



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT OF INTEREST CODES

AMENDMENT

Multi County: Solano Community College District
Independent Cities Lease Finance
Authority

A written comment period has been established commencing on **September 9, 2011** and closing on **October 24, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814.

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

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

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **October 24, 2011**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **October 13, 2011**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on October 11, 2011**.

OBJECTIVE

Government Code Section 82028 defines a gift as any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater benefit is not received. Commission regulations regarding gifts are contained in Regulations 18940 et seq. The regulatory amendments suggested herein revise, update, and make internally consistent the Commission’s gift regulations. The goal of the proposed amendments is to improve clarity and make the regulations consistent and more easily understood. In addition, based on public comment, staff has made substantive changes to numerous regulations in order to simplify compliance.

BACKGROUND/OVERVIEW

Over the last four years, there have been a number of amendments to the gift regulations, including changes to the gifts to agencies regulation (18944.2), tickets to

agencies regulation (18944.1), regulations dealing with valuation of admission to political and nonprofit fundraisers (18946.4), gifts to family members (18944), source of gift (18945), air travel (18946.6) and payments in connection with speeches (18950.3).

In the process of making these changes, Commission staff became acutely aware of the need to revise and update the entire gift section of the Commission regulations. Some of the earlier changes resulted in confusion, and in an effort to draft the regulations to avoid every possible abuse of the rules, the wording in many of the regulations became complicated and difficult to understand.

For example, in some cases it was unclear who was being regulated. Frequently, the word “public official” was used. But the statutory definition of “public official” does not include judges and candidates, even though the rules applied equally to them. Sometimes the word “filer” was used, but the conflict of interest/disqualification rules apply equally to non filers. Sometimes the word “official” was used, but this word is not defined. The proposed regulations are now consistent in the singular use of the word “official,” which will be defined to include all those to which the rules apply.

Additionally, recent amendments to the Act’s definition of “gift” were not taken into account in many of the regulations. In 1990, the statutory definition was changed to add the personal benefit language: a gift is any “payment that confers a *personal benefit* on the recipient, to the extent that consideration of equal or greater value is not received . . .” (Section 82028.) Many of the regulations predated this change, and have never been updated to make them consistent with the actual definition of “gift.” This amendment has been largely ignored, and has created significant interpretation problems and inconsistencies in the gift regulations.

In addition to the “personal benefit” rule, the Commission had never codified certain exceptions to the definition of gift that have been formulated over the years. These exceptions have been created over the years either by Commission opinions or staff advice letters and include the “acts of neighborliness exception” and the “bona fide dating relationship exception,” and will now be placed into the regulations. To these concepts, an “acts of human compassion” exception has also been added.

Finally, recent changes in a few regulations have created some problems, which needed correction. Foremost among these is Regulation 18946.4, which establishes an exception from the standard valuation method for attendance at non-profit fundraising events. Because of a misapplication of an exception within the regulation, a second ticket provided to a non-profit fundraising event was valued at face value. This essentially

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

abrogated the whole purpose of the regulation. Additional adjustments have been made to recently amended Regulations 18944 (now 18943), 18944.2 (now 18944), 18944.1, 18945, and 18946.6.

The proposed amendments continue the progress made by the Commission over the last few years toward achieving the Act's purpose. These proposed amendments now take the further step of consolidating all the rules applicable to gifts, closing certain loopholes, correcting ambiguities, uncertainties, and other errors, and making the rules more consistent and understandable in order to implement the overall purposes of the Act. Most of the amendments to the regulations are simply to clarify the language and have no effect on the current meaning of the regulation. The discussion below addresses the more substantive proposed amendments to the gift regulations.

§ 18940 — Currently, this regulation is intended to serve as an index to the gift regulations. It is currently extremely outdated and does not provide reliable assistance. Instead of merely updating the content, staff has taken a different approach. One suggestion received in the outreach conducted through the interested persons' meetings was to develop a process, similar to the 8-step conflict of interest process, for gifts. This regulation now incorporates that suggestion. It begins with the definition of gift as it applies in these regulations with respect to reporting, application to conflict of interest, and limits (subdivision (a)). Subdivision (b) then discusses how one determines if he or she is required to report any particular gift. Subdivision (c) then sets forth the process of determining if something is a gift under the Act and references the pertinent sections for review.

§ 18940.1 — This section now provides a complete guide to all the relevant definitions needed to understand the gift regulation provisions. It now uses the word "official" to refer to the individual affected by and regulated under the gift provisions.

§ 18941 — This section now combines sections 18941 (Receipt, Promise, and Acceptance) and 18943 (Return, Donation, and Reimbursement) into one regulation, because both concepts deal with whether or not a gift has been received for purposes of the Act.

§ 18942 — This regulation lists the exceptions for gifts. A number of changes are proposed to amend the regulation. First, the family gift provision further defines who is an aunt or uncle, niece or nephew, first cousin, and in-laws. These amendments make the exception broader and are necessary to reflect the reason for the exception in the first place — that family relatives make gifts because of their family relationship and not in an effort to influence an official. Staff has been faced with a number of circumstances where this exception has been extended through advice letters to cover everyday real-life situations where it made no sense to

call a payment a gift. These include an ex-mother-in-law paying travel expenses to her former daughter-in-law to bring the grandchildren back for a visit at Christmas, and a former husband paying expenses for his ex-wife to take the daughter on a visit to a college campus she was thinking about attending.

Subdivision (a)(7) defines the application of the "home hospitality" exception.

Subdivision (a)(8) clarifies that benefits received as a guest attending a party are not considered gifts so long as the official receives the same benefit as all other attendees. This simplifies the current rule, which requires a comparison of value.

Subdivisions (a)(15) and (16) now exempt certain benefits received in attending a wedding, even if a lobbyist is one of the people getting married, as well as certain payments made to honor a recent decedent. Subdivision (a)(18) now codifies exceptions for acts of neighborliness, acts of human compassion, and bona fide dating relationships, and places parameters on these exceptions.

§§ 18942.2 and 18942.3 — These two new sections now provide definitions for what constitutes "home hospitality" and what is a "ceremonial role."

§ 18943 — The family gift regulation is being moved to this section. The recent changes to this regulation have proven to be too complicated, especially with regard to what constitutes "ordinary care and support." This language has been dropped and a more simplified version is proposed. This version does not eliminate any of the principles contained in the current version and actually places some restrictions on certain types of donors that are not currently covered by the regulation.

§ 18944 (currently 18944.2) — This regulation has been substantially simplified due to the fact that the gift regulations now recognize the personal benefit requirement for a gift, and agencies do not receive "personal benefits."

§ 18944.1 — Language has been added to clarify that the regulation is not intended to require names of individuals who receive tickets if the individual would not be required to report the source of the ticket on his or her statement of economic interest if the ticket was received directly from that source.

§ 18945 — The recently amended source of gift regulation has now been simplified without changing any of the restrictions currently in place. It does, however, now correct a reporting problem by adding subdivision (c) to clarify that when an event is a "widely attended event" the person hosting the event is the source of the gift.

§ 18946.4 — This regulation would now value all tickets to non-profit fundraisers at the value of the benefit received and not the face value of the ticket. In other words, the donation portion of the ticket does not count in the valuation of the gift. The one free ticket for

501(c)(3) and political fundraising events has been expanded to two tickets, and the political fundraising event is no longer limited to California.

§ 18946.6 — This regulation establishes the valuation method for air travel. It was recently amended to value a ticket on a charter flight at the pro rata share of the cost of the flight divided by the number of officials onboard. If there is only one official on the flight, the value would be the entire cost of the charter. This was an obvious overvaluation of the benefit received and made paying down the gift limit impractical. The proposed regulatory changes provide a more realistic valuation method of either first class airfare or, if not available, the cost of the charter divided by the number of passengers (rather than officials) onboard.

REGULATORY ACTION

Amend 2 Cal. Code Regs. 18940: The former index would be transformed into a detailed guide to application of the gift regulations.

Adopt 2 Cal. Code Regs. § 18940.1: This regulation would define the major terms used in the gift regulations. “Gift” is as defined in the Act and limited to payments that are subject to the provisions of the Act. “Official” would mean anyone subject to the Act’s reporting and conflict-of-interest provisions.

Amend 2 Cal. Code Regs. § 18940.2: There are no substantive amendments to this regulation.

Amend 2 Cal. Code Regs. § 18941: There are no substantive amendments to this regulation. Regulation 18943 is merged into this regulation with no substantive changes.

Amend 2 Cal. Code Regs. § 18941.1: Repealed.

Amend 2 Cal. Code Regs. § 18942: This regulation contains the exceptions to the gift rules. The proposed changes clarify that the exception for payments from in-laws include former in-laws; and aunts, uncles, nephews and nieces includes grand aunts, uncles, nephews, and nieces; and first cousin includes first cousins once removed.

Amend 2 Cal. Code Regs. § 18942.1: There are no substantive amendments to this regulation.

Adopt 2 Cal. Code Regs. 18942.2: This proposed regulation would add a definition of “home hospitality.”

Adopt 2 Cal. Code Regs. § 18942.3: This proposed regulation would add a definition of “ceremonial role.”

Amend 2 Cal. Code Regs. § 18943: Renumbered from 18944, the Family Gift Regulation has been revised to make it simpler to apply. It does not retract from any of the previous provisions but does expand its coverage to certain persons who seek to influence the official.

Amend 2 Cal. Code Regs. § 18944: Renumbered from 18944.2, the Gift to Agency regulation has been amended to take into account the “personal benefit” provision within the definition of gift.

Amend 2 Cal. Code Regs. § 18944.1: In addition to various minor edits, the amendments would add an express provision that the regulation does not require the reporting of the names of individuals receiving tickets if those individuals would not be required to report the receipt of the gift from the source on a statement of economic interest. Additionally, the amendments make it clear that school district officials attending district events in their own districts have not received a gift and need not apply the provisions of this regulation.

Amend 2 Cal. Code Regs. § 18944.2: Moved to 18944.

Amend 2 Cal. Code Regs. 18944.3: Repealed.

Amend 2 Cal. Code Regs. § 18944.4: Moved to Regulation 18944.2. There are no substantive amendments to this regulation.

Amend 2 Cal. Code Regs. 18945: The amendments would provide clarity and also add a provision that for “widely attended events” the person holding the event is the source of the gift.

Amend 2 Cal. Code Regs. 18945.1: There are no substantive amendments to this regulation.

Repeal 2 Cal. Code Regs. § 18945.3: The amendment proposes to repeal this regulation as repetitive of the statutory provisions under Sections 87210, 87313, and 86203.

Amend 2 Cal. Code Regs. § 18945.4: Now 18945.3. The amendment would provide that only a donor who contributes \$50 or more to a group gift need be reported. If the value of the gift is \$50 or more, and no one person contributed at least \$50, the gift is not reported.

Amend 2 Cal. Code Regs. § 18946: There are no substantive amendments to this regulation.

Amend 2 Cal. Code Regs. § 18946.1: There are no substantive amendments to this regulation.

Amend 2 Cal. Code Regs. 18946.2: Attendance at invitation-only events would now be valued at the benefit received, meaning food and entertainment instead of the overall cost of the event (facility rental, ice sculptures, etc.).

Amend 2 Cal. Code Regs. § 18946.3: There are no substantive amendments to this regulation.

Amend 2 Cal. Code Regs. § 18946.4: Corrects the misapplication of the current rule that includes the charitable donation in the value of any ticket not provided by the charitable organization and all but the first ticket provided by the charitable organization. The value would now be the price of the ticket, minus the charitable donation.

Repeal 2 Cal. Code Regs. § 18946.5: The provisions of this regulation would be moved to Regulation 18942,

the exceptions regulation. Accordingly, staff proposes that Regulation 18946.5 be repealed.

Amend 2 Cal. Code Regs. § 18946.6: Air travel for charter flights is now proposed at a rate equal to first class airfare or, if not available, the cost of the flight divided by the number of passengers, not just officials, aboard the flight.

Repeal 2 Cal. Code Regs. § 18950.

Repeal 2 Cal. Code Regs. § 18950.1: The provisions of this regulation are stated in Section 89506. The regulation is duplicative. Accordingly, staff proposes that Regulation 18950.1 be repealed.

Amend 2 Cal. Code Regs. § 18950.3: This regulation would be stripped of the unnecessary language left over after it was last amended. Its purpose would now simply be to provide definitions to terms used in the statute.

Amend 2 Cal. Code Regs. § 18950.4: The proposed changes simplify the application of the regulation and eliminate the presumption that travel during the 6-month period before the election is for campaign activities. Any payment for campaign activities is a contribution and not a gift, no matter what the source. The regulation simplifies the rule by merging in the provisions of former Regulation 18727.5 relating to campaign travel expenses into 18950.4.

Repeal 2 Cal. Code Regs. § 18727.5.

SCOPE

The Commission may delete provisions, adopt the language noticed herein, or choose new language to implement its policy.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of those regulations is to implement, interpret, and make specific the procedures for valuing

gifts to nonprofit and political fundraisers, consistent with various provisions of the Political Reform Act (Government Code Sections 81000–91014). Specific Government Code sections implemented, interpreted, or made specific by those regulations are indicated in the “Reference” section at the end of each regulation.

CONTACT

Any inquiries should be made to William J. Lenkeit, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322–5660 or 1–866–ASK–FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.php?id=247#2>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **October 13, 2011**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on October 11, 2011.**

BACKGROUND/OVERVIEW

As demonstrated by its adoption in 2010 of regulations concerning electronic advertisements and Internet campaign activity, the Commission is making a continuing effort to keep the Political Reform Act up to date with changes in technology and communications. The Commission recognizes the potential of the Internet and mobile communications to engage more people in the political process, and seeks to enact rules that will broaden participation by Californians in candidate and ballot measure elections.

Given that individuals may now make charitable donations through text messages from their mobile phones, the Commission anticipates that some political committees in California may wish to create fundrais-

¹The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

ing programs permitting individuals to text small dollar amounts in political contributions.

The Commission wishes to set forth the requirements of the Political Reform Act that committees will need to meet to develop programs of text message contributions. In issuing this proposed regulation, the Commission wishes to emphasize first, that it is the political committees that have a duty to comply with the Act's recordkeeping and reporting requirements, not the wireless carriers or vendors. Second, that this regulation is not imposing any new duties or regulatory burden on campaign committees, wireless carriers or vendors, but is merely setting forth the existing requirements of the Act that are relevant to committees if they choose to develop a text message contribution program. Third, the wireless industry association did not seek action from the Commission to permit text message contributions and is not the impetus for this regulation. Rather, Commission staff raised this issue given the widespread use of mobile communications.

Before turning to the specific provisions of the proposed regulation, we provide additional background concerning (1) how texting a donation works and (2) a 2010 Federal Election Commission advisory opinion on text contributions at the federal level.

Texting a donation. In the current model for nonprofit fundraising, a text donation works as follows. A wireless subscriber sends a text message pledge to make a donation. A third-party vendor notifies the individual's wireless carrier to apply the pledged donation amount to the individual's next phone bill. The individual receives the wireless phone bill and in a period of two to three weeks pays the bill. Lastly, the wireless carrier pays the vendor who disperses the donations to the proper organization. In the charitable contribution context, vendors typically deduct between 10 or 50 cents per \$10 donation as a charge for their services in processing the donation. Most text message donations are currently at the \$5 or \$10 level, and wireless carriers typically cap all text message donations at a maximum of \$30 per subscriber per program. The wireless carriers' industry practice has been to keep donations restricted to a maximum amount so that an individual's phone bill does not get too expensive with costs other than phone services. This reflects one current model for text message charitable contributions. However, the business models may change rapidly in the mobile giving area.

Federal Election Commission Opinion. The wireless telecommunications association, CTIA, sought approval of a plan for texting political contributions in an advisory opinion request to the Federal Election Commission. CTIA proposed a program where political contributions could be made by individuals texting five- or six-digit code numbers similar to the mobile giving programs for charitable donations. Under

CTIA's proposal, the contribution would be made at the time the cell phone user pays their monthly bill, which includes the amount for the text donation. A collection aggregator would collect contributions from wireless carriers over a thirty-day period and then transfer the contributions to the particular political committee. The Federal Election Commission ("FEC") denied the request in [Advisory Opinion 2010-23](#). The FEC found that the proposed program would not be permissible under the Federal Election Campaign Act and Commission regulations because contributions would not be forwarded to political committees within the 30- and 10-day timeframes specifically required by the federal Act. The FEC also objected that the political contributions would not be held in a separate merchant account, segregated from general corporate funds of either the wireless carrier or the collection aggregators.

The Political Reform Act does not present the same roadblocks to a text message donation program that the FEC found in federal law. Unlike the federal system, the Act does not have a precise 30-day requirement for forwarding contributions to a committee's treasurer. The Act requires that contributions collected by another on behalf of a candidate or committee be forwarded "promptly" to the committee's treasurer, with "promptly" being defined as before the next campaign statement is due. (Section 84306 and Regulation 18421.3.) Further, the Act does not necessarily require that contributions destined for a political committee never be commingled with general corporate funds of the wireless carrier or collection aggregator, as the federal rules do. (Regulation 18421.3.)

As noted above, in this case the wireless industry association is not seeking action by the Commission to permit text message contributions. The Commission itself is attempting to keep the Act current with the mobile communications technology used daily by most Californians.

REGULATORY ACTION

Adopt 2 Cal. Code Regs. Section 18421.31:

The proposed regulation states that a committee may raise funds through text message contributions under the Act. The regulation applies to a committee fundraising through low-dollar text message contributions.

Contributions received. Regulation 18421.1(c) of the Act defines when contributions are "received." The proposed regulation will state when text message contributions are received for purposes of the Act, such as on the date that a mobile fundraising vendor, acting as agent of a candidate or committee, obtains possession and control of the contributions.

Transferring contributions to a committee promptly. In addition, Section 84306 of the Act requires that all

contributions received by a person acting as an agent of a candidate or committee shall be reported promptly to the candidate or committee's treasurer or any of his or her designated agents. "Promptly" is defined to mean not later than the closing date of any campaign statement the committee or candidate for whom the contribution is intended is required to file. The proposed regulation will provide that contributions made by text message shall be considered to be transferred promptly to a committee's bank account if they are collected by the wireless carrier and forwarded by the mobile fundraising vendor to the committee following standard business practices for those transactions or within a specified time period.

Contributor information. The regulation will state that a committee raising funds by text message contributions shall maintain the contribution information as required by Regulation 18401(a)(1)–(3). The most salient requirement of the Act affecting text message donations is that full contributor information must be reported for any donor who gives \$100 or more. (Section 84211(f).) Further, the Act prohibits any person from making an anonymous contribution or contributions to a candidate or committee totaling \$100 or more in a calendar year. (Section 84304.)

The Act's recordkeeping rules apply with increasing exactitude from small contributions to larger contributions. The current rules provide that for contributions of *less than \$25*, a committee only needs to keep the dates and daily totals of the contributions, but does not need to obtain or keep detailed information on the contributors (contributor name and address). (Regulation 18401(a)(1).) The recordkeeping rules for contributions less than \$25 permit small dollar fundraising, such as pass-the-hat fundraisers at campaign appearances at churches or other community events, and permit supporters to make small donations at campaign headquarters for bumper stickers, t-shirts, or food.

For contributions of *\$25 or more but less than \$100*, the committee records must include the full name and street address of the contributor, the cumulative amount received from the contributor, and intermediary information (the full name, street address, occupation and employer of the intermediary or agent and of the true source of the contribution), if the contribution is received through an intermediary or agent, as defined in Regulation 18432.5. (Regulation 18401(a)(2).)

For contributions of *\$100 or more*, the committee must keep the contributor's name and address, occupation and employer information, the cumulative amount received from the contributor, and intermediary information. (Regulation 18401(a)(3).) Text message contribution programs will have to be designed to ensure that if a single donor texts cumulative contributions of \$100 or more in a calendar year to a candidate or

committee, the committee obtains his or her name, address, occupation and employer information. While there is no specific requirement on how the contributor information is provided to a committee, campaign committees must obtain contributor information as specified by the recordkeeping rules of Regulation 18401.

Contributor and amount of contribution. The regulation will also provide that a contribution made by text message will be attributed to the person who is subscribed to the cell phone number that texted in the contribution. Further, it will state that the entire amount authorized by the contributor is counted as the amount of the contribution, and that any fees deducted by the wireless carrier or mobile fundraising vendor for processing the contributions shall be reported by the committee as an expenditure, consistent with Regulation 18421.3(a).

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 82015, 84104 and 84306.

CONTACT

Any inquiries should be made to Hyla P. Wagner, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or

1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.php?id=247#2>.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTIONS 1859.90.2 AND 1859.81, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17070.35, 17075.15, 17078.72 and 17592.73 of the Education Code. The proposals interpret and make specific reference Sections 17071.75, 17072.12, 17072.30, 17074.16, 17075.10, 17075.15, 17076.10, 17077.40, 17077.42, 17077.45 and 17079.20 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by

the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The proposed emergency regulations were adopted by the SAB at its meeting on May 25, 2011. These emergency amendments to the SFP Regulations provide for:

- the continued use of the priority funding process to apportion the proceeds from on-hand and future successful school bond sales to those school district and charter school projects that are “construction-ready.” The next priority funding process application period began July 27, 2011 and thereafter will be held annually commencing the second Wednesday of every January and every July.
- the resumption of Financial Hardship (FH) re-reviews for approved SFP projects that have been on the Unfunded List for over 180 days. There is currently an SAB-approved waiver of the re-review requirement for FH determinations, but that waiver became inoperative on July 1, 2011. The FH re-review process will be based only on school district financial records on or after July 1, 2011.

These emergency regulations were approved by the OAL (File No. 2011-0719-04E) and filed with the Secretary of State on July 27, 2011.

I. Priority Funding Process

The first “Priority Funding Round” was established by the SAB through emergency regulations at its May 26, 2010 meeting, and authorized the SAB to fund \$408.14 million of “construction-ready” school construction projects at its August 4, 2010 meeting. School districts with projects on the Unfunded List received apportionments from remaining State bond funds (actual cash from remaining bond funds and/or from successful bond sales).

The second Priorities in Funding Round funded 487 SAB-approved project apportionments from December 2010 through February 2011 for a total release of \$1.630 billion.

II. Financial Hardship Re-Reviews

The FH Program was established (Education Code Section 17075.15) to assist school districts that could not fund their portion of an SFP project. A school district benefits by meeting the FH criteria (Regulation Section 1859.81) because the State will then pay up to 100 percent of the district’s share of new construction or modernization project costs. (Without FH status, districts must contribute 50 percent of new construction project costs or 40 percent of modernization project costs.) Districts are required under Education Code Section 17075.10(b) to make all reasonable efforts to fund their share of their project’s cost.

The SFP Regulations state that the SAB–approved FH status of an SFP project on the Unfunded List for over 180 days must have a re–review of the district’s financial records to determine if additional district funds are available to fund the district’s matching share of the school construction project costs. However, the SAB adopted emergency regulatory amendments at its May 26, 2010 meeting to waive this requirement for FH re–reviews due to the State’s inability to provide AB 55 loans from the Pooled Money Investment Account. This waiver expired on July 1, 2011.

The SAB emergency amendments will allow FH re–reviews to resume on or after July 1, 2011 for approved, unfunded SFP projects that have been on the Unfunded List for over 180 days. The FH re–reviews will be based only on school district financial records on or after July 1, 2011.

A summary of the proposed emergency regulations is as follows:

Existing Regulation Section 1859.90.2 is described in the following six paragraphs:

1. It authorizes the SAB to establish 30–calendar day application filing periods for school districts and charter schools to apply for apportionments of available State school bond funds. Projects under the Charter School Facilities Program (CSFP) may apply for advance release of design funds from a Preliminary Charter School Apportionment. Projects under the Critically Overcrowded School (COS) Facilities Program may apply for advance release of environmental hardship site acquisition funds.
2. School districts and charter schools must submit the Form SAB 50–05, “Fund Release Authorization,” with an original signature, within 90 calendar days of the Board’s approval of the apportionment; failure to make this submittal and have it physically received by the OPSC within 90 calendar days will result in rescission of the project without further Board action. School districts/charter schools wishing to participate must provide a written statement signed by the authorized district representative within the 30–calendar day filing period that contains all of the following:
 - Request to convert the unfunded approval to an apportionment;
 - Concurrence with the 90–calendar day time limit on fund release;
 - Acknowledgement that failure to submit a valid Form SAB 50–05, with an original signature, to be physically received by the OPSC within the 90–calendar day time limit will result in the rescission of the

apportionment without further Board action; and

- Acknowledgement that by participating in the priority funding round, the district/charter school is waiving its right to a standard 18–month timeline for fund release submittal.
3. Projects under the CSFP may apply for advance release of site acquisition funds from a Preliminary Charter School Apportionment, subject to a timeline of 180 calendar days for school districts/charter schools to file their request for fund release, Form SAB 50–05, with the specific requirements to provide a written statement signed by an authorized representative within the 30–calendar day filing period that contains all of the following:
 - Requests to convert the advance release of funds to an approved advance release of funds,
 - Concurs with the 180 calendar day timeline to submit the fund release request,
 - Acknowledges the participant’s requirement to submit a valid, signed Form SAB 50–05 to be physically received by the OPSC within the 180 calendar day time limit, and failure to do so will result in the rescission of the approved advance release of funds request without further Board action, and
 - Acknowledges that the participant must provide evidence of entering into the Charter School Agreements within 90 calendar days of the approval of the advance release of funds request, and failure to do so will result in the rescission of the approval without further Board action.
 4. School districts and charter schools must be given advance public notice of a SAB meeting by which a priority funding round would be established.
 5. All requests to participate in the priority funding process must be physically received by the OPSC by the 30th calendar day to be valid. All submittals of fund release requests, Form SAB 50–05, must be physically received by the OPSC within the applicable 90 or 180 calendar day time periods.
 6. For the purposes of this section, the word “rescinded” or “rescission” means that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be determined by the Board at the time each priority funding round is approved. The district/charter school will not be

required to re-submit the application and no further application review will be required.

The proposed emergency regulatory amendments are described in the following 13 paragraphs:

1. Changes Priority Funding “Round” to Priority Funding “Process.”
2. Changes the setting of individual priority funding rounds by the SAB to the regular scheduling of priority funding periods that begin on July 27, 2011 and thereafter to be held annually beginning on the second Wednesday of every January and every July.
3. Adds “Certifications are valid until the next filing period begins.”
4. Removes language that priority funding rounds are established at monthly SAB meetings upon advance public notice and announcement.
5. Removes language that priority funding rounds require advance notice to all school districts and charter schools with projects on the Unfunded List.
6. Removes language that 30-calendar day application filing periods begin on the next business day following the SAB meeting that establishes a priority funding round.
7. Removes language that any funds not apportioned in a specified priority funding round remain available for other SFP apportionments by the SAB.
8. Clarifies that school district/charter school participants must submit the Form SAB 50-05 fund release request only if they are approved for an apportionment.
9. Clarifies that application submittals for CSFP design and COS Facilities Program environmental hardship within the 30-calendar day filing periods must specify in writing each of the project application numbers and type of apportionment being requested.
10. Provides criteria for the sequence of apportioning projects if the total amount requested for a specific period exceeds the funds available.
11. Clarifies that applicants requesting to participate but for which an apportionment cannot be provided retain their date order position on the Unfunded List.
12. Clarifies that request letters will not be returned to applicants or maintained by the OPSC if the projects are not approved for apportionments.

13. For purposes of “rescinded” or “rescission,” changes the new unfunded approval date from a date determined by the SAB at its meeting establishing the priority funding period, to “90 calendar days after the apportionment date.”

Existing Regulation Section 1859.81 permits school districts to qualify for FH status in order to receive additional State funding for school facility projects, upon meeting specific financial criteria. FH reviews remain valid for 180 days. If a district submits its funding application and has been on an unfunded list for over 180 calendar days, then its financial records must be re-reviewed and its FH status re-determined. An exception until July 1, 2011 waives the requirement for FH re-reviews if the project has been on the “Unfunded List (Lack of AB 55 Loans)” for more than 180 calendar days. This waiver became inoperative on July 1, 2011.

The proposed emergency amendments resume FH re-reviews on or after July 1, 2011 for approved, unfunded SFP projects which have been on the Unfunded List for over 180 days. The FH re-reviews will be based only on school district financial records on or after July 1, 2011. Four existing unnumbered paragraphs are numbered as “(e),” “(1),” “(2),” and “(3)” sequentially.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.

- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed amendments to the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts and charter schools for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than October 24, 2011, at 5:00 p.m. The express terms of the proposed emergency regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young,
Regulations Coordinator

Mailing Address: Office of Public School
Construction
707 Third Street, Room 1–430
West Sacramento, CA 95605
E-mail Address: robert.young@dgs.ca.gov
Fax No.: (916) 376–5332

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 375–5939. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 376–1753.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency’s regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to

the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.dgs.ca.gov/opsc> under "Resources," then click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

ALTERNATIVES

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

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 agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to adopt regulations to add Section 4075 (Annual Device Administrative Fee) into Title 4, Division 9, Chapter 3, Article 3, to implement the fees provided for in Business and Professions Code Section 12241.

The Legislature has charged the Department with the responsibility of supervising weights and measures activities within California (Business and Professions Code, Division 5, Section 12100). Sections 12027 and 12107 give authority to the Secretary to adopt such regulations as are reasonably necessary to carry out the provisions of the Business and Professions Code, Division 5.

A public hearing 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 of Food and Agriculture, upon its own motion or at the instance of any interested person, may thereafter adopt the proposal substantially as set forth without further notice.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Food and Agriculture, Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, CA 95828-1812. Comments may also be submitted 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. on October 24, 2011.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Food and Agriculture proposes to add to Title 4, Division 9, Chapter 3, Article 3, Section 4075 (Annual Device Administrative Fee) to implement the fees provided for in Business and Professions Code Section 12241. The Department proposes to adopt regulations that impose an annual device administrative fee on registered businesses operating commercial weighing, measuring, and counting devices. The fee is based on device type and is applicable to every commercial device registered with each county office of weights and measures. Additionally, the proposal will identify payment schedules, payment due dates, and a maximum amount a county may retain from the collected fees to cover their actual costs associated with the collection of the fees.

Section 4075. Annual Device Administrative Fee

The Department's proposal will impose an annual administrative fee based on device type and for every commercial device registered with each county office of weights and measures. Additionally, the proposal will identify payment schedules, payment due dates, the manner in which the fee is to be collected, and a maximum amount the county may retain from the collected fees to cover their actual costs associated with the collection of the fees.

AUTHORITY AND REFERENCE

Pursuant to the authorization in Business and Professions Code Sections 12027, 12107 and 12241, the Department proposes to add Section 4075 to the California Code of Regulations, Title 4, relating to the collection of an administrative fee by County Weights and Measures Offices to recover the Department's costs associated with providing supervision and oversight of county sealers performing the duties described in Business and Professions Code Sections 12210 and 12211. These fees are to be collected at the same time as the device registration fees collected by county offices of weights and measures pursuant to Business and Professions Code Section 12240.

Business and Professions Code section 12241 states:

“12241. On or before January 1, 2012, the secretary shall establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for exercising supervision over and performing investigations in connection with the activities performed pursuant to Sections 12210 and 12211. This administrative fee shall be collected for every device registered with each county office of weights and measures, and paid to the Department of Food and Agriculture Fund beginning January 1, 2012, and annually thereafter.”

Any regulation shall be adopted, amended, or repealed in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

LOCAL MANDATE

This proposal does not impose a mandate on school districts. This proposal will authorize County Weights and Measures offices that collect fees for commercial devices used in their jurisdiction to collect an administrative fee pursuant to 12240 for the Department. Counties may retain a portion of the administrative fee collected to cover their actual costs associated up to but not to exceed 15% of the total amount due to the Department.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on school districts for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500 of Division 4 of the Government Code). It imposes a mandate that a local agency that collects commercial device registration fees must also collect an administrative fee for the Department. That fee, minus a 15% reimbursement to the county for their expenses, would be sent to the Department for deposit into the Food and Agriculture Fund and be used to offset the Department's expenses of overseeing and supervising the county sealers of weights and measures. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any cost or savings in federal funding.

COST OR SAVINGS TO STATE AGENCIES

The monies sent to the Department will offset the expenses of supervision, oversight and investigations of county sealers of weights and measures work pursuant

to Business and Professions Code sections 12210 and 12211.

BUSINESS IMPACT/SMALL BUSINESS

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

This proposal will have a minimal affect on small businesses as defined by Government Code Section 11342.610. The determination that the proposal will have a minor affect on small business is based upon information received from surveys of affected industry that determined the administrative fee does not significantly increase fees already required and the fact that this regulation does not place new requirements or restrictions on business. It has no impact at all on any entity that is not a state agency as defined in Section 11000 of the California Government Code.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESS

The Department has determined that this regulatory proposal will not have any 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.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Department surveyed stakeholders and is aware of the following cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action.

The projected annual total cost to the industry in California is \$1,459,841. County offices of weights and measures costs of \$218,976 for billing, collected and reimbursement to the Department would net \$1,240,865 annually for the Division of Measurement Standards programs.

EFFECT ON HOUSING COSTS

None.

ALTERNATIVES

The Department must determine that no reasonable alternative exists for the agency or has otherwise been identified and brought to the attention of the agency that

would be more effective in carrying out the purpose for which the adoption of this regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

The text in AB 120, Chapter 133, Statutes 2011, will not allow the Department to consider discontinuing its oversight and training responsibilities, for consumers and industry will suffer without these programs.

CONTACT PERSONS

Inquiries concerning the proposed adoption of this regulation and written comments may be directed to David Lazier, Assistant Director, Division of Measurement Standards, at (916) 229-3044 or dlazier@cdfa.ca.gov. The back-up contact person is Kevin Batchelor, Division of Measurement Standards, at (916) 229-3050 or kbatchelor@cdfa.ca.gov.

AVAILABILITY OF INITIAL 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 the proposal is based, and has available the express terms of the proposed action. A copy of the Initial 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, is located at the Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, CA 95828-1812, and may be obtained upon request. Additionally, all documents relating to this rulemaking file may be obtained from the Department's website located at www.cdfa.ca.gov/dms.

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

A Final Statement of Reasons, when available, may be obtained by contacting David Lazier, Assistant Director, Division of Measurement Standards, at (916) 229-3044.

WEBSITE ACCESS

Materials regarding this proposal can be found at: www.cdfa.ca.gov/dms.

TITLE 4. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) proposes to adopt regulations to add Sections 4000.1, 4000.2, and 4000.3 (California Type Approval Fees) into Title 4, Division 9, Chapter 1, Article 1. This regulation proposal will impose application fees, deposit requirements for type approval work, and an administrative fee to maintain hard copy and electronic copies of California Type Approval Certificates upon persons or businesses who submit devices for type approval pursuant to Business and Professions Code (BPC) Section 12500.9.

The Legislature has charged the Department of Food and Agriculture (Department) with the responsibility for supervising weights and measures activities within California (BPC, Division 5, Section 12100). The Secretary of the Department of Food and Agriculture is granted authority to adopt such regulations as are reasonably necessary to carry out the provisions of the BPC.

BPC, Division 5, Section 12500.5 provides for the Secretary of the Department of Food and Agriculture (Secretary) to require the submission for approval of types and designs of weights, measures, weighing, measuring, and counting instruments or devices used for commercial purposes. The Secretary is also required to issue certificates of approval for those types or designs of commercial devices that meet the requirements of the BPC and the tolerances and specifications adopted pursuant to it. BPC Section 12107 requires the Department to adopt the National Institute of Standards and Technology (NIST) Handbook 44 (HB 44) "Specifications and Tolerances, and Other Technical Requirements for Weighing and Measuring Devices", except as specifically modified, amended, or rejected by regulation adopted by the Secretary. BPC Section 12500.9 requires the Secretary to charge and collect an application fee and reasonable deposit from persons submitting devices for approval as required by BPC Section 12500.5. Additionally, this section permits the Secretary to charge an annual administrative fee for the maintenance of type approval certificates in hard copy and electronic formats. These monies are to be deposited into the Department of Food and Agriculture Fund and used for the administration and conducting the responsibilities of the California Type Evaluation Program (CTEP).

A public hearing 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 of Food and Agriculture, upon its own motion or at the instance of any interested person, may thereafter adopt the proposal substantially as set forth without further notice.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Food and Agriculture, Division of Measurement Standards, 6790 Florin Perkins Road, Suite 100, Sacramento, CA 95828-1812. Comments may also be submitted 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. on October 24, 2011.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The Department of Food and Agriculture proposes to adopt regulations into Title 4, Division 9, Chapter 1, Article 1, Sections 4000.1 (Application Fee, Deposit, and Approval Certificate Maintenance Fee) to implement the provisions of Business and Professions Code Section 12500.9 requiring the Secretary to charge and collect an application fee and reasonable deposit from persons submitting devices for approval as required by BPC Section 12500.5. Additionally, the legislation permits the Secretary to charge an annual administrative fee for the maintenance of type approval certificates in hard copy and electronic formats.

Specific Purpose — By Section

Chapter 1, Article 1

4000.1 Application Fee and Deposit Required

This section specifies the amount of:

- The Commercial Device Type Approval application fee.
- The required deposit prior to starting the evaluation of the submitted device.

4000.2 Type Evaluation Fees

This section specifies the amount of the type evaluation fees applicable.

4000.3 Annual database and hard copy maintenance fee

This section specifies the amount of the annual maintenance fee for the California Type Approval Certificate database and hard copy files.

There is no existing comparable federal regulation or statute to this proposal.

AUTHORITY AND REFERENCE

Pursuant to the authorization in Business and Professions Code Sections 12027 and 12107 and 12500.9, the Department proposes to adopt regulations to implement the requirements of BPC 12500.9 requiring the Secretary to charge and collect an application fee and reasonable deposit from persons submitting devices for approval as required by BPC Section 12500.5. Additionally, the legislation permits the Secretary to charge an annual administrative fee for the maintenance of type approval certificates in hard copy and electronic formats. These monies are to be deposited into the Department of Food and Agriculture Fund and used for the administration and conducting the responsibilities of the CTEP.

Section 12500.9 states:

“The Secretary shall charge and collect an application fee and reasonable deposit from persons submitting devices for approval as required by Section 12500.5. Costs incurred by the department that exceed the deposit shall be charged and collected upon completion of all prototype–approval testing. The fees shall be based upon the following criteria:

(a) The moneys collected are intended to compensate the Secretary for the costs of time, mileage, equipment, and administrative services expended in providing prototype–approval service.

(b) The Secretary may compensate county sealers of weights and measures, other weights and measures jurisdictions, or private laboratories for furnishing equipment and assisting the department in conducting prototype–approval activities.

(c) The amount of compensation provided for in subdivision (b) shall be based upon actual time, mileage, and equipment costs, as determined by the Secretary.

(d) The Secretary may charge an annual administrative fee for the maintenance of type approval certificates in hard copy and electronic formats.

(e) The Secretary may adopt rules and regulations necessary to implement the provisions of this section.

(f) All fees collected under the provisions of this section shall be deposited in the Department of Food and Agriculture Fund.”

LOCAL MANDATE

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

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with

Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any cost or savings in federal funding.

COST OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

BUSINESS IMPACT/SMALL BUSINESS

The Department has made an initial determination that the proposed regulatory action will have a minor statewide adverse economic impact directly affecting businesses submitting weighing, measuring, or counting devices for type approval prior to marketing the devices for commercial use in California. It is anticipated that these fees will be rolled into the purchase price of the equipment by the manufacturer when the device is marketed for commercial use. The proposal does not affect the ability of California businesses to compete with businesses in other states as any device sold, rented, leased, or loaned for commercial use within California, regardless of where it came from, must be type approved. This proposal will affect small businesses as defined by Government Code Section 11342.610. The determination that the proposal would affect small business is based upon the fact that this regulation imposes new fees on businesses that seek type approval from the CTEP and/or seek to maintain CTEP Type Approval Certificates.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESS

The Department has determined that this regulatory proposal will not have any 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.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The Department has determined that this proposal may make cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This determination was made based upon the fact that this regulation imposes new fees on businesses that seek type approval from the CTEP and/or seek to maintain CTEP Type Approval Certificates.

EFFECT ON HOUSING COSTS

None.

ALTERNATIVES

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

CONTACT PERSONS

Inquiries concerning the proposed adoption of this regulation and written comments may be directed to David Lazier, Assistant Director, Division of Measurement Standards, at (916) 229-3044 or dlazier@cdfa.ca.gov. The back-up contact person is Kevin Batchelor, Branch Chief, Division of Measurement Standards, at (916) 229-3050 or kbatchelor@cdfa.ca.gov.

AVAILABILITY OF INITIAL 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 the proposal is based, and has available the express terms of the proposed action. A copy of the Initial 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, CA 95828-1812, and may be obtained upon request. Additionally, all documents relating to this rulemaking file may be obtained from the Department's website located at www.cdfa.ca.gov/dms.

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

A Final Statement of Reasons, when available, may be obtained by contacting David Lazier, Assistant Director, Division of Measurement Standards, at (916) 229-3044.

WEBSITE ACCESS

Materials regarding this proposal can be found at: www.cdfa.ca.gov/dms.

2011. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Regulation 1616.

TITLE 18. BOARD OF EQUALIZATION

AUTHORITY

Notice of Proposed Regulatory Action

RTC section 7051.

The State Board of Equalization Proposes to Adopt Amendments to California Code of Regulations, Title 18, Section 1616, Federal Areas

REFERENCE

RTC section 6352.

NOTICE IS HEREBY GIVEN

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board of Equalization (Board), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to adopt amendments to California Code of Regulations, title 18, section (Regulation) 1616, *Federal Areas*. Subdivision (d) of Regulation 1616 prescribes the application of the Sales and Use Tax Law (RTC § 6001 et seq.) to sales of tangible personal property to and the storage, use, or other consumption of tangible personal property by Indians. The proposed amendments add new subdivision (d)(4)(G) to Regulation 1616 to implement, interpret, and make specific the provisions of RTC section 6352 by further prescribing the circumstances under which a sale of tangible personal property to and the storage, use, or other consumption of tangible personal property by the tribal government of an Indian tribe that is officially recognized by the United States is exempt from sales and use tax because the tax is preempted by federal law.

Current Regulation 1616

RTC section 6352 exempts the sale and the storage, use, or other consumption of tangible personal property from sales and use tax when California is prohibited from taxing the sale or use of tangible personal property under federal law, including the United States Constitution.

In 1831, Chief Justice Marshall recognized that Indian tribes, which are officially recognized by the government of the United States, are independent nations that retain inherent rights to self-government. (*Cherokee Nation v. Georgia* (1831) 30 U.S. 1, 16.) Justice Marshall also recognized that article 1, section 8, clause 3 of the United States Constitution reserves to the United States Government the exclusive authority to regulate commerce with the Indian tribes. (*Id.* at p. 18.)

Subsequent United States Supreme Court opinions further explained that federally-recognized Indian tribes “retain ‘attributes of sovereignty over both their members and their territory’ (*White Mountain Apache Tribe v. Bracker* (1980) 448 U.S. 136, 142 [quoting from *United States v. Mazurie* (1975) 419 U.S. 544, 557]), “as a separate people, with the power of regulating their internal and social relations, and thus far [are] not brought under the laws” of the United States or the states in which the tribes reside. (*Bracker*, 448 U.S. at p. 142 [quoting from *McClanahan v. Arizona State Tax Commission* (1973) 411 U.S. 164, 173, which was quoting from *United States v. Kagama* (1886) 118 U.S. 375].)

PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on November 15–17, 2011. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on November 15, 16, or 17,

In 1978, subdivision (d) was added to Regulation 1616 to prescribe the circumstances under which the sale and use of tangible personal property on an Indian

reservation¹ are exempt from sales and use tax under RTC section 6352 because the tax is preempted by federal law. Subdivision (d) is based upon United States Supreme Court cases regarding the federal preemption of the states' authority to tax federally-recognized Indian tribes and their members, which have held that the application of state sales and use tax is preempted with regard to the sale and use of property on Indian reservations if the legal incidence of the tax falls on a tribe or tribal members. Regulation 1616, subdivision (d), is still consistent with United States Supreme Court opinions preempting California sales and use tax when the tax unlawfully infringes upon federally-recognized Indian tribes' sovereignty over their reservations. (See, e.g., *Wagnon v. Prairie Band of Potawatomi Nation* (2005) 546 U.S. 95, 101-102.)

Pursuant to the current provisions of Regulation 1616, subdivision (d)(4)(A) and (E), sales tax will not apply to the sale of tangible personal property to an Indian if the property is delivered to the Indian and ownership of the property transfers to the Indian on a reservation, and use tax will not apply to tangible personal property delivered to an Indian on a reservation unless the property is used off a reservation more than it is used on a reservation during the first 12 months following delivery. The federal preemption recognized by the current provisions of Regulation 1616, subdivision (d), allows the government of a federally-recognized Indian tribe to purchase tangible personal property for use in tribal self-governance without being subject to California sales and use tax if the property is delivered to the tribal government on its tribe's reservation and the property is used on the reservation more than it is used off reservation during the first 12 months following delivery. The current provisions of Regulation 1616, subdivision (d), do not address situations where California sales and use tax is preempted by federal law because the tax unlawfully infringes on federally-recognized Indian tribes' sovereignty over their members.

Proposed Amendments to Regulation 1616

United States Supreme Court opinions published after the initial adoption of Regulation 1616, subdivision (d), have established additional "principles with respect

¹In this context, the term "reservation" refers to all land that is considered "Indian country" as defined by 18 U.S.C. § 1151, which provides that "the term 'Indian country' . . . means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same." (See, e.g., Sales and Use Tax Annotation 305.0024.250 (8/26/1996).)

to the boundaries between state regulatory authority and tribal self-government" in the context of state taxation. (*Bracker, supra*, 448 U.S. at p. 141.) The United States Supreme Court has held that:

- Federal law preempts a state's authority to tax an activity undertaken on a "reservation or by tribal members" (*Id.* at p. 143) in circumstances where the tax unlawfully infringes on the right of federally-recognized Indian tribes "to make their own laws and be ruled by them" (*Id.* at p. 142 [quoting from *Williams v. Lee* (1959) 358 U.S. 217, 220]);
- State taxation of Indians is not generally preempted outside Indian reservations, however, state taxation of Indians outside of Indian reservations may nonetheless be preempted under appropriate circumstances (see, e.g., *Oklahoma Tax Commission v. Sac and Fox Nation* (1993) 508 U.S. 114, 126, in which Justice O'Connor contemplated whether state taxation may be preempted outside of a tribe's territorial jurisdiction, but the court refrained from resolving the issue because it was not directly before the court; see also *Wagnon, supra*, 546 U.S. at p. 113 [quoting from *Mescalero Apache Tribe v. Jones* (1972) 411 U.S. 145, 148-149] indicating that there are some exceptions to the "general" rule that states are permitted to tax Indians when they reside outside of Indian reservations); and
- "[T]here is no rigid rule by which to resolve the question whether a particular state law may be applied to an Indian Reservation or to tribal members" (*Bracker, supra*, 448 U.S. at p. 142), and state taxation is preempted when "a particularized inquiry into the nature of the state, federal, and tribal interests at stake" indicate that, in a "specific context, the exercise of state authority would violate federal law" (*Id.* at p. 145) because it unlawfully infringes on the right of federally-recognized Indian tribes "to make their own laws and be ruled by them." (*Id.* at p. 142.)

Therefore, the Board reviewed the particular facts and circumstances applicable to the imposition of California's sales and use tax on the sale of tangible personal property to and the storage, use, or other consumption of tangible personal property by the tribal governments of Indian tribes that are officially recognized by the United States, but cannot satisfy the current provisions of the exemptions prescribed by Regulation 1616, subdivision (d)(4)(A) and (E), because their tribes do not have reservations on which to take delivery of and use their property or their tribes have undeveloped reservations where it would be impractical to take delivery of and use their property.

First, the Board found that there was a major shift in the United States' policies towards Indians that was implemented, at least in part, by the enactment of the Indian Reorganization Act (IRA) of 1934 (Pub.L. No. 73-383 (June 18, 1934) 48 Stat. 984), which represented formal federal recognition of a unique relationship between Indian tribes' sovereignty and land, and the federal government's duty to help restore Indian tribes' economic and governmental self-sufficiency, as sovereigns, through the acquisition of land. Specifically, section 5 of the IRA, which was subsequently codified (with minor amendments) as section 465 of title 25 of the United States Code, currently provides that:

The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.

¶ . . . ¶

Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

Thus, the Department of the Interior "has had discretionary authority to take title to land, in the name of the United States, in trust for the benefit of Indian tribes" since 1934. (44 S.D. L. Rev. 681, 685.) And, when that discretion is exercised, the Secretary of the Interior accepts a fiduciary duty over the trust land and "the land is freed from federal and state taxes." (*Id.* at p. 682.) In other words, a clear connection exists between tribal self-governance, the acquisition of trust land, and the preemption of state taxation.

Second, the Board found that the Department of the Interior's discretion to acquire land for the benefit of Indian tribes creates a tension between Indian tribes and nontribal governments: "Indian tribes need and are entitled to have lands taken into trust. Non-tribal governments are interested in keeping such lands on their tax rolls." (44 S.D. L. Rev. 681, 682.) Moreover, inherent in this federal discretion is the principle that one of the functions of a landless Indian tribe's government is to petition the Secretary of the Interior to acquire lands in trust for the tribe so that the tribe will have territorial boundaries in which to exercise its sovereignty. As a result, the Board determined that California's taxation of sales to and purchases by federally-recognized Indian tribes of tangible personal property for use by their trib-

al governments in applying to the Secretary of the Interior for the acquisition of trust lands would unlawfully infringe upon their tribal sovereignty in certain contexts. A determination that is supported by the maxim that "the power to tax involves the power to destroy . . . [and] that there is a plain repugnance, in conferring on one government a power to control the constitutional measures of another." (*McCulloch v. State of Maryland* (1819) 17 U.S. 316, 431.)

Third, the Board found that all three branches of the federal government have recognized Indian tribes' interests in tribal sovereignty and the attributes of such sovereignty. The United States Supreme Court has long recognized that Indian tribes retain "attributes of sovereignty over both their members and their territory." (*Bracker, supra*, 448 U.S. at p. 142.) Moreover, Congress, in 1995, declared that "(1) there is a government-to-government relationship between the United States and each Indian tribe; (2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government; (3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes; and (4) Indian tribes possess the inherent authority to establish their own form of government." (25 U.S.C. § 3601.) Additionally, the United States Department of Justice conducts its Indian affairs under a June 1, 1995, policy memorandum, in which the Attorney General recognizes similar attributes of tribal sovereignty.

Fourth, the Board reviewed the present status of California's Indian tribes and found that the Bureau of Indian Affairs (BIA) provides the following information with respect to their unique status:

While the history of the Federal-Indian relationship in California shares some common characteristics with that of Native people elsewhere in the United States, it is different in many aspects. It includes the unprecedented magnitude of non-native migration into California after the discovery of gold in 1848, nine days before the signing of the Treaty of Guadalupe Hidalgo; the Senate's refusal to ratify the 18 treaties negotiated with California tribes during 1851-52; and the lawless nature of California's settlement after the Treaty of Guadalupe Hidalgo, including State sanctioned efforts to "exterminate" the indigenous population.

Under pressure from the California Congressional delegation, the United States Senate not only refused to sign the 18 treaties that had been negotiated, but they also took extraordinary steps to place the treaties under seal. Between the

un-ratified treaties and the Land Claims Act of 1851, most California Indians became homeless.

Major shifts in federal Indian policy at the national level during the late 19th century exacerbated the Indian problems in California. Passage of the General Allotment Act in 1887 opened part of the limited lands in California to non-Indian settlement. In 1905 the public was finally advised of the 18 un-ratified treaties. Citizens sympathetic to the economic and physical distress of California Indians encouraged Congress to pass legislation to acquire isolated parcels of land for homeless California Indians. Between 1906 and 1910 a series of appropriations were passed that provided funds to purchase small tracts of land in central and northern California for landless Indians of those areas. The land acquisitions resulted in what has been referred to as the Rancheria System in California.

In 1934, with the passage of the Indian Reorganization Act (IRA), the reconstituting of tribal governments included the BIA's supervision of elections among California tribes, including most of the Rancheria groups. Although many tribes accepted the provisions of the IRA, few California tribes benefited economically from the IRA because of the continuing inequities in funding of Federal Indian programs.

Beginning in 1944, forces within the BIA began to propose partial liquidation of the Rancheria system. Even the limited efforts to address the needs of California Indians at the turn of the century and again through passage of the IRA were halted by the federal government when it adopted the policy of termination. California became a primary target of this policy when Congress slated forty-one (41), California Rancherias for termination pursuant to the Rancheria Act of 1958.

During the past quarter century, judicial decisions and settlements have restored 27 of the 38 Rancherias that were terminated under the original Rancheria Act. Additional tribes have since then been restored as a result of Acts of Congress.

This brief history only begins to explain why the Pacific Regional Office is unique. California tribes today continue to develop their tribal infrastructure as a result of not having the same opportunities that have been provided to other native groups throughout the Country. California has a large number of aboriginal native populations who are not currently recognized by the United States which presents [its] own list of problems.

These unique BIA-recognized circumstances left a number of federally-recognized Indian tribes that are still located in California with no reservations on which to conduct their governmental activities, or undeveloped reservations, which lack adequate meeting facilities, essential utility services, or mail service, making it impractical for the tribes to conduct their governmental activities on their reservations. And, it is due to these unique BIA-recognized circumstances that both landless tribes and the tribes with undeveloped reservations are currently unable to exercise their rights to self-governance without interference from California's sales and use tax.

Therefore, during its July 26, 2011, Business Taxes Committee meeting, the Board determined that the nature of the state, federal, and tribal interests at stake dictate that federal law preempts the imposition of California's sales and use tax on the sale of tangible personal property to and the use of tangible personal property by the tribal governments of federally-recognized California Indian tribes, when such property is purchased for use in tribal self-governance, and the tribal governments have no reservation on which to conduct their governmental activities or the tribal governments have undeveloped reservations where it is impractical to conduct their governmental activities, due to the unique BIA-recognized circumstances discussed above. This is because the taxation of these types of transactions involving off-reservation sales and use, and only these types of off-reservation transactions, would directly interfere with the tribes' sovereignty and therefore unlawfully infringe on the rights of federally-recognized Indian tribes to make their own laws and be ruled by them. The Board has not found any persuasive authority that could establish a general exemption for off-reservation sales of tangible personal property to Indians or purchases of tangible personal property by Indians for use off reservation.

The Board determined that it is necessary to amend Regulation 1616 to add a new subdivision (d)(4)(G) for the specific purpose of implementing, interpreting, and making specific the provisions of RTC section 6352 by recognizing the additional, limited federal preemption described above. The Board determined that it is necessary for the proposed amendments to Regulation 1616 recognizing such federal preemption to only exempt the sale and use of tangible personal property that is delivered to an officially-recognized Indian tribe at the principal place where the tribe's government meets to conduct tribal business so that there is some way for retailers and the Board to verify exempt transactions. The Board understands that tribes may not own any real estate where their tribal governments can meet to conduct tribal business and they may occasionally meet at more than one place during a given period, and the Board has

proposed to adopt a “principal place” test because the Board determined that such a test is sufficiently flexible to take into account the varying circumstances under which some tribal governments meet and therefore does not unlawfully infringe on the tribes’ rights to self-governance. The Board also determined that it is necessary for the proposed amendments to Regulation 1616 recognizing such federal preemption to only exempt the use of tangible personal property if the property is used in tribal self-governance more than it is used for purposes other than tribal self-governance within the first 12 months following delivery. This is because the Board is not preempted from imposing a use tax on property that is used off reservation more than it is used on a reservation within the first 12 months following delivery and that is also used for purposes other than tribal self-governance more than it is used for tribal self-governance within the first 12 months following delivery.

As a result, the Board proposes to amend Regulation 1616, to add a new subdivision (d)(4)(G), to implement, interpret, and make specific the provisions of RTC section 6352 by recognizing the additional, limited federal preemption described above. The objective of the proposed amendments is to clarify the additional circumstances under which sales of tangible personal property to and the use of tangible personal property by the governments of federally-recognized Indian tribes are exempt from California sales and use tax because the tax is preempted by federal law.

There are no comparable federal regulations or statutes to Regulation 1616.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1616 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Regulation 1616 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed

on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The adoption of the proposed amendments to Regulation 1616 will recognize the holdings of United States Supreme Court opinions regarding the federal preemption of state taxation when it unlawfully infringes on the rights of federally-recognized Indian tribes to make their own laws and be ruled by them and further clarify the types of transactions that are already exempt from sales and use tax under RTC section 6352. Therefore, the Board has made an initial determination that the adoption of the proposed amendments to Regulation 1616 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendments to Regulation 1616 may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

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

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

The Board has determined that the adoption of the proposed amendments to Regulation 1616 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

Adoption of the proposed amendments to Regulation 1616 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

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

in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSONS

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

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

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on November 15, 2011, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Regulations 1616 during the November 15-17, 2011, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Regulation 1616. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENTS

The Board has prepared an underscored version of the text of Regulation 1616 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments. These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments to Regulation 1616 and the Initial State-

ment of Reasons are also available on the Board's Website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the proposed amendments to Regulation 1616 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made to the proposed amendments, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the proposed amendments to Regulation 1616, the Board will prepare a Final Statement of Reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Emergency Medical Services Authority (EMSA) proposes to adopt the proposed Paramedic Regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

EMSA will hold a hearing if it 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.

WRITTEN COMMENT PERIOD

Interested persons are invited to submit written comments on the proposed regulatory action to the EMSA.

The written comment period closes at **5:00 p.m. on October 24, 2011**. The EMSA will consider only comments received at the EMSA office by that time. Submit comments to:

Laura Little, BLS Coordinator,
 EMS Personnel Standards Unit
 EMS Authority
 10901 Gold Center Dr., Ste. 400
 Rancho Cordova, CA 95670
 Telephone: (916) 322-4336, extension 461
 Fax: (916) 324-2875
 E-mail: laura.little@emsa.ca.gov

AUTHORITY AND REFERENCE

The Health and Safety Code, Section 1797.107 authorizes the EMSA to adopt the proposed regulations, which would implement, interpret, or make specific Sections 1797.5, 1797.176, 1797.182, 1797.183, 1797.220, and 1798.2 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law authorizes the EMSA to adopt minimum standards for the training and scope of practice for personnel that perform duties related to prehospital emergency medical care.

The EMSA proposes to amend Chapter 4 of Division 9, of Title 22. This Chapter of Regulations was last revised in 2010 and there have been numerous advances and changes in prehospital training and scope of practice both nationally and in California. These amendments are intended to:

1. Expand the paramedic basic scope of practice by moving the majority of local optional scope of practice items into the basic scope. This will make the local paramedic scope of practice approval process more efficient.
2. Introduce two new categories of paramedic providers: the Critical Care Transport (CCT) Paramedic, and the Advanced Prehospital Paramedic (APP). Some forms of the CCT Paramedic are currently being utilized in 15 of the 32 local EMS systems. This will standardize training for all CCT Paramedic programs. The APP is a new category that would be useful on air ambulance flight crews because of the expansion of the scope of practice. This training will also be standardized with this rulemaking.
3. Introduce controlled substance security policy requirements.

4. Complete necessary clean-up on language throughout the Chapter.

DISCLOSURES REGARDING THE PROPOSED ACTION

The EMSA has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: Cost may include expanding the paramedic scope of practice for a state agency that employs paramedics to include additional medications, medical devices, and training. This will be dependent on local EMS agency approval for those scope of practice items.
- Costs to any local agency or school district which must be reimbursed in accordance with the Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: Cost may include expanding the paramedic scope of practice for a state agency that employs paramedics to include additional medications, medical devices, and training to private ambulance companies. This will be dependent on local EMS agency approval for those scope of practice items.
- Adoption of these regulations will not:
 - (1) create or eliminate jobs within California;
 - (2) create new businesses or eliminate existing businesses with California; or
 - (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The EMSA has determined that the proposed regulations affect small business.

CONSIDERATION OF ALTERNATIVES

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

tion of the EMSA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

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

CONTACT PERSON

Primary Contact Person:

Laura Little
BLS Coordinator, EMS Personnel Standards Unit
EMS Authority
10901 Gold Center Dr., Ste. 400
Rancho Cordova, CA 95670
e-mail: laura.little@emsa.ca.gov
Phone: (916) 322-4336, extension 461
Fax: (916) 324-2875

Alternate Contact Person:

Sean Trask
Chief, EMS Personnel Standards Unit
EMS Authority
10901 Gold Center Dr., Ste. 400
Rancho Cordova, CA 95670
e-mail: sean.trask@emsa.ca.gov
Phone: (916) 322-4336, extension 429
Fax: (916) 324-2875

Please direct requests for copies of the proposed text 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. Little at the above address.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and after considering all timely and relevant comments received, the Commission on Emergency Medical Services may approve for adoption and the EMSA may adopt the proposed regu-

lation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the EMSA will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before adoption of the regulations as revised. Please send requests for copies of any modified regulations to the attention of Laura Little at the address indicated above. The EMSA will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format, can be accessed through the EMSA's website at www.emsa.ca.gov.

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

NOTICE OF PROPOSED RULEMAKING

AMENDMENT TO SECTION 25705 SPECIFIC REGULATORY LEVELS POSING NO SIGNIFICANT RISK: IMAZALIL

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to establish a specific regulatory level posing no significant risk for Imazalil and amend Title 27, California Code of Regulations, section 25705¹.

PUBLIC PROCEEDINGS

Any written statements or arguments concerning this proposed action, regardless of the form or method of transmission, must be received by OEHHA by 5:00 p.m. on October 25, 2011, the designated close of the written comment period.

¹All further regulatory references are to Title 27 of the California Code of Regulations unless otherwise indicated.

Written comments can be sent by e-mail, mail or fax addressed to:

Monet Vela
 Office of Environmental Health Hazard Assessment
 Proposition 65 Implementation Program
 P.O. Box 4010
 Sacramento, California 95812-4010
 FAX: (916) 324-1786
 Telephone: (916) 323-2517
mvela@oehha.ca.gov

Comments sent by courier should be delivered to:

Monet Vela
 Office of Environmental Health Hazard Assessment
 1001 I Street, 19th Floor
 Sacramento, California 95814

It is requested but not required that hard-copy statements or arguments be submitted in triplicate.

A public hearing to present oral comments will be scheduled only if one is requested. The request must be submitted in writing no later than 15 days before the close of the comment period on **October 25, 2011**. The written request must be sent to OEHHA at the address listed below no later than **October 10, 2011**. A notice for the public hearing, if one is requested, will be mailed to interested parties who are on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days in advance of the public hearing date. The notice will provide the date, time, location and subject matter to be heard.

If a hearing is scheduled and you have special accommodation or language needs, please contact Monet Vela at (916) 323-2517 or mvela@oehha.ca.gov at least one week in advance of the hearing. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

CONTACT

Please direct inquiries concerning the substance and processing of the action described in this notice to Monet Vela, in writing at the address given above, or by telephone at (916) 323-2517. Fran Kammerer is a back-up contact person for inquiries concerning processing of this action and is available at (916) 445-4693.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq. and commonly known as Proposition 65 (hereinafter Proposition 65 or the Act), prohibits a per-

son in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning to such individual (Health and Safety Code section 25249.6). The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water (Health and Safety Code section 25249.5).

For chemicals known to the state to cause cancer, an exemption from the warning requirement is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which the person is responsible produces no significant risk or that a discharge which otherwise complies with all applicable requirements would not cause any significant amount of the discharged or released chemical to enter any source of drinking water (Health and Safety Code sections 25249.9 and 25249.10). A determination that a level of exposure poses no significant risk may be made utilizing regulations that have previously been adopted by OEHHA (sections 25701-25721). Section 25701 describes alternative methods for making such a determination. Section 25705 sets forth the process by which OEHHA may identify specific regulatory levels for determining “no significant risk” for purposes of Proposition 65 and establishes those levels for certain listed chemicals.

Details on the basis for the proposed level are provided in the reference cited below, which is incorporated in the rulemaking record. The reference is a risk assessment document prepared by OEHHA describing and summarizing the derivation of the proposed regulatory level listed below.

This amendment to section 25705(b) would adopt the following No Significant Risk Level (NSRL) for one chemical listed as known to cause cancer:

Chemical	NSRL, in units micrograms per day	Reference
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Imazalil	11	OEHHA (2011)
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The risk assessment which was used by the Office of Environmental Health Hazard Assessment to determine the stated level is as follows:

Office of Environmental Health Hazard Assessment (OEHHA, 2011). No Significant Risk Level (NSRL) for the Proposition 65 Carcinogen imazalil. OEHHA, Reproductive and Cancer Hazard Assessment Branch, California Environmental Protection Agency, August 2011.

These materials will be submitted to the OEHHA Science Advisory Board’s Carcinogen Identification Com-

mittee (CIC) to review and comment on the proposed NSRL.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

The OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESSES

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimi-

nation of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The OEHHA 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 SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any requirements on small business. Rather, the proposed regulation will assist small businesses subject to the Act in determining whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the critical information upon which the regulation is based and the text of the regulation. A copy of the Initial Statement of Reasons, a copy of the text of the regulation and a copy of the risk assessment which was used by OEHHA to determine the proposed NSRL are available upon request from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. No-

tice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such changes. Copies of the notice and the changed regulation will also be available at the OEHHA's Web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. The Final Statement of Reasons will also be available at the OEHHA's Web site at www.oehha.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF PUBLIC HEALTH

TITLE: PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT (STATE PLAN) FOR FEDERAL FISCAL YEAR (FFY) 2012
ACTION: NOTICE OF HEARINGS FOR PROPOSED FUNDINGS

SUBJECT

The Centers for Disease Control and Prevention has made funds available to the California Department of Public Health (CDPH) for the development and implementation of programs and activities to decrease the morbidity and mortality that results from preventable disease and injury. The purpose of this hearing is to discuss and receive comments on the State's recommendations for the use of these funds during State Fiscal Year 2011-12 (FFY 2012).

PUBLIC HEARING PROCESS

Notice is hereby given that CDPH will hold a public hearing commencing at 10:00 a.m. on Monday, October 24, 2011 in Room 74.463 (Kings Room) 1616 Capitol Avenue, Sacramento, California, at which time any person may present statements or arguments orally or in writing relevant to the action described in this notice. If you plan to attend the Public Hearing, please be sure to bring identification so you can be admitted into the building by the security guard. The Chronic Disease Control Branch, CDPH, 1616 Capitol Avenue, MS 7209, P.O Box 997377, Sacramento, CA., 95899-7377 must receive any written statements or arguments by 5:00 p.m. October 24, 2011 which is hereby designated as the close of the written comment period. It is requested, but not required, that written statements or arguments be submitted in triplicate.

CONTACT

Inquiries concerning the action described in this notice may be directed to Ms. Marcia Levy Rosenstein, Prevention 2010 Section, or Caroline Peck, M.D, Chief, Chronic Disease Control Branch, CDPH, at (916) 552-9900 or at Marcia.Rosenstein@cdph.ca.gov. In any such inquiries, please identify the action by using the Department Control letters "PHHSBG."

AVAILABILITY OF INFORMATION FOR REVIEW

The State Plan will be available for review at 1616 Capitol Avenue, Sacramento, California, from 8:00 a.m. to 5:00 p.m., September 9, 2011 through October 24, 2011.

DEPARTMENT OF REAL ESTATE

NOTICE OF ANNUAL FEE REVIEW BY THE REAL ESTATE COMMISSIONER

Barbara J. Bigby, Acting Real Estate Commissioner, proposes to consider whether the fees charged by the Department should be lower than the maximum amount allowed pursuant to California Business and Professions Code (hereinafter the "Code") Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011. The Acting Commissioner's consideration will include all comments, objections and recommendations regarding such fees.

DETERMINATION OF FEE AMOUNTS

Sections 10226 and 11011 of the Code require, among other things, that the Commissioner hold at least one regulation hearing each calendar year to determine

if fees lower than those authorized under Section 10226.5(b) of the Code should be prescribed. The hearing referred to below shall serve as the regulation hearing for the purpose of satisfying the requirement of Sections 10226(a) and 11011(a) of the Code. The Department of Real Estate may present, at this hearing, relevant data compiled by the Department, and other sources, if appropriate, that have been used or which the Commissioner may use in making the determination if fees should be lower. The Acting Commissioner does not propose to adopt, amend and/or repeal any sections of the California Code of Regulations (CCR) at this time. However, she wishes to consider all comments, objections and recommendations regarding such fees.

PUBLIC HEARING

The Acting Commissioner or her representative will hold a public hearing starting at 10:00 a.m., on October 24, 2011, at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Acting Commissioner.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed action to the Commissioner. The written comment period closes on October 24, 2011. All written comments must be received by 5:00 p.m. on that date at the Department's Sacramento Office as follows:

Daniel E. Kehew, Real Estate Counsel
Department of Real Estate
2201 Broadway
Sacramento, CA 95818

Telephone: (916) 227-0425

Backup contact person for this proposed action is Mary Clarke at (916) 227-0780.

AUTHORITY AND REFERENCE

Business and Professions Code Sections 10209.5, 10210, 10214.5, 10215, 10250.3 and 11011.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

No regulations are proposed to be adopted, amended or repealed.

EFFECT ON SMALL BUSINESS

There are no proposed regulatory actions to affect small business.

DISCLOSURES REGARDING THE PROPOSED ACTION

There are no proposed regulatory actions requiring disclosures.

CONSIDERATION OF ALTERNATIVES

There are no proposed regulatory actions requiring consideration of alternatives.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Daniel E. Kehew, Real Estate Counsel
Department of Real Estate
2201 Broadway
P.O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0425

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INTERNET SITE

There is no Statement of Reasons or text of proposed regulations.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

There is no changed or modified text.

COMPLIANCE WITH GOVERNMENT CODE SECTION 11346.4(a)(1) THROUGH (4)

The Department of Real Estate will mail or deliver a copy of this Notice of Proposed Action by the Real Estate Commissioner to the Department's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with the Department.

2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency.)
 3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be affected by any fee adjustment. The Department has no way of knowing which licensees are small businesses.
 4. The California Association of Realtors (a real estate licensee trade organization) and the California Building Industry Association (a home builders trade organization).
 5. A substantial number of land developers. Not small businesses by definition, they may, nevertheless, be affected by any fee adjustment.
- b. Timely completion of response actions covered under the Agreement to clean up hazardous substances
 - c. The addition of approximately 4,000 jobs to the local economy as well as job opportunities to area residents;
 - d. Enrichment of the City of Pasadena's Transit-Oriented Development ("TOD") district plans by creating pedestrian linkages via enhanced street scenes from the project site to the local light rail transit station thus reducing the dependence on motorized vehicles;
 - e. Development plans that will exceed requirements for implementation of a Leadership in Energy and Environmental Design ("LEED") project, which will create an enriched work environment for the project's occupants;
 - f. Potential increase in tax revenues, increased local economic activity, and implementation of the City's East Pasadena Specific Plan by revitalizing an underutilized site.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

PROSPECTIVE PURCHASER AGREEMENT
3202 E. FOOTHILL BLVD. SITE, PASADENA,
CALIFORNIA

In accordance with Health and Safety Code sections 25300 et seq. (the Hazardous Substances Account Act), 58009 and 58010, the Department of Toxic Substances Control (DTSC) has the authority to enter into agreements whereby DTSC covenants not to sue or assert claims for environmental remediation against prospective purchasers of environmentally impacted properties, if such agreements are sufficiently in the public interest.

Notice is hereby given that DTSC proposes to enter into a Prospective Purchaser Agreement (PPA) associated with the 3202 E. Foothill Blvd. Site in Pasadena, California. The PPA would resolve certain claims of DTSC against the prospective purchaser. The prospective purchaser, Pasadena Gateway, LLC, is acquiring the property located at 3202 E. Foothill Blvd. in Pasadena, California (Assessor's Parcel Numbers 5752-023-039 and 5752-023-044). The purchaser commits to investigate and remediate the existing contamination at the Site in return for DTSC's covenant not to sue. The agreement is in the public interest because it provides for the following:

- a. Demolition of the existing improvements and development of a commercial office center with public access and green space to serve the needs of the San Gabriel Valley community members;

DTSC is holding a 30-day comment period on this Agreement commencing on September 9, 2011 to October 10, 2011. Written comments on this proposed settlement must be submitted on or before 5:00 p.m., October 10, 2011. To ensure timely receipt by DTSC and Pasadena Gateway, LLC, you are requested to transmit your comments by facsimile or by overnight mail to the following simultaneously.

Mr. Douglas Bautista
Project Manager
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630
Facsimile: (714) 484-5438

Mr. Neal Holdridge
Principal Env. Manager
Pasadena Gateway, LLC
c/o Trammel Crow Company
4 Park Plaza, Suite 700
Irvine, California 92614
Facsimile: (949) 477-9107

DTSC's responses to any timely comments will be available for inspection at DTSC's office in Cypress, California.

Further information regarding this matter may be obtained by contacting either of the following persons: DTSC Project Manager Douglas Bautista at (714) 484-5442, Email: dbautist@dtsc.ca.gov; or DTSC Se-

nior Staff Counsel Robert Elliott at (916) 327-6105, Email: relliott@dtsc.ca.gov.

OAL REGULATORY DETERMINATIONS

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)

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

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

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: August 23, 2011
To: Veni Fonoti
From: Chapter Two Compliance Unit
Subject: **2011 OAL DETERMINATION NO. 16(S)**
(CTU2011-0714-01)
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Operational Procedure #216, titled "Gymnasium Procedure"

On July 14, 2011, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether Operational Procedure (OP) #216, titled "Gymnasium Procedure" constitutes an underground regulation. OP #216 establishes a plan to house and program inmates in the Gymnasium Dormitory Housing Units at Kern Valley State Prison. OP #216, dated June 24, 2011, was issued by the warden of Kern Valley State Prison and is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as

defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a "local rule" adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

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

² Such a rule is called an "underground regulation" as defined in California Code of Regulations, title 1, section 250, subsection (a):

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

Similarly, the rule challenged by your petition was issued by the warden of Kern Valley State Prison and applies solely to the inmates of Kern Valley State Prison. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

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

/s/

Debra M. Cornez
Assistant Chief Counsel/
Acting Director

/s/

Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: August 23, 2011
To: Gerald Cruz
From: Chapter Two Compliance Unit
Subject: **2011 OAL DETERMINATION NO. 17(S)**
(CTU2011-0801-02)
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

- (A) The challenged rule has been superseded.
- (B) The challenged rule is contained in a California statute.
- (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
- (D) The challenged rule has expired by its own terms.
- (E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.** [Emphasis added.]

Petition challenging as an underground regulation Operating Procedure #03-047, titled “Health Care No-Show”

On August 1, 2011, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether Operating Procedure (OP) #03-047, titled “Health Care No-Show,” constitutes an underground regulation. OP #03-047 establishes the procedures to be used when an inmate refuses health care. OP#03-047, dated March 17, 2010, was issued by the Chief Executive Officer for Health Care and the warden at San Quentin State Prison and is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600,¹ which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).² Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

- (1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution.

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

² Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

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

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a “local rule” adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rule challenged by your petition was issued by San Quentin State Prison and applies solely to the inmates of San Quentin State Prison. Therefore, the rule is a “local rule” and is exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1). It is not an underground regulation.³

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

/s/

Debra M. Cornez
Assistant Chief Counsel/
Acting Director

/s/

Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

[Emphasis added.]

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

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

File# 2011-0725-01

COURT REPORTERS BOARD OF CALIFORNIA
Court Reporting School Curriculum

This rulemaking action updates provisions governing Court Reporter school curriculum to remain current with changes in terminology and technology and to expand the option of online education and online examination administration.

Title 16

California Code of Regulations

AMEND: 2411, 2414

Filed 08/31/2011

Effective 09/30/2011

Agency Contact: Yvonne Fenner (916) 263-4081

File# 2011-0817-02

DEPARTMENT OF DEVELOPMENTAL SERVICES
Financial Management Services—Participant-Directed Services

This emergency regulatory action amends several sections in Title 17 of the California Code of Regulations and adopts several new sections. The purpose of this rulemaking is to ensure that the Department of Developmental Services continues to receive federal funds for respite, day care, nursing and transportation services. In order to continue to receive federal funds these services when offered in the Home and Community-Based Services Waiver must be offered in conjunction with the use of a Financial Management Service provider (FMS). The FMS provider assists a family member or adult consumer in verifying worker eligibility status, collecting and processing timesheets of workers, processing payroll, withholdings, filing and payment of applicable federal, state and local employment-related taxes and insurance, performing billing payments and reimbursements as authorized, and maintaining all source documents related to the authorized service(s).

Title 17
 California Code of Regulations
 ADOPT: 58883, 58884, 58886, 58887, 58888
 AMEND: 50604, 54355, 58543
 Filed 08/29/2011
 Effective 08/29/2011
 Agency Contact: Jeffrey Greer (916) 654-2201

File# 2011-0811-01
 FISH AND GAME COMMISSION
 Waterfowl Hunting

This regulatory action amends the migratory waterfowl hunting season length in certain areas and amends the bag limits for specified migratory waterfowl.

Title 14
 California Code of Regulations
 AMEND: 502
 Filed 08/29/2011
 Effective 08/29/2011
 Agency Contact: Sheri Tiemann (916) 654-9872

File# 2011-0725-04
 OCCUPATIONAL SAFETY AND HEALTH
 STANDARDS BOARD
 Definition of Certified Safety Professional (CSP)

This action adopts a definition of "Certified Safety Professional (CSP)" for the Construction Safety Orders (CSO) and General Industry Safety Orders (GISO).

Title 8
 California Code of Regulations
 AMEND: 1504, 3207
 Filed 08/29/2011
 Effective 09/28/2011
 Agency Contact: Marley Hart (916) 274-5721

File# 2011-0818-01
 SPEECH-LANGUAGE PATHOLOGY AND
 AUDIOLOGY AND HEARING AID
 DISPENSERS BOARD
 Dispensing Audiologists Fees/Continuing Education

This regulatory action implements statutory changes to establish registration, renewal and professional development requirements for licensed audiologists authorized to dispense hearing aids. AB 1535, which became effective January 1, 2010, merged the Speech-Language Pathology and Audiology Board and the Hearing Aid Dispensers Bureau to create one oversight body, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Title 16
 California Code of Regulations
 AMEND: 1399.157, 1399.160.3, 1399.160.6
 Filed 08/24/2011
 Effective 08/24/2011
 Agency Contact:
 Annemarie Del Mugnaio (916) 263-2909

File# 2011-0719-03
 STATE MINING AND GEOLOGY BOARD
 Designation of Mineral Lands in Bakersfield PCC
 Region, Kern County

The State Mining and Geology Board adopted section 3550.16 in title 14 of the California Code of Regulations designating areas of regional significance for construction aggregate resources in the Bakersfield Production-Consumption Region.

Title 14
 California Code of Regulations
 ADOPT: 3550.16
 Filed 08/30/2011
 Effective 09/29/2011
 Agency Contact: Stephen M. Testa (916) 322-1082

**CCR CHANGES FILED
 WITH THE SECRETARY OF STATE
 WITHIN April 6, 2011 TO
 August 31, 2011**

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

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 07/27/11 AMEND: 1859.90.2, 1859.81
 07/15/11 AMEND: 1151, 1153, 1155.500, 1165, 1170, 1172.20
 07/11/11 ADOPT: 21903.5 AMEND: 21903
 07/11/11 ADOPT: 570.5 AMEND: 571(b)
 07/06/11 AMEND: 1859.2, 1859.81, 1859.148.2, 1859.166.2
 07/06/11 AMEND: 18360
 07/05/11 AMEND: 649.3, 649.18, 649.20, 649.24
 06/30/11 AMEND: 633.9
 06/21/11 REPEAL: 59152
 06/07/11 AMEND: 640
 05/12/11 AMEND: 1859.83

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05/04/11 ADOPT: 1190, 1190.01, 1190.02,
1190.03, 1190.04, 1190.05 AMEND:
1181.1, 1181.2
04/28/11 AMEND: 18427.1
04/28/11 AMEND: 1859.90.2
04/27/11 AMEND: 1859.76
04/21/11 REPEAL: 18420.5
04/21/11 AMEND: 18465
04/21/11 ADOPT: 1859.90.2 AMEND: 1859.90.2
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1859.197
04/11/11 AMEND: 321
04/06/11 AMEND: 59.3

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08/23/11 ADOPT: 6131 AMEND: 6128, 6130
08/23/11 ADOPT: 1392.4.1 AMEND: 1392,
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1392.8.1, 1392.9, 1392.11
08/03/11 AMEND: 3437(b)
07/28/11 REPEAL: 1400.9.1
07/15/11 AMEND: 3434(b)
07/15/11 AMEND: 3589
07/15/11 REPEAL: 3286
07/08/11 AMEND: 3658
07/05/11 ADOPT: 3701, 3701.1, 3701.2, 3701.3,
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AMEND: 3407
06/28/11 AMEND: 3591.15(a)
06/27/11 AMEND: 3437(b)
06/22/11 AMEND: 3435(b)
06/15/11 AMEND: 3437(b)
05/31/11 AMEND: 3437(b)
05/11/11 ADOPT: 6446, 6446.1 AMEND: 6400,
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04/20/11 AMEND: 3434
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08/10/11 ADOPT: 10030, 10031, 10032, 10033,
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07/21/11 ADOPT: 1844.1
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07/20/11 AMEND: 150
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05/31/11 AMEND: 8078.2
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08/15/11 ADOPT: 40050.3
08/15/11 AMEND: 40100.1
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08/15/11 ADOPT: 40509
08/15/11 ADOPT: 40513
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08/15/11 ADOPT: 41021
08/15/11 ADOPT: 41022
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06/21/11	AMEND: 58771	06/20/11	AMEND: 10250.1
06/20/11	ADOPT: 80048.9, 80048.9.4 AMEND: 80046.1, 80048.5, 80070.1, 80070.2, 80070.3, 80070.4, 80070.5, 80070.6 REPEAL: 80046, 80070.7, 80070.8	06/02/11	AMEND: 5154(j)(1)
05/23/11	ADOPT: 13075.3, 13075.6, 13075.7, 13075.8, 13075.9 AMEND: 13075.1, 13075.2, 13075.4 (renumbered from 13075.3), 13075.5 (renumbered from 13075.4)	05/31/11	AMEND: 5155
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05/02/11	ADOPT: 80036.4 AMEND: 80034, 80036, 80036.1, 80036.2, 80036.3, REPEAL: 80036.5	05/03/11	AMEND: 3657
04/13/11	AMEND: 850, 851, 852, 853, 853.5, 854, 855, 857, 858, 859, 861, 862, 870 (now 862.5), 864, 864.5, 866, 868	05/02/11	AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464
04/12/11	ADOPT: 76020, 76140, 76212, 76240 AMEND: 76000, 76120, 76130, 76200, 76210, 76215 REPEAL: 76010, 76240	04/26/11	AMEND: 3209
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08/29/11	AMEND: 1504, 3207	Title 9	
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07/28/11	ADOPT: 6799.1 AMEND: 6755	08/01/11	AMEND: 3012.3
07/07/11	ADOPT: 1610 (section heading), 1610.1, 1610.2, 1610.3, 1610.4, 1610.5, 1610.6, 1610.7, 1610.8, 1610.9, 1611 (section heading), 1611.1, 1611.2, 1611.3, 1611.4, 1611.5, 1612 (section heading), 1612.1, 1612.2, 1612.3, 1612.4, 1613 (section heading), 1613.1, 1613.2, 1613.3, 1613.4, 1613.5, 1613.6, 1613.7, 1613.8, 1613.9, 1613.10, 1614, 1615 (section heading), 1615.1, 1615.2, 1616 (section heading), 1616.1, 1616.2, 1616.3, 1616.4, 1616.5, 1616.6, 1616.7, 1617 (section heading), 1617.1, 1617.2, 1617.3, 1618 (section heading), 1618.1, 1618.2, 1618.3, 1618.4, 1619 (section heading), 1619.1, 1619.2, 1619.3, 1619.4, 1619.5 AMEND: 1694, 2940.7, 6060	07/27/11	AMEND: 2770.1, 2847.3
		07/25/11	AMEND: 2222.12
		07/13/11	AMEND: 210, 221
		07/08/11	AMEND: 2699.6707
		07/07/11	AMEND: 260.204.9
		06/30/11	AMEND: 2699.6700, 2699.6709, 2699.6721, 2699.6725
		05/31/11	REPEAL: 2274.74, 2274.77
		05/23/11	AMEND: 2698.99
		05/16/11	AMEND: 2498.6
		05/04/11	ADOPT: 260.004.1
		04/25/11	ADOPT: 1409.1, 1414, 1422.4, 1422.4.1, 1422.4.5, 1422.5, 1422.6, 1422.6.1, 1422.6.2, 1422.6.3, 1422.7, 1422.7.1, 1422.9, 1422.10, 1422.11, 1422.12, 1424, 1437, 1950.122, 1950.122.2.1, 1950.122.4, 1950.122.4.1, 1950.122.5, 1950.122.5.1, 1950.122.5.2, 1950.122.5.3, 1950.122.5.4, 1950.122.6, 1950.122.7, 1950.122.8, 1950.122.9, 1950.122.10, 1950.122.11, 1950.122.12, 1950.122.15, 1950.205.1, 1950.209, 1950.307 AMEND: 1404, 1409, 1411, 1430.5, 1431, 1433, 1436, 1454, 1550, 1552, 1557, 1950.003, 1950.122.2, 1950.123, 1950.204.3, 1950.204.4, 1950.301, 1950.314.8, 1950.316, 1950.317
		04/18/11	AMEND: 2188.65, 2695.180
		04/06/11	AMEND: 2498.4.9
		04/06/11	AMEND: 2498.4.9
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		06/06/11	AMEND: 51.7
		06/01/11	AMEND: Article 20, section 51.2

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05/25/11	ADOPT: Article 20, section 51.27	05/11/11	AMEND: 27.80
05/24/11	AMEND: Article 20, section 51.15	05/03/11	AMEND: 790, 815.05, 816.01, 816.02, 816.03, 816.05, 817.02, 817.03, 818.02, 818.03, 825.05, 825.07, 826.01, 826.02, 826.03, 826.05, 827.01, 827.02
05/24/11	AMEND: Article 20, section 51.24	05/02/11	AMEND: 925.7, 925.10, 926.9, 926.10, 927.5, 928.5, 928.6, 945.4, 965.4
04/19/11	AMEND: 1005, 1007, 1008	05/02/11	AMEND: 898.2
04/19/11	AMEND: 1018	04/29/11	ADOPT: 1570, 1571, 1572, 1572.1, 1572.2, 1573, 1573.1, 1573.2, 1573.3, 1573.4, 1573.5, 1573.6, 1574, 1575, 1575.1, 1575.2, 1575.3, 1576
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04/11/11	ADOPT: 999.24, 999.25, 999.26, 999.27, 999.28, 999.29 AMEND: 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, 999.22	04/06/11	ADOPT: 749.6
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08/16/11	AMEND: 1800	08/03/11	AMEND: 3000
07/06/11	ADOPT: 1231.2 AMEND: 1200, 1201, 1217, 1221, 1222, 1232	07/28/11	ADOPT: 3084.8, 3084.9, 3086 AMEND: 3000, 3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5, 3084.6, 3084.7, 3137, 3173.1, 3179, 3193, 3220.4, 3482, 3630, 3723 REPEAL: 3085
07/01/11	AMEND: 156.00, 156.01	07/19/11	AMEND: 3090, 3176.4, 3315, 3323
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06/20/11	AMEND: Title 13: 2299.5 and Title 17: 93118.5	06/27/11	AMEND: 3140
Title 14		06/20/11	ADOPT: 8007, 8008 AMEND: 8000
08/30/11	ADOPT: 3550.16	06/15/11	ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000
08/29/11	AMEND: 502	06/15/11	ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000
08/08/11	ADOPT: 1052.5 AMEND: 895, 916.9, 936.6, 956.9, 1052, 1052.1, 1052.2	06/14/11	AMEND: 3000, 3045.3, 3123, 3134, 3250.4, 3269.1, 3274, 3383, 3482
08/03/11	ADOPT: 1051.3, 1051.4, 1051.5, 1051.6, 1051.7 AMEND: 895	06/02/11	AMEND: 3378
07/22/11	AMEND: 852.60.2, 852.60.3, 852.60.4, 852.61.1, 852.61.2, 852.61.3, 852.61.5, 852.61.6, 852.61.7, 852.61.8, 852.61.9, 852.61.10, 852.61.11, 852.61.12, 852.62.1, 852.62.2, 852.62.3	05/26/11	ADOPT: 1747.1, 1749.1, 1750.1 AMEND: 1706, 1747, 1748, 1749, 1750, 1752, 1756, 1757, 1767
07/14/11	AMEND: 791, 791.7, 792, 793, 794, 795, 796 REPEAL: 791.5	05/26/11	AMEND: 3025, 3291, 3296, 3300, 3301, 3383, 3397 REPEAL: 3302
07/12/11	ADOPT: 749.6	05/13/11	REPEAL: 1
07/08/11	ADOPT: 708.1, 708.2, 708.3, 708.4, 708.5, 708.6, 708.7, 708.8, 708.9, 708.10, 708.11, 708.12, 708.13, 708.14, 708.15, 708.16, 708.17 AMEND: 360, 361, 362, 363, 364, 365, 366, 353, 354, 478.1, 702, 711 REPEAL: 708	05/11/11	AMEND: 3335
06/21/11	AMEND: 7.50	04/29/11	ADOPT: 3359.1, 3359.2, 3359.3, 3359.4, 3359.5, 3359.6, 3359.7 AMEND: 3000
06/16/11	AMEND: 7.00, 7.50	04/15/11	ADOPT: 3769, 3769.1, 3769.2, 3769.3, 3769.4, 3769.5, 3769.6
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06/09/11	AMEND: 27.20, 27.25, 27.30, 27.32 (renumbered to 27.35), 27.35 (renumbered to 27.40), 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 52.10, 150.16 REPEAL: 27.40, 28.51, 28.52, 28.53, 28.57	08/31/11	AMEND: 2411, 2414
05/19/11	AMEND: 632	08/24/11	AMEND: 1399.157, 1399.160.3, 1399.160.6
		08/18/11	ADOPT: 1315.50, 1315.53, 1315.55
		08/18/11	AMEND: 995
		08/17/11	AMEND: 974

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07/21/11	AMEND: 1005		
07/20/11	ADOPT: 4145 AMEND: 4141	06/08/11	ADOPT: 30108.1, 30226 AMEND: 30108, 30115, 30125, 30145, 30190, 30191, 30192, 30192.1, 30192.2, 30192.3, 30192.4, 30192.5, 30192.6, 30225, 30257 REPEAL: 30236
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07/01/11	AMEND: 2070, 2071		
06/14/11	AMEND: 1398.44, 1399, 1399.85	05/19/11	AMEND: 93115.3, 93115.4, 93115.6, 93115.7, 93115.8, 93115.9, 93115.10, 93115.13
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05/24/11	ADOPT: 1810.1, 1810.2, 1816.8, 1820, 1820.5, 1821, 1822 AMEND: 1800, 1802, 1803, 1804, 1805, 1805.1, 1806, 1807, 1807.2, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1816.1, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1819.1, 1832, 1833.1, 1833.2, 1850.6, 1850.7, 1870, 1870.1, 1874, 1877, 1880, 1881, 1886, 1886.10, 1886.20, 1886.30, 1886.40, 1886.50, 1886.60, 1886.70, 1886.80, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, 1887.14, 1888	04/21/11	AMEND: 7583
		Title 18	
		08/16/11	ADOPT: 1685.5
		07/20/11	AMEND: 25106.5-11
		07/08/11	ADOPT: 2558.1
		06/22/11	AMEND: 1507
		Title 19	
		06/30/11	AMEND: 1160.10
		06/21/11	AMEND: 200, 201, 202, 204, 208, 209, 212
		05/12/11	ADOPT: 2991, 2992, 2993, 2993.1, 2994, 2994.1, 2995, 2995.1, 2996, 2996.1, 2997, 2998, 2999
05/18/11	AMEND: 124	Title 20	
05/18/11	AMEND: 1536	05/09/11	ADOPT: 8.2 AMEND: 1.4, 1.5, 1.6, 1.8, 1.9, 1.10, 1.13, 1.15, 2.4, 2.5, 2.6, 3.1, 3.2, 4.1, 4.2, 4.3, 7.2, 8.1, 8.3, 8.4, 8.5, 8.6, 10.2, 13.7, 14.1, 14.2, 14.3, 14.5, 14.6, 16.1, 16.2, 16.6, Table of Filing Fees REPEAL: 8.5
05/09/11	ADOPT: 360, 363.1, 370 AMEND: 355 now 371, 356 now 361, 356.5 to 362, 357 now 363, 358 now 364, 360 now 366, 355.1 now 372, 359 now 365 REPEAL: 355.2		
04/28/11	ADOPT: 1131, 1132		
04/28/11	AMEND: 4150, 4151, 4152.1, 4153, 4154, 4155		
04/26/11	AMEND: 1306		
04/25/11	AMEND: 48.3		
04/25/11	AMEND: 600.1, 601.5, 602, 602.1, 603, 605, 607.4, 608.3, 627, 634, 635, 645		
04/15/11	ADOPT: 2007, 2010.05 AMEND: 2085.1		
04/14/11	AMEND: 70		
04/14/11	ADOPT: 2086, 2086.1, 2086.2, 2086.3, 2086.4, 2086.5, 2086.6, 2086.7, 2086.8, 2086.9		
04/12/11	AMEND: 1328		
04/11/11	AMEND: 404, 424, 425, 438 REPEAL: 460		
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08/29/11	ADOPT: 58883, 58884, 58886, 58887, 58888 AMEND: 50604, 54355, 58543	08/23/11	AMEND: 97212, 97213, 97228, 97229, 97232, 97240, 97241, 97246, 97248
06/30/11	AMEND: 2500, 2502, 2505	07/21/11	AMEND: 50035.5, 50145, 50179.5, 50183, 53845 REPEAL: 50245
06/30/11	AMEND: 6020, 6035, 6051, 6065, 6070, 6075	07/19/11	ADOPT: 64430
06/17/11	ADOPT: 95356	06/29/11	AMEND: 51008.5
		06/23/11	ADOPT: 70058, 71054, 72094, 73092, 74650, 76138, 76831.1, 78094.1, 79063, 79570 AMEND: 70707, 70715, 71507, 71515, 72521, 72527, 73519, 73523, 74717, 74743, 76521, 76525, 76555, 76916, 76918, 78437, 79313, 79799
		05/17/11	ADOPT: 52100, 52101, 52102, 52103, 52104, 52500, 52501, 52506, 52508, 52509, 52510, 52511, 52512, 52513, 52514, 52515, 52600 AMEND: 52000, 52502, 52503, 52504, 52505, 52507, 52516
		05/12/11	AMEND: 1256-9, 1256-10

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04/21/11 AMEND: 60400, 60401, 60403, 60445,
60455, 64416, 64426, 64432, 64449,
64449.2, 64575, Appendix 64465-E
04/12/11 AMEND: 66264.90, 66264.94,
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07/27/11 AMEND: 3939.19
07/14/11 ADOPT: 3919.10
07/08/11 ADOPT: 596, 596.1, 596.2, 596.3, 596.4,
596.5
07/05/11 ADOPT: 597, 597.1, 597.2, 597.3, 597.4

06/21/11 ADOPT: 3959.4
06/08/11 ADOPT: 3929.6
06/08/11 AMEND: 3006
05/31/11 ADOPT: 3939.39
05/12/11 ADOPT: 3909.1
05/06/11 ADOPT: 3939.38

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08/02/11 AMEND: 6932

Title 27

06/29/11 AMEND: 25805

Title MPP

07/28/11 AMEND: 63-402.226
06/02/11 AMEND: 31-002, 31-075, 31-206,
31-320, 31-505, 31-510