



California Regulatory Notice Register

REGISTER 2011, NO. 24-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JUNE 17, 2011

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Code — Notice File No. Z2011-0607-01 959

ADOPTION

STATE AGENCIES: Northern CA Medi-Cal Administrative Services—JPA

MULTI COUNTY

AGENCIES: Southern CA Home Financing Authority

AMENDMENT

STATE AGENCIES: Department of Finance

CA Travel & Tourism Commission

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Code — Notice File No. Z2011-0607-02 960

AMENDMENT

STATE: State Water Resources Control Board

State County of Education

MULTI COUNTY: Tulare County Board of Education

ADOPTION

STATE: Department of Forestry and Fire Protection

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Citrus Maturity — Notice File No. Z2011-0603-01 961

TITLE 17. AIR RESOURCES BOARD

Vapor Recovery Equipment Defects List — Notice File No. Z2011-0607-03 964

TITLE 18. FRANCHISE TAX BOARD

Sales Factor; Sales Other Than Sales of Tangible Personal Property in California — Notice File No. Z2011-0601-01 966

(Continued on next page)

*Time-Dated
Material*

GENERAL PUBLIC INTEREST

DEPARTMENT OF TRANSPORTATION

Reconsideration by F. Coats 972

OAL REGULATORY DETERMINATION

DEPARTMENT OF CORRECTIONS

2011 OAL Determination No. 8 (S)

California Code of Regulations, title 15, section 3084.1 973

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 974

Sections Filed, January 12, 2011 to June 8, 2011 976

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 codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

ADOPTION

State Agencies: Northern CA Medi-Cal Administrative Services—JPA

Multi-County Agencies: Southern CA Home Financing Authority

AMENDMENT

State Agencies: Department of Finance
CA Travel & Tourism Commission

A written comment period has been established commencing on **June 17, 2011** and closing on **August 1, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention Cyndi Glaser, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **August 1, 2011**. If a public hearing is to be held, oral comments, may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 327-5966.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Cyndi Glaser, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 327-5966.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODE

AMENDMENT

STATE: State Water Resources Control Board
State Board of Education

MULTICOUNTY: Tulare County Board of Education

ADOPTION

STATE: Department of Forestry and Fire Protection

A written comment period has been established commencing on **June 17, 2011** and closing on **August 1, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814.

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

to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **August 1, 2011**. 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 Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

Title 3. Food and Agriculture; Division 3. Economics
Chapter 1. Fruit and Vegetable Standardization
Subchapter 4. Fresh Fruits, Nuts and Vegetables;
Article 22. Citrus
(Notice published June 17, 2011)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend Title 3, Division 3, Chapter 1, Subchapter 4, Article 22, §1430.35, §1430.36, §1430.37, §1430.38, §1430.5, and §1430.6 of the California Code of Regulations (CCR) after considering all comments, objections, and recommendations regarding this proposed action.

PUBLIC HEARING

The Department will hold a public hearing starting at 10:00 a.m. on August 5, 2011, at the Visalia Veterans Memorial Building located at 609 W. Center Avenue, Visalia, CA 93292. The Visalia Veterans Memorial Building 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/Policy Statement Overview. 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. Comments may also be submitted via facsimile (FAX) at (916) 445-2427 or by e-mail to spatton@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on August 1, 2011**. The Department will only consider comments received at the Department by that time. Submit comments to:

Steve Patton, Compliance Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

AUTHORITY AND REFERENCE

Sections 14, 407, 42681, and 42684 of the Food and Agricultural Code authorize the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Sections 42681, 42684, and 42941 of the Food and Agricultural Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific minimum standards for navel citrus maturity.

Section 14 of the Food and Agricultural Code authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the Food and Agricultural Code grants the Secretary of the Department the authority to amend or repeal rules and regulations.

Section 407 of the Food and Agricultural Code authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which the Secretary is directed or authorized to administer or enforce.

Section 42681 of the Food and Agricultural Code specifies, in part, that the Secretary of the Department may prescribe methods of selecting samples of lots or containers of fruits, nuts, and vegetables on a basis of size or other specific classification, which are reasonably calculated to produce by such sampling fair repre-

sentations of the entire lots or containers which are sampled.

Section 42684 of the Food and Agricultural Code declares, in part, that the establishment and maintenance of minimum standards of quality and maturity for fruits, nuts, and vegetables is essential to ensure that products of acceptable and marketable quality will be available to the consumer. This section also provides that any quality and maturity standards adopted by the Secretary of the Department shall apply to the particular fruit, nut, or vegetable involved regardless of whether the item was produced in this state or outside of this state. Furthermore, this section establishes that the Secretary of the Department shall, in establishing, modifying, or rescinding any quality and maturity standard for any fruit, nut, or vegetable pursuant to this chapter, do all of the following: (1) find that the regulation will provide the consumer with acceptable quality fruits, nuts, and vegetables, which will also provide stability in the marketing of these products, (2) find that the regulation will tend to prevent waste in the production and marketing of fruits, nuts, and vegetables, (3) consider the impact of the regulation upon the agricultural industry, and (4) find that the regulation is necessary to accomplish the purposes of this chapter.

Section 42941 of the Food and Agricultural Code establishes that it is unlawful for any person to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported, or sell any fruits, nuts, or vegetables in bulk, or in any container or subcontainer, unless such fruits, nuts, and vegetables, and their containers, conform to specified provisions or the regulations promulgated thereunder.

The regulations proposed in this rulemaking action would replace the current soluble solids concentration to titratable acidity minimum maturity test for navel oranges with the California Standard Scale. The California Standard Scale is a measure calculated by subtracting titratable acidity times a constant from the soluble solids concentration. The soluble solids concentration to titratable acidity minimum maturity test for Valencia oranges is not proposed to be amended.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

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

Adoption of these regulations will not:

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

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. However, the Department does recognize that there could be a potential impact to some growers. Consequently, additional costs, if any, are unknown at this time. The regulations proposed in this rulemaking action would replace the current soluble solids concentration to titratable acidity minimum maturity test for navel oranges with the California Standard Scale. The Department has initially determined that adoption of the California Standard Scale for navel citrus would have a positive economic impact on the industry and benefit consumers because it would eliminate poor tasting navel oranges which currently meet minimum maturity standards.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Steve Patton, Compliance Chief
 Inspection and Compliance Branch
 California Department of Food and Agriculture
 1220 N Street, Sacramento, CA 95814
 Telephone: (916) 445-2180; Fax: (916) 445-2427

The backup contact person for these inquiries is:

Brian Cote, Special Investigator
 Inspection and Compliance Branch
 California Department of Food and Agriculture
 1220 N Street, Sacramento, CA 95814
 Telephone: (916) 445-2180; Fax: (916) 445-2427

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Brian Cote at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Suite 220, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice; the proposed text of the regulations; the initial statement of reasons; a petition received from Mr. Joel Nelsen, President, California Citrus Mutual, dated March 28, 2011, requesting all regulations concerning navel maturity be revised to replace the current minimum standard of 8:1 soluble solids concentration to titratable acidity (SSC/TA) ratio with the California Standard Scale minimum score of 90, and that all references to ratio be replaced with a corresponding California Standard Scale number; a letter from Dr. David Obenland, Research Plant Physiologist, United States Department of Agriculture, dated March 16, 2011, concerning the SSC/TA ratio and the California Standard Scale; a letter from Dr. Mary Lu Arpaia, Extension Specialist, University of California, Riverside, dated March 20, 2011, concerning the SSC/TA ratio and the California Standard Scale; a report from California Citrus Mutual, dated March 3, 2011, entitled Responding to the Marketplace: Providing the consumer with better early-season navel quality. The California Standard; a research paper authored by David Obenland et al. published in *Postharvest Biologist and Technology* 52 (2009) 156-163 entitled Determinants of flavor acceptability during the maturation of navel

oranges; a report prepared by Dr. Mary Lu Arpaia and Dr. David Obenland, dated June 2009, entitled Development of an Orange Maturity Standard that Assures Better Flavor and Promotes Increased Consumption; a document from the Product Market Association, dated April 2007, entitled Consumer Perceptions on Flavor and Taste; a study compiled by Rie Ishii et al., University of California, dated July 2007, entitled Consumer Perceptions of Oranges II; a research article published by Balaban Publishers, written by J.E. Pehrson and E.M. Ivans, dated March 1988, entitled Variability in Early Season Navel Orange Clone Maturity and Consumer Acceptance; a study written by Robert B. Jordan et al. published in *Food Technology*, Vol. 55, No. 6., entitled A Sensory-Based Alternative to Brix/Acid Ratio; a magazine article, dated March 2011, published in *The Packer* dated March 2011, entitled 2011 Fresh Trends; and, an e-mail from Mr. Bob Blakely, Director of Industry Relations, California Citrus Mutual, dated May 10, 2011, expressing support for the proposed text of the regulations as submitted. Copies may be obtained by contacting Brian Cote at the address or phone number listed on the previous page.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Brian Cote at the address provided on the previous page.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

**TITLE 17. CALIFORNIA AIR
RESOURCES BOARD**

**NOTICE OF PUBLIC COMMENT PERIOD
ON PROPOSED AMENDMENTS TO THE
LIST OF EQUIPMENT DEFECTS THAT
SUBSTANTIALLY IMPAIR THE
EFFECTIVENESS OF GASOLINE VAPOR
RECOVERY SYSTEMS**

The Executive Officer of the Air Resources Board (ARB or Board) is proposing to amend the list of equipment defects that substantially impair the effectiveness of gasoline vapor recovery systems used in motor vehicle refueling operations. Health and Safety Code (Health & Saf. Code) section 41960.2(c) requires the Executive Officer to adopt and periodically update the list of defects, which is incorporated by reference in section 94006, title 17, California Code of Regulations (CCR), and is otherwise known as the Vapor Recovery Equipment Defects (VRED) List. Such defects are sufficiently egregious to warrant the removal of the fueling point from service until the defect is repaired.

Written comments on the proposed regulatory amendments must be received by August 3, 2011 in order to be considered by the Executive Officer. No oral public hearing is currently scheduled but you may by July 20, 2011, request the Executive Officer to conduct a public hearing. If an oral public hearing is requested by that date, it will be scheduled to be conducted by the Executive Officer or his or her delegate pursuant to the authority set forth in sections 39515 and 39516 of the Health & Saf. Code. Notice of the time, date, and place of the hearing will be provided by separate notice.

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

Sections Affected: Proposed amendment to California Code of Regulations, title 17 section 94006(b) and the VRED List (adopted September 23, 2002 and last amended June 17, 2008) that is incorporated by reference therein. Staff is recommending that the Executive Officer approve the proposed amendments to the VRED List as described herein.

Background: In accordance with section 41954 of the Health & Saf. Code, ARB certifies systems for the control of gasoline vapors resulting from motor vehicle fueling operations. The certification is accomplished by the issuance of an Executive Order (EO) identifying the system that is certified and the conditions of certification. The sale or installation of an uncertified system is prohibited.

Section 41960.2(c) of the Health & Saf. Code requires the Executive Officer of ARB to: 1) identify and list equipment defects in systems for the control of gasoline vapors resulting from motor vehicle fueling operations that substantially impair the effectiveness of the systems in reducing air contaminants, and 2) periodically update the list to reflect changes in equipment technology or performance. The initial list of defects was developed in 1982 and was most recently updated in 2008. The current VRED List identifies each Executive Order certifying a system and lists the defects in each system that substantially impairs the effectiveness of the system.

The Executive Officer is proposing amendments to the VRED List in order to improve the effectiveness of the vapor recovery program by enhancing the ability of enforcement personnel and gasoline dispensing facility (GDF) operators to identify and repair those defects that could significantly impact the effectiveness of the vapor recovery system. Inspectors from air pollution control districts and air quality management districts periodically inspect GDFs to ensure they are in good working order. When a component on the VRED List is documented by an inspector to contain a listed defect, Health & Saf. Code section 41960.2(d) requires that the equipment be removed from service until it has been replaced, repaired, or adjusted and reinspected by air district personnel.

The proposed amendments would update the current VRED List in one of three ways: 1) inclusion of defects for equipment certified in EOs signed since the last amendment to the existing VRED List; 2) new defect verification procedures; and 3) editorial changes to remove minor inconsistencies, and improve clarity. Staff of ARB believes that amending the current VRED List will enhance the ability of anyone using it to identify, and repair or replace, those defects that could significantly affect the effectiveness of gasoline vapor recovery systems.

**AVAILABILITY OF DOCUMENTS AND
AGENCY CONTACT PERSONS**

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed action, which includes a detailed explanation of the proposed amendments and a summary of the potential environmental and economic impacts of the proposal. The report is titled "Staff Report: Initial Statement of Reasons for Proposed Amendments to the List of Equipment Defects that Substantially Impair the Effectiveness of Gasoline Vapor Recovery Systems."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations,

may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on June 15, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed amendments should be directed to Ranjit Bhullar, Manager of the Vapor Recovery In-Use Program Section, at (916) 322-0223 or Melinda Weaver, Air Pollution Specialist, at (916) 322-8918.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB website for this rulemaking at www.arb.ca.gov/regact/2011/vrdef11/vrdef11.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This deter-

mination is based on the fact that the proposed regulatory action establishes no new requirements, but rather clarifies existing defects. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined pursuant to California Code of Regulations, title 1, section 4 that the adoption of the proposed regulatory action does affect small business. It makes compliance with existing regulations easier by clarifying the requirements.

The Executive Officer is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, since avoidance or repair of the listed defects is already required.

Before taking final action on the proposed regulatory action, the Executive Officer must determine that no reasonable alternative considered by the Executive Officer, or otherwise identified and brought to the attention of the Executive Officer would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Executive Officer has determined no effective or less burdensome reasonable alternative exists.

SUBMITTAL OF COMMENTS

This regulatory proceeding will be conducted through the submittal of written documents. No oral public hearing is currently scheduled.

Written comments on this regulatory proposal must be received **no later than 5:00 p.m., August 3, 2011**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California
95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

As stated above, no oral public hearing is scheduled at this time. However, an oral public hearing will be scheduled if any interested person or his or her duly authorized representative requests such a hearing no later than 15 days prior to the close of the written comment period which is July 20, 2011. The request for a hearing may be submitted in the same manner as written comments.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

STATUTORY AUTHORITY

This regulatory action is proposed in accordance with the authority granted to ARB and the Executive Officer in sections 39600, 39601, and 41960.2 of the Health & Saf. Code. This action is proposed to implement, interpret, and make specific sections 41954 and 41960.2 of the Health & Saf. Code.

REGULATORY AMENDMENT PROCEDURES

This regulatory proceeding will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the close of the comment period, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for additional written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text, if applicable, from ARB's Public Information Office, Visitor and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

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 to be held at 1:00 p.m., August 10, 2011, at 9645 Butterfield Way, Town Center, Golden State Room A/B, Sacramento, California, to amend section 25136 under Title 18 of the California Code of Regulations, pertaining to sales of other than tangible personal property.

An employee of the Franchise Tax Board will conduct the hearing. Interested persons are invited to present comments, written or oral, concerning the proposed regulatory action. It is requested, but not required, that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

Government Code section 15702, subdivision (b), provides for consideration by the three-member Franchise Tax Board of any proposed regulatory action if any person makes such a request in writing.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., August 10, 2011. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer below.

AUTHORITY AND REFERENCE

Section 19503 of the Revenue and Taxation Code (RTC) 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) of the Revenue and Taxation Code. RTC section 25136, subdivision (c), specifically provides that “[t]he Franchise Tax Board may prescribe those regulations as necessary or appropriate to carry out the purposes of subdivision (b).” The proposed regulatory action interprets, implements, and makes specific section 25136, subdivision (b), of the Revenue and Taxation Code.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Taxpayers who have business activities within and without California are required to determine the amount of income properly attributed to activities in California by use of the Uniform Division of Income for Tax Purposes Act (UDITPA), and RTC Section 25120 et seq. Under UDITPA, business income is assigned to a state either through the application of a three-factor apportionment formula that separately compares a business’ property, payroll and sales within California to those values everywhere or a single sales factor formula, if elected by the taxpayer, which compares a business’ sales within California to sales everywhere. Under the three-factor apportionment formula, as applied by California, the percentages are added together, with the sales factor counted twice (see RTC section 25128), and the resulting sum of these four factors is then divided by four. Under the single sales factor formula which becomes operative for taxpayers who elect it for tax years beginning on or after January 1, 2011, the taxpayer’s sales factor percentage (sales within California divided by sales everywhere) is applied to the business income of the taxpayer to determine the percentage of business income attributable to California.

The sales factor component of the UDITPA apportionment formula has three assignment rules. Sales of tangible personal property are generally assigned to the location of the customer (the “destination” rule contained in RTC section 25135). Sales of other than tangible personal property are assigned to a jurisdiction based on either (1) where the income-producing activity/costs of performance related to the sale occurs (RTC section 25136(a)), or (2) if the taxpayer makes a single sales factor election, sales of other than tangible personal property are assigned to the numerator of the sales factor based upon the location where the benefit of the services was received or the location of the use of the intangibles (25136(b)).

The proposed regulations address the assignment rules set forth in RTC section 25136, subdivision (b), and are meant to supply additional guidance pertaining to how to determine where the benefit of the service is

received, and where intangibles are used, by the purchaser of the taxpayer’s services or intangibles. The regulation is divided into various subsections.

Subsection (a) of the regulation states the general rule that sales of other than tangible personal property are in this state if the taxpayer’s market is in this state. These market-based rules for assignment of sales of other than tangible personal property are in addition to those described in RTC section 25135, which contains the rules for assignment of sales of tangible personal property.

Subsection (b) defines terms contained within the regulation.

In subsection (b)(1) the term “benefit of a service is received” is defined as the location where the taxpayer’s customer has either directly or indirectly received value from the delivery of a service.

The examples in subsection (b)(1) are provided to illustrate where the benefit of a service is received for purposes of the statute in specific situations.

In subsection (b)(2) the term “service” is defined as consisting of activities engaged in by one for another for consideration. The definition excludes activities outside the taxpayer’s regular course of business as well as activities undertaken for other members of the taxpayer’s unitary business.

Subsection (b)(3) defines the term “cannot be determined” as meaning that the taxpayer’s records, or the records of the taxpayer’s customer available to the taxpayer, do not indicate the location where the benefit of the service was received or where the intangible property was used. The alternative method is a reasonable approximation of the taxpayer’s market and is defined and discussed below.

In subsection (b)(4) the definition of “commercial domicile” is defined as the place where the trade or business is directed or managed by the taxpayer.

Subsection (b)(5) lists, without limitation, twenty-two (22) specific terms and ends with the catch-all, “other similar intangible assets.”

In subsections (b)(5)(A), (B) and (C), the terms “marketing intangible,” “non-marketing and manufacturing intangible,” and “mixed intangible” are defined using existing Massachusetts law on assignment of intangible property. A “marketing intangible” is intangible property whose value lies predominantly in the marketing of the intangible property. A “non-marketing and manufacturing intangible” is intangible property where the value of the intangible property lies predominately in its non-marketing or manufacturing use. “Mixed intangible” is intangible property whose value includes both the license of a marketing intangible property and a license of a non-marketing or manufacturing intangible property.

In subsection (b)(6) the term “intangible personal property is used” is defined as the location where the intangible property is employed by the taxpayer’s customer or licensee.

In (b)(7) the term “reasonably approximated” is defined by reference to the business of the taxpayer’s customer. Publicly available information, including population, may be used. Information that is specific in nature is preferred over information that is general in nature.

In subsection (b)(8) the term “to the extent” is defined to make clear that a receipt is to be divided proportionally between states when it relates to activities in more than one state.

Subsection (c) addresses assignment of sales from services to the extent that the benefit of the service is received in this state by the taxpayer’s customer. This introductory language mirrors the language of the underlying statute, RTC section 25136, subdivision (b), and is segue to the cascading rules below.

Subsection (c)(1) sets forth the billing address as the primary rule for assigning sales of services where the taxpayer’s customer is an individual. Subsection (c)(1) also provides a safe harbor rule for taxpayers so that if the taxpayer uses the individual customer’s billing address as the mechanism for assignment of the sales, then the Franchise Tax Board must accept this presumptively correct assignment.

Subsection (c)(1)(A) sets forth the secondary rule for assignment which is applicable only when the taxpayer establishes by a preponderance of evidence that either the contract between the taxpayer and its customer or the taxpayer’s books and records kept in the regular course of its business indicate the extent to which the benefit of the service was received in this state. If the taxpayer uses this alternative method of assigning the sales, this subsection allows the Franchise Tax Board the right to audit the alternative method to determine whether or not the taxpayer has overcome the presumption that the benefit of the service was received at the customer’s billing address and also that the taxpayer’s method reasonably reflects where the benefit of the service was received by the taxpayer’s customers.

If the assignment cannot be determined under the alternatives set forth in subsections (c)(1) and (c)(1)(A), then subsection (c)(1)(B) states the determination of the location shall be reasonably approximated.

Subsection (c)(1)(C) provides examples for how the cascading rules in subsection (c)(1) operate. Example 1 illustrates assignment under subsection (c)(1). Example 2 provides an example of when the billing address presumption is overcome and assignment under subsection (c)(1)(A) is proper. Example 3 illustrates when the billing address presumption is not overcome by the taxpayer and therefore assignment under subsection

(c)(1) is proper. One more example needs to be added to illustrate assignment by reasonable approximation under subsection (c)(1)(B).

Subsection (c)(2) addresses assignment of sales where the benefit of the services was received by corporate or other business entities.

Subsection (c)(2)(A) sets forth the first rule of assignment, which provides that the contract between the taxpayer and the taxpayer’s customer or the taxpayer’s books and records are presumed to establish the location of where the benefit of the service is received, notwithstanding the billing address of the taxpayer’s customer. The presumption may be overcome by a preponderance of the evidence that the contract and the books and records do not indicate the actual location of where the benefit of the service was received.

Subsection (c)(2)(B) sets forth the second rule of assignment that the location where the benefit is received is to be reasonably approximated by reference to the activities of the taxpayer’s customer. The second rule only applies if the presumption in favor the first assignment rule is overcome.

Subsection (c)(2)(C) sets forth the third rule of assignment which is the location from which the taxpayer’s customer placed the order for the service. This rule only applies if where the benefit was received cannot be determined under the first two rules provided in subsections (c)(2)(A) and (B). This provision is the third-in-line cascading rule that seeks to establish the taxpayer’s market in the event of a lack of best evidence, i.e. the contract, the taxpayer’s books and records, and the inability to reasonably approximate the location of the taxpayer’s market. This alternative is only available in the event the first two cascading rules cannot determine the location where the benefit of the service was received.

Subsection (c)(2)(D) sets forth the final rule of assignment as the taxpayer’s customer’s billing address. This final rule is a catch-all when none of the provisions above can establish the location where the benefit of the services was received.

Subsection (c)(2)(E) gives examples showing how the cascading rules in subsection (c)(2) operate. Examples 1, 2 and 3 illustrate assignment under subsection (c)(2)(A) using a taxpayer’s books and records. Example 4.a illustrates assignment under subsection (c)(2)(A) using a taxpayer’s books and records and example 4.b illustrates assignment under subsection (c)(2)(B) by reasonably approximating where the benefit of the services was received. Example 5.a illustrates assignment under subsection (c)(2)(C) when the first three cascading rules are unavailable and the sale must be assigned to the location from where the services were ordered and example 5.b illustrates subsection (c)(2)(D) where the first four cascading rules are un-

available and the sale must be assigned to the customer's billing address.

Subsection (d) addresses assignment of sales from intangible property. Sales are assigned to this state to the extent the intangible property is used in this state.

Subsection (d)(1) addresses assignment of sales from intangible property where a complete transfer of all property rights for a jurisdiction or jurisdictions has been made.

Subsection (d)(1)(A) sets forth the first assignment rule for a sale where a complete transfer of all rights in intangible property has occurred. It provides that if the contract between the taxpayer and the purchaser indicates the extent of the location[s] where the purchaser will use intangible property at the time of purchase, then the assignment will be on that basis. Subsection (d)(1)(A) continues by stating that if the contract or the taxpayer's books and records do not specify where the purchaser will use the property, then the use the taxpayer made of the intangible property prior to the purchase will be used. The presumption may be overcome by a preponderance of the evidence that the actual location of the use by the purchaser is not consistent with the terms of the contract or the taxpayer's books and records.

Subsection (d)(1)(B) provides that if the assignment cannot be made by subsection (d)(1)(A), then the location of the use of the intangible property shall be reasonably approximated by reference to the activities of the purchaser, limited to the jurisdictions where the purchaser will use the intangible at the time of the purchase, to the extent this information is available to the taxpayer. This rule assumes that the purchaser will use the intangible where it is doing business at the time of purchase. This rule also contains a limitation that the taxpayer cannot assign the use of the intangible to places where the purchaser does not conduct its business at the time of purchase.

Subsection (d)(1)(C) provides the final place of assignment as the billing address of the purchaser. This is a catch-all rule and only applies if assignment cannot be made under subsection (d)(1)(A) or (B).

Subsection (d)(1)(D) provides examples showing how the cascading rules in subsection (d)(1) operate. Example 1 involves a sale of 100% of the stock in a business and makes the assignment based upon where the assets controlled by the intangible are located and will be used by the purchaser. This is accomplished by reference to the apportionment factors of the subsidiary that is sold. This is an application of the subsection (d)(1)(A) rule. Example 2 illustrates an assignment under the second rule based upon the taxpayer's knowledge of where the purchaser was doing business under subsection (d)(1)(B). Example 3 illustrates circum-

stances when the final alternative, the purchaser's billing address, under subsection (d)(1)(C) would apply.

Subsection (d)(2) sets forth the rules for assigning receipts from the licensing, leasing, rental or other use of intangible property, as defined in subsection (b)(5), not including sales of intangible property provided for in paragraph (1).

Subsection (d)(2)(A), entitled "Marketing intangibles," provides the rules for the assignment of sales where a license is granted to use intangible property in connection with the marketing of goods, services or other items to customers in this state. The receipts from these types of licensing agreements are assigned to the location of the retail customers who purchased the goods, services or other items that are marketed in connection with the intangible property.

Subsection (d)(2)(A)1 sets forth the first rule of assignment that the contract between the taxpayer and the licensee or the taxpayer's books and records will establish the extent to which the goods are purchased by retail customers in this state, in which case the sales will be assigned to this state.

Subsection (d)(2)(A)2 provides that if the information is not available to assign the sales pursuant to subsection (d)(2)(A)1, the location of the use of the intangible property (the retail customers of the licensee) is to be reasonably approximated by reference to the activities of the taxpayer's purchaser (the licensee) to the extent such information is available to the taxpayer. Reasonable approximation can include a population proxy, but may only be based on population data where the licensee uses the intangible to market goods.

Subsection (d)(2)(A)3 provides a special rule where the licensee does not sell directly at retail and therefore neither the taxpayer nor the licensee would have information on where retail sales occur. Where the sale is at the wholesale level rather than to retail customers, then the taxpayer may use the percentage of this state's population to the total population of the geographic area in which the licensee markets its goods. A limitation is provided that the population of foreign countries can only be used if the intangible is materially used in marketing goods in a foreign country.

Subsection (d)(2)(B), entitled "Non-marketing and manufacturing intangibles," provides the rules for assignment of sales where a license is granted for the right to use intangible property in a manufacturing process or for another non-marketing purpose. This type of sale is assigned to the location where the intangible property is used, i.e. the manufacturing plant or other place of use, rather than the location of the ultimate consumer who purchases the manufactured product.

Subsection (d)(2)(B)1 provides that the primary rule that the contract between the taxpayer and its licensee,

or the taxpayer's books and records, is presumed to indicate the extent of the use of the intangible property in this state. Either the taxpayer or the Franchise Tax Board may rebut this presumption by showing that the place of use is not shown by the contract or the taxpayer's books and records.

Subsection (d)(2)(B)2 provides the second rule of assignment that the location of the use of the intangible property is to be reasonably approximated by reference to the activities of the licensee to the extent this information is available to the taxpayer. This second rule only applies if the first rule cannot be applied.

Subsection (d)(2)(B)3 provides a third rule of assignment which is the state of the licensee's billing address. This rule only applies if the first two rules cannot be applied. This is a catchall rule and only applies if assignment cannot be made under subsection (d)(2)(B)1 or 2.

Subsection (d)(2)(C), entitled "Mixed Intangibles," provides the segue for the rules for assignment of those sales where a license is granted for the right to use intangible property in both a marketing and manufacturing or other non-marketing purpose.

Subsection (d)(2)(C)1 provides that where the fees for the marketing are separately stated in the licensing contract from the fees for the manufacturing or other non-marketing purpose, then the fees shall be assigned based on that separate statement. However, if the separate statement is not reasonable, then the Franchise Tax Board may use a reasonable method that accurately reflects each use of the intangible property.

Subsection (d)(2)(C)2 provides that where the fees are not separately stated, then it is presumed that the fees are paid entirely for the intangible property in connection with the marketing of goods, services or other items. Either the taxpayer or the Franchise Tax Board is allowed to establish that the fee was not paid exclusively for marketing.

Subsection (d)(2)(D) provides examples for how to assign sales in connection with the licensing of intangible property in subsections (d)(2)(A), (B) and (C) above. Example 1 illustrates assignment pursuant to subsection (d)(2)(A)1 in connection with a marketing intangible where the licensing fees are based on a percentage of total products sold in each state. Example 2 illustrates assignment pursuant to subsection (d)(2)(A)2 in connection with a marketing intangible using a reasonable approximation method. Example 3 illustrates an assignment pursuant to subsection (d)(2)(B)1 in connection with a non-marketing intangible using the taxpayer's contract and books and records. Example 4 illustrates an assignment pursuant to subsection (d)(2)(C)2 in connection with mixed intangibles under an agreement which does not separately state marketing and manufacturing licensing fees. Example 5 illustrates an assignment pursuant to subsection

(d)(2)(C)1 in connection with a mixed intangible under an agreement that does separately state marketing and manufacturing licensing fees. Examples need to be added to show assignment pursuant to subsections (d)(2)(A)3, (d)(2)(B)2 and 3, and (d)(2)(C)1.

Subsection (e) provides that sales from the sale, lease, rental or licensing of real property is in this state if the real property is located in this state.

Subsection (f) provides that sales from the rental, lease, or licensing of tangible personal property are in this state if the tangible personal property is located in this state. There is an example provided.

Subsection (g) provides introductory language to the special rules for this regulation.

Subsection (g)(1) states that the Franchise Tax Board must consider the effort, expense and resources required of a taxpayer to obtain the necessary information to assign sales under RTC section 25136, subdivision (b). The Franchise Tax Board may accept a reasonable approximation where appropriate such as when a smaller business cannot develop the necessary data from its financial records kept in the regular course of its business. An example is provided.

Subsection (g)(2) provides that in determining customers' or licensees' use of intangible property in connection with "Marketing Intangibles" under subsection (d)(2)(A)2, factors to be considered include the number of licensed sites in each state, the volume of property manufactured, produced or sold in each state, or other data including population. This language provides guidance as to how to "reasonably approximate" marketing intangibles.

Subsection (g)(3) segues for special rules in determining reasonable approximation of the location of the market for the benefit of the services or the location of the use of intangible property.

Subsection (g)(3)(A) states that once a taxpayer has used a particular reasonable approximation method under any provision of the regulation, then the taxpayer must continue to use that method in subsequent taxable years. To use a different method the taxpayer must seek permission of the Franchise Tax Board.

Subsection (g)(3)(B) states that the method of reasonable approximation must reasonably relate to the income of the taxpayer. For instance, if the taxpayer includes countries in its reasonable approximation for which no sales exist, then the taxpayer's method for reasonable approximation does not reasonably relate to its income.

Subsection (g)(4) incorporates, with appropriate modifications, provisions under CCR section 25137 into the regulations under section 25136(b). Subsection (g)(4)(A) provides that references in the regulations promulgated under RTC section 25137 that refer to RTC section 25136 and CCR section 25136 shall, for

purposes of section 25136(b), refer to RTC section 25136, subdivision (b), and CCR section 25136(b). Subsection (g)(4)(B) states that CCR section 25137(c)(1)(C) [Special Rules. Sales Factor] is not applicable. Subsection (g)(4)(C) states that the provisions in CCR section 25137-3 [Franchisors] that relate to the taxpayer not being taxable in a state are not applicable. Subsection (g)(4)(D) states that the provisions in CCR section 25137-4.2 [Banks and Financials] that relate to income-producing activity and costs of performance and throwback are not applicable. Subsection (g)(4)(E) states that the provisions in CCR section 25137-12 [Print Media] that relate to a taxpayer not being taxable in another state and the sale's inclusion in the sales factor numerator if the property had been shipped from this state is not applicable.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandates on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

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

Cost to directly affected private persons/businesses potential: The Board is not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on the creation or elimination of jobs in the state: The Board is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently operating in the state. The Board has made an initial determination that the proposed regulation will not have an effect on any of the above, but invites interested parties to comment on this issue.

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

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

Effect on small business: The department has made an initial determination that the adoption of the proposed regulation will not affect small businesses as generally multi-state corporations are not considered small businesses and this proposed regulation will apply only to multi-state corporations. However, the Board invites public comments on the question of economic impact on small businesses.

Significant effect on housing costs: The Board is not aware of any significant effect on housing costs that will be incurred by reasonable compliance with the proposed regulation.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose of this proposed regulation or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

The express terms of the proposed text of the regulation, the initial statement of reasons and the rulemaking file are prepared and available upon request from the agency contact person named in this notice. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board's website identified below.

CHANGE OR MODIFICATION OF ACTIONS

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

The regulation may also be adopted with modifications if the changes are nonsubstantial or the resulting regulation is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulation as modified could result from that originally proposed. The text of the regulation as modified will be made available to the public at least 15 days prior to the date on which the regulation

is adopted. Requests for copies of any modified regulation should be sent to the attention of the agency officer named below.

ADDITIONAL COMMENTS

If you plan on attending or making an oral presentation at the regulation hearing, please contact the agency officer named below.

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

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at Franchise Tax Board, Legal Division, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Telephone (916) 845-3306; Fax (916) 845-3648; E-Mail: colleen.berwick@ftb.ca.gov. In addition, all questions on the substance of the proposed regulation can be directed to Melissa Potter; Telephone (916) 845-7831. This notice, the initial statement of reasons and express terms of the proposed regulation are also available at the Franchise Tax Board's website at www.ftb.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF TRANSPORTATION

June 1, 2011

Mr. Francis E. Coats

Dear Mr. Coats:

On May 2, 2011, you timely petitioned the California Department of Transportation (Caltrans) to reconsider its denial of your March 25, 2011, petition to adopt a regulation defining the term "navigable river" as used in California Streets and Highways Code section 84.5 "to mean a watercourse susceptible to use for recreational purposes by persons using small boats." Although Caltrans declined to adopt a regulation pursuant to your request, it did change the Manual provisions you identified* in your initial correspondence to omit the

definitions you challenged. Caltrans reiterates that it shall not use, enforce, or attempt to enforce the previous definition of navigable river in the challenged sections of the Project Development Procedures Manual or the Local Assistance Procedures Manual which defined navigable rivers to mean those which required a U.S. Coast Guard permit.

You have subsequently identified another instance of "navigable river" used in a Caltrans publication which is presently under review. Caltrans has also begun a comprehensive search for other instances of definitions in its publications that rely exclusively upon the U.S. Coast Guard standard to interpret the term "navigable river." Management at Caltrans continues to apprise staff of the pertinent changes to the affected Manuals.

DECISION REGARDING PETITION FOR RECONSIDERATION OF DENIAL OF REQUEST TO PROMULGATE A REGULATION DEFINING "NAVIGABLE RIVER" AS USED IN CAL. STS. & HYS. § 84.5

This letter is also to inform you that, pursuant to Section 11340.7 of the California Government Code, and after the reconsideration triggered by your request for same on May 2, 2011, Caltrans declines "to adopt a regulation interpreting the term 'navigable river' as it appears in Section 84.5 of the Streets and Highways Code to mean a watercourse susceptible to use for recreational purposes by persons using small boats."

The substantive reasons for denying your petition are as follows:

- The definition you propose is over-inclusive insofar as "watercourse" is broader than "river." Canals, channels, aqueducts, aquifers, and other watercourses, for example, are certainly not rivers and such a definition would exceed the scope of section 84.5.
- The proposed definition is also under-inclusive in that it might exclude rivers under the jurisdiction of the U.S. Coast Guard which are navigable in the traditional sense or which are enumerated in the Harbors and Navigation Code but which are not amenable to recreational boating.

A copy of this correspondence will be transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register at the earliest practicable date. It will identify you as the requesting party (your personal identifying information will be redacted) and Caltrans as the responding agency. Copies of the petition and ensuing documentation will be made available upon request.

If you have any additional questions, comments, or concerns, please contact Matthew B. George, Deputy Attorney, at (916) 654-2630.

* Local Assistance Procedures Manual, Chapter 8, Section 8.7 and Project Development Procedures Manual, Chapter 8, Article 6, pps. 8-59 through 8-60 and Appendix K, Article 2, section 7.

Thanks again for your interest.

Sincerely,

/s/

MALCOLM DOUGHERTY

Acting Director

c: Office of Administrative Law

**OAL REGULATORY
DETERMINATION**

OFFICE OF ADMINISTRATIVE LAW

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

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

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

DEPARTMENT OF CORRECTIONS

Date: June 2, 2011
 To: Edward Jones
 From: Chapter Two Compliance Unit
 Subject: **2011 OAL DETERMINATION NO. 8(S)
(CTU2011-0418-02)**
 (Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation California Code of Regulations, title 15, section 3084.1

On April 18, 2011, you submitted a petition to the Office of Administrative Law (OAL) asking for a deter-

mination as to whether California Code of Regulations, title 15, section 3084.1 constitutes an underground regulation. The challenged rule is attached hereto at Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted pursuant to the APA, it may be an "underground regulation" as defined in California Code of Regulations, title 1, section 250:

The following definitions shall apply to the regulations contained in this chapter:

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

The section you challenge as an underground regulation, California Code of Regulations, title 15, section 3084.1 was properly adopted and filed with the Secretary of State pursuant to the APA on May 18, 1989, as an emergency regulation. The Certificate of Compliance for the emergency regulation was properly adopted and filed with the Secretary of State pursuant to the APA on October 10, 1989. The section has been amended several times. The most recent amendment to the section was properly adopted as an emergency and filed with the Secretary of State pursuant to the APA on December 13, 2010, and operative on January 28, 2011. The Certificate of Compliance for this emergency must be submitted to OAL for review no later than July 7, 2011, for review or the emergency language will be repealed by operation of law on the following day.

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

For the reason discussed above, we find that the rule challenged by your petition is not an underground regulation.²

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

/s/
Debra M. Cornez
Assistant Chief Counsel/
Acting Director

/s/
Kathleen Eddy
Senior Counsel
Copy: Matthew Cate

**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.

² The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

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

File# 2011-0422-02
BOARD OF OCCUPATIONAL THERAPY
Disciplinary Guidelines

This rulemaking action renumbers section 4144 to section 4147 of Title 16 of the California Code of Regulations to incorporate by reference and amend the Board's Disciplinary Guidelines manual to add a section on Uniform Standards Related to Substance Abuse. The subject areas addressed by these Uniform Standards include: diagnostic and evaluation reports, work-site monitoring requirements, consequences for positive drug tests, distinctions between major and minor violations, drug testing standards, conditions of probationary practice, and conditions for license reinstatement. The rulemaking also incorporates by reference and amends two probationary period reporting forms.

Title 16
California Code of Regulations
AMEND: 4144 now 4147
Filed 06/06/2011
Effective 07/06/2011
Agency Contact: Heather Martin (916) 263-2294

File# 2011-0425-02
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Documentation of Critical Information

This rulemaking action amends Title 15 section 3378 of the California Code of Regulations to clarify what evidence can be considered a direct link for gang validation.

Title 15
California Code of Regulations
AMEND: 3378
Filed 06/02/2011
Effective 07/02/2011
Agency Contact: Gail Long (916) 341-7329

File# 2011-0503-03
DEPARTMENT OF JUSTICE
Department of Motor Vehicles bond form

This action revises the Vehicle Verifier Surety Bond Form. This is submitted for filing with the Secretary of State and printing in the CCR only.

Title 11
California Code of Regulations
AMEND: 51.2
Filed 06/01/2011
Effective 06/01/2011
Agency Contact: Karen W. Yiu (415) 703-5385

File# 2011-0503-04
DEPARTMENT OF JUSTICE
Department of Motor Vehicles bond form

The Department of Justice is amending the Dealer Surety Bond found at title 11, section 51.7, California Code of Regulations.

Title 11
 California Code of Regulations
 AMEND: 51.7
 Filed 06/06/2011
 Effective 06/06/2011
 Agency Contact: Karen W. Yiu (415) 703-5385

File# 2011-0428-01
 DEPARTMENT OF PUBLIC HEALTH
 General License Requirements

This regulatory action makes some amendments to the requirements for a general license allowing a person to possess and use certain types of devices containing radioactive material (RAM) or specific amounts of RAM isotopes. The purpose of these changes is to maintain California's continuing compatibility with the U.S. Nuclear Regulatory Commission regulations.

Title 17
 California Code of Regulations
 ADOPT: 30108.1, 30226 AMEND: 30108, 30115, 30125, 30145, 30190, 30191, 30192, 30192.1, 30192.2, 30192.3, 30192.4, 30192.5, 30192.6, 30225, 30257 REPEAL: 30236
 Filed 06/08/2011
 Effective 07/08/2011
 Agency Contact: Marylyn Willis (916) 440-7807

File# 2011-0422-04
 DEPARTMENT OF SOCIAL SERVICES
 Social Worker Visits

The Department of Social Services (Department) amended sections 31-002, 31-003, 31-075, 31-206, 31-320, 31-505, and 31-510 of the Department's Manual of Policies and Procedures to require that foster children be visited monthly by a caseworker with a majority of those visits occurring in the child's home and who is qualified to visit the child and what the visits should include. The Department withdrew the proposed changes to sections 31-003(s) and 31-075.3(s) which had to do with forms.

Title MPP
 California Code of Regulations
 AMEND: 31-002, 31-075, 31-206, 31-320, 31-505, 31-510
 Filed 06/02/2011
 Effective 07/02/2011
 Agency Contact:
 Zaid Dominguez (916) 651-8267

File# 2011-0422-08
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Ventilation & Personal Protection Equipment Requirements for Open Surface Tanks

This Section 100 action corrects an incorrect internal cross-reference in a provision requiring persons working in open-surface tanks to be instructed as to hazards and safeguards of their respective jobs as required by section 5194(h), Hazard Communication, Employee Information and Training.

Title 8
 California Code of Regulations
 AMEND: 5154(j)(1)
 Filed 06/02/2011
 Agency Contact: Marley Hart (916) 274-5721

File# 2011-0427-01
 STATE WATER RESOURCES CONTROL BOARD
 Water Quality Control Plan for Enclosed Bays and Estuaries — Part 1

The State Water Resources Control Board submitted this action to amend the Water Quality Control Plan for Enclosed Bays and Estuaries, Part 1, Sediment Quality (SQO Plan, Part 1), which was adopted in 2008. The amendments, as adopted on April 6, 2011, modify the regulatory provisions of the SQO Plan, Part 1 to include the following:

- * A narrative sediment quality objective that protects wildlife and resident finfish from both direct exposure to toxic pollutants in sediment and indirect exposure to pollutants in sediment that bioaccumulate up the food web
- * A requirement to utilize ecological risk assessment to implement this narrative
- * Additions to the glossary and supersession language to provide additional clarity

Title 23
 California Code of Regulations
 AMEND: 3006
 Filed 06/08/2011
 Effective 07/08/2011
 Agency Contact: Chris Beegan (916) 341-5577

File# 2011-0505-01
 STATE WATER RESOURCES CONTROL BOARD
 Central Coast San Lorenzo River Watershed Basin Plan Amendment Pathogen

This action approves the Central Coast Regional Board's plan to remove the shellfish harvesting beneficial use designation from the San Lorenzo River Estuary, prohibit the discharge of human and animal fecal waste on lands in the watershed, and establish the Total Maximum Daily Load for pathogens in the San Lorenzo

River Estuary, San Lorenzo River, Branciforte Creek, Camp Evers Creek, Carbonera Creek and Lompico Creek.

Title 23

California Code of Regulations

ADOPT: 3929.6

Filed 06/08/2011

Effective 06/08/2011

Agency Contact:

Michael Buckman (916) 341-5479

File# 2011-0426-01

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

Claims for Erroneously Convicted Persons

This change without regulatory effect will add the option for the claimant to provide the email address for the claimant and his or her attorney/representative when completing the Erroneously Convicted Person Claim Form (VCGCB-GC-EC01) to enhance communication between the claimant or the attorney/representative and the Board.

Title 2

California Code of Regulations

AMEND: 640

Filed 06/07/2011

Agency Contact:

Geoff Feusahrens (916) 491-3863

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN January 12, 2011 TO June 18, 2011

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

- 06/07/11 AMEND: 640
- 05/12/11 AMEND: 1859.83
- 05/04/11 ADOPT: 1190, 1190.01, 1190.02, 1190.03, 1190.04, 1190.05 AMEND: 1181.1, 1181.2
- 04/28/11 AMEND: 18427.1
- 04/28/11 AMEND: 1859.90.2
- 04/27/11 AMEND: 1859.76

- 04/21/11 REPEAL: 18420.5
 - 04/21/11 AMEND: 18465
 - 04/21/11 ADOPT: 1859.90.2 AMEND: 1859.90.2 (renumbered to 1859.90.3), 1859.129, 1859.197
 - 04/11/11 AMEND: 321
 - 04/06/11 AMEND: 59.3
 - 04/05/11 AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2
 - 04/01/11 AMEND: 18734
 - 03/30/11 AMEND: 64.5
 - 03/28/11 AMEND: 599.550
 - 03/09/11 ADOPT: 552
 - 03/08/11 ADOPT: 18451 REPEAL: 18451, 18452, 18453
 - 03/07/11 AMEND: 18404.1
 - 03/07/11 AMEND: 18435, 18450.4
 - 03/03/11 AMEND: 1897
 - 02/23/11 AMEND: 18734, 18751
 - 02/17/11 AMEND: 18116
 - 02/17/11 AMEND: 18239
 - 02/17/11 ADOPT: 18401.1, 18435.5
 - 02/15/11 AMEND: 599.500, 599.501
 - 01/28/11 ADOPT: 559
 - 01/26/11 ADOPT: Headings for Subchapter 1.3, Article 1, Article 2, Article 3, Article 4 AMEND: Heading for Subchapter 1.3 — Article 25
 - 01/25/11 AMEND: 1859.2, 1859.71.6, 1859.77.4, 1859.81.1, 1859.104
 - 01/13/11 AMEND: 1859.2, 1859.302, 1866, Form SAB 50-02, 50-03, 50-04, 50-06, 50-07, 50-08, 50-09, 50-10, 61-04, 40-20, 40-21, 40-24
 - 01/12/11 ADOPT: 172.9, 172.10 AMEND: 172.6, 172.7, 172.8, 172.10 (renumbered to 172.11), 172.11 (renumbered to 172.12) REPEAL: 172.9
 - 01/12/11 AMEND: 59.3 Appendix A
- Title 3**
- 05/31/11 AMEND: 3437(b)
 - 05/11/11 ADOPT: 6446, 6446.1 AMEND: 6400, 6452.4, 6624, 6860
 - 04/20/11 AMEND: 3434
 - 04/14/11 ADOPT: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8 AMEND: 3407
 - 04/07/11 AMEND: 6445.5, 6448.1, 6449.1, 6450.1, 6452.2, 6452.3, 6452.4, 6536, 6626
 - 03/18/11 AMEND: 3434(b) and (c)
 - 03/18/11 AMEND: 3434(b)
 - 03/14/11 AMEND: 3408
 - 03/01/11 AMEND: 3558

CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 24-Z

02/17/11	AMEND: 3437	01/24/11	ADOPT: 4140, 4141, 4142, 4143, 4144, 4145, 4146, 4147, 4148, 4149, 4200, 4201, 4202, 4203, 4204, 4205
02/15/11	AMEND: 3430		
02/15/11	ADOPT: 820.55 AMEND: 820, 820.3, 820.6, 820.7		
02/10/11	AMEND: 3601	Title 5	
02/10/11	AMEND: 3434(b), (c)	05/23/11	ADOPT: 13075.3, 13075.6, 13075.7, 13075.8, 13075.9 AMEND: 13075.1, 13075.2, 13075.4 (renumbered from 13075.3), 13075.5 (renumbered from 13075.4)
02/10/11	AMEND: 3423(b)	05/02/11	ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846
01/13/11	AMEND: 3425(b), (c)	05/02/11	ADOPT: 80036.4 AMEND: 80034, 80036, 80036.1, 80036.2, 80036.3, REPEAL: 80036.5
01/13/11	AMEND: 3591.20(a)	04/13/11	AMEND: 850, 851, 852, 853, 853.5, 854, 855, 857, 858, 859, 861, 862, 870 (now 862.5), 864, 864.5, 866, 868
01/13/11	AMEND: 3591.15(a), (b)	04/12/11	ADOPT: 76020, 76140, 76212, 76240 AMEND: 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 76010, 76240
Title 4		03/28/11	ADOPT: 75010, 75100, 75500 AMEND: 74120, 74130, 74160, 74170
05/31/11	AMEND: 8078.2	03/24/11	ADOPT: 30001.5
04/18/11	AMEND: 10302, 10315, 10317, 10320, 10322, 10323, 10325, 10326, 10327, 10328	03/21/11	ADOPT: 10120 AMEND: 10070, 10071, 10075
04/01/11	ADOPT: 10030, 10031, 10032, 10033, 10034, 10035, 10036	03/15/11	ADOPT: 4800, 4801, 4802, 4803, 4804, 4805, 4806, 4807
04/01/11	ADOPT: 5000, 5010, 5020, 5021, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5050, 5051, 5052, 5053, 5054, 5055, 5056, 5060, 5061, 5062, 5063, 5064, 5080, 5081, 5082, 5100, 5101, 5102, 5103, 5104, 5105, 5106, 5107, 5120, 5130, 5131, 5132, 5140, 5141, 5142, 5143, 5150, 5151, 5152, 5153, 5154, 5155, 5170, 5180, 5181, 5182, 5183, 5190, 5191, 5192, 5193, 5194, 5200, 5210, 5211, 5212, 5220, 5230, 5231, 5232, 5240, 5250, 5260, 5265, 5266, 5267, 5268, 5269, 5270, 5275, 5280, 5281, 5282, 5283, 5290, 5291, 5300, 5310, 5311, 5312, 5313, 5314, 5315, 5320, 5321, 5330, 5340, 5350, 5360, 5370, 5371, 5372, 5380, 5381, 5382, 5383, 5384, 5400, 5410, 5411, 5420, 5421, 5422, 5423, 5430, 5431, 5432, 5433, 5434, 5435, 5440, 5450, 5460, 5461, 5470, 5480, 5490, 5491, 5492, 5493, 5494, 5500, 5510, 5520, 5530, 5531, 5532, 5533, 5534, 5540, 5550, 5560, 5570, 5571, 5572, 5573, 5580, 5590	03/01/11	ADOPT: 1216.1
03/17/11	AMEND: 202, 210, 214, 246, 247, 248, 249, 252, 254, 264, 266, 267, 304, 332, 334, 335, 364, 385, 510, 533, 541, 545, 609	02/22/11	ADOPT: 42398
03/07/11	ADOPT: 8035.5	02/22/11	AMEND: 42375
03/07/11	ADOPT: 8078.2 AMEND: 8070, 8072	01/20/11	ADOPT: 30010, 30011, 30012, 30013, 30014, 30015, 30016, 30017, 30018, 30019, 30034, 30035, 30036, 30037, 30038, 30039, 30040, 30041, 30042, 30043, 30044, 30045, 30046 AMEND: 30000, 30001, 30002, 30005, 30020, 30021, 30022, 30023, 30030, 30032, 30033
03/03/11	REPEAL: 4002.2(a)	01/14/11	ADOPT: 11968.5
02/16/11	AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162, 10164	Title 7	
		03/17/11	ADOPT: 211.5
		03/14/11	AMEND: 217
		02/02/11	AMEND: 215
		Title 8	
		06/02/11	AMEND: 5154(j)(1)
		05/31/11	AMEND: 5155
		05/20/11	AMEND: 341.13, 341.14, 341.16, 341.17
		05/03/11	AMEND: 3657

CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 24-Z

05/02/11 AMEND: 16423 REPEAL: 16450,
16451, 16452, 16453, 16454, 16455,
16460, 16461, 16462, 16463, 16464
04/26/11 AMEND: 3209
04/18/11 ADOPT: 9792.5.0, 9792.5.1, 9792.5.2,
9792.5.3 AMEND: 9792.5
04/18/11 AMEND: 344.30
04/13/11 AMEND: 3380
03/28/11 AMEND: 3668(a)
03/17/11 AMEND: 7102, 7104, 7160, 7178
03/17/11 AMEND: 3207
03/07/11 AMEND: 3328
02/01/11 AMEND: 5291
01/20/11 AMEND: 344.6, 344.16, 344.18

Title 10

05/31/11 REPEAL: 2274.74, 2274.77
05/23/11 AMEND: 2698.99
05/16/11 AMEND: 2498.6
05/04/11 ADOPT: 260.004.1
04/25/11 ADOPT: 1409.1, 1414, 1422.4, 1422.4.1,
1422.4.5, 1422.5, 1422.6, 1422.6.1,
1422.6.2, 1422.6.3, 1422.7, 1422.7.1,
1422.9, 1422.10, 1422.11, 1422.12,
1424, 1437, 1950.122, 1950.122.2.1,
1950.122.4, 1950.122.4.1, 1950.122.5,
1950.122.5.1, 1950.122.5.2,
1950.122.5.3, 1950.122.5.4, 1950.122.6,
1950.122.7, 1950.122.8, 1950.122.9,
1950.122.10, 1950.122.11, 1950.122.12,
1950.122.15, 1950.205.1, 1950.209,
1950.307 AMEND: 1404, 1409, 1411,
1430.5, 1431, 1433, 1436, 1454, 1550,
1552, 1557, 1950.003, 1950.122.2,
1950.123, 1950.204.3, 1950.204.4,
1950.301, 1950.314.8, 1950.316,
1950.317
04/18/11 AMEND: 2188.65, 2695.180
04/06/11 AMEND: 2498.4.9
04/06/11 AMEND: 2498.4.9
03/22/11 AMEND: 2498.4.9
03/16/11 ADOPT: 2632.13.1 AMEND: 2632.13
03/16/11 AMEND: 5500, 5501, 5505, 5506, 5507
03/03/11 ADOPT: 1580, 1581, 1582, 1583, 1584,
1585, 1586, 1587, 1588, 1589, 1590,
1591, 1592, 1593, 1594, 1595, 1596
02/10/11 ADOPT: 2593, 2593.1, 2593.2, 2593.3,
2593.4, 2593.5, 2593.6, 2593.7
02/02/11 AMEND: 2699.6500, 2699.6700,
2699.6707, 2699.6721
01/31/11 ADOPT: 3575, 3576, 3577 AMEND:
3500, 3522, 3523, 3524, 3526, 3527,
3528, 3529, 3530, 3582, 3681, 3702,
3703, 3721, 3724, 3726, 3728, 3731,
3741

01/24/11 AMEND: 2222.12

Title 11

06/06/11 AMEND: 51.7
06/01/11 AMEND: Article 20, section 51.2
05/31/11 AMEND: Article 20, section 51.25
05/25/11 ADOPT: Article 20, section 51.27
05/24/11 AMEND: Article 20, section 51.15
05/24/11 AMEND: Article 20, section 51.24
04/19/11 AMEND: 1005, 1007, 1008
04/19/11 AMEND: 1018
04/13/11 AMEND: 1054
04/11/11 ADOPT: 999.24, 999.25, 999.26, 999.27,
999.28, 999.29 AMEND: 999.10,
999.11, 999.14, 999.16, 999.17, 999.19,
999.20, 999.21, 999.22
03/30/11 AMEND: 9070, 9072, 9073, 9077
03/16/11 AMEND: 2037
01/31/11 ADOPT: 4075 AMEND: 4047, 4049,
4050, 4051, 4052, 4053, 4057, 4058,
4059, 4060, 4061, 4062, 4063, 4064,
4065, 4066, 4067, 4068, 4070, 4071,
4072, 4073, 4074 REPEAL: 4055

Title 13

04/01/11 AMEND: 553.70
03/07/11 AMEND: 2477
02/24/11 ADOPT: 551.21
02/24/11 ADOPT: 551.19, 551.20, 551.23, 551.24,
551.25 AMEND: 550, 551.2, 551.11,
551.12
02/22/11 AMEND: 551.14, 555.1, 584
02/16/11 AMEND: 594, 595, 597 REPEAL: 593
02/15/11 AMEND: 567, 583, 591, 593.1, 593.3
02/15/11 AMEND: 272.00, 272.02
01/27/11 AMEND: 2621(i), 2623
01/19/11 AMEND: 1961
01/18/11 ADOPT: 2711 AMEND: 2701, 2702,
2703, 2704, 2705, 2706, 2707

Title 13, 17

01/20/11 AMEND: Title 13: 2451, 2452, 2453,
2456, 2457, 2458, 2459 and Title 17:
93116.1, 93116.2, 93116.3

Title 14

05/19/11 AMEND: 632
05/12/11 ADOPT: 28301
05/11/11 AMEND: 27.80
05/03/11 AMEND: 790, 815.05, 816.01, 816.02,
816.03, 816.05, 817.02, 817.03, 818.02,
818.03, 825.05, 825.07, 826.01, 826.02,
826.03, 826.05, 827.01, 827.02
05/02/11 AMEND: 925.7, 925.10, 926.9, 926.10,
927.5, 928.5, 928.6, 945.4, 965.4
05/02/11 AMEND: 898.2

CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 24-Z

04/29/11	ADOPT: 1570, 1571, 1572, 1572.1, 1572.2, 1573, 1573.1, 1573.2, 1573.3, 1573.4, 1573.5, 1573.6, 1574, 1575, 1575.1, 1575.2, 1575.3, 1576	05/18/11	AMEND: 1536
04/25/11	AMEND: 1670	05/09/11	ADOPT: 360, 363.1, 370 AMEND: 355 now 371, 356 now 361, 356.5 to 362, 357 now 363, 358 now 364, 360 now 366, 355.1 now 372, 359 now 365 REPEAL: 355.2
04/06/11	ADOPT: 749.6	04/28/11	ADOPT: 1131, 1132
04/01/11	AMEND: 27.80	04/28/11	AMEND: 4150, 4151, 4152.1, 4153, 4154, 4155
03/09/11	ADOPT: 703 AMEND: 671, 671.1, 671.7	04/26/11	AMEND: 1306
02/24/11	AMEND: 11600	04/25/11	AMEND: 48.3
02/17/11	REPEAL: 19020, 19021, 19022, 19023, 19024, 19025	04/25/11	AMEND: 600.1, 601.5, 602, 602.1, 603, 605, 607.4, 608.3, 627, 634, 635, 645
02/08/11	AMEND: 817.02	04/15/11	ADOPT: 2007, 2010.05 AMEND: 2085.1
02/07/11	ADOPT: 1052.5 AMEND: 895, 916.9, 936.9, 956.9, 1052, 1052.1, 1052.2	04/14/11	AMEND: 70
01/12/11	AMEND: 632	04/14/11	ADOPT: 2086, 2086.1, 2086.2, 2086.3, 2086.4, 2086.5, 2086.6, 2086.7, 2086.8, 2086.9
Title 15		04/12/11	AMEND: 1328
06/02/11	AMEND: 3378	04/11/11	AMEND: 404, 424, 425, 438 REPEAL: 460
05/26/11	ADOPT: 1747.1, 1749.1, 1750.1 AMEND: 1706, 1747, 1748, 1749, 1750, 1752, 1756, 1757, 1767	03/17/11	AMEND: 2260, 2266, 2282, 2282.1
05/26/11	AMEND: 3025, 3291, 3296, 3300, 3301, 3383, 3397 REPEAL: 3302	03/14/11	ADOPT: 4125 AMEND: 4123
05/13/11	REPEAL: 1	03/09/11	ADOPT: 1007, 1008 AMEND: 1017.2
05/11/11	AMEND: 3335	03/03/11	AMEND: 375
04/29/11	ADOPT: 3359.1, 3359.2, 3359.3, 3359.4, 3359.5, 3359.6, 3359.7 AMEND: 3000	03/03/11	AMEND: 117
04/15/11	ADOPT: 3769, 3769.1, 3769.2, 3769.3, 3769.4, 3769.5, 3769.6	03/01/11	AMEND: 1399.157, 1399.160.3, 1399.160.6
03/28/11	AMEND: 3269	02/23/11	AMEND: 400, 401, 404, 463.5, 3000, 3003, 3021, 3065
03/09/11	ADOPT: 3800, 3800.1, 3800.2, 3800.3	02/08/11	AMEND: 1518, 1523, 1531, 1532, 1533, 1561
03/03/11	ADOPT: 3520, 3521, 3521.1, 3521.2, 3521.3, 3521.4, 3521.5, 3522, 3523, 3525, 3526, 3527	02/02/11	ADOPT: 1381.7, 1381.8, 1381.9
02/18/11	AMEND: 4710, 4711, 4712, 4713, 4714	02/01/11	ADOPT: 87.9, 88.2, 90
01/14/11	ADOPT: 4190, 4191 REPEAL: 4192.5, 4193, 4196	01/31/11	AMEND: 2000, 2010, 2010.1, 2015, 2015.2, 2020, 2023, 2024 REPEAL: 2014.5, 2017, 2018
Title 16		01/27/11	AMEND: 3394.3, 3394.4, 3394.5, 3394.6, 3394.7
06/06/11	AMEND: 4144 now 4147	Title 17	
05/24/11	ADOPT: 1810.1, 1810.2, 1816.8, 1820, 1820.5, 1821, 1822 AMEND: 1800, 1802, 1803, 1804, 1805, 1805.1, 1806, 1807, 1807.2, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1816.1, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1819.1, 1832, 1833.1, 1833.2, 1850.6, 1850.7, 1870, 1870.1, 1874, 1877, 1880, 1881, 1886, 1886.10, 1886.20, 1886.30, 1886.40, 1886.50, 1886.60, 1886.70, 1886.80, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, 1887.14, 1888	06/08/11	ADOPT: 30108.1, 30226 AMEND: 30108, 30115, 30125, 30145, 30190, 30191, 30192, 30192.1, 30192.2, 30192.3, 30192.4, 30192.5, 30192.6, 30225, 30257 REPEAL: 30236
05/18/11	AMEND: 124	05/19/11	AMEND: 93115.3, 93115.4, 93115.6, 93115.7, 93115.8, 93115.9, 93115.10, 93115.13
		04/21/11	AMEND: 7583
		03/07/11	ADOPT: 100801
		02/17/11	AMEND: 52170, 52172, 52173

CALIFORNIA REGULATORY NOTICE REGISTER 2011, VOLUME NO. 24-Z

02/02/11 ADOPT: 95350, 95351, 95352, 95353, 95354, 95355, 95356, 95357, 95358, 95359

Title 18

01/31/11 AMEND: 1506
01/12/11 AMEND: 1584

Title 19

05/12/11 ADOPT: 2991, 2992, 2993, 2993.1, 2994, 2994.1, 2995, 2995.1, 2996, 2996.1, 2997, 2998, 2999
02/18/11 ADOPT: 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 2999.1, 2999.2, 2999.3, 2999.4, 2999.5 AMEND: 2900
01/12/11 ADOPT: 3.00 AMEND: 1.05, 1.07, 1.08, 1.09, 1.11, 1.12, 1.13, 2.02, 3.00 (renumbered to 3.00.1), 3.01, 3.02, 3.03, 3.04, 3.06, 3.07, 3.08, 3.11, 3.12, 3.13, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.22, 3.23, 3.25, 3.26, 3.28, 3.29, 3.31, 3.32, 4.3, 4.5, 204, 303, 315, 324, 325, 332, 340, 341, 571, 743, 745, 746, 747, 748, 749, 750, 753, 754, 755, 756, 760, 904, 904.7, 1173, 1174, 2060 REPEAL: 752

Title 20

05/09/11 ADOPT: 8.2 AMEND: 1.4, 1.5, 1.6, 1.8, 1.9, 1.10, 1.13, 1.15, 2.4, 2.5, 2.6, 3.1, 3.2, 4.1, 4.2, 4.3, 7.2, 8.1, 8.3, 8.4, 8.5, 8.6, 10.2, 13.7, 14.1, 14.2, 14.3, 14.5, 14.6, 16.1, 16.2, 16.6, Table of Filing Fees REPEAL: 8.5
03/24/11 ADOPT: 2700, 2701, 2702, 2703, 2704

Title 21

01/25/11 AMEND: 6680

Title 22

05/17/11 ADOPT: 52100, 52101, 52102, 52103, 52104, 52500, 52501, 52506, 52508, 52509, 52510, 52511, 52512, 52513, 52514, 52515, 52600 AMEND: 52000, 52502, 52503, 52504, 52505, 52507, 52516
05/12/11 AMEND: 1256-9, 1256-10
04/25/11 AMEND: 2708(c)-1
04/21/11 AMEND: 60400, 60401, 60403, 60445, 60455, 64416, 64426, 64432, 64449, 64449.2, 64575, Appendix 64465-E
04/12/11 AMEND: 66264.90, 66264.94, 66264.97, 66264.98, 66264.99, 66264.100, 66265.90, 66265.91, 66265.97, 66265.98, 66265.99

03/22/11 AMEND: 66250, 66250.1, 66250.2
02/15/11 ADOPT: 4451 AMEND: 4400, 4401.5, 4405, 4417, 4427, 4429, 4447

Title 23

06/08/11 ADOPT: 3929.6
06/08/11 AMEND: 3006
05/31/11 ADOPT: 3939.39
05/12/11 ADOPT: 3909.1
05/06/11 ADOPT: 3939.38
04/04/11 ADOPT: 3990
03/17/11 ADOPT: 3949.7
01/19/11 ADOPT: 3775.5, 3776, 3779.5 AMEND: 3720, 3721, 3722, 3723, 3730, 3733, 3740, 3741, 3742, 3750, 3751, 3762, 3763, 3775, 3777, 3778, 3779, 3780, 3781 (Appendices A and C) REPEAL: 3760, 3761, 3764, 3776, 3782
01/18/11 ADOPT: 5000

Title 25

03/07/11 AMEND: 5002, 5010, 5040
02/18/11 ADOPT: 1013, 1052, 1119, 1757, 1759, 2013, 2052, 2119, 2757, 2759 AMEND: 1002, 1008, 1018, 1104, 1118, 1180, 1211, 1333, 1334, 1334.2, 1336.1, 1346, 1377, 1426, 1429, 1432, 1446, 1450, 1458, 1464, 1468, 1474, 1498, 1500, 1502, 1504, 1506, 1612, 1618, 1750, 1752, 1754, 1756, 1758, 2002, 2008, 2018, 2104, 2118, 2211, 2230, 2334, 2346, 2426, 2429, 2432, 2468, 2474, 2498, 2500, 2502, 2504, 2506, 2612, 2750, 2752, 2754, 2756, 2758 REPEAL: 1613, 1615, 1616, 2613, 2615, 2616
02/10/11 ADOPT: 4313 AMEND: 4300, 4302, 4304, 4306, 4308, 4310, 4312, 4314, 4316, 4318, 4320, 4322, 4324
01/28/11 AMEND: 3070, 4204, 4210, 4212
01/26/11 ADOPT: 7980, 7980.1, 7980.2, 7980.3

Title 27

03/30/11 AMEND: 25805
03/17/11 AMEND: 25801, 25803
02/16/11 AMEND: 27001
01/26/11 AMEND: 25705
01/26/11 AMEND: 25705

Title MPP

06/02/11 AMEND: 31-002, 31-075, 31-206, 31-320, 31-505, 31-510
02/15/11 AMEND: 16-015, 16-120, 16-601 REPEAL: 16-315
01/31/11 AMEND: 31-021