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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 4. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to promulgate regulations contained in California Code of Regulations, Title 4, Division 9, Chapter 6, Automotive Products Specifications. The Department proposes to add “Article 9, Specifications for Dimethyl Ether Used in Compression–ignition Engines,” to provide clarity and uniformity in the implementation and enforcement of California Business and Professions Code (BPC) Section 13450.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Food and Agriculture, Division of Measurement Standards (Division), 6790 Florin Perkins Road, Suite 100, Sacramento, California 95828. Comments may also be submitted to Steven Cook, Chief, Enforcement Branch, by facsimile (FAX) at (916) 229–3026 or by e–mail at DMS@cdfa.ca.gov. Comments must be submitted prior to 5:00 p.m., September 8, 2014.

AUTHORITY and REFERENCE

The Department is authorized by BPC Section 12027 to make regulations necessary to carry out the provisions of Division 5. In addition, under BPC Section 13450, the Department is required to take regulatory action to adopt, by reference, the latest standards for a compression–ignition engine fuel established by a recognized consensus organization such as ASTM International or SAE International. Since ASTM has published D7901–14 “Standard Specification for Dimethyl Ether for Fuel Purposes”, the Department is obliged to adopt this new standard. Furthermore, BPC Section 13451 declares that it is unlawful to sell any product as “compression–ignition engine fuel” unless it conforms to the specifications of Article 6, found in Division 5, Chapter 14 of the BPC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The broad objective of the proposed regulation is to ensure that motor vehicle fuels offered for sale in the state meet minimum quality standards. BPC Division 5, Chapter 6, Section 13450 requires the adoption of standards of fuel quality for materials used in compression–ignition engines in motor vehicles. BPC Section 13451 declares that it is unlawful to sell any product as “compression–ignition engine fuel” unless it conforms to the specifications of Article 6, found in Division 5, Chapter 14. BPC Division 5, Section 12027 states that the Secretary of the Department of Food and Agriculture (Secretary) “may make such rules and regulations as are reasonably necessary for the purpose of carrying out the provisions of this division.” The Department has the authority and responsibility to ensure that dimethyl ether (DME) used in compression–ignition engines is of sufficient quality to prevent damage to the vehicle or harm to the public.

Adoption of this standard is compatible with and furthers the goals of AB 32 (Nuñez) Global Warming Solutions Act of 2006. This act added Division 25.5 (commencing with Section 38500) to the Health and Safety Code, relating to air pollution. Use of fuels like DME will reduce greenhouse gas (GHG) emissions and improve air quality.

The Department has determined that this proposed regulation is consistent and compatible with existing regulations for fuel quality. ASTM Standard D7901–14, “Dimethyl Ether for use as an Engine Fuel,” is the latest standard available, and meets the statutory requirements for adoption. After conducting a review for any regulations that would relate to or affect this area, the Board has concluded that these are the only regulations that concern the retail sale of DME in California.

Since 2005, an average of nearly 2.8 billion gallons of diesel fuel has been sold each year in California. In addition to petroleum hydrocarbons, diesel fuel contains a variety of additives, many of them toxic. The combustion of diesel fuel throughout the state is a major source of adverse human health effects, GHG emissions, toxic air pollutants, and environmental contaminants.

The California Office of Environmental Health Hazard Assessment (OEHHA) reviewed the health impacts of petroleum diesel exhaust. Both acute and chronic exposure to diesel emissions of particulates and nitrogen oxides (NO_x) are found to have serious adverse effects on human health. An OEHHA fact sheet states “long-term exposure to diesel exhaust particles poses the highest cancer risk of any toxic air contaminant evaluated by OEHHA” and that both diesel particulates and NO_x emissions can cause respiratory illness and aggravate asthma. The California Air Resources Board (CARB) has identified diesel exhaust as a major source of fine particulate matter (PM_{2.5}) in California.

Agency Authority:

There is no existing, comparable federal regulation, or statute regulating DME as a motor fuel. The Department is the only agency that can implement regulations pertaining to fuel quality.

Anticipated Benefits of the Proposed Regulation:

DME can replace petroleum diesel in modified compression-ignition vehicles if it meets established fuel quality specifications. As noted above, ASTM has published a quality specification for DME as a compression-ignition fuel, D7901-14. BPC Section 13450 requires the Department to adopt this standard.

When new fuel quality specifications are published and adopted into Title 4, Division 9 of the California Code of Regulations (CCR), the Department is able to continue its marketplace oversight. This ensures that engine fuels will not damage motor vehicles, resulting in costly repairs to consumers. Therefore, Californians who may purchase vehicles using DME will be beneficiaries of the proposed regulation. California drivers will have positive experiences with new fuels which will result in increased purchases of alternative fuel vehicles and greater acceptance of alternative fuels in general. This will have a positive impact on the health and welfare of California residents, as well as the environment.

It is the policy of the State to reduce GHG emissions. One measure of GHG emissions from transportation fuels is the carbon intensity, expressed in CO₂ equivalent. Diesel fuel contributes 37 million metric tons of CO₂ equivalents (CO₂e) to California’s GHG emissions each year. Under the Low Carbon Fuel Standard (LCFS), the average carbon intensity of the fuel supply

must be reduced by 10 percent by 2020. DME is a low carbon fuel that meets the requirements of the LCFS. While CARB has not yet certified carbon intensity for DME, it has greatly reduced GHG emissions compared to diesel fuel. DME can make a significant contribution towards California’s LCFS and AB 32 goals.

In a 2003 joint report *Reducing California’s Petroleum Dependence*, the California Energy Commission (CEC) and the CARB set goals for the reduction of petroleum fuel use to 15 percent below 2003 levels by 2020 and increased use of alternative fuels to 26 percent of all fuel consumed by 2022. The replacement of petroleum diesel with DME provides California with a reliable and stable transportation fuel whose cost is not linked to crude oil prices and availability. The use of DME will reduce the state’s dependence on petroleum, helping to meet the goal of the CEC and CARB of a 15 percent reduction below 2003 levels by 2020.

DME can be manufactured from a wide range of feedstock, including natural gas, dairy digester biogas, and other biomass sources. The production of DME is scalable and small production units can be located near dairies or other feedstock sources. The use of agricultural waste for DME production could also reduce agriculture’s 6 percent contribution to the state’s GHG emissions. In addition, biomass-based DME may even have *net* negative carbon content and so will have the benefit of reductions in net carbon in transportation fuels and reduced GHG emissions.

According to a 2010 University of Minnesota study, DME has the highest well-to-wheel energy efficiency, 25 percent better than synthetic diesel fuel, and the lowest GHG emissions of any biomass-based fuel. Production of DME in California would contribute to the goal of Executive Order S-06-06 to shift to state resources to produce biofuels.

According to an October 2000 report prepared by Dupont for the U.S. EPA, DME has no known carcinogenic, mutagenic, or reproductive toxicity effects. Its very low toxicity combined with its non-ozone depleting properties has supported wide use of DME as a propellant in cosmetic and pharmaceutical products. DME, a gas under ambient conditions, also poses no known threat of polluting soil or water. DME degrades rapidly in the atmosphere through photochemical reactions. If DME is released into surface waters, it will volatilize rapidly out of the water, and then break down in the air. Unlike petroleum diesel fuel, DME has very low toxicity to aquatic invertebrates, fish, and wildlife.

DME’s physical and combustion properties are very similar to those of propane. Therefore, DME may be handled using the same equipment, distribution, infrastructure, and dispensers used for liquefied propane gas (LPG). The safety procedures used with LPG can be used for handling DME.

Consistency Evaluation with Other State Regulations:

The Department has conducted a search of any similar regulations on this topic and has concluded that this proposed regulation is not inconsistent or incompatible with other state regulations. According to BPC Sections 12027 and 13450, the Department has the authority and responsibility to adopt by reference motor vehicle fuel quality specifications published by a recognized consensus organization such as ASTM International.

FISCAL IMPACT/COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

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

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

EFFECT ON HOUSING COSTS

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE WITH OTHER BUSINESSES IN OTHER STATES

The Department has made an initial determination that adoption of the proposed regulations will not have a significant statewide adverse economic impact on businesses that manufacture DME and must adhere to the proposed fuel quality specifications. This finding is based on input from Oberon Fuels, a California manufacturer of DME. Oberon has stated that the proposed regulation will have a positive impact on its business.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Currently, DME is not sold at retail as a motor vehicle fuel in California. It has limited use in vehicles as a demonstration fuel by Oberon Fuels, a California producer of DME. Since DME production is so low at this

time, it does not compete with conventional fuels. DME is not expected to have any negative impact on the businesses that currently sell petroleum diesel. If demand and production increase, existing fuel retailers will have the opportunity to expand into this market. Therefore, the Department has made an initial determination that the proposed regulations will not have a negative statewide impact on existing businesses.

The Department has made an initial determination that the adoption of the proposed regulations will not have a significant statewide adverse economic impact on businesses that produce DME and must adhere to the fuel quality specifications. Oberon Fuels, a current producer of this fuel in California and a driver for the adoption of the ASTM specifications, has requested that the Department move forward with the adoption of the proposed regulations, even though widespread production and use of DME does not currently exist.

The extent of market acceptance and adoption of DME cannot be predicted at this time, but expanded DME utilization will provide opportunities for other business types. Fuel distributors can use existing LPG technology and infrastructure for the distribution of DME. There could be job creation or expansion in California for the approximately 200 registered service agencies (RSAs) that install, repair, and maintain commercial fuel dispensers. Most of these are small businesses, averaging fewer than ten employees. Therefore, the Department has determined that this regulation could have a positive effect on existing small businesses by expanding the variety of commercial devices available for service.

Diesel mechanics would be needed to perform the vehicle conversions to accept DME fuel, and provide maintenance on heavy-duty trucks. Businesses wishing to purchase and use DME fuel in their vehicles will have certain upfront expenses, but these will likely be offset by the benefits associated with the fuel. According to Oberon Fuels, the price of DME is expected to be competitive with that of diesel. DME will meet or exceed CARB's latest emissions standards. A DME-modified vehicle is expected to have reduced maintenance costs because of the simpler fuel and emissions control.

To reduce particulate and NOx pollution from diesel engines, in 2008, CARB adopted truck and bus regulations that require upgrades to most diesel engines. By 2023, most diesel vehicles must have engines from model year 2010 or later. These requirements will be phased in starting in 2015 for the oldest engines (pre-1994). Fleet owners that add alternative fuel trucks will have flexibility in meeting the requirements. Availability of DME as a motor vehicle fuel would offer a new and cost-effective method of addressing the CARB mandate. Oberon Fuels states that by 2015 California's fleet operators will be able to purchase

heavy-duty trucks with compression-ignition engines specially designed to run on DME instead of diesel.

Type evaluation is the examination of weighing or measuring devices for the legal purpose of certifying that its design and performance complies with all applicable weights and measures requirements such as accuracy and reliability. Retail sale of DME as a motor vehicle fuel would require type evaluation of the dispenser(s) by the Department (BPC Section 12500.5). Once a commercial device type has been successfully evaluated by the Department, that make and model may be mass-produced for commercial purposes. Manufacturers choosing to sell DME dispensers would incur one-time costs of up to \$20,000 for type evaluation.

RSAs that install, repair, and provide maintenance service for conventional fuel dispensers could choose to expand their operations to include DME dispensers. Established RSAs would not incur additional fees or expenses unless they needed to buy new test equipment. RSAs currently servicing LPG dispensers can likely use existing equipment. The Department estimates that new equipment may cost up to \$25,000 should a business decide to expand into this arena.

There are no immediate costs or savings to the Department resulting from the adoption of these fuel specifications for DME since there are no commercial stations selling DME at this time. Adoption of these specifications is precedent to fuel quality enforcement that will only occur with commercialization of DME. All fuels sold at retail in California must meet ASTM or SAE International specifications. In order for the Department to verify compliance, fuel quality analysis will become necessary. The Department does not currently have the instrumentation required. Therefore, initial testing of up to five samples a year would likely be performed by a private laboratory at an estimated cost of \$1,000 per sample. A funding source for DME quality sampling and testing would need to be established.

If the fuel becomes popular and its use becomes widespread, the Department will also be responsible for type evaluation of DME dispensers; training and oversight of county weights and measures officials who perform fuel dispenser testing for accuracy; and development of field fuel sampling protocols. Because the Department cannot predict the extent and rate of market adoption of DME fuel, the long-term fiscal impact to the Department is unknown.

The Department concludes that the proposed regulations: (1) may create new jobs within California; (2) may create new businesses within California; (3) may affect the expansion of businesses currently doing business within California. The Department estimates that between 1 and 10 new businesses in the RSA and diesel mechanics sectors could be created as a result of DME

commercialization. These new businesses could add between 10 and 100 new jobs; and (4) are unlikely to eliminate any jobs or existing businesses.

Benefits of the Regulation

When new fuel quality specifications are published and adopted into Title 4, Division 9 of the California Code of Regulations (CCR), the Department is able to continue its marketplace oversight. This ensures that engine fuels will not damage motor vehicles, resulting in costly repairs to consumers. Therefore, Californians who may purchase vehicles using DME will have positive experiences with new fuels. This will result in increased purchases of alternative fuel vehicles and greater acceptance of alternative fuels in general.

The future use of DME as an alternative to petroleum diesel in California will reduce toxic and particulate emissions. This will have a positive impact on the health and welfare of California residents since diseases such as asthma and cancer have been linked to diesel exhaust.

Use of DME will also reduce California's dependence on petroleum. DME can be produced locally, and its use offers a reliable fuel source not linked to crude oil prices. By reducing GHG emissions, the use of DME will provide benefits to the environmental health of California. It will contribute to the State's goal of reducing the contribution of the transportation sector to global warming and climate change.

EFFECT ON SMALL BUSINESS

The Department has determined that this regulation will likely have a positive effect on existing small business by creating new business opportunities. Existing fuel producers, distributors, and retailers in California could expand their operations to include DME. This in turn could lead to job creation or expansion in California for service agents that maintain the devices used for dispensing the fuel and vehicle mechanics that would perform the engine conversions to burn DME fuel.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

CONSIDERATION OF ALTERNATIVES

The Department has determined that no reasonable alternative it considered or that has otherwise been identified would be more effective in carrying out the

purpose for which the action is proposed. In addition, the Department has determined that no reasonable alternative would be as effective as or 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.

If the Department chooses to do nothing, it would be in violation of BPC Section 13450, which requires the adoption of a standard promulgated by a consensus organization establishing fuel quality specifications for compression-ignition fuel for use in internal combustion engines.

Through promulgation of regulations, the Department can adopt, by reference, the latest specification published by ASTM International. Doing so allows the Department to stay abreast of best practices and standards for the industry. The Department believes that this is the best and only solution.

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

CONTACT PERSONS

Inquiries about the notice may be directed to:

Steven Cook Chief, Enforcement Branch
 California Department of Food and Agriculture
 Division of Measurement Standards:
 6790 Florin-Perkins Road, Suite 100
 Sacramento, CA 95828-1812
 Telephone: (916) 229-3000;
 FAX: (916) 229-3026

Kathy de Contreras, Supervising Special
 Investigator, Enforcement Branch
 California Department of Food and Agriculture
 Division of Measurement Standards:
 6790 Florin-Perkins Road, Suite 100
 Sacramento, CA 95828-1812
 Telephone: (916) 229-3000;
 FAX: (916) 229-3026

AVAILABILITY OF STATEMENT OF REASONS
 AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons, and the proposed regulations in strikeout and underline form may be obtained

upon request. The rulemaking file and all information on which the proposal is based are located at the Division of Measurement Standards, 6790 Florin-Perkins Road, Suite 100, Sacramento, California 95828, and may be obtained upon request. Additionally, documents relating to this rulemaking file are available on the Department's web site located at <http://cdfa.ca.gov/dms/regulations.html>.

Following the written comment period, the Department will adopt the proposal substantially as set forth above without further notice. If the regulations adopted by the Department differ from, but are sufficiently related to, the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any interested person may obtain a copy of said regulations prior to the date of adoption by contacting Mr. Cook or Ms. de Contreras at the above address. Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. de Contreras at the above address.

AVAILABILITY OF THE FINAL STATEMENT
 OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Cook or Ms. de Contreras at (916) 229-3000.

AVAILABILITY OF DOCUMENTS ON
 THE INTERNET

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

**TITLE 8. DIVISION OF WORKERS'
 COMPENSATION**

**Subject Matter of Regulations:
 Workers' Compensation — Medical Billing and
 Payment — ICD-10 Delay**

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), pursuant to the authority vested in her by Labor Code Sections by Labor Code sections 59, 133, 4603.4, 4603.5, and 5307.3, proposes to amend section 9792.5.1, including the Division of Workers' Compensation Medical Billing and Payment Guide, a document incorporated by reference into section 9792.5.1 subdivision (a),

in Article 5.5.0 of Division 1, Chapter 4.5, Subchapter 1, of title 8, California Code of Regulations.

PROPOSED REGULATORY ACTION

The Administrative Director proposes to modify existing regulations, by amending Article 5.5.0 of Division 1, Chapter 4.5, Subchapter 1, of title 8, California Code of Regulations relating to billing and payment of medical treatment in the workers' compensation system:

Amend section 9792.5.1. Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides [and amend the document incorporated by reference into section 9792.5.1 subdivision (a): California Division of Workers' Compensation Medical Billing and Payment Guide, Version 1.2]

PUBLIC HEARING

The Administrative Director has not scheduled a public hearing on this proposed action. However, the Administrative Director will hold a hearing if she receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Any written request to hold a public hearing must be directed to the contact person at the address, and by one of the methods, specified for written comments.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on September 8, 2014**. The Division of Workers' Compensation will consider only comments received at the Division by that time.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray
Regulations Coordinator
Division of Workers' Compensation, Legal Unit
P.O. Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Ms. Gray must receive all written comments no later than **5:00 p.m., on September 8, 2014**.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 59, 133, 4603.4, 4603.5, and 5307.3.

Reference is to Labor Code sections 4600, 4603.2, 4603.4 and 5307.1.

INFORMATIVE DIGEST /POLICY STATEMENT OVERVIEW

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Labor Code section 4600 requires an employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury. Under existing law, payment for medical treatment shall be no more than reasonable maximum amounts set by the administrative directive in the Official Medical Fee Schedule or the amounts set pursuant to a contract.

Labor Code section 4603.2 sets forth procedures and timelines for payment of a medical treatment bill. Labor Code section 4603.4 mandates the Administrative Director to adopt rules to standardize paper billing forms and to establish electronic billing rules. Bills for medical treatment services rendered pursuant to Labor Code section 4600 are required to follow the mandates of these sections. The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) contains "administrative simplification" provisions relating to medical billing, including the requirement for HIPAA-covered entities to use specified code sets. However, HIPAA contains exemptions for workers' compensation. Labor Code section 4603.4 provides that the elec-

tronic billing rules adopted by the Administrative Director shall be consistent with HIPAA “to the extent feasible.”

The Administrative Director adopted regulations to implement the billing statutes (Labor Code §§4603.2, 4603.4), including two billing guides which are incorporated by reference into the regulations. The *California Division of Workers’ Compensation Medical Billing and Payment Guide* (hereafter “Medical Billing and Payment Guide”), first effective on October 15, 2011, contains general business rules for billing and payment that apply to both the paper and electronic billing processes. In addition, the Medical Billing and Payment Guide contains rules that apply only to paper billing, including the specification of standardized paper billing forms. The *California Division of Workers’ Compensation Electronic Medical Billing and Payment Companion Guide* (hereafter “Companion Guide”), which applies only to electronic billing and payment, first became effective on October 18, 2012. It adopts the HIPAA-approved electronic transaction standards to the extent feasible and provides technical rules for electronic billing and payment where needed to adapt the national standard HIPAA-approved electronic billing formats for use in California workers’ compensation.

The billing regulations, including the Medical Billing and Payment Guide, were amended effective February 12, 2014 to adopt a variety of updates and to implement revised billing and payment procedures necessitated by the passage of Senate Bill 863 (Statutes 2012, Chapter 363). In addition, the February 12, 2014 amendment of the Medical Billing and Payment Guide included the adoption of the International Classification of Diseases — 10th Revision, Clinical Modification (ICD–10–CM) and the International Classification of Diseases — 10th Revision, Procedure Coding System (ICD–10–PCS). The Medical Billing and Payment Guide, Version 1.2 (Feb. 2014 revision) adopted the ICD–10–CM diagnosis codes and ICD–10–PCS inpatient procedure codes for mandatory usage for services rendered on or after October 1, 2014. The October 1, 2014 date for transition from ICD–9 to ICD–20 was chosen in order to coincide with the mandatory usage date of ICD–10–CM and ICD–10–PCS for HIPAA-covered entities.

On April 1, 2014, the Protecting Access to Medicare Act of 2014 (PAMA) (Public Law No. 113–93) was enacted by the United States Congress. Section 212 of Public Law 113–93 delayed the ICD–10 for at least one year, providing, inter alia, that the ICD–10 may *not* be adopted by the Secretary of the United States Department of Health and Human Services earlier than October 1, 2015. The Centers for Medicare and Medicaid Services (CMS) has issued a public notice indicating that the United States Department of Health and Human Services (HHS) expects to release an interim final rule

in the near future that will provide a new compliance date that will require use of the ICD–10 beginning October 1, 2015 for HIPAA-covered entities. In light of the passage of PAMA and the notice by the HHS that it intends to adopt October 1, 2015 as the date for mandatory ICD–10 HIPAA usage, the Administrative Director is issuing this Notice of Proposed Rulemaking. The Administrative Director proposes to amend the Medical Billing and Payment Guide to postpone the date for mandatory usage of ICD–10–CM and ICD–10–PCS usage for one year, changing the compliance date from October 1, 2014 to October 1, 2015. In addition, the proposed regulations adopt and incorporate by reference the 2015 versions of the ICD–10–CM and ICD–10–PCS files and documents posted on the CMS website in place of the 2014 versions of the files and documents.

The proposed regulation implements, interprets, and makes specific the above sections of the Labor Code as follows:

Section 9792.5.1 Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides.

- Based on Labor Code sections 4603.2 and 4603.4, section 9792.5.1 is amended to revise subdivision (a)(3) to change the version number of the California Division of Workers’ Compensation Medical Billing and Payment Guide, effective for services on or after February 12, 2014, from “Version 1.2” to “Version 1.2.1”,
 - Medical Billing and Payment Guide, Version 1.2.1 (which is incorporated by reference) is amended based on Labor Code sections 4603.2 and 4603.4 as follows.
 - The cover page is amended to change the version number: delete the version number “1.2” and insert the version “1.2.1”.
 - The Table of Contents is revised to conform to revised headings in Section 3.1.0 and Section 3.1.1.
 - The introduction page is revised to add a new row to the version table, to list Version 1.2.1 and the February 12, 2014 effective date.
 - Section 3.1.0 Use of ICD–9, ICD–10 Codes is revised to add the phrase “Applicable Dates” to the heading. The section is further revised to replace each occurrence of the date “October 1, 2014” with the date “October 1, 2015” as the compliance date for switching from the ICD–9–CM volume 1 and 2 to

ICD-10- CM (diagnosis codes) and as the compliance date for switching from ICD-9-CM volume 3 to ICD-10-PCS (inpatient procedure codes).

- Section 3.1.1 Use of ICD-9, ICD-10 Codes is revised to add the phrase “Separate Bills Required” to the heading.
- Section 3.2.1 Incorporation by Reference of ICD-9, ICD-10 Codes is revised to delete the phrase “ICD-9” from the heading and add the phrase “and Related Documents” to conform to the content of the section. In the introductory language, the date is changed from October 1, 2014 to October 1, 2015. The proposal deletes subdivision (a) that incorporates by reference 2014 versions of ICD-10-CM files and documents and adopts a new subdivision (a) incorporating by reference 2015 ICD-10-CM files and documents. The proposal deletes subdivision (b) that incorporates by reference 2014 versions of ICD-10-PCS files and documents and adopts a new subdivision (b) incorporating by reference 2015 ICD-10-PCS files and documents.

Objective and Anticipated Benefits of the Proposed Regulations:

The broad objective of the proposed regulation is to delay the mandatory use of the ICD-10-CM and ICD-10-PCS for one year, until October 1, 2015, in order to be consistent with the expected ICD-10 compliance date for HIPAA-covered entities. Maintaining the current regulatory date of October 1, 2014 for use of ICD-10 would render the workers’ compensation system out of sync with the medical diagnosis and inpatient procedure coding system that will be used by all HIPAA-covered entities.

The Administrative Director anticipates that there will be many benefits to adopting the ICD-10 in conformity with the HIPAA deadline, including: further time for providers and payers to develop and test their systems, further time for staff training, the avoidance of parallel but divergent coding system deadlines for workers’ compensation and HIPAA-covered entities, avoidance of conflicting obligations for HIPAA-covered entities that also participate in workers’ compensation, the opportunity to utilize information technology infrastructure developed to coincide with the HIPAA timeframe. The efficiencies involved in conforming to the HIPAA deadline will allow better use

of resources for the provision of medical care to injured workers in California, while minimizing the burden to employers and workers’ compensation payers.

Determination Regarding Inconsistency/Incompatibility with Existing State Regulations:

The Administrative Director has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Administrative Director has concluded that this is the only regulation that governs the use of ICD-9 and ICD-10 coding for workers’ compensation medical billing and payment processing.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The mandate to transition to ICD-10 is already established in regulation; this proposed regulatory amendment delays the implementation date but does not impose any new burdens.
- Statewide adverse economic impact directly affecting businesses and individuals: The regulatory 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.
- Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Administrative Director concludes that it is (1) unlikely that the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new businesses

within the State of California, (4) unlikely that the proposal will eliminate any existing businesses with the State of California, and (5) unlikely that the proposal would cause the expansion of businesses currently doing business within the State of California.

Benefits of the Proposed Action: The proposed regulation will be beneficial as it will allow medical providers and workers' compensation payers additional time to prepare for the ICD-9 to ICD-10 transition. There will be increased efficiency for workers' compensation by transitioning at the same time as the general health industry and HIPAA-covered entities. In addition, ICD-9 will no longer be maintained/updated once ICD-10 has been implemented by HHS. Therefore, staying with ICD-9 is not a tenable option.

Small Business Determination: The Administrative Director has determined that the proposed regulation affects small business.

CONSIDERATION OF ALTERNATIVES

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

The Administrative Director invites interested persons to present reasonable alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed rulemaking action may be directed to:

Maureen Gray
 Regulations Coordinator
 Department of Industrial Relations
 Division of Workers' Compensation
 P.O. Box 420603
 San Francisco, CA 94142
 E-mail: mgray@dir.ca.gov
 Telephone: (510) 286-7100

The backup contact person for these inquiries is:

Jacqueline Schauer
 Division of Workers' Compensation
 P.O. Box 420603
 San Francisco, CA 94142
 E-mail: jschauer@dir.ca.gov
 Telephone: (510) 286-7100

Please direct requests for copies of the proposed text (the "express terms") of the regulations (including the proposed Medical Billing and Payment Guide incorporated by reference), the Initial Statement of Reasons, the modified text of the regulations, and any information upon which the rulemaking is based to the contact person at the above address. Requests to be added to the mailing list for rulemaking notices may also be directed to the contact person.

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

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. Proposed amendments to the text and the document incorporated by reference are indicated in underline (additions) and strikeout (deletions). The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, the Fiscal and Economic Impact Statement (Form STD 399), the documents relied upon, and the documents incorporated by reference.

The documents relied upon in drafting the proposed regulation include the following:

- Center for Medicare and Medicaid Services Web Announcement of Expected October 1, 2015 ICD-10 Transition
- Federal Register, Vol. 79, No. 94, May 15, 2014, Department of Health and Human Services, Centers for Medicare & Medicaid Services 42 CFR Parts 405, 412, 413, et al. Proposed Rule: Excerpt [with highlight added] [Cover page, pages 27978, 28130, 28232, 28234]

The documents incorporated by reference include the following:

- The California Division of Workers' Compensation Medical Billing and Payment Guide Version 1.2.1

- 2015 International Classification of Diseases 10th Revision Clinical Modification (ICD–10–CM), including the following PDF and ZIP files posted on the CMS website (<http://www.cms.gov/Medicare/Coding/ICD10/2015-ICD-10-CM-and-GEMs.html>):
 - 2015 Code Descriptions and Tabular Order [ZIP, 1MB]
 - 2015 Code Tables and Index, Updated 5/22/14 [ZIP, 5MB]
 - 2015 ICD–10–CM Duplicate Code Numbers [ZIP, 68KB]
 - 2015 Addendum [PDF, 29KB]
 - 2015 General Equivalence Mappings (GEMs) — Diagnosis Codes and Guide [ZIP, 653KB]
- 2015 International Classification of Diseases 10th Revision Procedure Coding System (ICD–10–PCS), including the following PDF and ZIP files posted on the CMS website (<http://www.cms.gov/Medicare/Coding/ICD10/2015-ICD-10-PCS-and-GEMs.html>):
 - 2015 Official ICD–10–PCS Coding Guidelines [PDF, 76KB]
 - 2015 Version — What’s New [PDF, 41KB]
 - 2015 Code Tables and Index [ZIP, 5MB]
 - 2015 PCS Long and Abbreviated Titles [ZIP, 1MB]
 - 2015 Development of the ICD–10 Procedure Coding System (ICD–10–PCS) [PDF, 226KB]
 - 2015 ICD–10–PCS Reference Manual [ZIP, 724KB]
 - 2015 Addendum [ZIP, 64KB]
 - PCS Slides for 2015 [ZIP, 584KB]
 - 2015 General Equivalence Mappings (GEMs) — Procedure Codes and Guide [ZIP, 752KB]

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers’ Compensation, 1515 Clay Street, 18th Floor, Oakland, California 94612, between 9:00 a.m. and 4:30 p.m., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Administrative Director may adopt the proposed regulations substantially as described in this notice. If the Administrative Director makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted. The Notice of Modification of Proposed Rulemaking will be sent to persons who have submitted a comment and to persons who have requested notification of modifications to the proposal. Please send requests for copies of any modified regulations to the contact person at the address indicated above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the Division’s website at www.dir.ca.gov.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, proposed text of the regulation in underline and strikeout, including the proposed Division of Workers’ Compensation Medical Billing and Payment Guide, Version 1.2.1 to be incorporated by reference, may be accessed and downloaded from the Division’s website at www.dir.ca.gov. To access them, click on the “Proposed Regulations — Rulemaking” link and scroll down the list of rulemaking proceedings to find the Medical Treatment Billing and Payment — ICD–10 Delay link.

AUTOMATIC MAILING

A copy of this Notice will automatically be sent to those interested persons on the Administrative Director’s mailing list.

If adopted, the regulations as amended will appear in California Code of Regulations, title 8, section 9792.5.1 and in the California Division of Workers’ Compensation Medical Billing and Payment Guide, Version 1.2.1, a document incorporated by reference into subdivision (a) of section 9792.5.1. The text of the final regulations also may be available through the website of the Office of Administrative Law at www.oal.ca.gov.

**TITLE 10. DEPARTMENT OF
BUSINESS OVERSIGHT**

PUBLIC HEARINGS
[Government Code Section 11346.5,
Subdivision (a)(17)]

NOTICE IS HEREBY GIVEN
[Government Code Section 11346.5,
Subdivision (a)(1)]

The Commissioner of Business Oversight (Commissioner) proposes to amend Sections 80.1 through 80.9, 80.100, 80.125, 80.126, 80.150 through 80.177, 80.3000, 80.3001, 80.3002, 80.4000 through 80.4313, 80.5000, 80.5200, 80.5201, 80.5300 through 80.5304, 95.2, 95.3, and 95.5030; adoption of Sections 80.125.10, 80.129, 80.158.10, 80.166.10, 80.4100.10, 80.4105.10, 80.4105.11, 80.4118.10, 80.4118.11, 80.5100, 80.5200.1, 80.5210, 80.5304.1, 80.5305, 95.550, and 95.600; and repeal of Sections 80.127, 80.171, 80.4110, 80.4112, 80.4114, 80.4306, 80.4307, and 80.5202, of Title 10 of the California Code of Regulations (C.C.R.). These proposed changes to the regulations relate to the implementation of the California Money Transmission Act.

On July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight. The Department of Business Oversight (Department) has all of the powers, authority, enforcement, jurisdiction, laws and regulations that were under the former Department of Corporations and former Department of Financial Institutions.

AUTHORITY
[Government Code Section 11346.5,
Subdivision (a)(2)]

Sections 334, 2011, 2032, 2034, 2036, 2039, 2040, 2082, 2083, and 2086, Financial Code.

REFERENCE
[Government Code Section 11346.5,
Subdivision (a)(2)]

Division 3, Part 4, Title 9, Civil Code (Commencing with section 2295); Sections 17701.02, 17701.10, Article 1, Title 2.6, and 17708.04, Article 8, Corporations Code; Sections 2003, 2011, 2030, 2031, 2032, 2034, 2036, 2039, 2040, 2060, 2082, 2083, 2084, 2086, 2087, 2088, 2100, 2104, 2105, 2106, Chapter 1, Division 1.2, Chapter 3, Division 1.2, Chapter 5, Division 1.2, Chapter 6, Division 1.2, and Division 1.2, Financial Code; and Section 11077.1, Penal Code.

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

WRITTEN COMMENT PERIOD
[Government Code Section 11346.5,
Subdivision (a) (15)]

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed as follows:

Regular Mail
Department of Business Oversight
Attn: Karen Fong, Legal Division
1515 K Street, Suite 200,
Sacramento, CA 95814

Electronic Mail
regulations@dbo.ca.gov

Facsimile
(916) 322-5875

Comments may be submitted until 5:00 p.m., September 8, 2014. If the final day for the acceptance of comments is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST
[Government Code Section 11346.5,
Subdivision (a)(3)]

Policy Statement and Specific Benefits Anticipated from Regulatory Action [Government Code Section 11346.5, Subdivision (a)(3)(C)]

The objectives of the proposed regulations are to:

- Adopt necessary rules to implement the Money Transmission Act.
- Amend the regulations of the former Payment Instruments Law because that law was repealed effective January 1, 2011.

The specific benefits anticipated by this proposed adoption include increased transparency in government, encouragement of public participation in devel-

oping the rules, and ultimately, increased protections to members of the public who utilize money transmission businesses.

Summary of Existing Laws and Regulations, and Effect of Proposed Action [Government Code Section 11346.5, Subdivision (a)(3)(A)]

Effective January 1, 2011, the Legislature repealed the provisions of the California Financial Code relating to money transmitters, issuers of travelers checks, and sellers of payment instruments and enacted the Money Transmission Act (Financial Code Section 2000 et seq.), which provides for the regulation and licensure by the Commissioner of Business Oversight of persons in the business of money transmission, defined to mean the selling or issuing of payment instruments or stored value and the receiving of money for transmission.

The Money Transmission Act was amended, effective January 1, 2014, requiring the Department to adopt regulations to carry out and implement Sections 2011 and 2040 of the Financial Code.

Existing law includes definitions specific to the Money Transmission Act.

Existing law also provides for statutory exemptions from the Money Transmission Act as well as exemptions based on a finding that such action would be in the public interest and that the regulation of such persons or transactions is not necessary.

Existing law sets forth application requirements for a money transmitter license and administrative standards and procedures in determining whether to approve an application for a license.

Existing law also mandates certain consumer disclosures and Department review of such disclosures. These disclosures include receipts for money received for transmission, forms of payment instruments, and notices.

Existing law provides for minimum tangible shareholders' equity requirements and factors to be considered in determining whether to increase the amount of tangible shareholders' equity required.

Existing law sets forth categories of securities which are eligible securities and the computation of the value of such eligible securities.

The effects of these proposed regulations include:

- Updating definitions to implement the Money Transmission Act and clarifying definitions of terms such as advertising, agent, receiving money for transmission, and paying agent.
- Establishing exemptions from the Money Transmission Act for (1) the sale of a money transmission service or product of a person exempt

pursuant to Financial Code Section 2010; and (2) a public benefit nonprofit which has received recognition of tax exemption under Internal Revenue Code Section 501(c)(3); and establishing the administrative standard for determining whether additional persons or transactions or classes of persons or transactions are exempt from the Money Transmission Act.

- Updating application requirements for a license to engage in the business of money transmission.
- Clarifying administrative standards and procedures relating to an application for a license to engage in the business of money transmission.
- Clarifying requirements for consumer disclosures.
- Establishing the administrative standard for determining the amount of required tangible shareholders' equity.
- Clarifying definitions and requirements for eligible securities.

Existing Federal Regulation or Statute [Government Code Section, 11346.5, Subdivision (a)(3)(B)]

Money transmission is largely subject to state law and therefore there is no existing comparable federal regulation or statute. To the extent there are some federal regulations that overlap certain areas of money transmission activities, such as consumer disclosures and anti-money laundering, there is no significant difference between the proposed action and the federal regulations. Those federal regulations are United States Bank Secrecy Act Regulations (31 C.F.R. Chapter X) and Regulation E (12 C.F.R. Part 1005).

Existing State Regulations [Government Code Section 11346.5, Subdivision (a)(3)(D)]

The Department has conducted an evaluation of whether the proposed regulations are consistent with existing regulations and has concluded that these are the only regulations that implement the Money Transmission Act. Existing regulations correspond to the repealed Payment Instruments Law. The proposed regulatory action is consistent with policy considerations under the Money Transmission Act, and therefore the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE
[Title 1, California Code of Regulations, Section 20, Subdivision (c)(3)]

There are no forms incorporated by reference in the proposed regulatory action.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

[Government Code Section 11346.5,
Subdivision (a)(5) and (6), and (12)(A)]

- Mandate on local agencies and school districts: none.
- Cost or savings to any state agency: none.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.
- Cost or savings in federal funding to the state: none.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: none.
- Significant effect on housing costs: none.

ECONOMIC IMPACT ON BUSINESS

[Government Code Section 11346.5,
Subdivision (a)(8)]

The Commissioner has made an initial determination that the proposed regulatory 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.

The Department has not relied upon any facts, evidence, documents, testimony or other evidence to support the initial determination that the regulation will not have a significant adverse economic impact on business.

EFFECT ON SMALL BUSINESS

[Title 1, California Code of Regulations, Section 4]

The proposed regulations will not affect small business because money transmitters are not a small business within the meaning of Government Code section 11342.610.

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

[Government Code Section 11346.5,
Subdivision (a)(9)]

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

**RESULTS OF THE ECONOMIC
IMPACT ANALYSIS**

[Government Code Section 11346.5
Subdivision (a)(10)]

The Department has determined that:

- The proposed action will not create or eliminate jobs within California;
- The proposed action will not create new businesses or eliminate existing businesses within this state;
- The proposed action will not affect the expansion of businesses currently doing business within California; and
- No benefits or adverse impacts to worker safety or to the state's environment are anticipated from this regulatory action.
- The anticipated benefits of this proposed adoption to the citizenry of California include increased transparency in government, encouragement of public participation in developing the rules, and ultimately, increased protections to members of the public who utilize money transmission businesses.

BUSINESS REPORTING REQUIREMENT

[Government Code Section 11346.5,
Subdivision (a)(11)]

The Department finds that it is necessary for the health, safety, or welfare of the people of this state that the proposed reports required in this regulatory action apply to businesses.

CONSIDERATION OF ALTERNATIVES

[Government Code Section 11346.5,
Subdivision (a)(13)]

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

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

AVAILABILITY OF THE NOTICE, STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE
(Government Code Section 11346.5, Subdivision (a)(16) and (20), and (b))

As of the date this notice is published, the rulemaking file consists of this notice, the initial statement of reasons and the proposed text of the regulation. The proposed text may be obtained at any of the below Department of Business Oversight's Front Counters. The initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available by requesting Document PRO 03/14 — C from the contact person designated below.

Los Angeles Office:
300 S. Spring Street, Ste. 15513
Los Angeles, CA 90013-1259

San Diego Office:
7575 Metropolitan Dr., Suite 108
San Diego, CA 92108

Sacramento Office:
1515 K Street, Suite 200
Sacramento, CA 95814-4052

San Francisco Office:
45 Fremont Street, Suite 1700
San Francisco, CA 94105-2219

The notice, initial statement of reasons and proposed text are also available on the Department's Web site at www.dbo.ca.gov, at the top of the page click the "Laws and Regs" index tab, under Division of Financial Institutions click on the "Rulemaking" link.

As required by the Administrative Procedure Act, the Legal Division maintains the rulemaking file. The rulemaking file is available for public inspection and copying throughout the rulemaking process at the Department of Business Oversight, Law and Policy Division, 1515 K Street, Suite 200, Sacramento, California 95814.

AVAILABILITY OF CHANGED OR MODIFIED TEXT
[Government Code Section 11346.5, Subdivision (a)(18)]

If the Department makes changes which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts, amends or repeals the regulations as revised. A request for a copy of any modified regulation(s) should be addressed to the contact person designated below. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS
[Government Code Section 11346.5, Subdivision (a)(19)]

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONTACT PERSON
[Government Code Section 11346.5, Subdivision (a)(14)]

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to:

Karen Fong
Rulemaking Coordinator
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-3553
e-mail: Karen.Fong@dbo.ca.gov

Inquiries regarding the substance of the proposed regulation may be directed to:

Jennifer Rumberger
Senior Counsel
45 Fremont Street, Suite 1700
San Francisco, CA 94105-2219
Telephone: 415-263-8528
e-mail: Jennifer.Rumberger@dbo.ca.gov

**TITLE 10. DEPARTMENT OF
INSURANCE**

**TRAVEL INSURANCE AGENT LICENSING
REGULATIONS**

SUBJECT OF PROPOSED RULEMAKING

Notice is hereby given that the Insurance Commissioner proposes to adopt the regulations described below after considering public comment. The Commissioner proposes to add Article 13 to Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations. Article 13 is to include the following new sections: 2194.18; 2194.19; 2194.20; 2194.21; 2194.22; 2194.23; 2194.24; 2194.25; and 2194.26.¹

The proposed regulations set license application and renewal fees, for those applying for the limited lines travel insurance agent license and prescribe required forms and materials for applicants and licensees. The proposed regulations implement training requirements for unlicensed travel retailer employees involved in the transaction of travel insurance. Finally, they clarify and add specificity to consumer disclosure and record keeping requirements.

PUBLIC HEARING

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to the adoption of the proposed regulations as follows:

Date and time: September 8, 2014
10:00 a.m.
Location: 300 Capitol Mall, 13th Floor —
Conference Room 13025
Sacramento, CA 95814

The hearing will continue on the date noted above until all testimony has been submitted or 5:00 p.m., whichever is earlier.

ACCESS TO HEARING ROOMS

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

¹ Unless noted otherwise, all references to “regulations” and “sections” refer to the proposed regulations for Article 13, subchapter Chapter 5 of Title 10 of the California Code of Regulations.

notify the contact person(s) identified above for special arrangements, if necessary.

**PRESENTATION OF WRITTEN COMMENTS;
CONTACT PERSON(S)**

All interested persons may submit written comments relevant to the proposed regulations during the public comment period. The public comment period will end at **5:00 p.m. on September 8, 2014**. Please direct all written comments to the following contact person(s):

Richard A. Lovell, Attorney III
California Department of Insurance
300 Capitol Mall Drive, Suite 1700
Sacramento, CA 95814
Richard.Lovell@insurance.ca.gov
Telephone: (916) 492-3614

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

Tyler McKinney, Attorney
California Department of Insurance
300 Capitol Mall Drive, Suite 1700
Sacramento, CA 95814
Tyler.McKinney@insurance.ca.gov
Telephone: (916) 492-3512

DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at the address listed above, no later than **5:00 p.m. on September 8, 2014**. Any written materials received after that time may not be considered.

**COMMENTS TRANSMITTED BY E-MAIL
OR FACSIMILE**

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following email address Richard.Lovell@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Richard Lovell and sent to the following facsimile number: (916) 324-1883. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadlines set forth above for written comments.**

AUTHORITY AND REFERENCE

The proposed regulations are necessary in order to implement, interpret, and make specific the provisions

of California Insurance Code Sections 1752, 1753, 1754, 1755, and 1756 which were enacted on January 1, 2013 with the passage of Assembly Bill 2354 (Chapter 257, Statutes of 2012). The authority for these regulations is provided in Insurance Code section 1757 as well as the following decisions of the California Supreme Court: *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989); *20th Century Ins. Co. v. Garamendi*, 8 Cal.4th 216 (1994).

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW

Assembly Bill 2354 (Chapter 257, Statutes of 2012) was signed into law on September 7, 2012 and became effective on January 1, 2013. The legislation was sponsored by the travel services industry and is contained within California Insurance Code Sections 1752 through 1757. The legislation revised California law relating to the transaction of travel insurance and conformed licensing requirements to those adopted by the National Association of Insurance Commissioners (NAIC) in 2010. The NAIC standards were developed in order to establish a nationwide, uniform licensing model for the transaction of travel insurance.

Today, travel insurance is primarily offered and sold by travel retailers, incidental to their sale of travel destination plans. The vast majority of these insurance transactions occur at the offices or websites of travel retailers. Prior to the legislative adoption of the NAIC standards, each travel retailer that offered or sold travel insurance in California required a license. This was found to be an inefficient and burdensome manner of providing travel insurance to the public.

The new licensing standards create a model that better lends itself to the existing structure of the travel industry. Under the new model, limited lines travel insurance agent licenses are issued to business entities that are appointed by one or more insurance carriers. (Ins. Code § 1753(a)). These licensees do not directly offer and sell travel insurance products. Rather, the licensees provide oversight and training of employees of travel retailers who offer and sell travel insurance incidental to providing travel services and products.

The legislation authorizes the Commissioner to issue a limited lines travel insurance agent license “to any organization engaged in transacting travel insurance through travel retailers . . .” (Ins. Code § 1752.) In order to receive the license, it must be applied for on “a written application . . . in the form prescribed by the commissioner.” (Ins. Code § 1755(a)(1)).

In accordance with Insurance Code Section 1755(a)(1), the Commissioner has prescribed Form

441–11 for use by organizations applying for the limited lines travel insurance agent license. Form 441–11 is the producer application form already in use by the Commissioner for use by business entities that are applying for licensure. Required use of this form will assure uniformity in the travel insurance agent license applications that are submitted for approval and serves to facilitate the Department’s review of these applications.

The legislation requires payment of “an application fee, and, for each license period thereafter, a renewal fee, in an amount or amounts determined by the Commissioner as sufficient to defray the reasonable costs incurred by the department from implementing the provisions of Assembly Bill AB 2354. . .”(Ins. Code §1755(a)(3)).

As with other insurance producer license designations, the legislation requires that applicants for the limited lines travel insurance agent license establish that they are appointed by an authorized insurer. (Ins. Code §1755(a)(2)). An officer or managing agent of the appointing insurer must certify on a form prescribed by the Commissioner that the applicant is trustworthy and competent to act as the insurer’s agent.

Under the new licensing standards, unlicensed travel retailers are authorized to transact travel insurance on behalf of licensed organizations. However, the legislation requires that travel retailers and their affected employees have an understanding of the insurance products being offered/sold and of their obligations under the new licensing model. Accordingly, a limited lines travel insurance agent must “[use] all reasonable means at its disposal to ensure compliance by the travel retailer and the travel retailer’s employees with their obligations under [AB 2354].” (Ins. Code § 1754(a)(6)).

In addition to exercising “all reasonable means” to ensure compliance by travel retailers, the legislation also sets forth other specific duties required of the limited lines travel insurance agent. For example, a licensee is required to provide training for travel retailer employees that are authorized to transact travel insurance under its license. Such training must include materials that, “at a minimum . . . contain instruction on the types of insurance offered, ethical sales practices, and disclosures to prospective insurance customers.” (Ins. Code § 1754(a)(6).) This training must occur at least every three years, or whenever there is a material change requiring modification of the training materials.

The legislation also imposes record keeping requirements on licensed travel insurance agents in order to assure that they are complying with their oversight responsibilities. The law requires that “the limited lines travel insurance agent, at the time of licensure and thereafter, maintains a register noting each travel retailer that transacts travel insurance on the licensee’s behalf” (Ins. Code § 1754(a)(2)). The register must be

“maintained and updated annually by the licensee in a form prescribed by, or format acceptable to, the commissioner.” (Ins. Code § 1754(a)(2)). It must “include the name and contact information of the travel retailer and an officer or person who directs or controls the travel retailer’s operations . . .” (Ins. Code § 1754(a)(2)).

The legislation also fosters consumer protection by setting forth specific consumer disclosure requirements. These disclosures are intended to assist consumers in making informed decisions concerning the purchase of travel insurance and in identifying a point of contact which they can use to obtain answers to technical, insurance related questions.

Thus, a travel retailer may transact travel insurance under the authority of a licensed limited lines travel insurance agent if “[t]he limited lines travel insurance agent is clearly identified on marketing materials and fulfillment packages distributed by the travel retailers to customers.” (Ins. Code § 1754(a)(1)). These materials are to include “the agent’s name, business address, email address, telephone number, license number, [as well as] the availability of the department’s toll-free consumer hotline.” (Ins. Code § 1754(a)(1)).

The legislation specifies the content of the disclosures that must be made to prospective and actual customers in the marketing materials and fulfillment packages used by travel retailers. It requires that these materials contain disclosures that indicate, in substance, the following: “The [travel insurance] plan provides insurance coverage that only applies during the covered trip. You may have coverage from other sources that provides you with similar benefits but may be subject to different restrictions depending upon your other coverages. You may wish to compare the terms of this policy with your existing life, health, home, and automobile insurance policies. If you have any questions about your current coverage, call your insurer or [travel] insurance agent or broker.” (Ins. Code § 1754(a)(7)).

Under 1754(a)(8), the travel insurance agent or travel retailer must provide additional disclosures which must either be acknowledged in writing at the time of purchase or posted on signs in conspicuous places where the travel insurance is purchased. These disclosures must inform prospective customers that the purchase of travel insurance is not required in order to purchase the underlying travel services offered by the travel retailer. They must also inform prospective customers that the unlicensed travel retailer employees are not qualified or authorized to answer technical questions about travel insurance products and that they are unable to evaluate the adequacy of any existing insurance coverage the customer might have.

EFFECT OF PROPOSED ACTION

To obtain a limited lines travel insurance agent license, all applicants will be required to complete and submit a Business Entity Application for Insurance License Form LIC 441-11 (Rev 3/2014). This form is accessible online and its use is consistent with the business organization model established by the legislation. Required use of this form will assure uniformity in the license applications submitted for approval and serve to facilitate the Department’s review and consideration of these applications.

Under the proposed regulations, deficient travel insurance agent license applications will be considered incomplete. Within 21 days of receipt of a deficient application, applicants will be notified by email or mail of the deficiency and informed about the specific information required in order to correct the deficiency and complete the application. Within 30 days of receipt of a completed application, the Commissioner will determine whether the license should be granted. If denied, the Commissioner will provide a notification that sets forth the reason(s) for denial. In the event that the Department takes legal action to deny an application, these time periods will be tolled.

The proposed regulations set forth forms and materials that must be submitted along with the Business Entity Application Form LIC 441-11 in order for the license application to be deemed complete. First, each application must include a Travel Insurance Agent Notice of Appointment Form LIC TA 1. This form must be completed by the applicant’s appointing insurer and certifies that the applicant is trustworthy and competent to act as the insured’s agent. Under the proposed regulations, each applicants will also submit an initial certification form that lists the number of travel retailers that are qualified to offer and sell travel insurance products on its behalf. In this certification, the applicant will affirm that the travel retailer employees have completed required training and that only authorized travel retailer employees will offer and sell travel insurance on its behalf. Each applicant will also be required to affirm that its authorized travel retailers comply with Title 18, United States Code, Section 1033 and attach a list identifying each travel retailer. After licensure, licensees will be required to annually update their certification of authorized travel retailers. An annual certification must be maintained on the prescribed form and submitted to the Department upon request.

The Commissioner has examined the Department’s costs in implementing the new licensing model required by the legislation. As a result of the passage of AB 2354,

the licensing structure for the limited lines travel insurance agent license changed from numerous inexpensive individual licenses to fewer, more costly organization licenses. Accordingly, prior to the enactment of AB 2354, approximately 2,800 individuals were licensed as travel insurance agents. At that time, both the application and renewal fees for the license were \$44 for a two-year license. With the passage of AB 2354, the number of licensees has decreased dramatically.

At that time, it was anticipated that CDI would ultimately license 40 organizations. However, as of May 23, 2014, CDI has only issued 27 such licenses. An additional five applications are pending, and if approved, the CDI's total would reach 32, which is short of the 40 projected at the time AB 2354 was adopted. After identifying and quantifying the costs for implementing the new licensing standards, the Commissioner has determined that application and renewal fees should be set at \$3,752 in order to defray costs.

To ensure compliance with the legislation's training requirements, applicants will prepare and submit a copy of the training materials they intend to use for training travel retailer employees. The proposed regulations include a form containing an outline of required training elements for use by licensees in structuring their training program and materials. A separate set of training materials will be submitted for each travel insurance product that is offered and/or sold. In cases where a particular travel insurance product is sold by an employee of a travel retailer that is doing business at multiple locations under the same name, only one set of training materials need be submitted for that product. Also, in certain instances, applicants need not submit training materials if they have already been developed by an insurer or approved education provider and previously approved by the Department. Finally, changes to previously submitted training materials must be submitted to the Department within 30 days prior to their use. The changes must be, highlighted in the materials and will be deemed approved for use unless there is Department notification to the contrary.

The proposed regulations also clarify and implement the disclosure requirements set forth in section 1754(a)(1),(7), and (8) of the legislation. The required disclosures must be written clearly and conspicuously. In addition to the disclosures required by statute, the written materials provided by the travel retailer to prospective customers, including marketing materials and fulfillment packages, must contain the approved true or fictitious business name of the travel insurance agent and the name of the insurer(s). Finally, a copy of the travel insurance agreement must be provided to customers when a travel insurance product is purchased.

Under the proposed regulations, licensed travel insurance agents are required to maintain records of insurance transactions for at least three years after the expiration or cancellation date of the policy to which they pertain. Additionally, they must maintain copies of the marketing materials, fulfillment packages, certifications, registers, and training materials for at least three years after their expired use. The materials must be kept in the licensee's principal California office and must be produced to the Department within 30 days of receipt of a written request.

In order to provide guidance to applicants for the travel insurance agent license, the regulations set forth additional procedural requirements. The Commissioner has determined the median, minimum and maximum times for processing a license application, from the receipt of the initial completed application to the final licensing decision (excluding applications that require legal action) as follows:

- (1) thirty (30) calendar days (median time);
- (2) fourteen (14) calendar days (minimum time); and,
- (3) one (1) calendar year (maximum).

FORMS INCORPORATED BY REFERENCE

Pursuant to the statutory authority conferred to him, the Commissioner has prescribed forms necessary for the proper and efficient implementation of the legislation. The proposed regulations incorporate the following forms by reference:

- Business Entity Application for Insurance License Form 441-11 (Rev 11/12);
- Travel Insurance Agent Notice of Appointment Form LIC TA 1 (Rev 12/12);
- Initial Certification Form LIC TA 2 (Rev 12/12);
- Outline of Required Training Elements Form LIC TA 3 (Rev 12/12);
- Annual Certification Form LIC TA 4 (Rev 12/12); and
- Travel Insurance Agent Authorized Employees Form LIC TA 5 (Rev 12/12)

COMPARABLE FEDERAL LAW

There is no existing federal statute or regulation that is comparable to the proposed regulations.

POLICY STATEMENT OVERVIEW

The specific policy underlying the proposed action is articulated by the following statements by the author of AB 2354:

“Inconsistences [sic] in travel insurance regulations nationwide are a disservice to the traveling public. Travel retailers are sometimes discouraged from offering the travel insurance opportunity due to the heavy cost of regulation, licensing, and testing. This is particularly true for retailers doing business online or in multiple jurisdictions. Travel insurance amounts to, on average, only 1.9% of total travel retailer revenue, so for those who are primarily selling travel, becoming a limited license travel insurance agent is more expensive and a bigger bother than it is worth. Therefore, it is important to all parties that the rules governing the distribution of travel insurance be uniform throughout the nation, simple and broad in scope.

AB 2354 would update the definition of what is considered travel insurance, and would authorize a shift in the licensing burden onto the limited lines travel insurance agent. The limited lines travel insurance agent would then be obligated to follow strict guidelines pertaining to transparency, consumer protection and the training of travel retailers providing travel insurance under the limited license of that travel insurance agent. AB 2354 would also provide California’s insurance commissioner with the ability to follow the new standards approved by the National Association of Insurance Commissioners (NAIC) that will eliminate the travel insurance licensing burden on travel agents in California.”

The purpose of the proposed regulations is to implement and add both specificity and clarity to the law as enacted by AB 2354 in a manner that facilitates transparency and consumer protection. The areas the regulations are intended to address include: (1) providing clarity concerning the content of the license application and other forms that must be submitted to the Department; (2) setting appropriate licensing application and renewal fees in accordance with Insurance Code Section 1755(a)(3); (3) clarifying the requirements for the training of travel retailers; (4) clarifying and implementing the disclosure requirements set forth in Insurance Code Section 1754(a); and (5) establishing record keeping requirements in order to ensure access to information and documents necessary to accomplish the Department’s consumer protection responsibilities.

CONSISTENCY OR COMPATIBILITY WITH STATE REGULATIONS

After conducting a review, the Department has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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

COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES OR SCHOOL DISTRICTS OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in 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 the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

The Commissioner has examined the Department’s costs in implementing the new licensing model as required by the legislation. With the passage of AB 2354, the number of travel insurance agent licensees has decreased dramatically. At that time, it was anticipated that the Department would ultimately license 40 organizations. As of April 18, 2014, the Department had only issued 27 such licenses. An additional five applications are pending, and if approved, the total number of licensees will reach 32, short of the 40 projected at the time AB 2354 was adopted. After identifying and quantifying the costs for implementing the new licensing standards, the Commissioner has determined that application and renewal fees should be set at \$3,752 in order to defray costs to the Department of Insurance.

ECONOMIC IMPACT ON BUSINESS AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner is required to assess any statewide adverse impact the proposed regulations may have which directly affects businesses. This includes adverse affects to the ability of California businesses to compete with businesses in other states.

The Commissioner has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. (Gov. Code § 11346.5(a)(8)). Moreover, although the proposed regulations will affect insurers, under the law, insurers are not small business (Gov. Code § 11342.610(b)(2)).

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Commissioner is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed regulations.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Commissioner is required to assess any economic impact the proposed regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently operating in the state. Additionally, the Commissioner is required to assess the proposed regulations' benefits as they relate to the health and welfare of California residents, worker safety, and the state's environment.

The Commissioner has made an initial determination that the proposed regulations will have a negligible impact on employment in California and the state economy, (Gov. Code § 11346.3(b)(1)(A)). An economic impact assessment has been conducted and finds that there will likely be no ascertainable impact on employment in the travel arrangement and reservations services industry and no effect on state-wide employment in California.

The Commissioner has also made an initial determination that the adoption of the proposed regulations will not impact the creation of new businesses or result in the elimination of existing businesses within the State of California (Gov. Code § 11346.3(b)(1)(B)). Further, the proposed regulations will not impact the expansion of businesses currently doing business within the State of California (Gov. Code § 11346.3(b)(1)(C)), nor will it affect worker safety or the state's environment (Gov. Code § 11346.3(b)(1)(D)).

The benefits of the proposed regulations to the health and welfare of California residents are as set forth under "Policy Statement Overview" and "Effect of Proposed Action" in the Informative Digest Section of this Notice. The regulations address in part (1) providing specificity concerning the form and content of the license application and other application materials as required under Insurance Code Section 1755(a)(1); (2) setting appropriate license and renewal fees as required under Insurance Code Section 1755(a)(3); and (3) clarifying and implementing the disclosure and training requirements contained in Insurance Code Section 1754(a).

The proposed regulatory requirements provide a benefit to Californians in that they (1) serve to facilitate

the licensing process for travel insurance agents; (2) set an appropriate fee to enable the Commissioner to properly administer and oversee the licensing process; and (3) foster consumer protection.

FINDING OF NECESSITY

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

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed regulations will have a negligible effect on small businesses in California. (See also "ECONOMIC IMPACT ON BUSINESS AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE".)

IMPACT ON HOUSING COSTS

The proposed regulations will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which this 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.

TEXT OF REGULATIONS AND STATEMENTS OF REASONS

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

The file for this proceeding, which includes a copy of the express terms of the proposed regulations, the initial statement of reasons, the information upon which the

proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available by appointment for inspection and copying at 300 Capitol Mall, Suite 1700, Sacramento, CA 95814, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

MODIFIED LANGUAGE

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

AUTOMATIC MAILING

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

WEBSITE POSTING

Documents concerning these proposed regulations are available on the Department’s website. To access them, go to www.insurance.ca.gov/0250-insurers/0500-legal-info/0200-regulations/proposed-regulations.cfm.

SPECIFIC AGENCY STATUTORY REQUIREMENTS

There are no such requirements.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Amend and Update the Training and Testing Specifications for Peace Officer Basic Courses Regulations 1005, 1007, and 1008

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code § 11346.8, any in-

terested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by SEPTEMBER 8, 2014, at 5:00 p.m.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to the:

Commission on POST
1601 Alhambra Boulevard
Sacramento, CA 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes.

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code §13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503 (e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

At its June 26, 2014 meeting, the Commission approved proposed amendments to Learning Domains throughout the *Training and Testing Specifications for Peace Officer Basic Courses* publication. The proposed changes included:

- Update Training and Testing Specification curriculum as part of an ongoing review.

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the training specifications to include revisions to grammar, punctuation, definitions, and minimum training standards.

The benefits anticipated by the proposed amendments to the regulations will be to update the training specifications for Peace Officer Basic Courses which will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

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

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter experts who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test the updated curriculum. The proposed effective date is February 1, 2015.

LOCAL MANDATE

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

FISCAL IMPACT ESTIMATES

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

COSTS OR SAVINGS TO STATE AGENCIES

POST anticipates no additional costs or savings to state agencies.

BUSINESS IMPACT/SMALL BUSINESSES

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code §11342.610, because the Commission sets selection and training standards for

law enforcement and does not have an impact on California businesses, including small businesses.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in the state of California.

RESULTS OF ECONOMIC IMPACT ASSESSMENT PER GOVERNMENT CODE SECTION 11346.3

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

The proposed amendments of regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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.

EFFECT ON HOUSING COSTS

None.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Please direct inquiries or written comments about the proposed action to the following:

Cheryl Smith
 Commission on POST
 1601 Alhambra Boulevard
 Sacramento, CA 95816-7083
 (916) 227-0544 or
Cheryl.Smith@post.ca.gov
 FAX (916) 227-6932

or

Patti Kaida
 Commission on POST
 1601 Alhambra Boulevard
 Sacramento, CA 95816-7083
 (916) 227-4847 or
Patti.Kaida@post.ca.gov
 FAX (916) 227-5271

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at: 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST Website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

AVAILABILITY AND LOCATION OF THE
 RULEMAKING FILE AND THE FINAL
 STATEMENT OF REASONS

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person named above.

TITLE 16. BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at The Declan Suites San Diego, 701 A Street, San Diego, California 92101, at 1:00 p.m., on September 18, 2014. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office not later than 5:00 p.m. on September 8, 2014 or must be received by the CBA at the hear-

ing. The CBA, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 5010, 5018, 5092, 5093, and 5095 of the Business and Professions Code (BPC), and to implement, interpret, or make specific sections 5023, 5070.7, 5092, 5093, and 5095 of the Business and Professions Code, the CBA is considering changes to Division 1 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

Current law, CCR Title 16 sections 12 and 12.5, states that an applicant for CPA licensure who is applying with experience obtained five or more years prior to application and who has not passed the Uniform CPA Examination during this five-year period shall be required to complete 80 hours of continuing education (CE) in the two years preceding receipt of application by the CBA. CCR Title 16 section 37 states that an applicant who is applying for a reissued certificate shall, within two years prior to receipt of application, complete 80 hours of CE that meets specified requirements. Additionally, all sections state that a minimum of 20 hours must be completed in the one year period immediately preceding the receipt of the application, with a minimum of 12 hours in subject areas described in CCR Title 16 section 87(a)(2). This proposal would change the timeframe in which an applicant for CPA licensure can complete the 80 hours of CE to occur two years preceding approval of the application by the CBA. Additionally, current law requires an applicant to complete 20 hours of CE in the one-year period immediately preceding the receipt of the application, with a minimum of 12 hours completed in subject areas described in section 87(a)(2). This proposal would maintain the requirement that a minimum of 12 hours be completed in subject areas described in section 87(a)(2), but would eliminate the requirement that 20 hours be completed within one year preceding receipt of application.

The regulatory proposal is as follows:

1. Amend Section 12 of Title 16 of the California Code of Regulations

Section 12 specifies the experience requirements for licensees applying for licensure under BPC section 5092 and 5093. This regulatory proposal would require an applicant to complete 80 hours of CE, including the minimum of 12 hours mandated in subject areas described in CCR Title 16 section 87(a)(2), in the two years preceding the date of approval of the application by the CBA.

2. Amend Section 12.5 of Title 16 of the California Code of Regulations

Section 12.5 specifies the experience requirements for an applicant seeking CPA licensure with the authority to sign reports on attest engagements. This regulatory proposal would require an applicant to complete 80 hours of CE, including the minimum of 12 hours mandated in subject areas described in CCR Title 16 section 87(a)(2), in two years preceding the date of approval of the application by the CBA.

3. Amend Section 37 of Title 16 of the California Code of Regulations

This section specifies the requirements for reissuance of a cancelled CPA license. This regulatory proposal would require an applicant applying to have their license reissued to complete 80 hours of CE, including the minimum of 12 hours mandated in subject areas described in CCR Title 16 section 87(a)(2), in two years preceding the date of approval of the application by the CBA.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This proposal would allow an applicant for CPA licensure to complete all 80 hours in the two years preceding the CBA's approval of the application for licensure. This change will allow the CBA the ability to notify the applicant, who may have been unaware of the required CE, the opportunity to complete the required hours and avoid outright rejection of the application for noncompliance.

C. Consistency and Compatibility with Existing State Regulations

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

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. It is determined the proposed regulation will only affect a small number of CPA applicants applying or reapplying for licensure who could be eligible to obtain a job requiring a CPA license. Generally, the CBA receives 65–70 applications per year that would apply to the proposed regulations.

AND

The following studies/relevant data were relied upon in making the above determination:

This proposal does not change the existing CE requirement in current law. This regulatory proposal would change the timeframe in which it must be completed.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposal may affect small business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and state's environment:

CE helps to ensure consumers receive accounting services from CPAs who maintain currency of knowl-

edge, proficiency, and who provide competent and ethical service in the performance of their duties. This proposal will ensure applicants understand and complete the CE requirement before the approval of their application.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The CBA has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

**AVAILABILITY AND LOCATION OF THE FINAL
STATEMENT OF REASONS AND
RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Andrew Breece
 Address: California Board of Accountancy
 2000 Evergreen Street, Suite 250
 Sacramento, CA 95815
 Telephone No.: (916) 561-1782
 Fax No.: (916) 263-3678
 E-Mail
 Address: Andrew.breece@cba.ca.gov

The backup contact person is:

Name: Matthew Stanley
 Address: California Board of Accountancy
 2000 Evergreen Street, Suite 250
 Sacramento, CA 95815
 Telephone No.: (916) 561-1792
 Fax No.: (916) 263-3678
 E-Mail
 Address: mstanley@cba.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml.

**TITLE 16. DENTAL HYGIENE
COMMITTEE OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Dental Hygiene Committee of California (“Committee”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the:

Department of Consumer Affairs
 1st Floor Hearing Room
 2005 Evergreen Street
 Sacramento, California 95815 on

September 10, 2014

9:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Committee at its office not later than 5:00 p.m. on September 10, 2014, or must be received by the Committee at the hearing. The Committee, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of

technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person, and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 1905 and 1906 of the Business and Professions Code and Section 106975 of the Health and Safety Code, and to implement, interpret or make specific Sections 1905, 1917 and 1941 of the Business and Professions Code, the Committee is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Business and Professions Code Section 1906 authorizes the Committee to adopt, amend and repeal such rules and regulations as may be reasonably necessary to enable the Committee to effect the provisions of Business and Professions Code sections 1900–1966.6. This proposal would specify the process for Committee approval of new registered dental hygiene (RDH) educational programs and continuation of approval of existing programs, instructions for submission of the feasibility study required by statute for all new programs, and provides an appeals process for new programs denied approval. Currently, thirty RDH educational programs are approved in California due to the Committee’s acceptance of accreditation by the Commission on Dental Accreditation (CODA). SB 1202, effective January 1, 2013, gave the Committee permissive authority to approve any RDH educational program accredited by CODA, rather than *requiring* the Committee to approve any RDH educational program accredited by CODA, as previous statutory language mandated. The Committee needs regulations within Division 11 that clarify the approval process for both existing and new programs, specify the instructions for the required feasibility study and the process for new RDH educational programs seeking approval, and the Committee is proposing the following:

- Adopt Section 1104 of Division 11, Title 16 of the California Code of Regulations. The proposed section specifies that a new RDH educational program must be approved by the Committee before admitting students, specifies the approval process in relation to the CODA accreditation process for new and existing programs, requires all approved programs to maintain CODA accreditation and institutional accreditation, and

clarifies the consequences for a material misrepresentation of fact by a program.

- Adopt Section 1104.1 of Division 11, Title 16 of the California Code of Regulations. The proposed section specifies that institutions applying for approval of a new RDH educational program must comply with requirements set out in “Instructions for Institutions Seeking Approval of a New RDH Educational Program” and incorporates this document by reference. The section specifies that the Committee be notified in writing of the intent to offer a new educational program, that a feasibility study be submitted in accordance with requirements specified in the “Instructions”, and that after the feasibility study is approved and at least 12 months before the enrollment of students the program must submit the same documentation sent to CODA or other accreditation body to the Committee, who will approve, provisionally approve, or deny approval of the program according to the requirements specified in the “Instructions.” The proposed section requires that a new program notify the Committee in writing within 10 days of any substantive or major change in information, as defined, contained in the required approval documents.
 - Adopt Section 1104.2 of Division 11, Title 16 of the California Code of Regulations. The proposed section specifies the appeals process for a new RDH educational program whose approval is denied by the Committee, including timeframes.
- B. Policy Statement Overview/Anticipated Benefits of Proposal

The Committee’s policy is to promulgate regulations for the protection of California consumers. When there is no impact on consumers, the Committee endeavors to pursue regulations that are not burdensome to licensees. Dental hygienist programs require clinical practice of dental hygiene procedures by students in clinics and offices. This proposal protects California consumers by ensuring that RDH educational programs meet criteria and standards necessary for students to learn to perform procedures safely, and to protect Californians while students learn and practice these procedures.

Protection of the public is the Committee’s primary mission. These regulations benefit the public by specifying the process by which a RDH educational program may obtain or maintain approval, so that dental hygiene patients are protected from harm during the practice of procedures by dental hygiene students during clinical instruction, which takes place in dental offices, school clinics and public health clinics as part of the RDH educational process.

These proposed regulations benefit dental hygienist students by ensuring that new and existing RDH educational programs maintain accreditation standards, and that new programs provide sufficient information to the Committee in the required feasibility study so that students do not pay for an education that they do not receive, due to the program's failure.

The proposal benefits new RDH educational programs by specifying the required format and content of the required feasibility study, so programs know exactly what is needed to obtain and maintain Committee approval.

The proposed regulations benefit new and existing RDH educational programs by requiring the Committee conduct its reviews in accordance with their CODA accreditation renewal, so programs collect the same information, data and documentation for both their Committee review and their CODA accreditation processes.

The proposed regulations benefit the Committee by providing a mechanism for review and continuation or withdrawal of approval status of RDH educational programs that is clearly set out for all users.

C. Consistency and Compatibility with Existing State Regulations

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

DOCUMENT INCORPORATED BY REFERENCE:

Instructions for Institutions Seeking Approval of a New RDH Educational Program (EDP-1-01 Rev. 04/14)

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None.

Business Impact: The Committee has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Committee has determined that the proposed regulations would not have a significant economic impact on small businesses since a small business would not have the resources to open or maintain a RDH educational program.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Committee has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Committee has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety and state's environment:

This regulation will benefit the state's environment and the health of California residents and workers by ensuring that all registered dental hygienist students receive education and training in safely providing dental hygiene services to Californians.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Committee has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Hygiene Committee of California at 2005 Evergreen Street, Suite 2050, Sacramento, California 95815.

**AVAILABILITY AND LOCATION OF THE FINAL
STATEMENT OF REASONS AND
RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Lori Hubble, Executive Officer
Address: 2005 Evergreen Street, Suite
2050 Sacramento, CA 95815
Telephone No.: (916) 263-1978
Fax No.: (916) 263-2688
E-Mail
Address: Lori.Hubble@dca.ca.gov

The backup contact person is:

Name: Donna Kantner
Address: 2005 Evergreen Street, Suite
2050 Sacramento, CA 95815
Telephone No.: (916) 576-5003
Fax No.: (916) 263-2688
E-Mail
Address: Donna.Kantner@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Committee's website: www.dhcc.ca.gov.

DISAPPROVAL DECISION

Printed below is the summary of an Office of Administrative Law disapproval decision. The full text of the disapproval decision is available at www.oal.ca.gov under the "Publications" tab. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 FAX (916) 323-6826. Please request by OAL file number.

AIR RESOURCES BOARD

**State of California
Office of Administrative Law**

In re:
AIR RESOURCES BOARD
REGULATORY ACTION
Title 17, California Code of Regulations
AMEND SECTIONS 94014 AND 94016
DECISION OF DISAPPROVAL OF
REGULATORY ACTION
(Gov. Code, sec. 11349.3)
OAL File No. 2014-0528-04S

SUMMARY OF REGULATORY ACTION

The Air Resources Board (Board) proposed to amend section 94014, Certification of Vapor Recovery Systems for Cargo Tanks, and section 94016, Certification of Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks, of title 13 of the California Code of Regulations. The proposed amendments would resolve technical problems that currently exist with two test procedures used by Board staff when certifying vapor recovery equipment for aboveground storage tanks, reconcile cargo tank certification and test procedures with current industry practices, and provide additional flexibility for cargo tank owners to remain in compliance with performance standards. On May 28, 2014, the Board submitted the proposed adoption to the Office of Administrative Law (OAL) for review in accordance with the Administrative Procedure Act (APA). On July 10, 2014, OAL sent a Notice of Disapproval of the proposed adoption. This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

DECISION

The Office of Administrative Law disapproved the above referenced regulatory action for the following

reasons: failure to comply with the clarity standard of Government Code section 11349 and because the Final Statement of Reasons failed to include a summary and response to every comment made regarding the proposed action.

CONCLUSION

For the reasons set forth above, OAL has disapproved this regulatory action. If you have any questions, please contact me at (916) 323-6808.

Date: July 15, 2014

/s/

CRAIG S. TARPENNING
Assistant Chief Counsel

For: **DEBRAM. CORNEZ**
Director

Original: Richard W. Corey
cc: Amy Whiting

<p>SUMMARY OF REGULATORY ACTIONS</p>

**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# 2014-0530-04
AIR RESOURCES BOARD
Zero Emission Vehicle Regulation

This rulemaking action amends the Zero Emission Vehicle (ZEV) regulations within the Advanced Clean Car program. It adjusts the optional Section 177 State Compliance Path and establishes a cap on all non-ZEV credits that can be used to meet a manufacturer's minimum ZEV requirements. The action also further specified rules concerning the issuance of fast-refueling credits to manufacturers.

Title 13
California Code of Regulations
AMEND: 1962.1, 1962.2
Filed 07/10/2014
Effective 07/10/2014
Agency Contact: Amy Whiting (916) 322-6533

File# 2014-0630-06
**CALIFORNIA DEBT LIMIT ALLOCATION
COMMITTEE**
Beginning Farmer Program/TCAC Misc

This emergency rulemaking action creates the Beginning Farmer program, which facilitates tax-exempt bond backing of below-market-rate loans to support new farming enterprises. It also amends regulations concerning low-income housing construction financing.

Title 4
California Code of Regulations
ADOPT: 5600, 5610, 5620, 5630, 5640 AMEND:
5000, 5144, 5170, 5200, 5205, 5230, 5240, 5255,
5350, 5370
Filed 07/10/2014
Effective 07/10/2014
Agency Contact: Leslie J. Campaz (916) 653-8018

File# 2014-0529-05
**CENTRAL VALLEY FLOOD PROTECTION
BOARD**
Enforcement Actions

This regulatory action by the Central Valley Flood Protection Board is a certification of emergency action number 2014-0102-02E. These regulations implement sections of the Water Code recently revised by Senate Bill (SB) 753 (Stats. 2013, Ch. 639), which provide the Board with greater enforcement powers including the authority to impose penalties for violations of law.

Title 23
California Code of Regulations
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
Filed 07/11/2014
Effective 07/11/2014
Agency Contact: Curt Taras (916) 709-0519

File# 2014-0701-02
COMMISSION ON TEACHER CREDENTIALING
Cost Recovery Fees for Accreditation Activities

This emergency action amends Title 5, Division 8, Chapter 5, Article 3, of the California Code of Regula-

tions, adopting a fee structure and related fees in connection with agency review of accreditation of institutions providing educator preparation services. Accredited institutions pay fees to the state allowing the Commission on Teacher Credentialing to maintain and operate the accreditation system with reviews of programs offered by institutions.

Title 5
California Code of Regulations
ADOPT: 80693, 80694
Filed 07/11/2014
Effective 08/07/2014
Agency Contact: Kathryn Polster (916) 445-0928

File# 2014-0529-06
DEPARTMENT OF FOOD AND AGRICULTURE
Peach Fruit Fly Interior Quarantine

This rulemaking action by the Department of Food and Agriculture (Department) establishes standards and procedures for adding and removing quarantine areas for the peach fruit fly (*Bactrocera zonata*), establishing the size of the quarantine area, how the quarantine area may be expanded, the appeal process for challenging a quarantine designation and specifies where information relating to any such quarantine can be located.

Title 3
California Code of Regulations
AMEND: 3424
Filed 07/10/2014
Effective 10/01/2014
Agency Contact: Stephen S. Brown (916) 654-1017

File# 2014-0530-01
OFFICE OF SPILL PREVENTION AND RESPONSE
Application for Certificate of Financial Responsibility:
Non-Tank Vess

This action amends Title 14, Division 1, Subdivision 4, Chapter 2, Subchapter 1, of the California Code of Regulations, amending form FG OSPR-1972, without regulatory effect, updating agency bank account number.

Title 14
California Code of Regulations
AMEND: 791.7
Filed 07/10/2014
Effective 07/10/2014
Agency Contact:
Joy D. Lavin-Jones (916) 327-0910

File# 2014-0529-01
PUBLIC EMPLOYMENT RELATIONS BOARD
In-Home Supportive Services Employer-Employee
Relations Act (IHSSEERA)

The Public Employment Relations Board submitted this timely File and Print Certificate of Compliance to make permanent the emergency regulations adopted in OAL file no. 2013-1206-01P. The emergency regulations, which were print only and exempt from OAL review, implemented the newly enacted In-Home Supportive Services Employer-Employee Relations Act (SB 1036 (Stats. 2012, Ch. 45)).

Title 8
California Code of Regulations
ADOPT: 32036, 32037, 32610, 32611, 32806, 32808, 32810, 95000, 95010, 95020, 95030, 95040, 95045, 95050, 95070, 95080, 95090, 95100, 95150, 95160, 95170, 95180, 95190, 95200, 95300, 95310, 95320, 95330 AMEND: 31001, 32020, 32030, 32040, 32050, 32055, 32060, 32075, 32080, 32085, 32090, 32091, 32100, 32105, 32120, 32122, 32130, 32132, 32135, 32136, 32140, 32142, 32145, 32147, 32149, 32150, 32155, 32162, 32164, 32165, 32166, 32168, 32169, 32170, 32175, 32176, 32178, 32180, 32185, 32190, 32200, 32205, 32206, 32207, 32209, 32210, 32212, 32215, 32220, 32230, 32295, 32300, 32305, 32310, 32315, 32320, 32325, 32350, 32360, 32370, 32375, 32380, 32400, 32410, 32450, 32455, 32460, 32465, 32470, 32500, 32602, 32605, 32612, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32645, 32647, 32648, 32649, 32650, 32661, 32680, 32690, 32700, 32720, 32721, 32722, 32724, 32726, 32728, 32730, 32732, 32734, 32735, 32736, 32738, 32739, 32740, 32742, 32744, 32746, 32748, 32750, 32752, 32754, 32761, 32762, 32763, 32770, 32772, 32774, 32776, 32980, 32990, 32992, 32993, 32994, 32995, 32996, 32997

Filed 07/10/2014
Effective 07/10/2014
Agency Contact: Jonathan Levy (916) 322-3198

File# 2014-0616-05
STATE PERSONNEL BOARD
Conflict-of-Interest Code

This is an amendment to a Conflict of Interest Code that has been approved by the Fair Political Practices Commission on May 20, 2014 and is being submitted for filing with the Secretary of State, and will publish the regulation(s) or order(s) of repeal in the California Code of Regulations.

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

Title 2
 California Code of Regulations
 AMEND: 549
 Filed 07/14/2014
 Effective 08/13/2014
 Agency Contact:
 Dorothy Bacskai Egel (916) 653-1466

File# 2014-0603-02
 STATE WATER RESOURCES CONTROL BOARD
 Total Maximum Daily Load for Sediment in Los Peñasquitos Lagoon

On June 13, 2012, the San Diego Regional Water Quality Control Board adopted Resolution No. R9-2012-0033 and on January 21, 2014, the State Water Resources Control Board adopted Resolution No. 2014-0001 which amended the Water Quality Control Plan for the San Diego Basin to incorporate the Total Maximum Daily Load for Sediment in Los Peñasquitos Lagoon.

Title 23
 California Code of Regulations
 ADOPT: 3991
 Filed 07/14/2014
 Effective 07/14/2014
 Agency Contact: Charles Cheng (619) 521-3359

File# 2014-0708-02
 STATE WATER RESOURCES CONTROL BOARD
 Statewide Drought Related Curtailment of Water Diversions to Protect Senior Water Rights

The State Water Resources Control Board (Board) submitted this emergency action to adopt two sections and amend two sections under an article in title 23 of the California Code of Regulations that pertains to curtailment of water diversions based on insufficient flow to meet all needs. The state's current system for curtailing water diversions and enforcing those curtailments will not provide for timely and effective implementation of the state's system of senior water rights during the current drought when numerous water diversions require curtailment and enforcement in a short period of time. The regulations will set drought emergency curtailment method and reporting requirements necessary to ensure the orderly curtailment of water rights to protect senior water rights. The regulations also clarify the information the Board will rely on in issuing initial curtailments, make the curtailment a system of enforceable orders, thereby increasing its effectiveness, and clarify the procedures for contesting and making exceptions to curtailment orders.

Title 23
 California Code of Regulations
 ADOPT: 875, 878.3 AMEND: 878.1, 879
 Filed 07/16/2014
 Effective 07/16/2014
 Agency Contact: David Rose (916) 341-5196

File# 2014-0528-03
 VETERINARY MEDICAL BOARD
 VTNE Transition

This rulemaking action by the Veterinary Medical Board (VMB) amends nine regulations, adopts two regulations, and repeals one regulation pertaining to the veterinary technician registration examination under title 16 of the California Code of Regulations. Business and Professions Code section 4841.4 directs that the examination for veterinary technicians shall consist of a national examination and an examination specific to animal health care tasks limited to California registered veterinary technicians. This rulemaking action is intended to update the examination requirements, eligibility evaluation, examination credit, conditional credit, and equivalency provisions for veterinary technicians to comply with section 4841.4 of the Business and Professions Code. Other non-substantive changes are also included in this regulatory action in order to improve the clarity and consistency of the regulation text.

Title 16
 California Code of Regulations
 ADOPT: 2010.2, 2014.1 AMEND: 2002, 2009, 2010, 2010.1, 2014, 2015, 2015.1, 2068.6, 2071
 REPEAL: 2062
 Filed 07/10/2014
 Effective 10/01/2014
 Agency Contact: Ethan Mathes (916) 515-5227

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN February 12, 2014 TO
 July 16, 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

07/14/14 AMEND: 549
 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
 05/19/14 ADOPT: 1181.1, 1181.2, 1181.3, 1181.4, 1181.5, 1181.6, 1181.7, 1181.8, 1181.9, 1181.10, 1181.11, 1181.12, 1181.13, 1182.1, 1182.2, 1182.3, 1182.4, 1182.5, 1182.6, 1182.7, 1182.8, 1182.9, 1182.10, 1182.11, 1182.12, 1182.13, 1182.14, 1182.15, 1182.16, 1183.1, 1183.2, 1183.3, 1183.4, 1183.5, 1183.6, 1183.7, 1183.8, 1183.9, 1183.10, 1183.11, 1183.12, 1183.13, 1183.14, 1183.15, 1183.16, 1183.17, 1183.18, 1184.1, 1185.1, 1185.2, 1185.3, 1185.4, 1185.5, 1185.6, 1185.7, 1185.8, 1185.9, 1186.1, 1186.2, 1186.3, 1186.4, 1186.5, 1186.6, 1186.7, 1187.1, 1187.2, 1187.3, 1187.4, 1187.5, 1187.6, 1187.7, 1187.8, 1187.9, 1187.10, 1187.11, 1187.12, 1187.13, 1187.14, 1187.15, 1188.1, 1188.2, 1190.1, 1190.2, 1190.3, 1190.4, 1190.5 REPEAL: 1181, 1181.1, 1181.2, 1181.4, 1182, 1182.1, 1182.2, 1182.3, 1182.4, 1182.5, 1183, 1183.01, 1183.02, 1183.03, 1183.04, 1183.05, 1183.06, 1183.07, 1183.08, 1183.081, 1183.09, 1183.1, 1183.11, 1183.12, 1183.13, 1183.131, 1183.14, 1183.2, 1183.21, 1183.25, 1183.30, 1183.31, 1183.32, 1184.5, 1184.6, 1184.7, 1184.8, 1184.9, 1184.10, 1184.11, 1185, 1185.1, 1185.2, 1185.21, 1185.3, 1185.4, 1185.5, 1185.6, 1185.7, 1186, 1186.5, 1186.51, 1186.52, 1186.53, 1186.54, 1186.55, 1186.6, 1186.61, 1186.62, 1186.63, 1186.64, 1186.65, 1186.7, 1186.71, 1186.72, 1186.73, 1187, 1187.2, 1187.3, 1187.4, 1187.5, 1187.6, 1187.7, 1187.8, 1187.9, 1188, 1188.1, 1188.2, 1188.3, 1188.31, 1188.4, 1189, 1189.1, 1189.2, 1189.3, 1189.6, 1189.61, 1190, 1190.01, 1190.02, 1190.03, 1190.04, 1190.05
 05/01/14 ADOPT: 18706.1 AMEND: 18706
 05/01/14 AMEND: 18950.1
 05/01/14 AMEND: 18705.2 REPEAL: 18704.2
 04/30/14 AMEND: 18704
 04/30/14 AMEND: 18707.9
 04/16/14 ADOPT: 599.760.1 AMEND: 599.757, 599.759, 599.761, 599.768, 599.769

REPEAL: 599.755, 599.760, 599.764, 599.765, 599.766, 599.767
 03/10/14 AMEND: 1900, 2002, 2003
 03/05/14 ADOPT: 630, 632.5, 632.11 AMEND: 631, 631.5, 632, 632.6, 632.7, 632.8, 632.9, 632.10 REPEAL: 632.5, 632.11

Title 3

07/10/14 AMEND: 3424
 06/27/14 AMEND: 1430.142
 06/24/14 AMEND: 3435(b)
 06/17/14 AMEND: 3435(b)
 06/02/14 AMEND: 3435(b)
 05/14/14 ADOPT: 1280, 1280.1, 1280.8, 1280.10 AMEND: 1280.7
 05/12/14 AMEND: 3591.20(a)
 04/24/14 AMEND: 3435(b)
 04/04/14 AMEND: 3435(b)
 03/19/14 AMEND: 3406(b)
 03/18/14 ADOPT: 6471 AMEND: 6000, 6400
 03/18/14 AMEND: 3423(b)
 03/10/14 AMEND: 3589(a)
 03/05/14 ADOPT: 1358.3
 02/26/14 AMEND: 3434(b)(c)(d)
 02/25/14 AMEND: 3417(b)
 02/25/14 AMEND: 3700(b)
 02/20/14 AMEND: 3423(b)
 02/20/14 AMEND: 3701, 3701.1, 3701.2, 3701.3, 3701.4, 3701.5, 3701.6, 3701.7, 3701.8
 02/12/14 AMEND: 3700(c)

Title 4

07/10/14 ADOPT: 5600, 5610, 5620, 5630, 5640 AMEND: 5000, 5144, 5170, 5200, 5205, 5230, 5240, 5255, 5350, 5370
 06/30/14 AMEND: 10030, 10031, 10032, 10033, 10034, 10035, 10036
 06/18/14 AMEND: 12505
 06/18/14 AMEND: 8070, 8072
 06/16/14 AMEND: 4001 ADOPT: 4002.9
 06/13/14 AMEND: 8034
 06/11/14 ADOPT: 12387 AMEND: 12360, 12386
 06/09/14 ADOPT: 4402, 4403, 4496, 4496.1, 4496.2, 4496.3, 4496.4, 4496.5, 4496.6
 05/19/14 AMEND: 7030, 7032, 7033, 7034, 7035, 7036, 7037, 7040, 7042
 05/15/14 ADOPT: 7113, 7114, 7115, 7116, 7117, 7118, 7119, 7120, 7121, 7122, 7123, 7124, 7125, 7126, 7127, 7128, 7129
 05/12/14 AMEND: 1632
 04/07/14 AMEND: 1656, 1658
 04/03/14 AMEND: 10030, 10031, 10032, 10033, 10034, 10035, 10036
 04/02/14 AMEND: 2066

CALIFORNIA REGULATORY NOTICE REGISTER 2014, VOLUME NO. 30-Z

03/28/14	AMEND:10302,10305,10315,10317,10320,10322,10325,10326,10327, 10328, 10337	Title 8
03/24/14	ADOPT: 10170.1, 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.8, 10170.9, 10170.10, 10170.11, 10170.12, 10170.13, 10170.14, 10170.15	07/10/14
03/11/14	ADOPT:1927.1	ADOPT: 32036, 32037, 32610, 32611, 32806, 32808, 32810, 95000, 95010, 95020, 95030, 95040, 95045, 95050, 95070, 95080, 95090, 95100, 95150, 95160, 95170, 95180, 95190, 95200, 95300, 95310, 95320, 95330
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