



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to amend Sections 156.00 and 156.01 in Chapter 1, Division 1, Article 3.0 of Title 13, California Code of Regulations, relating to Clean Air Vehicle Decals.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **August 4, 2014**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 5205.5 and 21655.9.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill 71 (Chapter 330; Statutes of 1999) authorized the department to issue white decals to vehicles meeting certain emission standards. Once the decal was properly affixed to the vehicle, the driver could gain access to the high-occupancy vehicle (HOV) lane with fewer than the required number of vehicle occupants. AB 2628 (Chapter 725; Statutes 2004) authorized the issuance of yellow decals to hybrid and other qualifying alternative fuel vehicles. The number of yellow decals issued under this program was capped at 85,000 and those decals were primarily issued to the Toyota Prius and Honda Civic Hybrid; however, the yellow decals all expired in July 2011. Currently, in addition to the original white decals, the department is issuing green decals to specified plug-in hybrid vehicles.

Senate Bill 286 (Chapter 414; Statutes 2013) amended Vehicle Code section 5205.5 to add transitional zero-emission vehicle (TZEV) standards to the list of vehicles authorized to be issued distinctive decals that allow the driver of the qualifying vehicle to gain access to the HOV lane with fewer than the required number of vehicle occupants. Vehicles meeting the TZEV standards, upon application and payment of the \$8 fee, are issued a green decal that, when properly affixed to the vehicle, allows the driver HOV lane access.

This proposed regulatory action amends the Clean Air Vehicle Decal regulations to accurately identify which vehicles will be issued decals, according to which emission standards the vehicle meets.

Additionally, this action adopts a new form entitled New Vehicle Dealer Application for Clean Air Vehicle Decals, form REG 1000D. As this program progresses, the department has been made aware that, when a qualifying vehicle is purchased, the vehicle purchaser is often waiting an extended amount of time between when he or she submits an application, and when the decals are issued. During this time, the driver is in the discouraging position where he or she has a qualifying vehicle, but is unable to access the HOV lane because the vehicle does not yet have a decal. With this amended regulatory language, the department will now be able to issue decals to vehicle dealers, who can affix the decals to vehicles prior to sale. Not only will this new procedure benefit the vehicle purchaser, but could also benefit vehicle dealers who could use this incentive to increase vehicle sales.

This regulatory action will ensure regulations accurately identify those emission standards that qualify a vehicle to be issued clean air vehicle decals. This action will also allow a pre-application process for vehicle

dealers that will allow a vehicle to be sold with the decal already affixed.

PROBLEMS THIS DEPARTMENT INTENDS TO ADDRESS AND BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

As they currently read, the department’s regulations regarding the clean air vehicle decals do not accurately reflect the vehicles that are eligible to be issued decals. Additionally, while provisions related to the placement of the decals are still valid, the decal colors have changed.

The amendments will ensure all vehicles meeting the appropriate emission standards will be issued a decal upon application. Also, the regulations will make clear that vehicles issued green decals or white decals are the only vehicles authorized to access the HOV lane under this program.

The department has not identified any non-monetary benefits such as protection of public health and safety, worker safety, or an increased transparency in business and government. Benefits to the environment may exist if these regulations serve as an incentive for vehicle buyers to purchase the cleanest vehicles.

COMPARABLE FEDERAL AND STATE REGULATIONS

There are no comparable state or federal regulations related to the issuance of Clean Air Vehicle Decals.

CONSISTENCY AND COMPATIBILITY WITH OTHER STATE REGULATIONS

The department has conducted an evaluation for any regulations on this area and has concluded that these are the only regulations dealing with clean air vehicle decal issuance. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated by reference:

- Application for Clean Air Vehicle Decals, form REG 1000 (Rev. 3/2014)
- New Vehicle Dealer Application for Clean Air Vehicle Decals, form REG 1000 D (REV 3/2014)

These documents will not be published in the California Code of Regulations because it would be impractic-

cal and cumbersome to do so; however, the documents are readily available to interested parties by contacting the department representative identified below.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effects on Housing Costs: None.
- Local Agency/School District Mandates: The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Small Business Impact: This regulation may impact small business.
- Will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that this proposed regulatory action:

- Will not create or eliminate jobs within the State of California
- Will not create or eliminate existing business within the State of California
- Will not expand businesses currently doing business within the State of California
- May benefit the health and welfare of California residents and the State’s Environment. The department anticipates these potential benefits coming from vehicle dealers being authorized to sell vehicles with the decals already affixed. It’s likely that these stickers will create an incentive for vehicle purchasers to buy the cleanest vehicles, which results in potential benefits to the state’s environment.

PUBLIC DISCUSSIONS OF
PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

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

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Analyst
Department of Motor Vehicles Legal Affairs
Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-6469
Facsimile: (916) 657-1204
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Shelly Johnson Marker, Chief of Staff
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using under-

line or italics to indicate additions to, and strikethrough to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, the revised handbook and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

**TITLE 14. FISH AND GAME
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050, 5510, 8389, 8550, 8552.1, 8553 and 8555, of the Fish and Game Code and to implement, interpret or make specific sections 713, 1050, 7850, 7850.5, 7852.2, 7881, 8043, 8053, 8389, 8550, 8550.5, 8552, 8552.1, 8552.2, 8552.3, 8552.4, 8552.5, 8552.6, 8552.7, 8552.8, 8553, 8554, 8555, 8556, 8557, and 8559 of said Code, proposes to amend sections 163 and 164, Title 14, California Code of Regulations, relating to the commercial herring fishery.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Sections 163 and 164, Title 14, CCR, specify that herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fish-

ing quotas; seasons; gear restrictions; and landing and monitoring requirements. Annual fishing quotas are necessary to provide for a sustainable fishery. The proposed regulatory changes in Section 163 will establish the fishing quotas for Crescent City Area, Humboldt Bay and Tomales Bay; and for the 2014–2015 season in San Francisco Bay:

- Set the Crescent City Area quota at zero (0) tons or maintain status quo of 30 tons.
- Set the Humboldt Bay quota at zero (0) tons or maintain status quo of 60 tons.
- Set the Tomales Bay quota at zero (0) tons or maintain status quo of 350 tons.
- Replace the language shall “not exceed” with shall “be” with respect to the quotas selected for the Crescent City Area, Humboldt Bay and Tomales Bay.
- Set the San Francisco Bay quota for the 2014–2015 season between zero (0) and 10 percent of the 2013–2014 San Francisco Bay spawning biomass estimate for Pacific herring as provided in the 2014 Draft Supplemental Environmental Document (DSED).
- A minor editorial change will be made to Section 164 indicating a change in the revision date (Rev 2/14) because of a minor revision to the HEOK Royalty Report Form FG 143 HR.

Benefits of the Regulation

The Commission anticipates benefits to the State’s environment and the health and welfare of California residents. The proposed regulation changes are intended to set annual harvest quotas within a range that will maintain sustainable herring populations for their ecological values and commercial use. Maintaining a sustainable herring fishery encourages consumption of a nutritious food.

Consistency with State or Federal Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the commercial take of herring (sections 8550 and 8553, Fish and Game Code). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to the commercial take of herring. There are no

comparable federal regulations for the commercial harvest of herring.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be at the Hilton San Diego Mission Valley 901 Camino del Rio South, San Diego, California, on Wednesday, August 6, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 24, 2014 at the address given below, or by fax at (916) 653–5040, or by e–mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e–mailed to the Commission office, must be received before 5:00 p.m. on July 31, 2014. All comments must be received no later than August 6, 2014 at the hearing in San Diego. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sheri Tiemann at the preceding address or phone number. **Ryan Bartling, Marine Region, Department of Fish and Wildlife, phone (707) 576–2877, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed reg-

ulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

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

The Department is providing the Commission analyses on five potential 2014–2015 quota options for San Francisco Bay ranging from zero to 10 percent of the 10–year average biomass estimate of 52,000 tons (see attached Economic Impact Assessment, EIA). The potential incremental changes to total State economic output for the no change, zero (0)–ton, 2,444–ton, 2,600–ton, or 5,200–ton quota, options are: none, \$(6,874,000), \$(2,378,000), \$(2,091,000), and \$2,691,000, respectively, relative to 2013–2014 season’s 3,737–ton quota and the ex–vessel price per ton.

No adverse incremental economic impacts to businesses in California would occur under a quota allocation of 3,737 tons or more. Moreover, given the recent market conditions for herring roe (increasing demand overseas and higher prices), any allocation of 3,737 tons or less could affect the ability of California businesses to compete with businesses in other states. This is evident in the recent market reports from the National Marine Fisheries Service, showing a 78 percent increase (by weight) in exports of Pacific herring products from California in 2013, relative to 2012. The corresponding increase in nominal dollar value of exports of Pacific herring products from California was about 59 percent (unadjusted for inflation).

Since no commercial herring fishing activity has taken place in Tomales Bay, Humboldt Bay, and Crescent City Harbor in the last six years, we conclude no adverse incremental economic impacts to businesses under the recommended zero quota allocation for these three areas.

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

Any quota option over 3,737 tons will result in positive incremental contributions to employment for the State: for example, an increase of about 38 jobs for a quota of 5,200 tons (see attached EIA).

Conversely, a zero (0)–ton or 2,444–ton allowable quota could adversely impact as many as 97 to 33 jobs in the fishing industry and related industries. This is based on an employment multiplier of 27 jobs per each million dollar change in direct output from commercial herring fishing activities.

Most commercial herring industry participants are small businesses (as defined in California Government Code Section 11342.610), which may incur a detriment under a quota option less than 3,202 tons for San Francisco Bay. This 3,202 tons was the total harvest of Pacific herring landed during the 2013–2014 season, though the allowable quota was higher at 3,737 tons.

It is unlikely that any of the proposed quota options would alone cause the elimination of existing businesses in the State. This is in light of the favorable market conditions currently enjoyed by the herring processors and exporters. Given these promising market trends, it is possible that any quota option over 3,737 tons could potentially encourage investment, expansion, and creation of some new businesses in the State.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

The Commission anticipates benefits to the State’s environment and the health and welfare of California residents. The proposed regulation changes are intended to set annual harvest quotas within a range that will maintain sustainable herring populations for their ecological values and commercial use. Maintaining a sustainable herring fishery encourages consumption of a nutritious food.

No provisions of the regulation benefit worker safety because only fishing quotas are being set.

- (c) 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. There are no new fees or reporting requirements stipulated in the proposed regulations.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect—on Housing Costs: None.

Effect on Small Business

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

Consideration of Alternatives

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

**TITLE 14. FISH AND GAME
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 8403 and 9022 of the Fish and Game Code and to implement, interpret or make specific said sections of said Code, proposes to add Section 180.6, Title 14, California Code of Regulations (CCR), relating to Pacific hagfish traps.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Current statutes, California Fish and Game Code Sections 9000.5(a)–(d), 9001, and 9001.6, define the types of traps used in the hagfish fishery, require a general trap permit, specify maximum number of traps allowed by type, and prohibit possession of other species or gear while targeting or having in possession hagfish. No statute or regulation exists requiring a minimum hole diameter for hagfish traps.

The proposed regulation would require all traps used within the hagfish fishery to have a minimum hole diameter of 9/16 inch. Its purpose is to sustain the hagfish resource by promoting escapement of smaller, immature hagfish.

BENEFITS OF THE PROPOSED ACTION

The proposed regulation benefits the environment. Adoption of measures to ensure escapement of immature hagfish will help maintain sufficient populations of hagfish to ensure the continued sustainability of this resource.

**EVALUATION OF INCOMPATIBILITY WITH
EXISTING REGULATIONS**

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the commercial take of finfish using traps (sections 8403 and 9022, Fish and Game Code). No other State agency has the authority to promulgate commercial fishing regulations. The proposed regulations are compatible with sections 180, 180.2, 180.4 and 180.5, Title 14, CCR, which address other aspects of commercial take of finfish using traps. The Commission has searched the CCR for any regulations regarding trap hole size diameter for the commercial take of hagfish and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton San Diego Mission Valley, 901 Camino del Rio South, San Diego, California, on Wednesday, August 6, 2014 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 24, 2014 at the address given below, or by e-mail to FGC@fgc.ca.gov. Written comments mailed or e-mailed to the Commission office, must be received before 5:00 p.m. on August 4, 2014. All comments must be received no later than August 6, 2014, at the hearing in San Diego, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the reg-

ulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Craig Shuman, Regional Manager, Marine Region, Department of Fish and Wildlife, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This is an export-only fishery, with very few participating fishery receivers. The demand from the primary importing country has been stable for several years and is increasing.

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

No impacts are anticipated on the creation or elimination of jobs within the state, the creation of

new businesses or elimination of existing businesses, or the expansion of businesses in California, The commercial fishery is influenced primarily by the foreign market demand for hagfish.

There is no anticipated change in benefit to the health and welfare of California residents. The fishery is entirely for foreign export, so the regulation is unlikely to affect the health and welfare of California residents.

The proposed regulation does not affect worker safety.

There are anticipated benefits to the environment by the sustainable management of California's hagfish resource.

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

The Commission anticipates minor costs to some hagfish fishermen to drill larger holes in their current traps. Some fishermen already comply but the number is not known. The cost for the work to comply is estimated to be \$500.00 per fisherman.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

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

Consideration of Alternatives

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

**TITLE 14. FISH AND GAME
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Section 1907 of the Fish and Game Code and to implement, interpret or make specific sections 1900, 1906, 1908, 1910, 1912 and 1913 of said Code, proposes to add Section 786.9, Title 14, California Code of Regulations, relating to take of rare plants.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The California Fish and Game Commission (Commission) has not yet adopted regulations to be implemented by the California Department of Fish and Wildlife (Department) to govern the take, possession, propagation, transportation, exportation, importation, or sale of rare or endangered plants under the authority of the Native Plant Protection Act (NPPA), (Fish & Game Code subsection (a) of Section 1907). Although the Department may permit the take of threatened and endangered plants under the California Endangered Species Act (CESA) and other statutes, the Department does not have the ability to permit take, possession, propagation, transportation, exportation, importation, or sale of rare plants.

There are 64 species, subspecies and varieties of plants that have been designated as rare by the Commission. The proposed regulation will allow the Department to permit the take, possession, propagation, transportation, exportation, importation, or sale of rare plants using the same procedures and subject to the same conditions in Section 783 *et seq.*, Title 14, California Code of Regulations (CCR), relating to incidental take permits; in Section 786 *et seq.*, Title 14, CCR, relating to Voluntary Local Programs; in Fish and Game Code Section 2800 *et seq.* relating to Natural Community Conservation Plans; or in Fish and Game Code Section 2089.2 *et seq.* relating to Safe Harbor Agreements. The proposed regulation will allow the person or entity seeking the take authorization to select which one of the four programs listed above that they would like to use. The proposed regulation will also allow the Department to permit the take, possession, propagation, transportation, exportation, importation or sale of rare plants for scientific, educational or management purposes pursuant to either Fish and Game Code subsection (a) of Section 2081 or Fish and Game Code Section 1002 *et seq.* and Section 650 *et seq.*, Title 14, CCR, at the Department's discretion.

The NPPA prohibits take, possession or sale of endangered or rare native plants (Fish & Game Code Section 1908), but includes exceptions for some activities,

and the proposed regulation will not change or limit those existing exceptions. The proposed regulation also includes a "grandfather" provision for plans, permits, or other agreements that may have inadvertently authorized rare plant impacts in the past, and make such authorizations effective as of the day they were approved.

The proposed regulation will promote the purpose of the NPPA and intent of the Legislature to preserve, protect and enhance endangered or rare native plants of California by allowing the Department to permit the incidental take of rare plants where the take is minimized and fully mitigated or using the other mechanisms provided in the proposed regulation that will provide for protection, enhancement, conservation or other benefits to rare plants. The proposed regulation will provide more options, more certainty and less liability for the regulated community when it comes to completing projects, because the regulation will provide a way to undertake activities that are now prohibited because they may involve take, possession, propagation, transportation, exportation, importation or sale of rare plants. The proposed regulation will ensure that there is no confusing regulatory overlap that would require obtaining different permits with different standards and requirements under CESA and the NPPA for the same activity. The Department needs the ability to write scientific, educational, or management permits for rare plants to facilitate important scientific research and important conservation and management activities to help prevent the extinction of rare plants.

The Commission has reviewed its own regulations and finds that the proposed regulation is neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR and finds no other state agency regulations pertaining to the take of rare plants. Eighteen plants that are designated by California as rare are also designated as threatened, endangered or candidates under the federal Endangered Species Act (ESA), however the proposed regulation is neither inconsistent nor incompatible with existing federal regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hilton San Diego Mission Valley 901 Camino del Rio South, San Diego, California, on Wednesday, August 6, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 24, 2014 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on July 31, 2014. All comments must be received no later than August 6, 2014 at the hearing

in San Diego. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sheri Tiemann at the preceding address or phone number. **Craig Martz, Regulations Unit Manager, Department of Fish and Wildlife, phone (916) 653–4674, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This regulation will permit greater certainty and flexibility for business pursuits.

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

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. In situations where take of rare plants was otherwise not allowed by law, the regulation will provide a mechanism for take that was otherwise unavailable, thereby increasing certainty and flexibility for businesses in California in situations where a rare plant could be taken by a project. The proposed regulation will not require a permit or other authorization for rare plants where the take is otherwise allowed by law, and therefore will not place an additional burden on business in those situations.

The Commission anticipates benefits to the health and welfare of California residents from better protection of the State’s natural resources. The Commission does not anticipate any benefits to worker safety from the proposed regulation. The Commission anticipates benefits to the environment through better regulation of the take of rare plants by the Department, and the ability of the Department to permit important research, conservation, and management actions for rare plants.

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

In some situations where rare plants are present the proposed regulation will eliminate a barrier to pursuing the highest value use of land. The permit and mitigation costs to a representative private person or business would likely be offset by the increased returns on a project that would have previously been prohibited due to the presence of a rare plant. For example, if a permit were to be issued to take, possess, propagate, transport, export, import or sell rare plants for activities that are not allowed by the NPPA exemptions (Fish & Game Code subsections (b) and (c) of Section 1907, Section 1912, and Section 1913) by the same procedures and subject to the same conditions as an incidental take permit pursuant to Fish and Game Code subsection (b) of Section 2081, applying for and complying with such a permit would mean that the representative private

person or business would have to minimize and fully mitigate the take allowed by the permit, and ensure adequate funding to conduct the minimization and full mitigation. This minimization and full mitigation could involve habitat restoration, the purchase and management of compensatory habitat, or the purchase of credits from an approved mitigation bank. The costs of complying with such a permit would vary depending upon the extent of the take being permitted, the extent and quality of the habitat being removed or disturbed, and other site-specific factors.

To quantify the cost to an applicant to comply with a rare plant permit issued by the Department using the same procedures and conditions as in Fish and Game Code subsection (b) of Section 2081, the Department reviewed incidental take permits that were issued by the Department for threatened and endangered plant species from 2000 to present. The Department's records for many of these permits show that a security was required or other financial information was provided. The Department's records indicate that the average security or other cost for compliance with an incidental take permit that covers at least one threatened or endangered plant species is approximately \$879,000 per permit; however many of these permits also cover animal species, so the Department assumed that each species covered by an incidental take permit contributed equally to its cost. Therefore the average cost for the threatened and endangered plant species' contribution to an incidental take permit is approximately \$531,000.

However, because a representative private person or business could continue to avoid conducting any of the activities that are currently prohibited by the NPPA, they would not necessarily incur any additional costs that may be associated with obtaining and complying with authorization to take, possess, propagate, transport, export, import or sell rare plants provided by the proposed regulation.

Since 2000 there have been an average of 4 incidental take permits issued by the Department per year that cover at least one threatened or endangered plant species. There are approximately 42 percent as many rare plants (64) as there are threatened and endangered plants (154). Applying this proportion to the average annual number of incidental take permits covering at least one threatened or endangered plant species we estimate that approximately 1.7 incidental take

permits covering at least one rare plant could be issued per year. Because incidental take permits often cover multiple different species, this does not necessarily indicate that 1.7 additional permits will be issued per year.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

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

Consideration of Alternatives

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 2000, 2000.5, 2001, 2013, 2120, 2121, 2122, 2270, 2270.5, 2271, 2272, 6300, 6301, 6303, 6306, 6401, 8437, 8461, 8462, 8463, 8490, 8491, 15005, 15006 and 15101, Fish and Game Code, proposes to Amend Sections 200.12, 200.29, and 200.31, Title 14, California Code of Regulations (CCR), relating to Tiger Salamander.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in sections 200.12, 200.29, and 200.31, Title 14, California Code of Regulations

(CCR), provide for the legal use of waterdogs (i.e. tiger salamanders) as freshwater bait fish. These current regulations conflict with subsection 671(a) which specifies that it is “unlawful to import, transport, or possess” restricted species including tiger salamanders, which are listed in subsection 671(c)(3)(C)1.

The Commission proposes to remove the conflicting provisions in these sections from the regulatory text.

Benefits of the regulations

The benefits of the amended regulations, which remove references to “waterdogs” in sections 200.12, 200.29, and 200.31, will be in making these sections consistent with subsection 671(a). This will resolve any public confusion over the illegal use of waterdogs as bait in California.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government. The amended regulations clarify for the public that the use of waterdogs as bait is not permitted in the state.

Evaluation of incompatibility with existing regulations

The Commission has reviewed the Title 14, CCR, and conducted a search of any similar regulations on this topic and has concluded that the proposed amendments to sections 200.12, 200.29, and 200.31 are neither inconsistent nor incompatible with existing state regulations. The changes will resolve existing inconsistencies with Section 671.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hilton San Diego Mission Valley 901 Camino del Rio South, San Diego, California, on Wednesday, August 6, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 24, 2014 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on July 31, 2014. All comments must be received no later than August 6, 2014 at the hearing in San Diego. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency

representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Jon Snellstrom at the preceding address or phone number. **Laura Patterson, Wildlife Branch, phone (916) 341-6981, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

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

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the amendments merely make existing regulations in these sections consistent with the prohibited use of these animals which are listed as a restricted species in subsection 671(c)(3)(C)1.

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

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California, because the amendments merely make existing regulations in these sections consistent with the prohibited use of these animals which are listed as a restricted species in subsection 671(c)(3)(C)1.

The Commission does not anticipate benefits to the health and welfare of California residents or to worker safety because the proposed amendments do not affect health, welfare, or safety.

The Commission anticipates benefits to the state's environment because the amendments make existing regulations in these sections consistent with the prohibited use of these animals which are listed as a restricted species (subsection 671(c)(3)(C)1.) due to their detrimental effects on native wildlife.

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

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

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

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

Consideration of Alternatives

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

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

TITLE 18. BOARD OF EQUALIZATION

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1603, Taxable Sales of Food Products

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1603, *Taxable Sales of Food Products*. The proposed amendments do not change the rule that an optional payment designated as a tip, gratuity, or service charge is not subject to tax, and a mandatory payment designated as a tip, gratuity, or service charge is includable in taxable gross receipts. Instead, the proposed amendments make Regulation 1603's treatment of payments designated as tips, gratuities, and services charges consistent with the records retailers keep for reporting such payments as tip wages or non-tip wages for Internal Revenue Service purposes by adding a new presumption as to whether or not a tip, gratuity, or service charge is subject to tax based on such records. The proposed amendments also clarify subdivision (g)'s existing language regarding the application of tax to payments designated as tips, gratuities, and service charges by adding new subdivision (h) to Regulation 1603, effective for transactions occurring on and after January 1, 2015. In addition, the proposed amendments make non-substantive amendments to the regulation, including moving the regulation's authority and reference note so that it precedes the regulation's appendix, and updating the cross-references to other regulations following the authority and reference note.

PUBLIC HEARING

The Board will conduct a meeting in Room 207 at its offices at 5901 Green Valley Circle, Culver City, California on August 5-7, 2014. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on August 5, 6, or 7, 2014. At

the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Regulation 1603.

AUTHORITY

RTC section 7051

REFERENCE

RTC sections 6006, 6012, 6359, 6359.1, 6359.45, 6361, 6363, 6363.5, 6363.6, 6363.8, 6370, 6373, 6374, and 6376.5.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Summary of Existing Laws and Regulations

California imposes sales tax on retailers for the privilege of selling tangible personal property at retail. (RTC, § 6051.) Unless an exemption or exclusion applies, the tax is measured by a retailer’s gross receipts from the retail sale of tangible personal property in California. (RTC, §§ 6012, 6051.) The term “gross receipts” means the total amount of the sale price without any deduction for the cost of materials used, labor or service costs, interest paid, losses, or any other expense. (RTC, § 6012, subd. (a)(2).) Gross receipts include any services that are part of the sale and all receipts, cash, credits, and property of any kind. (RTC, § 6012.) Although sales tax is imposed on retailers, retailers may collect sales tax reimbursement from their customers. (Civ. Code, § 1656.1; Cal. Code Regs., tit. 18, § 1700, subd. (a)(1).)

Sales of food products for human consumption are generally exempt from tax. However, this exemption does not apply to sales of food products furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, or to sales of food products served as meals on or off the premises of the retailer. (RTC, § 6359.) Therefore, issues arise as to whether payments designated as tips, gratuities, and service charges that are related to the taxable sale of food products are includible in retailers’ gross receipts.

Under Regulation 1603, subdivision (g), optional payments designated as tips, gratuities, and service charges are not subject to tax (and not included in a retailer’s gross receipts); however, mandatory payments designated as tips, gratuities, and service charges are in-

cluded in gross receipts subject to tax, even if the amount is subsequently paid by the retailer to the server.

On June 25, 2012, the Internal Revenue Service published Internal Revenue Bulletin No. 2012–26, which includes Revenue Ruling 2012–18. This revenue ruling clarified and updated guidelines on taxes imposed on tips under the Federal Insurance Contributions Act, including information on the difference between tips (tip wages) and service charges (non–tip wages). The ruling reaffirmed prior guidance which provided that the absence of any of the following four factors creates a doubt as to whether a payment is a tip and indicates that the payment may be a service charge: 1. The payment must be made free from compulsion; 2. The customer must have the unrestricted right to determine the amount; 3. The payment should not be the subject of negotiation or dictated by employer policy; 4. Generally, the customer has the right to determine who receives the payment.

Effect, Objective, and Benefits of the Proposed Amendments to Regulation 1603

Although Regulation 1603, subdivision (g), was amended in 2007 to clarify the application of tax to tips, gratuities and service charges, it has become evident to Board staff that some retailers are having compliance issues because there is still some remaining confusion regarding what constitutes “mandatory” versus “optional” tips, gratuities, and service charges. The proposed amendments to Regulation 1603 are intended to have the effect and accomplish the objective of addressing these retailers’ compliance issues by establishing a bright–line approach to how to treat amounts added by retailers to customers’ bills that is consistent with how the retailers treated the amounts for Internal Revenue Service purposes. This new approach will ease compliance for retailers by making it clear that the application of sales tax to the transactions at issue is consistent with federal tax reporting requirements.

Interested Parties Process

Originally, the Board’s Business Taxes Committee (BTC) staff prepared draft amendments to subdivision (g) of Regulation 1603 to address the retailers’ compliance issues. The draft amendments suggested adding provisions to the regulation explaining that when a retailer keeps records consistent with reporting amounts as tip wages for Internal Revenue Service purposes, such amounts are presumed to be optional and not subject to tax. The draft amendments also provided that a payment of a tip, gratuity, or service charge is deemed to be mandatory if the amounts are required to be reported, for the purposes of income tax to the Internal Revenue Service, as non–tip wages, and the amendments listed the four factors from Revenue Ruling 2012–18 that the Internal Revenue Service examines to determine if a

payment is a tip or service charge (non-tip wage). The draft amendments also clarified subdivision (g)'s existing language and deleted provisions of subdivision (g) that had caused confusion to retailers and staff. The draft amendments also made non-substantive changes to the regulation by updating cross-references and making strictly grammatical changes throughout the regulation. The draft amendments also updated the cross-reference to other regulations following the regulation's authority and reference note. Additionally, the draft amendments moved the note section to a point preceding the appendix to the regulation.

BTC staff subsequently provided its draft amendments to Regulation 1603 to the interested parties and conducted an interested parties meeting in December 2013, to discuss the draft amendments. During the December 2013 meeting, interested parties appeared open to staff's proposal and there was a general consensus that creating a bright-line approach with respect to tips, gratuities, and service charges would be helpful to the restaurant industry and staff. Also, participants discussed the effect of the presumption and asked BTC staff what would happen if a retailer did not maintain records for purposes of its federal income tax reporting.

Subsequent to the December 2013 interested parties meeting, staff received letters from Kara Bush on behalf of the California Restaurant Association and from James Dumler of McClellan Davis, LLC. Both letters were dated January 10, 2014. In the first letter, Ms. Bush expressed the California Restaurant Association's appreciation of the Board's efforts to clarify this issue and that the association looks forward to continuing to work with staff and other interested parties to develop a bright-line approach that will foster reporting compliance and audit efficiency. Ms. Bush also expressed appreciation for staff's suggestions and stated that the association will continue to explore other alternatives. In the second letter, Mr. Dumler reiterated concerns expressed during the interested parties meeting that a taxpayer that lacks support for the IRS tip designations would not benefit from the proposed presumption and optional gratuities could incorrectly be presumed to be mandatory. Mr. Dumler also recommended that the examples in the current regulation with respect to mandatory payments be retained.

In response to the concerns expressed at the December 2013 interested parties meeting, staff added language to its draft amendments clarifying the application of the new presumption regarding federal tax reporting and also added provisions to determine whether a payment is "optional" or "mandatory" when a retailer does not maintain records for purposes of reporting tips to the IRS. When a retailer does not maintain these records, the determination of whether or not the payments are mandatory is consistent with the provisions current-

ly in Regulation 1603, subdivision (g). Additionally, staff added clarifying language to its draft amendments to define the term "amount" as a payment designated as a tip, gratuity, or service charge, or any other separately stated payment for services associated with the purchase of meals, food, or drinks. This amendment was made to reduce historical confusion associated with the use of the word "amount" to refer to payments throughout subdivision (g). Also, due to perceived confusion with staff applying the four factors from Revenue Ruling 2012-18 (referred to above), these factors were deleted from staff's draft amendments.

In February 2014, staff again met with interested parties to discuss the draft amendments. Staff and interested parties discussed how to make it clear that the draft amendments are only to apply prospectively.

Following the February 2014, interested parties meeting, staff received a letter from Mr. Matt Sutton, sent on behalf of the California Restaurant Association. In his March 6, 2014, letter, Mr. Sutton explained that while the California Restaurant Association has historically disagreed with the taxation of mandatory gratuities, it was appreciative of staff's ideas and acknowledged that the suggestions for a "bright line" approach, discussed in the discussion papers and both interested parties meetings, have merit. Mr. Sutton further stated that it remains to be seen how the industry will respond to the Internal Revenue Service guidance and how that will interplay with the Board's practice of taxing mandatory tips.

May 22, 2014, BTC Meeting

Staff made changes to its draft amendments to Regulation 1603 in response to the discussion of the prospective application of the draft amendments at the February 2014 interested parties meeting. Staff changed the draft amendments so that subdivision (g) of Regulation 1603 continues to apply to transactions prior to January 1, 2015, and new subdivision (h), containing what had previously been staff's draft amendments to subdivision (g), will apply to transactions on and after January 1, 2015. Staff also changed the draft amendments in order to renumber the subdivisions of the regulation following new subdivision (h), and update the regulation's cross-reference to the renumbered subdivisions.

Subsequently, BTC staff prepared Formal Issue Paper 14-003 and distributed it to the Board Members for consideration at the Board's May 22, 2014, BTC meeting. Formal Issue Paper 14-003 recommended that the Board propose to add new subdivision (h) to Regulation 1603 to define the term "amount," and provide that, for sales made on and after July 1, 2015, when a retailer keeps records consistent with reporting amounts as tip wages for Internal Revenue Service purposes, such amounts are presumed to be optional and not subject to

tax. Additionally, new subdivision (h) provides that when a retailer's records reflect that amounts are required to be reported to the Internal Revenue Service as non-tip wages, the amount is deemed to be mandatory. Finally, new subdivision (h) provides that when a retailer does not maintain records for purposes of reporting amounts to the Internal Revenue Service, the application of tax to the amounts will be consistent with the provisions currently in Regulation 1603, subdivision (g). The formal issue paper also recommended making non-substantive amendments to the regulation.

The Board discussed Formal Issue Paper 14-003 during its May 22, 2014, BTC meeting. Mr. Matt Sutton appeared on behalf of the California Restaurant Association and made statements similar to those in his March 6, 2014, letter. At the conclusion of the discussion, the Board Members voted 4-0 to propose the amendments to Regulation 1603 recommended in the formal issue paper, subject to conforming to the official text of the regulation at the time of publication. The Board determined that the proposed amendments to Regulation 1603 are necessary to have the effect and accomplish the objective of addressing retailers' compliance issues by establishing a bright-line approach to how to treat amounts added by retailers to customers' bills that is consistent with how the retailers treated the amounts for Internal Revenue Service purposes.

The Board also anticipates that the proposed amendments to Regulation 1603 will promote fairness and benefit retailers, Board staff, and the Board by providing regulatory provisions that may be applied using a bright-line approach that is consistent with federal tax reporting requirements on these transactions, and thereby reduce confusion for retailers and staff.

The Board has performed an evaluation of whether the proposed amendments to Regulation 1603 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations. This is because there are no other sales and use tax regulations that specifically apply to restaurants' and similar establishments' collection of amounts as tips, gratuities, and service charges. In addition, the Board has determined that there are no comparable federal regulations or statutes to Regulation 1603 or the proposed amendments to Regulation 1603.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1603 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed un-

der part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the proposed amendments to Regulation 1603 will result in no direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the proposed amendments to Regulation 1603 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1603 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

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

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

The Board has determined that the proposed amendments to Regulation 1603 are not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Regulation 1603 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of

California. Furthermore, the Board has determined that the adoption of the proposed amendments to Regulation 1603 will not affect the benefits of Regulation 1603 to the health and welfare of California residents, worker safety, or the state's environment.

**NO SIGNIFICANT EFFECT ON
HOUSING COSTS**

The adoption of the proposed amendments to Regulation 1603 will not have a significant effect on housing costs.

**DETERMINATION REGARDING
ALTERNATIVES**

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

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Cary Huxsoll, Tax Counsel III, by telephone at (916) 323-3092, by e-mail at Cary.Huxsoll@boe.ca.gov, or by mail at State Board of Equalization, Attn: Cary Huxsoll, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

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

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on August 5, 2014, or as soon thereafter as the Board begins the public hearing regarding the adoption of the pro-

posed amendments to Regulation 1603 during the August 5-7, 2014, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Regulation 1603. The Board will only consider written comments received by that time.

**AVAILABILITY OF INITIAL STATEMENT OF
REASONS AND TEXT OF
PROPOSED REGULATION**

The Board has prepared an underscored and strikethrough version of the text of Regulation 1603 illustrating the express terms of the proposed amendments. The Board has also prepared an initial statement of reasons for the adoption of the proposed amendments to Regulation 1603, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's Website at www.boe.ca.gov.

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

The Board may adopt the proposed amendments to Regulation 1603 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT
OF REASONS

If the Board adopts the proposed amendments to Regulation 1603, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

**TITLE 20. PUBLIC UTILITIES
COMMISSION**

The California Public Utilities Commission (the Commission) proposes to amend the regulation described below after considering all comments, objections, or recommendations regarding the proposal.

At a duly noticed, regularly scheduled meeting, not earlier than August 04, 2014, at 9:00 a.m., in the Commission Auditory, 5050 Van Ness Avenue, San Francisco, the Commission will consider a proposal to amend the Rules of Practice and Procedure set forth in Division 1, Chapter 1, Article 3 of Title 20 of the California Code of Regulations. The proposed amended regulation will respond to recent legislative revisions to the statutory requirements for issuance and transfer of passenger stage corporation (PSC) certificates and will simplify the Commission's regulatory procedure.

AUTHORITY TO ADOPT RULES

Article XII, Section 23 of the California Constitution and Section 1701 of the Public Utilities Code authorize the Commission to adopt Rules of Practice and Procedure.

INFORMATIVE DIGEST

The Commission proposes amendments to its Rules of Practice and Procedure in order to respond to recent legislative revisions to the statutory requirements for issuance and transfer of PSC certificates and to simplify the Commission's regulatory procedures. These amendments include:

- Modifying the Commission's procedures for granting and denying an application for a passenger stage corporation (PSC) certificate;
- Granting authority to transfer a PSC certificate that has already been issued;
- Granting authority to acquire or control a PSC;
- Establishing a zone of rate freedom (ZORF) that permits a PSC to adjust its rates within specified limits without seeking further approval from the Commission.

AVAILABILITY OF STATEMENT OF REASONS
AND PROPOSED TEXT

The proposed rule amendments are set forth in the Assigned Commissioner's Ruling and will be available on the Commission's website, www.cpuc.ca.gov. The Assigned Commissioner's Ruling includes a more detailed initial statement of the reasons for the rule amendments. For convenience, the proposed rule amendments are included here, in a strike-through and underlined format:

3.3. (Rule 3.3) Certificate to Operate.

(a) Applications for a certificate to operate as a vessel common carrier or passenger stage corporation shall contain the following information:

(1) The type of service applicant seeks to perform or that is being performed by applicant, a general description of it, and a reference to the authority under which existing service is performed.

(2) The specific authority requested and the particular statutory provision under which the certificate is requested.

~~(3) If a carrier or property, a description of specified commodities proposed to be transported, and, if general commodities with exceptions are proposed to be transported, a statement specifying such exceptions.~~

~~(4) The geographical scope of the proposed operation, including the termini and other points proposed to be served, and a concise narrative description of the proposed route.~~

(3) The areas and points where the applicant will be holding out service, by county, fixed termini, and regular route, if appropriate. If the applicant intends to serve one or more commercial airports, this information must include each airport proposed to be served.

~~(5) (4) A map or sketch of the route and points to be served, drawn to suitable indicated scale, and showing present and proposed operation by distinctive coloring or marking.~~

(6) (5) A statement of the rates or fares proposed to be charged and rules governing service. A list of the base fares to be charged, and identification of existing competitors who offer the same or substantially similar services. In addition, all proposed discounted fares must be disclosed as part of this list. Applications for certificates need not contain tariffs, but shall indicate the level and nature of proposed rates and rules, as required herein, and may refer to tariffs on file with or issued by the Commission.

~~(7) (6) A statement indicating the frequency of the proposed service. If "on call" service is proposed, the application shall set forth conditions under which such service would be performed.~~

~~(8) (7) The kind and approximate number of units of equipment to be employed in the proposed service.~~

(9) (8) A statement of financial ability to render the proposed service.

(10) (9) Facts showing that the proposed operation is required by public convenience and necessity, as defined by Public Utilities Code Section 1032. Pursuant to Section 1032, the applicant must show:

a. That the applicant is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the Department of the California Highway Patrol (CHP) governing highway safety;

b. That the applicant is committed to observing federal and state hours of service regulations;

c. That the applicant has a preventive maintenance program in effect for its passenger vehicles that conforms to CHP regulations found under Title 13 of the California Code of Regulations (CCR);

d. That the applicant institutes a program to monitor the driving records of those operating vehicles that require Class B driver's licenses;

e. That the applicant has a safety education and training program in effect for all employees and subcarriers;

f. That the applicant agrees to maintain its passenger vehicles in safe operating condition and in compliance with motor vehicle safety laws and regulations; and

g. That the applicant has filed with the Commission proof of workers' compensation insurance coverage.

(b) Every applicant for a passenger stage certificate shall forward a copy of the application to each public transit operator operating in any portion of the territory sought to be served by the applicant. The applicant shall also mail a notice that the application has been filed with the Commission to all city and county governmental entities entity and regional transportation planning agencies agency within whose boundaries passengers will be loaded or unloaded. ~~This notice shall state in general terms the authority sought, including the proposed routes, schedules, fares and equipment. Said notice shall also state that a copy of the application and related exhibits will be furnished by applicant upon request. A copy of this notice and a certificate of service shall be filed with the application.~~

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 701, 1007, 1010, 1032, 1062 and 1701, Public Utilities Code.

COMMENTS AND INQUIRIES

Any interested person may submit written comments concerning the proposed rule amendments. The written comment period will close at 5:00 p.m. on August 04, 2014. All comments must be served on Administrative

Law Judge W. Anthony Colbert via email or postal service at:

wac@cpuc.ca.gov
or
ALJ W. Anthony Colbert,
505 Van Ness Avenue, Rm. 5115,
San Francisco, CA 94102

Inquiries concerning the substance of the proposed amendments, requests for copies of the text of the proposed amendments, or other questions should be directed to ALJ Colbert at wac@cpuc.ca.gov or (415) 703-2337.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, the Commission may adopt the proposed rule amendments substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Commission adopts the rule amendments. Requests for copies of any modified rule amendments should be directed to the attention of ALJ Colbert at the email address or phone number indicated above. The Commission will accept written comments on the modified regulations, if any, for 15 days after the date on which the modifications are made.

GENERAL PUBLIC INTEREST

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Final Publication

Unified Program State Surcharge to Include Assessment for Aboveground Petroleum Storage Act (APSA) Program

NOTICE IS HEREBY GIVEN that the Secretary for the California Environmental Protection Agency is adjusting the Unified Program state surcharge according to the California Health and Safety Code, Division 20, Chapter 6.11, section 25404.5(b), and the California Code of Regulations, Title 27, Division 1, Subdivision 4, Chapter 1, Section 15240.

The Unified Program state surcharge is an assessment on each entity regulated under the Unified Program and is used to fund the necessary and reasonable

costs of all state agencies responsible for program implementation, ongoing maintenance and oversight of the Unified Program. Assembly Bill 1566 (Wieckowski) appointed the California Department of Forestry and Fire Protection Office of the State Fire Marshal (CAL FIRE – OSFM) to be the authorizing state agency for the oversight and implementation of the Aboveground Petroleum Storage Act program. A Budget Change Proposal has been approved to fund two positions at the CAL FIRE – OSFM to fulfill the necessary duties of administering the APSA program. The positions will be funded by an annual APSA assessment on regulated tank facilities.

The Unified Program state surcharge now includes a yearly assessment of \$26.00 applicable to each tank facility regulated under the APSA program. The Oversight, Underground Storage Tank and California Accidental Release Prevention Program portions of the Unified Program state surcharge remain unchanged.

On April 25, 2014, the APSA assessment was publicly noticed in the California Regulatory Notice Register for a 30-day comment period. No comments were received. The APSA assessment is considered effective immediately upon final publication in the California Regulatory Notice Register.

Certified Unified Program Agencies are required to begin assessing the new Unified Program state surcharge 60 days after the effective date and will be responsible for collecting the APSA state surcharge during the normal billing cycle for fiscal year 2014/2015.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**NOTICE OF PUBLIC COMMENT PERIOD
ON
AIR TOXICS HOT SPOTS PROGRAM
GUIDANCE MANUAL FOR PREPARATION
OF HEALTH RISK ASSESSMENTS**

June 20, 2014

The Office of Environmental Health Hazard Assessment (OEHHA) is releasing a draft document, *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments* (Guidance Manual) to solicit public comment. This draft Guidance Manual has been developed by OEHHA, in conjunction with the Air Resources Board, for use in implementing the Air Toxics Hot Spots Program (Health and Safety Code Section 44360 et seq.). OEHHA is required to develop guidelines for conducting health risk assessments under Section 44360(b)(2).

OEHHA has developed three Technical Support Documents (TSDs) that provide the scientific basis for numeric values used in assessing health risks from exposures to facility emissions. The three TSDs describe non-cancer risk assessment (derivation of acute, 8-hour and chronic Reference Exposure Levels), derivation of cancer potency factors, and exposure assessment methodology including stochastic risk assessment. These TSDs underwent public and peer review, were approved by the State’s Scientific Review Panel on Toxic Air Contaminants, and adopted by OEHHA for use in the Air Toxics Hot Spots program. The draft Guidance Manual combines the critical information from the three TSDs into a guidance manual for the preparation of health risk assessments. We are seeking comment on the guidance itself including clarity, and on a few items related to implementing the information in the three TSDs noted above. These items are specified on OEHHA’s website where the document is available for download. We are not seeking comments on the underlying scientific information that originally appeared in the TSDs, which have undergone public and peer review, approval by the Scientific Review Panel, and adoption by OEHHA. The Guidance Manual will also undergo review by the Scientific Review Panel.

The Guidance Manual becomes available on the OEHHA Home Page at <http://www.oehha.ca.gov> on **June 20, 2014. The distribution of the document will commence a 45-day public review period that will end on August 4, 2014.** Public workshops will be held in Northern and Southern California at the following locations and times:

July 15, 2014, 1:00 to 5:00 p.m.
CC-2
South Coast Air Quality Management District
21865 E. Copley Dr.,
Diamond Bar, CA 91765

July 16, 2014, 1:00 to 5:00 p.m.
Sierra Hearing Room
Cal/EPA Building
1001 I Street,
Sacramento, CA

Please direct your comments on the documents, in writing or by e-mail, and any inquiries concerning technical matters or availability of the documents to:

Dr. David Siegel
Chief, Air Community and Environmental Research
Branch
Office of Environmental Health Hazard Assessment
1001 I St.
Sacramento, CA 95814
E-mail: David.Siegel@oehha.ca.gov
Telephone: (916) 322-5624

Information about dates and agenda for meetings of the Scientific Review Panel can be obtained from the California Air Resources Board web page at <http://www.arb.ca.gov/srp/srp.htm>.

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED REGULATION**

**TITLE 27, CALIFORNIA CODE OF
REGULATIONS**

**PROPOSED SECTION 25904
LISTINGS BY REFERENCE TO THE
CALIFORNIA LABOR CODE**

June 20, 2014

As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of changes to the proposed regulation and Initial Statement of Reasons to add section 25904 to Title 27 of the California Code of Regulations.

This proposed regulation was originally the subject of a Notice of Proposed Rulemaking published on January 31, 2014, in the California Regulatory Notice Register (Register 2014, No 5–Z), which initiated a public comment period. Eight written submissions from the public were received during the comment period that ended April 4, 2014. In addition, OEHHA heard comments at a public hearing on the proposed regulation held on March 21, 2014.

Concern was expressed in some comments that the previously proposed language in the regulation and Initial Statement of Reasons was not sufficiently clear and could engender confusion. After review of the comments, proposed Section 25904(a)(1) of the regulation has been reorganized to better implement the statutory language of Proposition 65, which incorporates sections 6382(b)(1) and 6382(d) of the California Labor Code. These modifications also better reflect the 2012 changes to the federal Hazard Communication Standard (HCS) and the court opinion in *Styrene Information and Research Center v. Office of Environmental Health Hazard Assessment* (2012) 210 CaLApp.4th 1082.

The Initial Statement of Reasons has also been amended to remove language on page 7 that discussed Item 11 of Table D.1 in Appendix D of the 2012 version of the federal HCS. Commenters expressed concern that Appendix D lacks the clarity needed to identify carcinogens that are within the scope of the HCS standard, and thereby subject to Proposition 65. OEHHA has considered the comments and agrees.

Included with this notice are copies of the regulatory language and Initial Statement of Reasons with the modified language provided in underline and strikeout format. These modifications are also presented on the OEHHA website at www.oehha.ca.gov, and may be requested from Monet Vela at the OEHHA Legal Office at (916) 323–2517.

OEHHA will accept written comments on these amendments to the proposed regulation from June 20, 2014 until **July 7, 2014 at 5:00 p.m.** We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.comments@oehha.ca.gov. Please include “Labor Code” in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the address below. Mailed, faxed or hand-delivered comments should be addressed to:

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

DECISION NOT TO PROCEED

FISH AND GAME COMMISSION

PURSUANT TO GOVERNMENT CODE 11347, NOTICE IS HEREBY GIVEN that the Fish and Game Commission will not proceed with the proposed amendment of Section 28.20, Title 14, CCR, related to Pacific halibut sport fishing (auto-conformance to federal regulations) (Notice File No. Z–2014–0318–15), published March 28, 2014, in the California Notice Register 2014, No. 13–Z, page 550; therefore, withdraws this proposed action for further consideration. The Commission may initiate a new proposal to adopt regulations pertaining to the same or similar subject matter at a later date, with notice as required by law.

Dated: June 6, 2014
Sonke Mastrup
Executive Director

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

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

File# 2014-0509-02
BOARD OF EQUALIZATION
Returns, Defects and Replacements

This rulemaking action by the State Board of Equalization (Board) amends Section 1655, Title 18, of the California Code of Regulations. These amendments align section 1655 with Civil Code sections 1793.2 and 1793.25, as amended by Statutes 2011, Chapter 727 (AB 242), relating to reimbursement of sales and use taxes previously paid to the Board by a motor vehicle manufacturer when the manufacturer subsequently pays restitution to a consumer pursuant to Civil Code section 1793.2.

Title 18
California Code of Regulations
AMEND: 1655
Filed 06/11/2014
Effective 10/01/2014
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2014-0523-04
BOARD OF EQUALIZATION
Manufacturing Equipment

This action without regulatory effect repeals the partial exemption from sales and use tax for certain property used in specified activities, including manufacturing, pursuant to the expiration of statutory authority.

Title 18
California Code of Regulations
REPEAL: 1525.2, 1525.3
Filed 06/05/2014
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2014-0429-02
BOARD OF FORESTRY AND FIRE PROTECTION
Road Rules, 2013

This regulatory action by the Board of Forestry and Fire Protection (Board) represents a comprehensive overhaul of the Board's "Road Rules," located within title 14 of the California Code of Regulations. The purpose of this action is to ensure that all road-related Forest Practice Rules adequately prevent individual and cumulative adverse impacts to beneficial uses of water. In addition to making substantive revisions, the Board reorganized all rules related to logging roads, landings, and watercourse crossings into a clear, concise, and logical order.

Title 14
California Code of Regulations
ADOPT: 923, 923.1, 923.2, 923.3, 923.4, 923.5, 923.6, 923.7, 923.8, 923.9, 923.9.1, 943, 943.1, 943.2, 943.3, 943.4, 943.5, 943.6, 943.7, 943.8, 943.9, 943.9.1, 963, 963.1, 963.2, 963.3, 963.4, 963.5, 963.6, 963.7, 963.8, 963.9, 963.9.1 AMEND: 895.1, 914.7, 914.8, 915.1, 916.3, 916.4, 916.9, 934.7, 934.8, 935.1, 936.3, 936.4, 936.9, 954.7, 954.8, 955.1, 956.3, 956.4, 956.9, 1034, 1051.1, 1090.5, 1090.7, 1092.09, 1093.2, 1104.1 REPEAL: 918.3, 923, 923.1, 923.2, 923.3, 923.4, 923.5, 923.6, 923.7, 923.8, 923.9, 923.9.1, 938.3, 943, 943.1, 943.2, 943.3, 943.4, 943.5, 943.6, 943.7, 943.8, 943.9, 943.9.1, 958.3, 963, 963.1, 963.2, 963.3, 963.4, 963.5, 963.6, 963.7, 963.8, 963.9
Filed 06/11/2014
Effective 01/01/2015
Agency Contact: George Gentry (916) 653-8031

File# 2014-0505-01
CALIFORNIA GAMBLING CONTROL
COMMISSION
MICS IV-Cage Operations; Security of Floor Banks, Equipment, etc.

The California Gambling Control Commission amended two sections and adopted one section in title 4 of the California Code of Regulations pertaining to written policies and procedures containing minimum internal control standards (MICS) that California gambling establishments must maintain. The MICS are related to cage operation and functions, security of floor banks, and security of gambling equipment and confidential documents.

Title 4
California Code of Regulations
ADOPT: 12387
AMEND: 12360, 12386
Filed 06/11/2014
Effective 10/01/2014
Agency Contact: James Allen (916) 263-4024

File# 2014-0428-02
CALIFORNIA HIGHWAY PATROL
General Hazardous Materials Regulations

This rulemaking action by the Department of California Highway Patrol (CHP) amends sections 1160.1, 1160.2, and 1160.4 of the General Hazardous Materials Regulations (HMR) found in title 13 of the California Code of Regulations in order to be consistent with national transportation requirements as required by federal law. This rulemaking action amends section 1160.1 to remove the exception for cargo tanks transporting liquefied petroleum gas which is inconsistent with federal law, updates section 1160.2 to reflect the most current version of title 49 of the Code of Federal Regulations, amends section 1160.2 to update the source information for title 49 of the Code of Federal Regulations, and updates section 1160.4 to reflect the most recent revision date on Form CHP 361M, Application for Hazardous Material Transportation License and enumerate the required information of the Form CHP 361M. Other non-substantive changes are also included in this regulatory action in order to improve the clarity of the regulation text.

Title 13
California Code of Regulations
AMEND: 1160.1, 1160.2, 1160.4
Filed 06/09/2014
Effective 10/01/2014
Agency Contact: Kristi McNabb (916) 843-3400

File# 2014-0430-02
CEMETERY AND FUNERAL BUREAU
Funeral Enforcement Regulations

In this regulatory action, the Bureau is amending a number of sections to increase the maximum allowable administrative fines from \$2,500 to \$5,000 for each violation. This action further repeals various sections related to continuing education to be consistent with statute.

Title 16
California Code of Regulations
AMEND: 1240, 1241, 1242, 1246
REPEAL: 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291
Filed 06/11/2014
Effective 10/01/2014
Agency Contact: Cheryl Steurer (916) 574-8203

File# 2014-0430-03
COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING
Training and Testing Specifications

This rulemaking action by the Commission on Peace Officer Standards and Training (POST) updates Learning Domain #28: Traffic Enforcement in the Training and Testing Specifications for Peace Officer Basic Courses, dated August 1, 2014, which is incorporated by reference in sections 1005, 1007, and 1008 of title 11 of the California Code of Regulations.

Title 11
California Code of Regulations
AMEND: 1005, 1007, 1008
Filed 06/11/2014
Effective 08/01/2014
Agency Contact: Cheryl Smith (916) 227-0544

File# 2014-0424-07
COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING
Basic Courses Test Management and Security Protocols

In this regulatory action, the Commission is amending its "POST Basic Courses Test Management and Security Protocols" to make some changes related to test administration and security.

Title 11
California Code of Regulations
AMEND: 1005, 1007, 1008, 1052
Filed 06/05/2014
Effective 10/01/2014
Agency Contact:
Jennifer Imlay-Hardesty (916) 227-3917

File# 2014-0428-01
DEPARTMENT OF FOOD AND AGRICULTURE
Unattended Weighing Systems

This rulemaking by the Department of Food and Agriculture adopts nine (9) sections in Title 4 of the California Code of Regulations to allow for the use of

unattended weighing systems for any weighmaster that weighs a vehicle moving construction materials. These regulations establish the installation, performance, licensing fees and recordkeeping requirements for the use of these unattended weighing systems.

Title 4
 California Code of Regulations
 ADOPT: 4402, 4403, 4496, 4496.1, 4496.2, 4496.3, 4496.4, 4496.5, 4496.6
 Filed 06/09/2014
 Effective 10/01/2014
 Agency Contact:
 Katherine de Contreras (916) 229-3000

File# 2014-0507-02
MANAGED RISK MEDICAL INSURANCE BOARD
 Continue MRMIP 2013 Subscriber Subsidy

Section 25 of Assembly Bill (AB) 82 (Stats. 2013, ch. 23) amended subdivision (c) of Insurance Code section 12737 to give the Managed Risk Medical Insurance Board (Board) ongoing authority beyond 2013 to subsidize subscriber premiums to as low as 100% of the standard average individual rates for comparable coverage. The Board adopted an emergency filing to amend section 2698.401 of title 10 of the California Code of Regulations to implement this change and to provide that beginning January 1, 2014 the Board shall calculate an estimate of the standard average individual rate for program benefits for each risk category and for covering a subscriber in each risk category and the subscriber's dependents. Pursuant to section 77 of AB 82, this filing was deemed an emergency by the Legislature and exempt from review by the Office of Administrative Law. This filing is a certificate of compliance for the above-described emergency regulatory action.

Title 10
 California Code of Regulations
 AMEND: 2698.401
 Filed 06/04/2014
 Effective 06/04/2014
 Agency Contact: Alissa Harris (916) 324-0571

File# 2014-0529-02
MANAGED RISK MEDICAL INSURANCE BOARD
 AIM Eligibility, Enrollment, Subscriber Contributions, Etc.

This Certificate of Compliance, in response to bills ABX-1 (Stats. 2013, c. 3) and AB 82 (Stats. 2013, c. 23), amends the Access for Infants and Mothers (AIM) program to require use of Modified Adjusted Gross Income in calculating AIM eligibility as well as requiring

AIM eligibility to continue through the end of the month in which the 60th day following the end of the pregnancy falls, and other amendments to better align the provisions in the AIM regulations to the related activities of the Department of Health Care Services and the California Health Benefit Exchange. (Previous OAL file # 2013-1217-02E)

Title 10
 California Code of Regulations
 AMEND: 2699.100, 2699.200, 2699.201, 2699.205, 2699.207, 2699.209, 2699.210, 2699.400
 REPEAL: 2699.202, 2699.208, 2699.211
 Filed 06/10/2014
 Effective 06/10/2014
 Agency Contact: Alissa Harris (916) 324-0571

File# 2014-0501-03
STATE MINING AND GEOLOGY BOARD
 San Bernardino P-C Region Designation/Termination of Designation

This rulemaking action implements Public Resources Code sections 2790 and 2793 for the San Bernardino Production-Consumption Region (hereafter "Region"). The rulemaking action amends section 3550.8 of Title 14 of the California Code of Regulations to adopt the recommendations of the 2008 California Geological Survey Report (hereafter "Report") regarding the Region. The amendments to section 3550.8 update this section to adopt the Report's recommendations regarding which sectors and subsectors within the Region should be designated as of mineral significance and which sector's and subsector's designations should be terminated.

Title 14
 California Code of Regulations
 AMEND: 3550.8
 Filed 06/11/2014
 Effective 10/01/2014
 Agency Contact: Stephen M. Testa (916) 322-1082

File# 2014-0429-03
STATE WATER RESOURCES CONTROL BOARD
 LARWQCB, LA River Nitrogen Compounds & Related Effects TMDL Revision

This action by the State Water Resources Control Board (State Board) amends sections 3939.7 and 3939.11 of Title 23 of the CCR, the Water Quality Control Plan for the Los Angeles Region to revise the total maximum daily load for nitrogen compounds and related effects in the Los Angeles River and its tributaries. This basin plan amendment was adopted by the Los Angeles Regional Water Quality Control Board by Resolution R12-010 on December 6, 2012, and approved by the State Board on June 6, 2013 by Resolution

2013–0016. This rulemaking is pursuant to Government Code section 11353.

Title 23
 California Code of Regulations
 AMEND: 3939.7, 3939.11
 Filed 06/09/2014
 Effective 06/09/2014
 Agency Contact: Shana Rapoport (213) 576–6763

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN January 8, 2014 TO
 June 11, 2014**

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

05/30/14 REPEAL: 649.56
 05/29/14 AMEND: 22600, 22600.1, 22600.2, 22600.5, 22600.6, 22600.7, 22600.8, 22600.9, 22601, 22601.3, 22601.4, 22601.7 REPEAL: 22601.1
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| 04/09/14 | AMEND: 1619.1(b) | 04/01/14 | ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, 6538 |
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 02/25/14 ADOPT: 5255, 5256, 5453, 5552 AMEND: 5200, 5212, 5215, 5215.4, 5215.6, 5216, 5217, 5218, 5219, 5220, 5222, 5224, 5225, 5230, 5233, 5235, 5237, 5240, 5241, 5242, 5247, 5250, 5262, 5264, 5266, 5267, 5270, 5311, 5322, 5323.6, 5323.8, 5324, 5325.6, 5332, 5332.6, 5333, 5333.4, 5333.6, 5334, 5334.4, 5334.6, 5335, 5336.5, 5345, 5421, 5435, 5444, 5450, 5451, 5452, 5460, 5463, 5510, 5511, 5512, 5522.8, 5523.6, 5551, 5561, 5562, 5563, 5570, 5573, 5574 REPEAL: 5450, 5512, 5563
 02/20/14 ADOPT: 19266
 01/08/14 AMEND: 25106.5-1

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04/22/14 AMEND: 1601, 1602, 1602.1, 1603, 1604, 1605, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608

01/28/14 AMEND: 2401, 2402
 01/08/14 AMEND: 1660, 1661, 1662, 1663, 1664, 1665
 01/08/14 AMEND: 1.2, 1.5, 1.9, 1.10, 1.13, 2.4, 3.3, 3.6, 4.2, 8.3, 13.1, 13.8, 13.11, 13.13, 14.1, 14.2, 14.5, 14.6, 15.2, 16.6, 18.1

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05/28/14 AMEND: 64213, 64431, 64432, 64447.2, 64463, 64465, 64481, 64530, 64534, 64534.2, 64535.8, 64535.4, 64671.80
 05/22/14 AMEND: 51510, 51510.1, 51510.2, 51510.3, 51511, 51511.5, 51511.6, 51535, 51535.1, 54501
 04/07/14 REPEAL: 75040, 75041, 75042, 75043, 75044
 04/03/14 AMEND: 97212, 97215, 97225, 97226, 97227, 97228, 97229, 97244, 97248, 97258, 97259, 97260, 97261
 03/25/14 AMEND: 97225, 97226, 97227
 03/17/14 AMEND: 51516.1
 02/26/14 AMEND: 53800, 53810 REPEAL: 53830
 02/13/14 AMEND: 51003

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06/09/14 AMEND: 3939.7, 3939.11
 06/03/14 ADOPT: 3929.11
 06/02/14 ADOPT: 877, 878, 878.1, 878.2, 879, 879.1, 879.2
 05/22/14 ADOPT: 3929.12
 05/19/14 ADOPT: 3949.9
 05/07/14 ADOPT: 3929.10
 03/11/14 ADOPT: 3969.4
 02/27/14 AMEND: 2922
 02/04/14 AMEND: 2921
 01/09/14 ADOPT: 13.2, 21, 22, 23, 24, 25, 27, 29 AMEND: 13, 13.1, 13.2 (renumbered to 13.3), 20, 21 (renumbered to 26), 26 (renumbered to 28), 28 (renumbered to 30) REPEAL: 23, 24, 25, 27

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04/07/14 AMEND: 4353, 4369
 03/24/14 ADOPT: 6932 REPEAL: 6932

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05/13/14 AMEND: 27000
 04/30/14 AMEND: 10013, 10014
 04/16/14 AMEND: 25302, 25304
 02/20/14 AMEND: 27001

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05/07/14 AMEND: 1300.43.3, 1300.65, 1300.71, 1300.80.10
 04/28/14 ADOPT: 1300.67.241
 04/14/14 ADOPT: 1300.67.005

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04/23/14 AMEND: 40-105, 42-422, 82-504

04/23/14 AMEND: 40-105, 42-422, 82-504

