

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

The Board has determined that the adoption of the proposed amendments to Property Tax Rule 462.040 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 Property Tax Rule 462.040 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

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

The Board has made an initial determination that the adoption of the proposed amendments to Property Tax Rule 462.040 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 Property Tax Rule 462.040 may affect small business.

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

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

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

The Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Property Tax Rule 462.040 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 Property Tax Rule 462.040 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 Property Tax Rule 462.040 will not have a significant effect on housing costs.

DETERMINATION REGARDING  
ALTERNATIVES

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

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at [Bradley.Heller@boe.ca.gov](mailto:Bradley.Heller@boe.ca.gov), or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

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

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on June 11, 2013, or as soon thereafter as the Board begins

the public hearing regarding the proposed amendments to Property Tax Rule 462.040 during the June 11, 2013, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Property Tax Rule 462.040. 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 underline and strikethrough version of the text of Property Tax Rule 462.040 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 assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's website at [www.boe.ca.gov](http://www.boe.ca.gov).

SUBSTANTIALLY RELATED CHANGES  
PURSUANT TO GOVERNMENT CODE  
SECTION 11346.8

The Board may adopt the proposed amendments to Property Tax Rule 462.040 with changes that are non-substantial 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 Property Tax Rule 462.040, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board’s website at [www.boe.ca.gov](http://www.boe.ca.gov).

**TITLE 18. FRANCHISE TAX BOARD**

As required by Section 11346.4 of the Government Code, this is notice that a public hearing has been scheduled at 1:00 p.m. on July 25, 2013, at offices of the Franchise Tax Board, 9646 Butterfield Way, Town Center, Golden State Room A/B, Sacramento, California, to amend California Code of Regulations (“CCR”), title 18, section 25106.5–1. The Board proposes to amend this regulation under authority granted in Revenue and Taxation Code (“RTC”) sections 19503 and 25106.5, subsection (a). The Board proposes to revise Regulation section 25106.5–1 to bring it into conformity with the most recent version of Treasury Regulation section 1.1502–13. Additional revisions will provide further guidance regarding the proper apportionment treatment of intercompany transactions that are reported utilizing the simplifying rules of Regulation section 25106.5–1, subsection (e). Moreover, subsections (f)(1)(B), (j)(4), and (j)(7) are being revised to reflect additional guidance with respect to the treatment of a Deferred Intercompany Stock Account (DISA) in circumstances involving mergers, subsequent capital contributions, intercompany transfers of stock, tiered excess distributions, and DISA reporting requirements. Finally, subsection (j)(3) is being revised to reflect a nonsubstantive statutory renumbering referenced therein.

The proposed amendments to Regulation section 25106.5–1 would be retroactive in application. Under RTC section 19503, subdivision (a), at its discretion, the Franchise Tax Board may prescribe that a regulation applies retroactively, if the underlying regulation relates to a statute that was enacted prior to January 1, 1998. Revenue and Taxation Code section 25016.5, the statute underlying the revisions to the intercompany transaction regulations, was originally enacted prior to 1998. Accordingly, the Franchise Tax Board may prescribe that the revisions to the intercompany transaction regulations be applied retroactively.

**WRITTEN COMMENT PERIOD**

Written comments will be accepted until 5:00 p.m., July 25, 2013. All relevant matters presented will be considered before the proposed regulatory action is tak-

en. Comments should be submitted to the agency officers named below:

**AUTHORITY & 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 25106.5–1 requires amendments to interpret, implement and clarify RTC section 25106.5.

**INFORMATIVE DIGEST/PLAIN ENGLISH  
OVERVIEW**

Taxpayers that have business activities within and without California are required to determine the amount of income properly attributed to activities in California. During 1999, the Franchise Tax Board promulgated Regulation section 25106.5–1, which addresses the treatment of intercompany transactions in a combined report context that occurred on or after January 1, 2001. Regulation section 25106.5–1 generally follows the federal consolidated intercompany regulations (Treas. Reg. section 1.1502–13 et seq.) with respect to many of the issues in those regulations, but because income is not apportioned for federal purposes. Regulation section 25106.5–1 also provides applicable apportionment rules.

**Regulation section 25106.5–1, subsection (a)(2) — Conformity**

Subsection (a)(2) will be revised to state that it incorporates the version of Treasury Regulation section 1.1502–13 that was in effect as of April 1, 2012.

**Regulation section 25106.5–1 subsection (e) — Simplifying Rules Issue**

Subsection (a)(5) provides the apportionment rules for intercompany transactions. Subsection (a)(5)(A) sets forth the rules for assigning receipts for purposes of the California sales factor. A new subsection at Regulation section 25106.5–1, subsection (a)(5)(A)4 will make it clear that when a subsection (e) election is made to currently recognize income or loss from an intercompany transaction, the apportionment rules set forth at subsection (a)(5)(A) still apply so that receipts from the intercompany transaction are not included in the sales factor at the time of current recognition.

Subsection (b) provides definitions of terms used in the regulation. Subsection (b)(6) defines the term “treatment as a separate entity” to mean treatment without application of the rules of Regulation section

25106.5–1, except for subsection (a)(4), which states that other laws remain in full force. The amendment at subsection (b)(6) states that subsection (a)(5), in addition to subsection (a)(4), are excluded from the definition. This addition clarifies that when a subsection (e) election to currently recognize intercompany income or loss is made, the apportionment rules at subsection (a)(5) remain in effect.

Subsection (e) contains the simplifying rules and subsection (e)(2) contains the election “to treat intercompany transactions on a separate entity basis.” Proposed amendments to subsection (e)(2) add the phrase “recognize income or loss from intercompany” transactions at subsections (e)(2)(A), (B), and (C). This makes it clear that the election only allows current recognition of income or losses from intercompany transactions.

Regulation section 25106.5–1, subsection (f)(1)(B) — Deferred Intercompany Stock Accounts

Subsection (f)(1)(B)2 is being revised to provide that a merger between combined reporting group members that are owned by other members of the combined reporting group will not result in a disposition requiring a DISA to be taken into income. It goes on to provide that the DISA attributable to the non-surviving member’s stock will be included with any DISA attributable to the surviving members’ stock and will be taken into income when the surviving member’s stock is disposed of.

An additional revision to subsection (f)(1)(B)(2) pertains to subsequent capital contributions reducing an existing DISA. The revision allows P (the putative parent corporation) to make a contribution to S (the putative subsidiary) in order to reduce the DISA attributable to P’s stock in S. Without this proposed revision, taxpayers would always be required to recognize the tax implications for financial statement purposes whenever a DISA arises.

The current version of subsection (f)(1)(B)4 provides that if P (the putative parent corporation) transfers stock in S (the putative subsidiary) to another transferee member of the combined reporting group, any attributable DISA will continue to be deferred. A second sentence is being proposed to be added to subsection (f)(1)(B)4 to provide that if the transferee already possess shares in S that do not have a DISA attributed to it, the transferee’s basis in its existing stock can reduce the DISA attributable to the shares of stock transferred from P.

Regulation section 25106.5–1, subsection (j)(3) — Partially Included Water’s Edge Corporations

References to California Revenue and Taxation Code section 25110, subdivisions (a)(4) and (6) will be renumbered to subdivisions (a)(2)(A)(i) and (a)(2)(A)(ii), respectively.

Regulation section 25106.5–1, subsection (j)(4) — Earnings and Profits

The current version of Regulation 25106.5–1, subsection (j)(4), provides that intercompany items are not reflected in earnings and profits until those intercompany items are taken into account under the terms of the combined report intercompany transaction regulations. However, as stated previously, a DISA will result if the distribution exceeds the distributor’s earnings and profits. As stated previously, if the same property or the same amount of money is distributed through multiple tiers of combined reporting group members, a DISA will result at every ownership level. On the other hand, if a DISA that results at the initial level also creates earnings and profits at that level, an additional DISA will not result when the same property or the same amount of money is distributed to another combined reporting group member. To alleviate this, a sentence is proposed to be added to subsection (j)(4) that will treat the DISA arising from the initial distribution as creating earnings and profits.

Regulation section 25106.5–1(j)(7) — Reporting DISAs

As previously stated, the proposed revision to subsection (f)(1)(B)2 will allow a DISA to be reduced by a subsequent capital contribution. The current version of subsection (j)(7) requires taxpayers to report on DISAs on their annual tax returns. It does not address reductions pertaining to subsequent capital contributions. Therefore, if the proposed revision to subsection (f)(1)(B)2 is adopted, the proposed revision to (j)(7) will require taxpayers to also annually report reductions to DISAs brought about by subsequent capital contributions.

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

Anticipated Benefits from the Proposed Regulation

Taxpayers and the Franchise Tax Board will benefit from being able to use the current version of Treasury Regulation section 1.1502–13, to which Regulation section 25106.5–1 conforms. Taxpayers will also benefit from the clarification made in situations where an election is made under Regulation section 25106.5–1, subsection (e), to currently recognize income from an intercompany transaction, will not result in the receipts from that transaction being included in the taxpayer’s sales factor. Finally, taxpayers will benefit from the changes to the DISA rules dealing with certain mergers and tiered contributions and the reduction of DISAs

through subsequent capital contributions and by the basis in transferred stock. There are no benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

#### DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

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

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

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

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

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

Cost to directly affected private persons/businesses potential: None.

Effect on small business: The department has made an initial determination that the adoption of the proposed amendments will not affect small businesses as generally multi-state corporations are not considered small businesses and this proposed regulation will apply to multi-state corporations. However, the Board invites public comments on the question of economic impact on 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 revisions to Regulation section 25106.5-1 will benefit taxpayers by clarifying the separate entity treatment rules and the DISA rules. In addition, the Franchise Tax Board will save resources by enhanced taxpayer self-compliance.

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.

#### COMPARABLE FEDERAL LAW

The simplifying rules at Regulation section 25106.5-1, subdivision (e), are comparable to Treasury Regulation section 1.1501-13, subsection (e)(3). The Deferred Intercompany Stock Account provisions at Regulation section 25106.5-1, subdivision (f), are not comparable to any federal law.

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

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

#### CHANGE OR MODIFICATION OF ACTIONS

The regulations and amendments may also be adopted with modifications if the changes are nonsubstantive 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

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

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at Franchise Tax Board, Legal Division, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Telephone: (916) 845-3306; Fax: (916) 845-3648; E-Mail: [Colleen.Berwick@ftb.ca.gov](mailto:Colleen.Berwick@ftb.ca.gov). In addition, all questions on the simplifying rules of Regulation section 25106.5-1, subsection (e) election should be directed to Laurie McElhatton; Telephone: (916) 845-6916 or E-Mail: [Laurie.McElhatton@ftb.ca.gov](mailto:Laurie.McElhatton@ftb.ca.gov); and all questions regarding the Deferred Intercompany Stock Accounts (DISA) and conformity with the most recent version of Treasury Regulation section 1.1502-13 to Craig Swieso; Telephone: (916) 845-5244 or E-Mail: [Craig.Swieso@ftb.ca.gov](mailto:Craig.Swieso@ftb.ca.gov). This notice, the initial statement of reasons and express terms of the proposed regulation are also available at the Franchise Tax Board's website at [www.ftb.ca.gov](http://www.ftb.ca.gov).

**TITLE 22. DEPARTMENT OF HEALTH CARE SERVICES**

**ACTION:** Notice of Proposed Rulemaking  
Title 22, California Code of Regulations

**SUBJECT:** Two-Plan Model Modification,  
DHCS-12-010

**PUBLIC PROCEEDINGS:** Notice is hereby given that the Department of Health Care Services (Department) will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Medi-Cal, California's Medicaid program, is administered by the Department. Medi-Cal provides health care services for low income individuals including, but not limited to, families with children, seniors, persons with disabilities, children in foster care, and pregnant women.

The Department operates the Medi-Cal managed care program under the authority of California's Medicaid Section 1115 (of the Social Security Act) Demonstration Waiver, titled "California's Bridge to Reform" (1115 Waiver). The 1115 Waiver approves variations in the single comprehensive medical care program for eli-

gible low-income individuals required by Title XIX of the Social Security Act in the following sections:

- (a) 1902(a)(1) Statewide
- (b) 1902(a)(5) Single State Agency
- (c) 1902(a)(10)(B) Amount, Duration, and Scope of Services and Comparability
- (d) 1902(a)(23) Freedom of Choice
- (e) 1902(a)(30) Basis for Payment
- (f) 1902(a)(13) Payment to Providers

Welfare and Institutions Code (W&I Code) Articles 2.7 (commencing with Section 14087.3), 2.8 (commencing with Section 14087.5), 2.81 (commencing with Section 14087.96), 2.9 (commencing with Section 14088), and 2.91 (commencing with Section 14089) of Chapter 7 and Articles 1 (commencing with Section 14200) and 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9, establish the statutory authority for the Department to contract with Medi-Cal managed care health plans (MCPs) to provide Medi-Cal and case management services.

Title 22, California Code of Regulations (CCR), Division 3, Chapters 4 (commencing with Section 53000), 4.1 (commencing with Section 53800), 4.5 (commencing with Section 53900), and 6 (commencing with Section 56000), contain the regulations that specifically implement the Medi-Cal managed care program.

W&I Code Sections 10725, 14105, and 14124.5 authorize the director of the Department to adopt, amend, or repeal regulations as necessary and proper to carry out the purpose and intent of the statutes governing the Medi-Cal Program.

The Department's Medi-Cal Managed Care Division (MMCD) provides high quality, accessible, and cost-effective health care through managed care delivery systems. MMCD contracts for health care services through established networks of organized systems of care, which emphasize primary and preventive care. MCPs are a cost-effective use of health care resources that improve health care access and assure quality of care for Medi-Cal beneficiaries. Approximately 5.2 million Medi-Cal beneficiaries in 30 counties receive their health care through three models of managed care: Two-Plan Model, County Organized Health Systems, and Geographic Managed Care.

As a result of the enabling legislation, Assembly Bill (AB) 1467 (Chapter 23, Statutes of 2012), Senate Bill (SB) 1008 (Chapter 33, Statutes of 2012), SB 1036 (Chapter 45, Statutes of 2012), AB 1494 (Chapter 28, Statutes of 2012), and the 1115 Waiver, Medi-Cal managed care is continuing to expand into additional counties and will soon be serving several more transitioning populations.

W&I Code Section 14000 states that the intent of Chapter 7, of Division 9, Part 3, is to provide qualifying

individuals with health care services, to the extent practicable, in the same manner as the public generally, with an emphasis on organized managed care plans. Section 14087.3 authorizes the Department to contract to provide services to, arrange for or case-manage the care of Medi-Cal beneficiaries. This section also allows at the director's discretion, the contract may be exclusive or nonexclusive, statewide or on a more limited geographic basis.

This regulatory proposal supports the goals of W&I Code Sections 14000 and 14087.3, and the proper and efficient administration of the Medi-Cal Program in accordance with federal and state laws governing the Program's participation and funding rules. The proposed regulatory amendments will authorize the Department, in counties designated by the Department as operating under the Two-Plan Model, to contract with an Alternate Health Care Service Plan (AHCSPP) to provide medical services to beneficiaries who demonstrate a specific linkage to the AHCSPP.

The proposed regulatory amendments directly benefit Medi-Cal beneficiaries with linkage to the AHCSPP by authorizing the Department to offer them the option to choose continuity in the delivery of health care services, which preserves direct access to providers and maintains existing physician-patient relationships. These beneficiaries would include a significant number of people transitioning from the Healthy Families Program into the Medi-Cal Program.

The Department has conducted an evaluation of the related existing State regulations in CCR, Title 22, Division 3 and has determined that the proposed regulations are consistent and compatible with those regulations.

The changes proposed in this regulatory action are as follows:

- Amending Section 53800 to allow the Department to add a voluntary alternative option to the Two-Plan Model if a beneficiary meets specific criteria; and to make non-substantial grammar and re-designation changes.
- Amending Section 53810 to include definitions for AHCSPP and AHCSPP family member linkage; to remove definitions that are no longer applicable; and to make non-substantial grammar and re-designation changes.
- Repealing both Article 3, Maximum Enrollment Levels, which includes Section 53820; and Article 4, Prepaid Health Plan and Primary Care Case Management Plan Enrollment Growth During the Transition Period, which includes Section 53830.

#### AUTHORITY

Section 20, Health and Safety Code; Sections 10725, 14105, 14124.5 and 14312, Welfare and Institutions Code.

#### REFERENCE

Sections 14087.3, 14087.4, 14088, 14088.16, 14088.25, 14105.98, 14201 and 17000, Welfare and Institutions Code.

#### COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on June 11, 2013, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail to the Office of Regulations, Department of Health Care Services, MS 0015, 1501 Capitol Avenue, P.O. Box 997413, Sacramento, CA 95899-7413; or
2. By hand-delivery to the Office of Regulations, Department of Health Care Services, 1501 Capitol Avenue, Suite 5084, Sacramento, CA 95814; or
3. By fax transmission: (916) 440-5748; or
4. By email to [regulations@dhcs.ca.gov](mailto:regulations@dhcs.ca.gov) (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "DHCS-12-010" in the subject line to facilitate timely identification and review of the comment).

Written comments should include the author's contact information so the Department can provide notification of any further changes to the regulation proposal.

#### INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Brad Aust of the Medi-Cal Managed Care Division at (916) 449-5239.

All other inquiries concerning the action described in this notice may be directed to Ben Carranco of the Of-

Office of Regulations, at (916) 440-7766, or to the designated backup contact person, Lynette Cordell, at (916) 650-6827.

**CONTACTS: In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DHCS-12-010.**

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

Documentation regarding the regulatory action described in this notice (including this public notice, the proposed regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at [www.dhcs.ca.gov](http://www.dhcs.ca.gov) by clicking on the **Laws and Regulations** link (from the QUICK LINKS menu), then selecting the **DHCS Proposed and Emergency Regulations** link.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711 or 1-800-735-2929), or email [regulations@dhcs.ca.gov](mailto:regulations@dhcs.ca.gov) or write to the Office of Regulations at the address noted above. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

The Department shall provide, upon request from a person with a visual disability or other disability for which effective communication is required under state or federal law, a narrative description of the additions to, and deletions from, the California Code of Regulations or other publication in a manner that allows for accurate translation by reading software used by the visually impaired. Providing this description may require extending the period of public comment for the proposed action pursuant to Government Code Section 11346.6.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of this proposed action

will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: Indeterminate. However, the Department will only pursue this option in a cost-neutral manner.
- B. Fiscal Effect on State Government: Indeterminate. However, the Department will only pursue this option in a cost-neutral manner.
- C. Fiscal Effect on Federal Funding of State Programs: Indeterminate. However, the Department will only pursue this option in a cost-neutral manner.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: 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.
- E. Other nondiscretionary costs or savings including revenue changes imposed on State or Local Government: Indeterminate. However, the Department will only pursue this option in a cost-neutral manner.

DETERMINATIONS

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the proposed regulations would 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 Department has determined that the proposed regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

Medi-Cal is a voluntary program for service providers. It is also voluntary for an individual to apply to participate in Medi-Cal. These proposed regulations will affect only those health care plans that voluntarily choose to participate in the Medi-Cal managed care program and the beneficiaries who are offered services through the program.

The Department has determined that the proposed regulations will not affect worker safety or the State's environment. However, the proposed regulations will benefit the health and welfare of California residents by maintaining the continuity of the Medi-Cal managed care program through the provision of comprehensive health care services at low cost to low-income individuals such as families with children, seniors, persons with disabilities, children in foster care and pregnant women.

The Department has determined that the regulations would potentially affect small businesses that voluntarily choose to be Medi-Cal providers, in the situation when a beneficiary may choose to enroll and receive services through an AHCSF contracting directly with the Department.

The Department has determined that the proposed regulations will have no impact on housing costs.

#### ADDITIONAL STATEMENTS AND COMMENTS

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

No public hearing has been scheduled; however, any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8. The Department shall consider all comments received regarding the proposal equally, whether submitted in writing or through oral testimony at a public hearing.

For individuals with disabilities, the Department can provide assistive services such as the conversion of written materials into Braille, large print, audiocassette, or computer disk. For public hearings, assistive services can include sign-language interpretation, real-time captioning, note takers, or reading or writing assistance. To request these assistive services, please write or call:

Harry Cockcroft, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413; voice (916) 440-7695 and/or California Relay 711 or 1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

#### **TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE**

**ACTION:** Notice of Rulemaking Action  
Title 28, California Code of  
Regulations

**SUBJECT:** State Medical Loss Ratio Annual  
Report; Adopting Section 1300.67.003  
in Title 28, California Code of  
Regulations; Control No. 2012-3669

#### PUBLIC PROCEEDINGS

Notice is hereby given that the Director of the Department of Managed Health Care ("Department") proposes to adopt a regulation under the Knox-Keene Health Care Service Plan Act of 1975 ("Knox-Keene Act") establishing standards and requirements to ensure health care service plans are notified of the proper procedure to report Medical Loss Ratio ("MLR") data to the proper regulatory agencies.

This rulemaking action proposes to adopt section 1300.67.003, in Title 28, California Code of Regulations. Before undertaking this action, the Director of the Department ("Director") will conduct written public proceedings, during which time any interested person, or such person's duly authorized representative, may present statements, arguments, or contentions relevant to the action described in this notice.

#### PUBLIC HEARING

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may submit a written request for a public hearing pursuant to Section 11346.8(a) of the Government Code. The written request for hearing must be received by the Department's contact person, designated below, no later than 15 days before the close of the written comment period.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments or contentions (hereafter referred to as comments) relating to the proposed regulatory action by the Department. Comments must be received by the Department, Office

of Legal Services, by **5 p.m. on June 10, 2013**, which is hereby designated as the close of the written comment period.

Please address all comments to the Department of Managed Health Care, Office of Legal Services, Attention: Regulations Coordinator. Comments may be transmitted by regular mail, fax, email or via the Department's website:

Website: <http://dmhc.ca.gov/regulations/>  
 Email: [regulations@dmhc.ca.gov](mailto:regulations@dmhc.ca.gov)  
 Mail: Department of Managed Health Care  
 Office of Legal Services  
 Attn: Regulations Coordinator  
 980 9th Street, Suite 500,  
 Sacramento, CA 95814  
 Fax: (916) 322-3968

Please note: if comments are sent via the website, email or fax, there is no need to send the same comments by mail delivery. All comments, including via the website, email, fax or mail, should include the author's name and a U.S. Postal Service mailing address so the Department may provide commenters with notice of any additional proposed changes to the regulation text.

Please identify the action by using the Department's rulemaking title and control number, **Medical Loss Ratio (MLR) State Reporting Requirements, Control No. 2012-3669** in any of the above inquiries.

#### CONTACTS

Inquiries concerning the proposed adoption of these regulations may be directed to:

**Elaine Paniewski**  
 Staff Services Manager  
 Department of Managed Health Care  
 Office of Legal Services  
 980 9th Street, Suite 500  
 Sacramento, CA 95814  
 (916) 323-4739  
 (916) 322-3968 fax  
[epaniewski@dmhc.ca.gov](mailto:epaniewski@dmhc.ca.gov)

OR

**Emilie Alvarez**  
 Regulations Coordinator  
 Department of Managed Health Care  
 Office of Legal Services  
 980 9th Street, Suite 500  
 Sacramento, CA 95814  
 (916) 445-9960  
 (916) 322-3968 fax  
[ealvarez@dmhc.ca.gov](mailto:ealvarez@dmhc.ca.gov)

#### AVAILABILITY OF DOCUMENTS

The Department has prepared and has available for public review the Initial Statement of Reasons, text of the proposed regulation and all information upon which the proposed regulation is based ("rulemaking file"). This information is available by request to the Department of Managed Health Care, Office of Legal Services, 980 9th Street, Sacramento, CA 95814, Attention: Regulations Coordinator.

The Notice of Proposed Rulemaking Action, the proposed text of the regulation, and the Initial Statement of Reasons are also available on the Department's website at <http://dmhc.ca.gov/regulations/>, under the heading "Open Pending Regulations."

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the Regulations Coordinator named above.

#### AVAILABILITY OF MODIFIED TEXT

The full text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days before the date the Department adopts the regulation. A request for a copy of any modified regulation(s) should be addressed to the Regulations Coordinator. The Director will accept comments via the Department's website, mail, fax or email on the modified regulation(s) for 15 days after the date on which the modified text is made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth without further notice.

#### AUTHORITY AND REFERENCE

California Health and Safety Code Section 1341, subdivision (a), authorizes the Department to regulate "health care service plans." Health and Safety Code Section 1345, subdivision (f)(1), defines a "health care service plan" as "any person who undertakes to arrange for the provision of health care subscribers or enrollees, or to pay for or to reimburse any part of the cost of those services in return for a prepaid or periodic charge paid by or on behalf of subscribers or enrollees."

California Health and Safety Code Section 1344 authorizes the Director to adopt, amend and rescind regulations as necessary to carry out the provisions of the Knox-Keene Act, including rules governing applications and reports, and defining any terms, whether or not used in the Knox-Keene Act, insofar as the definitions are not inconsistent with the provisions of the Knox-Keene Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director's discretion such requirement is

not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to the Knox–Keene Act.

California Health and Safety Code Section 1346 vests in the Director additional powers to administer and enforce the Act, including but not limited to, the power to study, investigate, research and analyze matters affecting the interests of plans, subscribers, enrollees and the public, and to promote and establish standards of ethical conduct for the administration of health care service plans.

California Health and Safety Code Section 1367.003(d)(1) allows the Director to adopt regulations necessary to implement medical loss ratio as described under Section 2718 of the federal Public Health Service Act (42 U.S.C. Sec. 300g–18), and any federal rules or regulations issued under that section.

California Health and Safety Code Section 1381 gives the Director the right to inspect all records, books, and papers of a plan, management company, solicitor, solicitor firm, and any provider or subcontractor providing health care or other services to a plan, management company, solicitor, or solicitor firm.

California Health and Safety Code Section 1382 gives the Director the authority to conduct an examination of a health care service plan’s fiscal and administrative affairs as often as deemed necessary to protect the interest of subscribers or enrollees.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department proposes to adopt Section 1300.67.003 to clarify and make specific the appropriate form and method for submitting the MLR information required to be submitted to the State as required by 45 Code of Federal Regulations (“CFR”) Part 158, the Public Health Service Act and Health and Safety Code Section 1367.003. Health care service plans may submit the same Federal MLR Annual Reporting Form (CMS form–10418) submitted to the federal Department of Health and Human Services (“DHHS”) to the Department on or before June 1 annually the same due date as in federal law.

This regulation clarifies the Department may audit a health care service plan to verify the health care service plan’s representations contained in the MLR Annual Reporting Form pursuant to Health and Safety Code Section 1382. This regulation clarifies and makes specific that the Department will give the health care service plans a 30–day prior notification of an MLR financial examination. Within 30 days of receiving a request for additional information, the health care service plan

will need to submit the requested information electronically to the Department.

The regulation proposed in this rulemaking action clarifies and makes specific the requirements within State law. The regulation proposed in this rulemaking action is neither inconsistent nor incompatible with existing state regulations.

#### **COMPARABLE FEDERAL LAW**

The reporting requirement specified in this proposed regulation does not substantially differ from the federal regulations and in fact, would require the same reporting form.

#### **BROAD OBJECTIVE AND BENEFITS OF THE PROPOSED REGULATION**

Pursuant to Government Code section 11346.5(a)(3)(C), the broad objective of this proposed regulation is to make specific the MLR reporting requirements and due date of the reporting requirements. This proposed regulation is beneficial because it clarifies the notification the Department will give health plans of an upcoming MLR financial examination and how long a health plan has to submit the requested information to the Department.

The proposed regulation is a benefit to not only the public but also to health plans. In order to comply with the requirements of Health and Safety Code sections 1367.003 and 1381, rather than mandating a separate and different form, health plans will be required to submit the same form they submit to the federal government, saving the health plans time and money. This will allow the Department the ability to review the same information that is being submitted to the federal government and to ensure that the public is receiving any rebates due to them under the MLR requirements.

#### **COMPARISON WITH EXISTING REGULATION**

The Department compared the proposed regulation to existing state regulations. The proposed regulation is not inconsistent or incompatible with existing regulations.

#### **ALTERNATIVES CONSIDERED**

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

burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the requirements of the proposed regulations during the written comment period.

#### REPORTING REQUIREMENT

Pursuant to Government Code section 11346.3(d), the Department has determined that the reporting requirement contained in this regulation is necessary for the health of the people of the State of California. The proposed regulation is a benefit to health plans by requiring them to submit the same MLR form they submit to the federal government, saving the health plans time and money and potentially leading to less costs for health plan enrollees. This identical reporting requirement as the federal reporting requirement will allow the Department the ability to review the same information that is being submitted to the federal government and to ensure that the public is receiving any rebates due to them under the MLR requirements.

#### SUMMARY OF FISCAL IMPACT

- Mandate on local agencies and school districts: None.
- Cost or Savings to any State Agency: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Cost to Local Agencies and School Districts Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Costs to private persons or businesses directly affected: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.

#### DETERMINATIONS

The Department has made the following initial determinations:

The Department has determined the regulation will not impose a mandate on local agencies or school districts, nor are there any costs requiring reimbursement

by Part 7 (commencing with Section 17500) of Division 4 of the Government Code. As specified in Section 6 of AB 2179, no reimbursement is required.

The Department has determined the regulation will have no significant effect on housing costs.

The Department has determined the regulation does not affect small businesses. Health care service plans are not considered a small business under Government Code Section 11342.610(b) and (c).

The Department has determined the regulation will not significantly affect the creation or elimination of jobs within the State of California.

The Department has determined the regulation will not significantly affect the creation of new businesses or the elimination of existing businesses within the State of California.

The Department has determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

The Department has determined the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The regulation is expected to have no detrimental fiscal impact on California business due to the single additional requirement to submit a duplicate copy of the Federal MLR Annual Reporting Form to the Department, on the same date that the Federal MLR Annual Reporting Form is filed with DHHS and any information requested during an audit is for information that would have already been created to respond to questions within the Federal MRL Annual Reporting Form.

The Department has determined that this regulation will have no cost or savings in federal funding to the state.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS (Government Code § 11346.3(b))

##### **Creation or Elimination of Jobs Within the State of California**

This regulation is intended to clarify and make specific the existing State law for health plans under the Knox-Keene Act. Existing Health and Safety Code section 1381 gives the Director the right to inspect all records, books, and papers of a plan, management company, solicitor, solicitor firm, and any provider or sub-contractor providing health care or other services to a plan, management company, solicitor, or solicitor firm. Existing Health and Safety Code section 1382 gives the Director the authority to conduct an examination of a health plan's fiscal and administrative affairs as often as deemed necessary to protect the interest of subscribers or enrollees. The reporting requirement is also required

by federal law and the proposed regulation is mandating that the same federal form required to be submitted under federal law also be submitted to the Department on the same day. Therefore, the Department determined the regulation will not significantly affect the creation or elimination of jobs within the State of California.

**Creation of New Businesses or the Elimination of Existing Businesses Within the State of California**

This regulation is intended to clarify and make specific the existing State law for health plans under the Knox-Keene Act. Existing Health and Safety Code section 1381 gives the Director the right to inspect all records, books, and papers of a plan, management company, solicitor, solicitor firm, and any provider or sub-contractor providing health care or other services to a plan, management company, solicitor, or solicitor firm. Existing Health and Safety Code section 1382 gives the Director the authority to conduct an examination of a health plan's fiscal and administrative affairs as often as deemed necessary to protect the interest of subscribers or enrollees. The reporting requirement is also required by federal law and the proposed regulation is mandating that the same federal form required to be submitted under federal law also be submitted to the Department on the same day. Therefore, the Department determined the regulation will not significantly affect the creation of new businesses or the elimination of existing businesses within the State of California.

**Expansion of Businesses Currently Doing Business Within the State of California**

This regulation is intended to clarify and make specific the existing State law for health plans under the Knox-Keene Act. Existing Health and Safety Code section 1381 gives the Director the right to inspect all records, books, and papers of a plan, management company, solicitor, solicitor firm, and any provider or sub-contractor providing health care or other services to a plan, management company, solicitor, or solicitor firm. Existing Health and Safety Code section 1382 gives the Director the authority to conduct an examination of a health plan's fiscal and administrative affairs as often as deemed necessary to protect the interest of subscribers or enrollees. The reporting requirement is also required by federal law and the proposed regulation is mandating that the same federal form required to be submitted under federal law also be submitted to the Department on the same day. Therefore, the Department determined the regulation will not significantly affect the expansion of businesses currently doing business within the State of California.

**Benefits of the Regulation**

The proposed regulation is a benefit to the public and to health plans. In order to comply with the requirements of Health and Safety Code sections 1367.003 and

1381, rather than mandating a separate and different form, health plans will be required to submit the same form they submit to the federal government, saving the health plans time and money. This will allow the Department the ability to review the same information that is being submitted to the federal government and to ensure that the public is receiving any rebates due to them under the MLR requirements.

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF FISH AND WILDLIFE**

CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
County Service Area 34 Phase II Winchell Cove  
Pipeline Project  
(2080-2013-003-04)  
Fresno County

The Department of Fish and Wildlife (Department) received a notice on April 9, 2013, that Analytical Environmental Services (AES) proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed action involves grading, excavating, trenching, pipe installation, placement of backfill, and asphalt patching. This project includes the construction of a second water transmission main to extend from the Winchell Cove pump station for about 1.52 miles. The proposed project will provide County Service Area 34 water users with a contingency plan in the event of an emergency and system malfunction: system flexibility, improve water supply reliability, and more efficient operations in the delivery of raw water to existing users. The proposed project will extend from the Winchell pump station at Millerton Lake and terminate just north of Millerton Road, in Fresno County, California.

The U.S. Fish and Wildlife Service issued a "no jeopardy" federal biological opinion (Service File No. 81420-2011-F-0631-1)(BO) and incidental take statement (ITS) to the Bureau of Reclamation on February 4, 2013, which considered the effects of the project on the state and federally threatened California tiger salamander (*Ambystoma californiense*).

Pursuant to California Fish and Game Code section 2080.1, AES is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed project. If the Department determines the BO and ITS are consistent with CESA for the proposed

project, AES will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

**ACCEPTANCE OF PETITION  
TO REVIEW ALLEGED  
UNDERGROUND REGULATIONS**

ACCEPTANCE OF PETITION TO REVIEW  
ALLEGED UNDERGROUND REGULATIONS  
(Pursuant to title 1, section 270, of the California  
Code of Regulations)

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Elizabeth Heidig, Senior Counsel  
Office of Administrative Law  
300 Capitol Mall, Ste. 1250  
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Michael St. Martin, CO-000414-3  
Post Office Box 5003 (RRU-10)  
Coalinga, California 93210

Agency contact:

Cliff Allenby, Acting Director  
Department of State Hospitals  
1600 9th Street, Suite 151  
Sacramento, California 95814

Please note the following timelines:

Publication of Petition in Notice Register: April 26, 2013  
Deadline for Public Comments: May 28, 2013  
Deadline for Agency Response: June 10, 2013  
Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response  
Deadline for OAL Decision: August 26, 2013

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or [mmolina@oal.ca.gov](mailto:mmolina@oal.ca.gov).

**DEPARTMENT OF STATE HOSPITALS**

PETITION TO THE OFFICE OF  
ADMINISTRATIVE LAW

RE: **ALLEGED UNDERGROUND  
REGULATION**  
**Department of Mental Health,  
Coalinga State Hospital**  
**Administrative Directive AD-655,  
COPY AND SHIPPING CENTER**

FROM: MICHAEL GEORGE ST.MARTIN,  
Petitioner

DATE: February 12, 2013

**This is a computer generated petition based on the optional OAL form supplying the information required by Title 1, California Code of Regulations, §280, for a petition challenging an alleged underground regulation.**

**1. Identifying Petitioner  
Information:**

Your Name: **MICHAEL  
GEORGE ST.MARTIN  
CO-000414-3, RRU-10**  
Your Address: **P.O. Box 5003,  
Coalinga, CA 93210**  
Your Telephone  
Number: **(559) 934-1634 or  
(559) 935-3814**  
Your E-Mail  
(if you have one): [michaelst.martin@  
hotmail.com](mailto:michaelst.martin@hotmail.com)

**2. State Agency or Department being challenged:  
California Department of State Hospitals  
("DSH")  
Coalinga State Hospital ("CSH")**

**3. Provide a complete description of the  
purported underground regulation. Attach a  
written copy of it. If the purported underground  
regulation is found in an agency manual, identify the  
specific provision of the manual alleged to comprise  
the underground regulation. Please be as precise as  
possible.**

**Description of alleged Underground Regulation**

Petitioner alleges the ENTIRE Coalinga State Hospital ("CSH") Operation Manual is an Underground Regulation, as there is no evidence that any portion of the CSH Operation Manual has been promulgated pursuant to the Administrative Procedures Act.

Petitioner alleges that the Department of Mental Health has issued, used, enforced, or attempted to en-

force an underground regulation. The specific underground regulation is *Administrative Directive No. 655* dealing with individuals' package shipping, the purchasing of copy services, stamp, copy card, and photo ducket sales, and by incorporation by mandatory reference therein of *Internal Management Directive IMD-624* and *Internal Management Directive IMD-651*, patient mail and packages, and processing of departmental and United States postal services mail.

By this action, Petitioner specifically alleges the section of the CSH Operation Manual known as *Administrative Directive AD-655* is an underground regulation, as there is no evidence that this administrative directive has been promulgated pursuant to the Administrative Procedures Act.

The subject matter of *Administrative Directive AD-655* is stated as: "COPY AND SHIPPING CENTER"

A true and correct copy of *ADMINISTRATIVE DIRECTIVE AD-655* is attached hereto as EXHIBIT A.

**4. Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation.**

The "POLICY" set forth in *Administrative Directive AD-655* is stated as:

"Patients residing at DSH-C have the legal right to receive and send mail and packages. In addition, DSH-C provides a location for package shipping, the purchasing of copy services, stamp, copy card, and photo ducket sales. All incoming and outgoing mail is subject to search and must be processed per guidelines in Internal Management Directives (IMD) No. 624 and 651."

*Administrative Directive AD-655* states under "POLICIES", "All incoming and outgoing mail is subject to search and must be processed per guidelines in Internal Management Directives (IMD) No. 624 and 651." By so stating as policy, *AD-655*, thus mandates the enforcement of Internal Management Directives (IMD) No. 624 and 651.

Coalinga State Hospital and the Department of State Hospitals have taken the position that **none** of their **Internal Management Directives** are subject to the **Administrative Procedures Act**.

Petitioner has located no evidence or record that either *IMD-624* or *IMD-651* has ever been promulgated pursuant to the Administrative Procedures Act, yet *AD-655* would require the enforcement of both.

A true and correct copy of *ADMINISTRATIVE DIRECTIVE AD-624* is attached hereto as EXHIBIT B.

On March 21, 2008, Petitioner Michael St.Martin filed a petition with the Office of Administrative Law alleging that the Department of Mental Health has issued, used, enforced, or attempted to enforce an underground regulation. The specific underground regulation was *Administrative Directive No. 624* dealing with individuals' mail and packages.

On September 8, 2008, in *2008 OAL Determination 24*, the Office of Administrative Law found that *Administrative Directive AD-624* to be an underground regulation that should have been adopted pursuant to the APA.

On October 12, 2010, Coalinga State Hospital issued, used, enforced, or attempted to enforce *Internal Management Directive IMD-624* without adopting it pursuant to the APA.

On or about January 18, 2011, Petitioner Michael St.Martin filed a petition with the Office of Administrative Law alleging that the Department of Mental Health has issued, used, enforced, or attempted to enforce an underground regulation. The specific underground regulation was *Internal Management Directive IMD-624* dealing with individuals' mail and packages.

On March 23, 2011, Cynthia A. Radaysky, Deputy Director of Long Term Care Services, California Department of Mental Health, certified pursuant to *1 CCR 280*, to the California Secretary of State that, "The Department will not use, enforce, or attempt to enforce the challenged Internal Management Directive No. 624 that was issued on October 12, 2010."

A true and correct copy of *DMH March 22, 2011, Certification* is attached hereto as EXHIBIT C.

On March 21, 2011, one day prior to the March 22, 2011, Certification, *Internal Management Directive IMD-624* was reissued. On August 21, 2012, the latest version of *IMD-624* was issued.

Petitioner alleges that the Department of Mental Health, through a slight-of-hand maneuver, deliberately and knowingly avoided an OAL ruling on the merits of the January 18, 2011, petition that challenged *IMD-624*, as they had already issued *IMD-624* using a different date and had only certified they would not "use, enforce, or attempt to enforce the challenged Internal Management Directive No. 624 that was issued on October 12, 2010."

A true and correct copy of the August 21, 2012 version of *INTERNAL MANAGEMENT DIRECTIVE IMD-624* is attached hereto as EXHIBIT D.

*Internal Management Directive IMD-651* sets forth additional mail and package rules and regulations which affect all persons, no matter what their classification who are detained at Coalinga State Hospital by the Department of State Hospitals. Its existence and use are not in controversy.

Petitioner alleges Coalinga State Hospital and the Department of State Hospitals has issued, used, enforced, or attempted to enforce *Internal Management Directive IMD-651*, and that it is an underground regulation, as there is no evidence that this administrative directive has been promulgated pursuant to the Administrative Procedures Act.

A true and correct copy of *INTERNAL MANAGEMENT DIRECTIVE IMD-651* is attached hereto as EXHIBIT E.

Petitioner alleges that the above listed Administrative Directives, Internal Management Directives, and their history combined with the actions, or inactions, of officials of the former Department of Mental Health, the Department of State Hospitals, and Coalinga State Hospital, show a pattern of deliberate failure and refusal to follow state law as set forth in the Administrative Procedures Act.

Petitioner alleges that the Department of Mental Health, the Department of State Hospitals, and Coalinga State Hospital **officials** and **employees** whom have issued, used, enforced, or attempted to enforce any underground rule or regulation, whether listed in this petition or not, have followed a carefully orchestrated, long term, plan to avoid following state law as set forth in the Administrative Procedures Act. The involved officials and employees have avoided compliance with the APA with bad behavior through: **denial**, when refusing to accept that their rules and regulations must be promulgated; **delay**, by acting like they are going to follow the law but never doing so; **diversion**, by nullifying past pending petitions through a certification stating they would not enforce the underground regulation; and by **deceit**, by continuing to use those same underground regulations by giving it a different name or date. This type of obdurate opposition to following the law should not be allowed to continue.

*Administrative Directive AD-655* is applied to all persons, no matter what their classification who are detained at Coalinga State Hospital by the Department of State Hospitals. Its existence and use is not in controversy.

*Administrative Directive AD-655* is also applied to any free person corresponding with, or sending and/or receiving packages to or from, any person detained CSH.

Each hospital has some version of AD-655 that is applied statewide to all persons detained in Department of State Hospitals facilities, and to all free persons with whom they correspond.

The DSH has taken the firm position that none of its Administrative Directives are regulations subject to the provisions of the APA.

Petitioner alleges that *Administrative Directive AD-655* is a regulation within the meaning of the APA.

“The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. . . . (Tidewater Marine Western, Inc. v. Bradshaw, supra, 14 Cal. 4th at 571, 59 Cal.Rptr.2d 186.)” (*Morning Star Co. V. State Bd. Of Equalization* (2006), 38 Cal. 4th 324, 333, 42 Cal.Rptr.3d 47, 55.)

**5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code that no express statutory exemption to the requirements of the APA is applicable.**

#### *Administrative Directive AD-655 Is a Regulation Within the Meaning of the APA*

Prior to implementation, or revision thereof, the Department was required to adopt *Administrative Directive AD-655*, or any revision thereof, but failed to do so, and thus, pursuant to the law the current version now being utilized is invalid and an “Underground Regulation.”

Though the Director may prescribe rules and regulations such as *Administrative Directive AD-655*, they must be promulgated and filed per Chapter 3.5 of art. 1 of Division 3 of Title 2 of the Administrative Procedures Act, government Code, section 11340 et seq. There is no evidence that DSH has ever promulgated any version of *Administrative Directive AD-655* pursuant to the APA.

*Administrative Directive AD-655* is a regulation. Chapter 3.5, article 5, of the Administrative Procedure Act, Govt. Code sections 11346 et seq., governs adoption, amendment and repeal of regulations by administrative agencies known as rulemaking. Govt. Code section 11342.600 provides that:

“[A regulation is] every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation,

order, or standard adopted by any state agency to implement, interpret or make specific the law enforced or administered by it or to govern its procedure.”

Syngenta Crop Protection, Inc. v. Helliker (2d Dist. 2006) 138 Cal.App. 4th 1135, 1175–77, 42 Cal.Rptr.3d 191, 221–222, quotes Tidewater Marine Western, Inc. v. Bradshaw (1996) 14 Cal. 4th 557, 59 Cal.Rptr.2d 186, which explains:

“[The APA] establishes <minimum procedural requirements= for rulemaking. ([Govt. C.] § 11346(a).) The agency must provide notice of the proposed action (*Id.* §§ 11346.4, 11346.5), the complete text of the proposal (§ 11346.2(a)), and an initial statement of reasons for the proposal (§ 11346.2(b)), and a final statement of reasons (§ 11346.9(a)). The agency must provide a public hearing if an interested person timely requests a hearing (§ 11346.8(a)), provide an opportunity for interested persons to submit written comments if no hearing is held (*ibid.*), and respond in writing to comments in the final statement of reasons (§ 11346.9(a)(3)). The agency must submit the entire rulemaking file to the Office of Administrative Law (§§ 11347.3(c), 11342.550), which reviews the regulation for compliance with the law and other criteria and approves or disapproves the regulatory action. (§ 11349.1, 11349.3 . . . ” (14 Cal. 4th 557, 59 Cal.Rptr.2d 186.)

“No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.” (Govt. Code § 11340.5(a).)

“A substantial failure to comply with chapter 3.5 of the APA renders the regulation invalid. § 11350(a); *Tidewater Marine Western, Inc. v. Bradshaw*, *supra*, 14 Cal. 4th at 576, 59 Cal.Rptr.2d 186.”

“A regulation subject to the APA thus has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided . . . Second, the rule must implement, interpret, or make specific, the law

enforced or administered by [the agency], or . . . govern [the agency’s] procedure.” ([Former] Govt. Code § 11342(g) [now § 11342.601].) Of course, interpretations that arise in the course of case-specific adjudication are not regulations, though they may be persuasive as precedents in similar subsequent cases . . . Similarly, agencies may provide private parties with advice letters, which are not subject to the rulemaking provisions of the APA. ([Former] Govt. Code § 11343(a)(3), 11346.1(a) [now § 11340.9(I)].) Thus, if an agency prepares a policy manual that is no more than a summary, without commentary, of the agency’s prior decisions in specific cases and its prior advice letters, the agency is not adopting regulations . . . A policy manual of this kind would of course be no more binding on the agency in subsequent agency proceedings or on the courts when reviewing agency proceedings than are the decisions and advice letters that it summarizes.” (Emphasis added.) (*Tidewater Marine Western, Inc. v. Bradshaw*, *supra*, 14 Cal. 4th at 571, 59 Cal.Rptr.2d 186.)”

*Morning Star Co. v. State Bd. Of Equalization* (2006), 38 Cal. 4th 324, 333–334, 42 Cal.Rptr.3d 47, 53–54, confirms the Syngenta/Tidewater analysis, especially that a regulation must be intended to apply generally, and that it must implement, interpret or make specific the law administered by the agency, or govern the agency’s procedure.

**Administrative Directive AD–655** is a regulation. It is applied to all persons detained at Coalinga State Hospital, and all free persons with whom they correspond. It declares what type of incoming and outgoing mail and packages may be received by persons detained at Coalinga State Hospital, and how these items are handled and distributed. Its use is mandatory. Thus the mandate of **AD–655** implements, enforces or otherwise makes specific the language of the Welfare and Institutions Code, §§ 5325, 5325.1, and Title 9, California Code of Regulations (“CCR”), §§ 881 (c)(q), 884, 885, 4350, 4415, and 4420; and United States Postal Services Regulations.).

**NO EXCEPTION EXCLUDES  
ADMINISTRATIVE DIRECTIVE AD–655 FROM  
THE APA PROCEDURES.**

Clearly inapplicable are the provisions of Govt. Code § 11340.9 excluding:

“(d) A regulation that relates only to the internal management of the state agency. . . .”

“(f) A regulation that embodies the only legally tenable interpretation of a provision of law. . . .”

“(I) A regulation that is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.”

*Armistead v. State Personnel Bd.* (1978) 22 Cal.3d 198, 204–205, 149 Cal.Rptr. 1, 4 quoting from the First Report of the Senate Interim Committee on Administrative Regulations to the 1955 Legislature, documents the necessity for strict adherence to the APA. The court found this necessary so as to prevent state agencies from avoiding obedience to the APA by denominating rules as “policies, interpretations, instructions, guides, standards, or the like,” and by containing them “in internal organs of the agency such as manuals, memoranda, bulletins, or [directing them] to the public in the form of circulars or bulletins.”

*Armistead* underlined that “[R]ules that interpret and implement other rules have no legal effect unless they have been promulgated in substantial compliance with the APA” (emphasis added), thus provision of state personnel transactions manual governing withdrawal of resignation by state employee merited no weight as agency interpretation where such provision had not been duly promulgated and published.

The Administrative Directive in question here fits the above description perfectly. Although it is referred to as “Policy,” and “Method” it is called an “Administrative Directive,” and is replete with mandatory words such as “will,” “will be,” “must,” and “must be” in regard to actions to be taken. It contains mandatory language thus making it much more than simple “coordinated set of guidelines and procedures,” policies, interpretations, instructions, guides, standards, or the like. Instead, it is a forbidden underground regulation which has not been adopted pursuant to the Administrative Procedures Act.

The “Authority” for issuing AD–655 is stated in that document as, “Welfare and Institution Code Sections 4136, 5325, and 5326; Title 9, California Code of Regulations (CCR) 881 (c)(q), 884, 885, 4350, 4415, and 4420; and United States Postal Services Regulations.” Petitioner has found no authorization in the cited statutes which would allow the promulgation of AD–655 without following the requirements of the Administrative Procedures Act.

By issuing and enforcing AD–655, the CSH authorities have attempted to avoid the Administrative Procedures Act. AD–655 is not just a “Policy,” it is complete with mandatory methods and language to enforce the policy. AD–655 was issued under the label of an *Administrative Directive* and is just the sort of “avoiding obedience to the APA” that is discussed in *Armistead v. State Personnel Bd.*

**ADMINISTRATIVE DIRECTIVE AD–655  
APPLIES GENERALLY TO ALL PERSONS  
DETAINED AT COALINGA STATE HOSPITAL.  
IT ALSO APPLIES TO ALL FREE CITIZENS  
WITH WHOM THEY CORRESPOND.**

*Modesto City Schools v. Education Audits Appeal Panel*, (3d Dist. 2004) 123 Cal.App. 4th 1365, 1381, 20 Cal.Rptr.3d 831, 842, holds that to be deemed an underground regulation, which would be invalid because it was not adopted in substantial compliance with the procedures of the APA, the agency must intend it to apply generally rather than in a specific case, and the agency must adopt it to implement, interpret, or make specific the law enforced by the agency.

*Kings Rehabilitation Center, Inc. V. Premo*, (3rd Dist. 1999) 69 Cal.App. 4th 215, 217, 81 Cal.Rptr.2d 406, notes:

“The APA is partly designed to eliminate the use of underground regulations; rules which only the government knows about. If a policy or procedure falls within the definition of a regulation within the meaning of the APA, the promulgating agency must comply with the procedures for formalizing such regulations, which include public notice and approval by the Office of Administrative Law (OAL). Failure to comply with the APA nullifies the rule. (Govt. Code § 11350(a); *Armistead v. State Personnel Bd.* (1978) 22 Cal.3d 198, 204, 149 Cal.Rptr. 1, 4”) (Emphasis added.)

*Administrative Directive AD–655* is neither intended nor utilized to make specific determinations but is utilized generally when determining the incoming and outgoing mail and packages rights of all persons detained at Coalinga State Hospital. Thus, AD–655 is a regulation that must be promulgated as a regulation but otherwise is a null and void underground regulation.

**6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.**

*Administrative Directive AD–655* is at odds with the rights to mail conveyed by the California and United States Constitutions, and with the statutory rights provided in Welfare and Institutions Code Sections 5325 and 5325.1. *Administrative Directive AD–655* is overbroad and not narrowly tailored to accomplish the goal stated in the least restrictive manner as is required by statutory and constitutional law. Since *Administrative Directive AD–655* is replete with mandates that are in direct violation of statutory law and both the California

and United States Constitution, OAL regulatory oversight and public comments are needed.

The state authorized enforcement by state employees of the numerous statutory and constitutional violations contained in each and every un-promulgated, underground, *Administrative Directive* has resulted in a great deal of litigation at great expense to the taxpayers of California. The OAL, pursuant to its regulatory duties under the APA, is in a position to bring these underground regulations into the oversight process, and has a duty to the taxpayers to do so.

Public comment and OAL oversight is needed in order to halt the “bureaucratic tyranny” warned of in *Tidewater* and *Morning Star*.

*Morningstar* reiterates, “[2] These requirements promote the APA’s goals of bureaucratic responsiveness and public engagement in agency rulemaking. ‘One purpose of the APA is to ensure that those persons or entities whom a regulation will affect have a voice in its creation [citation], as well as notice of the law’s requirements so that they can conform their conduct accordingly [citation]. The Legislature wisely perceived that the party subject to regulation is often in the best position, and has the greatest incentive, to inform the agency about possible unintended consequences of a proposed regulation. Moreover, public participation in the regulatory process directs the attention of agency policymakers to the public they serve, thus providing some security against bureaucratic tyranny. [Citation.]’ [132 P.3d 255] (*Tidewater*, *supra*, 14 Cal.4th at pp. 568–569, 59 Cal.Rptr.2d 186, 927 P.2d 296.)” (*Morning Star Co. V. State Bd. Of Equalization* (2006), 38 Cal. 4th 324, 333, 42 Cal.Rptr.3d 47, 53.)

**7. (Optional) Please attach any additional relevant information that will assist OAL in evaluating your petition.**

## CONCLUSION

The Department of State Hospitals is not, and has not been, responsive to the public they serve. Nor has the DSH been responsible to the taxpayers who must pay the bills that result from the failure of the DSH to follow the law and serve the public who pays their salaries. The California Supreme Court directed attention to this problem by stating:

“Moreover, public participation in the regulatory process directs the attention of agency policymakers to the public they serve, thus providing some security against bureaucratic tyranny. [Citation.]’ [132 P.3d 255] (*Tidewater*,

*supra*, 14 Cal.4th at pp. 568–569, 59 Cal.Rptr.2d 186, 927 P.2d 296.)” (*Morning Star Co. v. State Bd. Of Equalization* (2006), 38 Cal. 4th 324, 333, 42 Cal.Rptr.3d 47, 53.)

Such bureaucratic tyranny has been a problem throughout the history of this country. Now, it must be stopped once again. The tyrannical bureaucrats in the Department of State Hospitals must be directed to follow the law.

The DSH, part of the Executive Branch, lacks Constitutional authority to enact legislation. The Legislature has granted state agencies and departments quasi-legislative powers through the APA providing they follow specific promulgation procedures. However, until and unless the DSH does follow the provisions of the APA to properly promulgate *Administrative Directive AD-655*, it is an underground regulation which has been implemented in violation of the Separation of Powers Clause, Article III, Section 3, of the California Constitution.

To allow the DSH to continue to utilize a controversial Administrative Directive, such as *Administrative Directive AD-655*, would be to allow the sort of unfettered power in the Executive Branch that is a step toward a totalitarian concentration of power in the executive; a power to be exercised with inadequate legislative standard, and capable of avoiding judicial review, particularly when done through sleight-of-hand tactics designed to avoid review, has been prohibited from the earliest times. See *Hayburn’s Case*, (1792) 2 U.S. (Dall.) 408, 1 L.Ed. 436, and its progeny.

Based on the foregoing, it is clear that there is a need for public participation in the regulatory process which directs the attention of agency policymakers within the Department of State Hospitals to the public they serve, and to ensure that those persons or entities whom a regulation will affect have a voice in its creation.

## 8. Certifications:

I certify that I have submitted a copy of this petition and all attachments to:

Cliff Allenby Director(A)  
California Department of State Hospitals  
1600 9th St., Suite 151  
Sacramento, CA 95814  
(916) 654-2413 / (916) 654-2309

I certify that all the above information is true and correct to the best of my knowledge.

\_\_\_\_\_  
/s/  
MICHAEL GEORGE ST.MARTIN  
PETITIONER

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

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

File# 2013-0307-01  
BOARD OF OPTOMETRY  
Sponsored Free Health Care Events

This rulemaking by the Board of Optometry adopts Title 16, Division 15, Article 2.5, which includes four new sections, 1508, 1508.1, 1508.2, and 1508.3, as well as two forms, incorporated by reference, 901-A (DCA/2011) and 901-B (OPT/2011). These new regulations implement AB 2699, enacting Business and Professions Code section 901.

Title 16  
California Code of Regulations  
ADOPT: 1508, 1508.1, 1508.2, 1508.3  
Filed 04/15/2013  
Effective 04/15/2013  
Agency Contact: Andrea Leiva (916) 575-7182

File# 2013-0311-01  
DENTAL HYGIENE COMMITTEE OF  
CALIFORNIA  
Sponsored Free Health Care Events

This rulemaking by the Dental Hygiene Committee of California (DHCC) adopts regulations to implement Business and Professions Code section 901 as enacted by Stats.2010, chapter 270 (A.B. 2699). Specifically, this rulemaking adopts regulations governing the requirements and procedures for dental hygienists with valid, current, and active licenses to practice dental hygiene in states other than California to participate in sponsored free health care events in California. In furtherance of these procedures, the DHCC is incorporating by reference two forms, including Registration of Sponsoring Entity Under Business and Professions Code Section 901, Form 901-A (DCA/2011) and Request for Authorization to Practice Without a License at a Registered Free Health Care Event, Form

DHCC-901-B (07/2012). These regulations also establish an \$86.00 application fee associated with newly adopted form DHCC-901-B (07/2012).

Title 16  
California Code of Regulations  
ADOPT: 1149, 1150, 1151, 1152, 1153  
Filed 04/10/2013  
Effective 04/10/2013  
Agency Contact: Lori Hubble (916) 263-1978

File# 2013-0306-02  
DENTAL HYGIENE COMMITTEE OF  
CALIFORNIA  
Fingerprinting Requirements

This rulemaking action by the Dental Hygiene Committee of California amends section 1132 of title 16 of the California Code of Regulations to allow, for inactive licensees, waiver of the existing electronic fingerprint submission required to renew a dental hygienist license.

Title 16  
California Code of Regulations  
AMEND: 1132  
Filed 04/16/2013  
Effective 07/01/2013  
Agency Contact: Lori Hubble (916) 263-1978

File# 2013-0415-01  
DEPARTMENT OF FOOD AND AGRICULTURE  
Section 3435 Asian Citrus Psyllid Interior Quarantine

This regulatory action expands the quarantine area for Asian Citrus Psyllid (ACP) to include all of Riverside and San Bernardino Counties.

Title 3  
California Code of Regulations  
AMEND: 3435(b)  
Filed 04/16/2013  
Effective 04/16/2013  
Agency Contact: Lindsay Rains (916) 654-1017

File# 2013-0315-05  
FISH AND GAME COMMISSION  
Sport Fishing Report Card Requirements and Fees

This regulatory action adjusts the duration of the lobster report card and timing of reporting to match the lobster season; adds a \$20 fee to cover the cost of management of lobster due to non-return of report cards and this loss of data; modifies replacement procedures for lobster, steelhead and salmon report cards; simplifies reporting procedures; updates language to make it consistent with new procedures resulting from the Automated License Data System; and makes a few other changes for consistency and clarity.

Title 14  
California Code of Regulations  
AMEND: 1.74, 701  
Filed 04/12/2013  
Effective 07/01/2013  
Agency Contact: Sherrie Fonbuena (916) 654-9866

File# 2013-0405-01  
LEGISLATIVE COUNSEL BUREAU  
Conflict-of-Interest Code

This is an amendment to a Conflict-of-Interest Code that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

OAL filed this regulation(s) or order(s) of repeal with the Secretary of State, and will publish the regulation(s) or order(s) of repeal in the California Code of Regulations.

Title 2  
California Code of Regulations  
AMEND: 23000  
Filed 04/16/2013  
Effective 05/16/2013  
Agency Contact: Christina Witt (916) 341-8240

File# 2013-0304-01  
MEDICAL BOARD OF CALIFORNIA  
Physician Availability — Elective Cosmetic Procedures

In this rulemaking action, the Medical Board of California (MBOC) is adopting section 1364.50 into title 16 of the California Code of Regulations (CCR). The purpose of this action is to implement, interpret, and make specific Business and Professions Code section 2023.5(c), which requires the adoption of a regulation regarding an “appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures.” The regulation addresses the need for an appropriate level of physician availability by introducing the term “immediately available” and defining that term.

Title 16  
California Code of Regulations  
ADOPT: 1364.50  
Filed 04/16/2013  
Effective 07/01/2013  
Agency Contact: Christine Valine (916) 263-2466

File# 2013-0311-02  
OCCUPATIONAL SAFETY AND HEALTH  
APPEALS BOARD  
Rules of Practice and Procedure

This regulatory action amends the regulations of the Occupational Safety and Health Appeals Board dealing with the appeals process and the procedure for reconsidering decisions made on such appeals.

Title 8  
California Code of Regulations  
AMEND: 354, 371.2, 373, 376.1, 386  
Filed 04/15/2013  
Effective 07/01/2013  
Agency Contact: Kari Johnson (916) 274-5769

File# 2013-0228-01  
OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT  
Specific Regulatory Levels: Chemicals Causing Reproductive Toxicity

In this rulemaking action, the Office of Environmental Health Hazard Assessment (OEHHA) is adding another chemical to the list of chemicals in title 27, California Code of Regulations, section 25805(b). More specifically, OEHHA is adding methanol at dosages of 47,000 micrograms per day by inhalation exposure and 23,000 micrograms per day by oral exposure. For chemicals known to the state to cause reproductive toxicity under Proposition 65 (Safe Drinking Water and Toxic Enforcement Act of 1986), section 25805 provides safe harbor exemptions from the Proposition 65 warning requirements and discharge prohibitions, provided the chemical exposure falls within the specific regulatory levels of the maximum allowable dose level (MADL) listed in section 25805.

Title 27  
California Code of Regulations  
AMEND: 25805  
Filed 04/10/2013  
Effective 07/01/2013  
Agency Contact: Susan Luong (916) 327-3015

File# 2013-0228-03  
STATE PERSONNEL BOARD  
Hearings and Appeals

This rulemaking action amends and adopts regulations concerning civil service employment hearings and appeals regarding such issues as back-pay claims and hearings, contents of the administrative record, finality of decisions, amendments of pleadings, criteria for disqualification of presiding officers and board members, ex parte communications, avoidance of im-

propriety by presiding officers, prehearing and settlement conferences, court reporters, discovery, subpoenas, and law and motion matters, among others.

**Title 2**

California Code of Regulations

ADOPT: 51.4, 52.11, 56.5, 58.12, 58.13, 61  
 AMEND: 51.2, 51.6, 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

Filed 04/12/2013

Effective 04/12/2013

Agency Contact: Julia Johnson (916) 651-6532

**CCR CHANGES FILED  
 WITH THE SECRETARY OF STATE  
 WITHIN November 21, 2012 TO  
 April 17, 2013**

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

**Title 2**

04/16/13 AMEND: 23000  
 04/12/13 ADOPT: 51.4, 52.11, 56.5, 58.12, 58.13, 61 AMEND: 51.2, 51.6, 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  
 03/29/13 REPEAL: 26100  
 03/26/13 ADOPT: 20202, 20203, 20208, 20212, 20217, 20220.5, 20249.5 AMEND: 20200, 20201, 20203, 20204, 20205, 20206, 20207, 20208, 20209, 20210, 20211, 20212, 20213, 20214, 20215, 20216, 20220, 20221, 20222, 20223, 20224, 20225, 20226, 20227, 20230, 20235, 20236, 20245, 20247, 20249, 20250, 20251, 20252, 20253, 20254, 20255, 20256, 20257, 20258, 20259, 20260, 20261, 20262, 20265, 20266, 20267 REPEAL: 20237, 20238  
 03/25/13 ADOPT: 1859.90.3 AMEND: 1859.2, 1859.51, 1859.61, 1859.90.2, 1859.90.4, 1859.104, 1859.164.2, 1859.184.1  
 03/20/13 AMEND: 1897  
 03/12/13 AMEND: 1859.2, 1859.77.3  
 03/11/13 ADOPT: 1859.95.1 AMEND: 1859.2, 1859.95

02/21/13 AMEND: 599.506  
 02/14/13 ADOPT: 1896.71, 1896.76, 1896.77, 1896.78, 1896.81, 1896.82, 1896.83, 1896.84, 1896.88, 1896.91, 1896.92, 1896.95, 1896.96, 1896.97 AMEND: 1896.60, 1896.61, 1896.62, 1896.70, 1896.72, 1896.73, 1896.74, 1896.75, 1896.80, 1896.90, 1896.99.100, 1896.99.120 REPEAL: 1896.63, 1896.64, 1896.85, 1896.98  
 01/31/13 AMEND: 649.28  
 01/09/13 ADOPT: 18756  
 01/08/13 AMEND: 18723, 18730  
 01/07/13 AMEND: 18545, 18703.4, 18940.2  
 01/07/13 AMEND: 18705.5  
 01/02/13 AMEND: 22500, 22501, 22502, 22503, 22505, 22506, 22508, 22509 REPEAL: 22504, 22507, 22510, 22511, 22512, 22513, 22514, 22515, 22516, 22517, 22518, 22519  
 12/31/12 ADOPT: 1859.97 AMEND: 1859.2, 1859.90.2  
 12/28/12 AMEND: 18410, 18425, 18435, 18465.1, 18550 REPEAL: 18539  
 12/27/12 AMEND: 649.7  
 12/26/12 ADOPT: 7294.0, 7294.2 AMEND: 7293.5, 7293.6, 7293.7, 7293.8, 7293.9, 7294.0 (renumbered to 7294.1), 7294.1(renumbered to 7294.3), 7294.2 (renumbered to 7294.4)  
 12/24/12 REPEAL: 60020, 60025, 60030, 60040, 60045, 60050, 60055, 60100, 60110, 60200  
 12/11/12 AMEND: 649.15  
 12/06/12 AMEND: 1859.2, 1859.90.2  
 11/30/12 ADOPT: 7291.4, 7291.7, 7291.14, 7291.18 AMEND: 7291.2, 7291.3, 7291.4 and renumber 7291.5, 7291.5 and renumber 7291.6, 7291.6 and renumber 7291.8, 7291.7 and renumber 7291.9, 7291.9 and renumber 7291.10, 7291.10 and renumber 7291.17, 7291.11, 7291.12, 7291.13, 7291.15, 7291.16 REPEAL: 7291.8, 7291.14  
 11/29/12 ADOPT: 558.1  
 11/28/12 AMEND: 54100  
**Title 3**  
 04/16/13 AMEND: 3435(b)  
 04/04/13 AMEND: 3435(b)  
 04/02/13 AMEND: 3435(b)  
 02/28/13 AMEND: 3437(b)  
 02/27/13 AMEND: 3435(b)  
 02/25/13 ADOPT: 1180.24 AMEND: 1180.1, 1180.3.2, 1180.20 REPEAL: 1180.24

**CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 17-Z**

**Title 4**

04/08/13 ADOPT: 8035.5  
 04/02/13 AMEND: 10032, 10033, 10034, 10035  
 03/21/13 AMEND: 10178, 10179, 10181, 10182, 10185, 10188  
 03/20/13 AMEND: 1462  
 03/19/13 AMEND: 10302, 10315, 10322, 10323, 10325, 10326, 10327, 10337  
 03/12/13 AMEND: 5000, 5052  
 02/11/13 AMEND: 10325  
 02/11/13 AMEND: 8072  
 02/07/13 ADOPT: 7100, 7101, 7102, 7103, 7104, 7105, 7106, 7107, 7108, 7109, 7110, 7111, 7112  
 02/04/13 AMEND: 8070, 8071, 8072, 8078, 8078.2  
 01/28/13 ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060  
 01/24/13 ADOPT: 5255, 5256 AMEND: 5170, 5230, 5250, 5560, 5580  
 01/08/13 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133  
 12/21/12 ADOPT: 5342, 5343, 5344, 5345, 5346, 5347, 5348  
 12/13/12 AMEND: 12391(a)(2)  
 12/03/12 AMEND: 10032, 10033, 10034, 10035  
 11/27/12 ADOPT: 4305, 4309 AMEND: 4300, 4302, 4304, 4306, 4307, 4308

**Title 5**

04/03/13 ADOPT: 41906.6  
 03/13/13 AMEND: 20135, 20136, 20140 REPEAL: 20145, 20300, 20301, 20302, 20303, 20304, 20305, 20306, 20307, 20308, 20309, 20310, 20311, 20312, 20313, 20314, 20315, 20316, 20317, 20318, 20319, 20320, 20321, 20322, 20323, 20324, 20325, 20326, 20327, 20328, 20329, 20330, 20331, 20332  
 02/12/13 AMEND: 19816, 19816.1, 19839  
 02/11/13 AMEND: 40405.1, 40405.4, 40500, 40501, 40505, 40506, 40507, 40508  
 02/07/13 ADOPT: 40203  
 02/07/13 ADOPT: 42740  
 02/06/13 ADOPT: 9517.3  
 01/17/13 ADOPT: 80053.1 AMEND: 80024.6, 80053  
 01/14/13 ADOPT: 80048.3.2 AMEND: 80048.3.1  
 12/27/12 AMEND: 58108  
 12/27/12 AMEND: 55000, 55023, 55040, 55041, 55043, 58161, 58162, 58166 REPEAL: 55030

12/24/12 ADOPT: 18224.6, 18227, 18227.1 AMEND: 18078, 18409, 18411, 18424, 18426  
 12/18/12 AMEND: 76120  
 12/13/12 AMEND: 40601

**Title 8**

04/15/13 AMEND: 354, 371.2, 373, 376.1, 386  
 03/29/13 AMEND: 9789.31, 9789.34, 9789.35, 9789.39  
 03/18/13 ADOPT: 32056, 32121, 32998, 93000, 93005, 93010, 93015, 93020, 93025, 93030, 93035, 93040, 93045, 93050, 93055, 93060, 93065, 93070, 93075, 93080 AMEND: 32150, 32155, 32300, 32305, 32310, 32315, 32320, 32350, 32360, 32370, 32375, 32380, 32410 REPEAL: 15800, 15805, 15810, 15815, 15820, 15825, 15830, 15835, 15840, 15845, 15850, 15855, 15860, 15865, 15870, 15875, 15875.1, 17300  
 03/18/13 ADOPT: 32091, 61215, 61255, 61275 AMEND: 32132, 32135, 32140, 32147, 32169, 32305, 32320, 32450, 32455, 32615, 32620, 32661, 32798, 61090, 61210, 61220, 61240, 61250, 61260, 61270 REPEAL: 32613, 32810, 32811, 32812, 32813  
 03/18/13 AMEND: 344, 344.1  
 03/14/13 AMEND: 3381  
 03/13/13 AMEND: 9789.23, 9789.24, 9789.25  
 02/28/13 AMEND: 4309  
 01/28/13 ADOPT: 4993.1 AMEND: 1610.3, 1616.3, 4885, 4999, 5001  
 01/24/13 AMEND: 3210, 3900  
 12/31/12 ADOPT: 10206, 10206.1, 10206.2, 10206.3, 10206.4, 10206.5, 10206.14, 10206.15, 10207, 10208 AMEND: 10205, 10205.12  
 12/31/12 ADOPT: 15209 AMEND: 15201, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496, 15497  
 12/31/12 ADOPT: 9792.5.4, 9792.5.5, 9792.5.6, 9792.5.7, 9792.5.8, 9792.5.9, 9792.5.10, 9792.5.11, 9792.5.12, 9792.5.13, 9792.5.14, 9792.5.15 AMEND: 9792.5.1, 9792.5.3, 9793, 9794, 9795  
 12/31/12 ADOPT: 37, 10159 AMEND: 1, 11, 11.5, 14, 17, 30, 31.2, 31.7, 33, 35, 35.5, 36, 38, 100, 105, 106, 10160  
 12/31/12 ADOPT: 9785.5, 9792.6.1, 9792.9.1, 9792.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.7, 9792.10.8, 9792.10.9

AMEND: 9785, 9792.6, 9792.9, 9792.10, 9792.12  
 12/27/12 ADOPT: 9789.25 AMEND: 9789.20, 9789.21, 9789.22  
 12/27/12 ADOPT: 9789.39 AMEND: 9789.30, 9789.31, 9789.32, 9789.33, 9789.36, 9789.37, 9789.38  
 12/27/12 AMEND: 9795.1, 9795.3  
 12/20/12 ADOPT: 10133.31, 10133.32, 10133.33, 10133.34, 10133.35, 10133.36 AMEND: 9813.1, 10116.9, 10117, 10118, 10133.53, 10133.55, 10133.57, 10133.58, 10133.60 REPEAL: 10133.51, 10133.52  
 12/10/12 AMEND: 10210, 10211, 10212, 10214, 10215, 10216, 10217, 10218, 10222, 10223, 10225, 10228, 10229, 10232, 10232.1, 10232.2, 10245, 10250.1, 10252.1, 10253.1, 10270, 10271, 10273, 10290, 10291, 10293, 10294.5, 10297

**Title 9**

03/13/13 AMEND: 7071.2, 7017.5, 7021, 7051, 7053  
 03/05/13 AMEND: 7141.5, 7143, 7227, 7350, 7351, 7353.6, 7354, 7355, 7356, 7357, 7358  
 01/17/13 AMEND: 7141.5, 7143, 7227, 7350, 7351, 7353.6, 7354, 7355, 7356, 7357, 7358

**Title 10**

03/29/13 REPEAL: 2690.65  
 03/29/13 REPEAL: 2690.5  
 03/29/13 REPEAL: 2690.6  
 03/29/13 REPEAL: 2690.4  
 03/29/13 ADOPT: 6426  
 03/29/13 ADOPT: 6446  
 03/13/13 AMEND: 2318.6, 2353.1, 2354  
 03/11/13 ADOPT: 2562.1, 2562.2, 2562.3, 2562.4  
 03/11/13 AMEND: 2318.6, 2353.1, 2354  
 03/04/13 AMEND: 2690, 2690.1, 2690.2  
 01/17/13 ADOPT: 6410, 6420, 6422, 6424, 6440, 6442, 6444  
 01/11/13 AMEND: 2498.4.9, 2498.5, 2498.6  
 12/31/12 AMEND: 2695.8(f), 2695.8(g)  
 12/19/12 ADOPT: 2523, 2523.1, 2523.2, 2523.3, 2523.4, 2523.5, 2523.6  
 12/17/12 AMEND: 2248.14  
 12/11/12 AMEND: 3780

**Title 11**

03/27/13 AMEND: 80.3  
 12/12/12 AMEND: 1081  
 11/26/12 AMEND: 1001, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1018, 1019,

1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1060, 1070, 1071, 1080, 1081, 1082, 1083, 1084, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960

**Title 13**

03/07/13 AMEND: 125.12, 125.16, 126.00, 126.02, 127.00, 127.08  
 02/07/13 AMEND: 2193  
 01/28/13 ADOPT: 426.00  
 01/24/13 AMEND: 425.01  
 01/07/13 AMEND: 553.70  
 12/31/12 AMEND: 1900, 1956.8, 1960.1, 1961, 1961.2, 1961.3, 1962.1, 1962.2, 1976  
 12/11/12 AMEND: 2403, 2404, 2407, 2412, 2421, 2423, 2424, 2425, 2425.1, 2426, 2427, 2433, 2447, 2783, 2784  
 12/10/12 AMEND: 423.00

**Title 14**

04/12/13 AMEND: 1.74, 701  
 03/27/13 ADOPT: 132.1, 132.2, 132.3, 132.4, 132.5  
 03/25/13 AMEND: 27.80  
 03/25/13 ADOPT: 1667.1, 1667.2, 1667.3, 1667.4, 1667.5, 1667.6  
 03/06/13 ADOPT: 1299.01, 1299.02, 1299.03, 1299.03(a), 1299.03(b)(1) and most of the document incorporated therein by reference, 1299.03(b)(2)(B), 1299.03(b)(2)(C), 1299.03(c), 1299.04, 1299.05 REPEAL: 1299  
 03/06/13 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5, 1665.6, 1665.7, 1665.8  
 03/05/13 AMEND: 265, 365, 366, 478, 708.12, 708.16  
 02/27/13 AMEND: 670.7 (e) & (f)  
 02/25/13 AMEND: 670.5  
 02/14/13 ADOPT: 15183.3, Appendix M, Appendix N  
 02/14/13 AMEND: 27.25, 27.30, 27.35, 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.49, 28.54, 28.55, 28.56, 28.58  
 01/31/13 AMEND: 1270, 1270.02, 1270.03, 1270.04, 1270.05, 1270.06, 1270.07, 1270.08, 1270.09  
 01/08/13 AMEND: 27.65, 28.30  
 12/27/12 ADOPT: 1.45, 5.91 AMEND: 1.77, 2.25, 2.30, 4.20, 5.00, 5.05, 5.10, 5.40, 5.60, 5.80, 5.81, 7.00, 7.50, 8.00, 27.85, 27.90, 27.91, 28.90, 28.95, 701  
 12/20/12 AMEND: 703

**Title 15**

03/11/13 AMEND: 3000, 3002, 3021, 3041, 3041.2, 3045.3, 3075.1, 3075.2, 3082,

**CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 17-Z**

3103, 3144, 3172.2, 3177, 3230, 3270, 3275, 3278, 3288, 3324, 3338, 3367, 3368, 3369, 3371.1, 3376, 3379, 3380, 3401.5, 3404, 3415 and CDC 345 (Rev. 5/95)  
03/04/13 REPEAL: 3999.10  
02/25/13 ADOPT: 3375.6 AMEND: 3000, 3375  
02/25/13 ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323  
02/21/13 AMEND: 3000, 3190, 3213, 3334  
02/12/13 ADOPT: 8004, 8004.1, 8004.2, 8004.3, 8004.4 AMEND: 8000  
01/17/13 AMEND: 3000, 3076.1, 3076.3, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3375.5, 3377.2, 3521.2  
01/15/13 AMEND: 3999.14  
12/20/12 ADOPT: 3079, 3079.1 AMEND: 3000, 3075.2, 3075.3

**Title 16**

04/16/13 ADOPT: 1364.50  
04/16/13 AMEND: 1132  
04/15/13 ADOPT: 1508, 1508.1, 1508.2, 1508.3  
04/10/13 ADOPT: 1149, 1150, 1151, 1152, 1153  
04/08/13 AMEND: 2614  
04/08/13 AMEND: 40, 43, 45  
04/02/13 AMEND: 1888  
03/25/13 ADOPT: 1823, 1888.1 AMEND: 1803, 1845, 1858, 1881  
03/14/13 ADOPT: 1399.110, 1399.130, 1399.130.1, 1399.156.5 AMEND: 1399.131, 1399.150.3, 1399.151, 1399.155, 1399.156  
03/13/13 AMEND: 1746  
02/27/13 AMEND: 3340.29  
02/27/13 AMEND: 1575  
02/13/13 ADOPT: 4187 AMEND: 4184  
02/07/13 AMEND: 1495.2  
02/06/13 AMEND: 1735.1, 1735.2, 1735.3, 1751.2  
01/22/13 AMEND: 1399.15  
01/15/13 ADOPT: 1399.99.1, 1399.99.2, 1399.99.3, 1399.99.4  
01/14/13 AMEND: 1566.1  
01/10/13 AMEND: 1399.536  
01/09/13 AMEND: 1811, 1870, 1887.3  
12/18/12 ADOPT: 37.5  
12/13/12 AMEND: 2615, 2620  
11/29/12 AMEND: 2524, 2579.10  
11/27/12 ADOPT: 1495, 1495.1, 1495.2, 1495.3, 1495.4

**Title 17**

04/02/13 ADOPT: 54311 AMEND: 54302, 54310, 54314, 54320, 54326, 54332, 54370

03/21/13 AMEND: 100303, 100403, 100603  
03/11/13 ADOPT: 58884, 58886, 58887, 58888 AMEND: 50604, 54355, 58543  
02/25/13 AMEND: 94010, 94011, 94016, 94150, 94168  
02/11/13 ADOPT: 6300.1, 6300.3, 6300.5, 6300.7, 6300.9, 6300.11, 6300.13, 6300.15, 6300.17, 6300.19, 6300.21, 6300.23, 6301.1, 6301.3, 6301.5, 6301.7, 6301.9, 6303.1, 6303.3  
02/07/13 ADOPT: 54521, 54522, 54523, 54524, 54525, 54526, 54527, 54528, 54529, 54530, 54531, 54532, 54533, 54534, 54535 AMEND: 54500, 54505, 54520 REPEAL: 54521, 54522, 54523, 54524, 54525  
01/22/13 AMEND: 60201, 60210  
01/03/13 AMEND: 2641.56  
12/19/12 ADOPT: 95158 AMEND: 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95202, 95802  
12/06/12 AMEND: 95920  
11/26/12 ADOPT: 95480.2, 95480.3, 95480.4, 95480.5 AMEND: 95480.1, 95481, 95482, 95484, 95485, 95486, 95488, 95490

**Title 18**

03/11/13 AMEND: 1620  
01/14/13 AMEND: 101, 171, 252, 1045  
01/08/13 REPEAL: 2558, 2558.1, 2559, 2559.1, 2559.3, 2559.5  
12/18/12 ADOPT: 19089  
12/04/12 ADOPT: 2000

**Title 19**

03/26/13 REPEAL: 2300, 2301, 2302, 2303, 2304, 2305, 2324, 2325, 2325.1, 2326, 2327, 2328, 2329, 2330, 2331, 2350, 2351, 2352  
12/17/12 AMEND: 2570.1, 2570.2, 2571, 2572.1, 2572.2, 2573.1, 2573.2, 2573.3

**Title 21**

02/07/13 AMEND: 1301, 1310, 1312  
12/24/12 ADOPT: 2653, 2654, 2655, 2656, 2657, 2658

**Title 22**

03/25/13 AMEND: 97232  
03/14/13 AMEND: 50273(c)  
03/12/13 AMEND: 70055, 70217, 70263, 70275, 70405, 70483, 70485, 70579, 70619, 70706.1, 70707.8, 70747, 71053, 71215,

**CALIFORNIA REGULATORY NOTICE REGISTER 2013, VOLUME NO. 17-Z**

	71245, 71547, 72003, 72013, 72035, 72037, 72057, 72059, 72075, 72083, 72085, 72087, 72089, 72097, 72105, 72107, 72329, 72329.1, 72351, 72361, 72465, 72467, 73009, 73023, 73031, 73057, 73059, 73073, 73075, 73081, 73083, 73085, 73087, 73103, 73109, 73319, 73411, 73483, 74011, 74013, 74023, 74405, 74615, 74617, 74623, 74631, 74633, 74635, 74641, 74643, 74645, 74647, 74653, 74657, 75002, 75006, 75011, 75012, 75015, 75016, 75018, 75020, 75054, 75081, 75301, 75305, 75307, 75341, 76003, 76013, 76043, 76049, 76051, 76089, 76109, 76111, 76117, 76119, 76121, 76123, 76130, 76131, 76141, 76149, 76151, 76800, 76808, 76809, 76825, 76832, 76894, 76896, 76916, 78033, 78037, 78057, 78067, 78071, 78077, 78081, 78083, 78089, 78091, 78097, 78103, 78347, 79001, 79023, 79070, 79073, 79215, 79311, 79347, 79501, 79519, 79523, 79539, 79541, 79543, 79551, 79559, 79563, 79565, 79573, 79803	69201, 69202, 69203, 69204, 69205, 69206, 69207, 69208, 69209, 69210, 69211, 69212, 69213, 69214
		12/10/12 AMEND: 926-3, 926-4, 926-5
		<b>Title 23</b>
		03/28/13 AMEND: 3930
		02/21/13 ADOPT: 3929.9
		01/28/13 ADOPT: 3677, 3677.1, 3677.2, 3677.3, 3677.4, 3677.5, 3677.6, 3680.1, 3680.2, 3681, 3682, 3682.1, 3682.2, 3682.3, 3682.4, 3682.5, 3682.6, 3683, 3683.1, 3683.2, 3683.3, 3683.4, 3684, 3685, 3686, 3687, 3689, 3700, 3701, 3701.1, 3701.2, 3702, 3702.1, 3702.2, 3702.3, 3702.4, 3702.5, 3702.6, 3702.7, 3703, 3709, 3712, 3712.1, 3712.2, 3715, 3716, 3719.6, 3719.8, 3719.10, 3719.11, 3719.14, 3719.15 AMEND: 3670, 3670.1, 3671, 3675, 3676, 3680, 3710, 3711, Renumber 3712 as 3711.1, Renumber 3713 as 3711.2, Renumber 3714 as 3713, Renumber 3715 as 3714, 3717, 3718, 3719, Renumber 3719.10 as 3719.1, Renumber 3719.11 as 3719.2, Renumber 3719.12 as 3719.3, Renumber 3719.13 as 3719.4, Renumber 3719.14 as 3719.5, Renumber 3719.15 as 3719.7, Renumber 3719.16 as 3719.9, Renumber 3719.17 as 3719.12, Renumber 3719.18 as 3719.13, Renumber 3719.19 as 3719.16 REPEAL: 3670.2, 3683, 3684, 3685, 3686, 3700, 3701, 3702, 3702.1, 3702.2, 3702.3, 3702.4, 3702.5, 3703, 3704, 3707, 3708, 3709, 3716
		12/17/12 ADOPT: 3949.9
		12/06/12 ADOPT: 3979.5
		<b>Title 25</b>
		03/27/13 ADOPT: 6932 REPEAL: 6932
		02/19/13 ADOPT: 1142, 1336.4, 2142, 4041.5 AMEND: 1002, 1018, 1020.9, 1034, 1038, 1048, 1102, 1180, 1317, 1320, 1333, 1335.5, 1336.2, 1422, 1438, 1462, 1606, 1750, 2002, 2018, 2020.9, 2034, 2038, 2048, 2102, 2112, 2317, 2327, 2328, 2422, 2438, 2496, 2750, 4011, 4040, 4050
		<b>Title 27</b>
		04/10/13 AMEND: 25805
		03/04/13 AMEND: 27000
		02/06/13 AMEND: 27001
		12/17/12 AMEND: 25705
		<b>Title 28</b>
		04/08/13 ADOPT: 1300.74.73
02/19/13	ADOPT: 70438.2	
02/11/13	ADOPT: 100144 AMEND: 100135, 100136, 100137, 100139, 100140, 100141, 100142, 100143, 100144, 100145, 100146, 100147, 100148, 100149, 100150, 100151, 100152, 100153, 100154, 100155, 100156, 100157, 100158, 100159, 100160, 100161, 100162, 100163, 100164, 100165, 100166, 100167, 100168, 100169, 100170, 100171, 100172, 100173, 100174, 100175	
01/25/13	AMEND: 100058, 100060, 100063, 100066, 100074, 100075, 100078, 100079, 100080, 100081	
01/09/13	AMEND: 70110, 70215, 70841, 71110, 71645, 72203, 72641, 73208, 73639, 74108, 74669, 76211, 76525, 76555, 76651, 76846, 76915, 78437 REPEAL: 70111, 70114, 71111, 73209, 74109	
01/07/13	AMEND: 66260.10, 66264.550, 66264.551, 66264.552, 66264.552.5, 66264.553, 67100.13, 67383.3, 67390.2, 67391.1, 67401.1, 67401.2, 67401.3, 67401.4, 67401.5, 67401.6, 67401.7, 67401.8, 67401.9, 67401.10, 67401.11, 67401.12, 67401.13 REPEAL: 69000, 69000.5, 69001, 69002, 69003, 69004, 69005, 69006, 69007, 69008, 69009, 69010, 69011, 69012, 69013, 69200,	

**Title MPP**

01/16/13 AMEND: 40-107, 42-301, 42-302,  
42-431, 42-712, 42-713, 42-721,  
44-133, 44-307, 44-316, 82-833  
01/14/13 AMEND: 40-105.4(g)(1), 44-111.23,  
44-113.2, 44-113.54(QR),  
44-315.39(QR), 89-201.513  
11/29/12 AMEND: 41-440, 42-716, 42-717,  
44-207

**2013 RULEMAKING CALENDAR**

*Special Note*

In an effort to conserve resources, the 2013 Rulemaking Calendar is being incorporated by reference into this edition of the California Regulatory Notice Register (CRNR).

The 2013 Rulemaking Calendar is accessible through the following means:

- (1) CD-ROM version. (Subscribers to the Notice Register automatically receive a CD-ROM.) You may order a CD-ROM by contacting Barclays Law Publishers at 1-800-888-3600 or by visiting their website at [barclaysccr.com](http://barclaysccr.com). The cost of the CD-ROM is \$6.00. You can print those portions of the calendar you are interested in from the CD-ROM.
- (2) The Office of Administrative Law's website at [www.oal.ca.gov](http://www.oal.ca.gov). You can print out those portions of the calendar you are interested in from the website.
- (3) Your nearest depository library. Go to [http://www.library.ca.gov/gps/gps\\_cal3.html](http://www.library.ca.gov/gps/gps_cal3.html) for a list of California depository libraries. In addition to the CD-ROM, these libraries will have the print copy of the Calendar.
- (4) A very limited number of hard copies are available. Please contact Barclays Law Publishers (see #1 above) for more information. The cost of the printed calendar is \$30.00. Subscribers may obtain at no extra charge a hard copy of the Rulemaking Calendar, if desired.