



California Regulatory Notice Register

REGISTER 2017, NO. 5-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

FEBRUARY 3, 2017

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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.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002–931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328–4880. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING**

**HOUSING REGULATIONS REGARDING
DISCRIMINATORY EFFECT;
DISCRIMINATORY LAND USE PRACTICES;
AND USE OF CRIMINAL HISTORY
INFORMATION**

The Fair Employment and Housing Council of the Department of Fair Employment and Housing (hereafter "Council") proposes to add sections 11098.04.1–11098.04.6, 11098.14.1–11098.14.4, and 11098.18.1–11098.18.8, to Title 2 of the California Code of Regulations after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Council will hold a public hearing at **10:00 a.m. on March 30, 2017**, at the following location:

State Capitol
Room 127
Sacramento, CA 95814

The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Council requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Council. The written comment period closes at **5:00 p.m. on March 30, 2017**. The Council will consider only comments received by that time. Written comments can be mailed to:

Fair Employment and Housing Council
c/o Brian Sperber, Legislative & Regulatory
Counsel
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: 213–337–4495

Comments may also be submitted by e-mail to FEHCouncil@dfeh.ca.gov.

AUTHORITY AND REFERENCE

Government Code section 12935(a) authorizes the Council to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific section 12900 et seq. of the Government Code.

**INFORMATIVE DIGEST/ POLICY STATEMENT
OVERVIEW**

This rulemaking action clarifies, makes specific, and supplements existing state statutes and case law interpreting the Fair Employment and Housing Act (FEHA) set forth in Government Code section 12900 et seq. As it relates to housing, the FEHA prohibits harassment and discrimination because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information of any person.

In compliance with the Administrative Procedure Act, the Council proposes to adopt these rules as duly noticed, vetted, and authorized regulations. This action has the specific benefit of creating a more comprehensive set of rules to ensure that housing providers, owners, and tenants better understand their rights and duties, in turn reducing litigation costs and the burden on courts. Ultimately, the proposed action furthers the mission of the DFEH by protecting Californians from discrimination, harassment, and retaliation in the housing context.

The proposed amendments most notably clarify and/or articulate the following: (1) the doctrine of discriminatory effect/disparate impact; (2) burdens of proof and defenses to allegations of discriminatory effect; (3) practices that may have a discriminatory effect; (4) the prohibition of discriminatory land use practices; (5) what may constitute a discriminatory land use practice; (6) how the use of criminal history information may violate the FEHA if it has a discriminatory effect, constitutes an intentional violation, or constitutes a discriminatory statement; and (7) the relationship between the FEHA and other laws as it relates to the use of criminal history information.

The Council has determined that the proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Council has concluded that these are the only regulations that concern fair housing and the Fair Employment and Housing Act.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Council has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: No additional costs or savings beyond those imposed by existing law.

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

Other non-discretionary cost or savings imposed on local agencies: No additional costs or savings beyond those imposed by existing law.

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

Cost impacts on a representative private person or businesses: No additional costs or savings beyond those imposed by existing law. Therefore, the agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Results of the economic impact assessment/analysis: The Council anticipates that the adoption of the regulations will not impact the creation or elimination of jobs or housing within the state; the creation of new businesses or housing or the elimination of existing businesses or housing within the state; or the expansion of businesses or housing currently doing business within the state. To the contrary, adoption of the proposed amendments is anticipated to benefit California businesses, workers, housing providers, owners, tenants, and the state's judiciary by clarifying and streamlining the operation of the law, making it easier for housing providers, owners, and tenants to understand their rights and obligations, and reducing litigation costs.

Statewide adverse economic impact directly affecting businesses and individuals: The Council has made an initial determination that the proposed action *will not* have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Small Business Determination: The Council anticipates that the regulations will not create additional costs or savings beyond those imposed by existing law. Similarly, the Council has determined that there is no impact on small businesses as a result of this proposed action because these regulations primarily serve to clarify existing law.

Business Report: The Council has determined that the proposed regulations do not require a report to be made.

CONSIDERATION OF ALTERNATIVES

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

The Council has thus far not become aware of a better alternative and invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Brian Sperber, Legislative & Regulatory Counsel
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: (213) 337-4495
E-mail: brian.sperber@dfeh.ca.gov

The backup contact person for these inquiries is:

Holly Thomas, Deputy Director of Executive Programs
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: (213) 439-6799
E-mail: holly.thomas@dfeh.ca.gov

Please direct requests for copies of the proposed text (express terms) of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, should other sources be used in the future, to Brian Sperber at the above address.

AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS, AND
RULEMAKING FILE

The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Brian Sperber at the address or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

Upon its completion, copies of the Final Statement of Reasons will be available on the Council's Web page: <http://www.dfeh.ca.gov/fehccouncil/>.

Copies also may be obtained by contacting Brian Sperber at the above address.

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations, and any modified texts and the Final Statement of Reasons can be accessed through the Council's Web page at <http://www.dfeh.ca.gov/fehccouncil/>.

**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

MULTI-COUNTY: **Kaweah Delta Water
Conservation District**

A written comment period has been established commencing on February 3, 2017, and closing on March 20, 2017. Written comments should be directed to the Fair Political Practices Commission, Attention Cynthia Jones, 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 her 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 her 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 March 20, 2017. 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 Cynthia Jones, 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 Cynthia Jones, 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, 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: Rocketship Education

A written comment period has been established commencing on February 3, 2017, and closing on March 20, 2017. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Branan, 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 her 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 her 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 March 20, 2017. 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 Ivy Branaman, 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 Ivy Branaman, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE PERSONNEL BOARD

Notice is hereby given that the State Personnel Board (Board) proposes to adopt the regulatory changes described below. The Board will consider any and all comments, objections, or recommendations that may be timely submitted regarding this proposed action.

PUBLIC HEARING

A public hearing regarding the proposed regulatory action will be held on March 21, 2017, at 10:00 a.m. in Room 150 at 801 Capitol Mall, Sacramento, California.

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant

to the proposed regulatory action to the contact person listed below.

Jeanne R. Wolfe
 Senior Attorney
 State Personnel Board
 801 Capitol Mall, MS 53
 Sacramento, CA 95814
 Fax: (916) 653-4256
 Email: jeanne.wolfe@spb.ca.gov

The written comment period closes on March 20, 2017, at 5:00 p.m. Only written comments received by that time shall be reviewed and considered by the Board before it adopts, amends, or repeals a regulation.

AUTHORITY AND REFERENCE

The Board proposes this regulatory action pursuant to the authority vested in it by the California Constitution, article 7, section 3, and Government Code sections 18502 and 18701. The proposed regulations will implement, interpret, and make specific the provisions of Government Code section 19050.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

A. Summary of Existing Laws and Regulations Related to the Proposed Action

The Board is a constitutional body responsible for enforcing California's civil service statutes. (Cal. Const., art. VII, § 3.) In addition, the Board, by majority vote of all its members, prescribes probationary periods and classifications, adopts other rules authorized by statute, and reviews disciplinary actions imposed against state employees. (*Ibid.*) The Board also establishes rules implementing and enforcing the merit principle in the state civil service system. (Gov. Code, § 18660; see Cal. Const., art. VII, § 1, subd. (b).) Consistent with the merit principle, the Board promulgates rules to govern classifications, examinations, selection, probationary periods, disciplinary actions, Career Executive Assignments (CEAs), and other matters related to its authority under Article VII of the California Constitution. (Gov. Code, §§ 18502, subd. (b) & 19889.)

Regulations adopted by the Board are exempt from the Administrative Procedure Act (APA), except as expressly specified. (Gov. Code, §§ 18211, 18215, & 18216.) The Board's regulations concerning selection, examinations, and classification may be adopted by the Board without public notice or comment; however, regulations related to selection and examinations shall be reasonably available to all interested parties. (Gov. Code, § 18213.) The rulemaking procedures set forth in Government Code section 18214 apply to the adoption of Board regulations concerning other matters.

In this instance, the subject matter of the proposed regulations relates to selection. These regulations are thus exempt from the APA process; however, the Board finds that a public comment period would be appropriate for this regulatory package.

B. Comparable Federal Regulations or Statutes

The Board has conducted a review of federal regulations and statutes and determined there are no comparable federal regulations or statutes.

C. Policy Statement Overview

The proposed regulatory action modernizes and updates the Board’s regulations by providing standards for the filing of job applications that are currently nonexistent in the Board’s regulatory scheme. The proposed regulatory action will also improve the civil service selection process by providing standards in which job applications must be filed. This will promote consistency and fairness by ensuring uniform standards are applied when job seekers file job applications.

D. Evaluation of Consistency and Compatibility with Existing State Regulations

In reviewing other state regulations, the Board found that the instant regulatory proposal is consistent and compatible with existing state regulations.

DETERMINATION OF FISCAL IMPACT
ON PUBLIC AGENCIES

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Cost or savings to any State agency: This proposed regulatory action promotes consistency and fairness when job seekers file job applications with State agencies. Therefore, the Board expects that any costs or savings to State agencies will be minimal, if any.
- Other nondiscretionary costs or savings imposed on local agencies: None.
- Cost or savings in federal funding to the State: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

ECONOMIC IMPACT ON BUSINESS

- Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.
- Effect on small business: The proposed regulations only set standards related to civil service selection procedures. Accordingly, it has been determined that the adoption of the proposed regulations would not affect small businesses in any way.

DESCRIPTION OF COST IMPACT

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 ECONOMIC
IMPACT ASSESSMENT

Adoption of these regulations will not:

1. Create or eliminate jobs within California.
2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect worker safety or the state’s environment.

It is expected that the adoption of this regulatory package will have a positive impact on the general health and welfare of California residents in that the benefits of this proposed regulatory action include updating procedures related to job applications.

CONTACT PERSONS

Inquiries concerning the proposed regulatory action, including questions regarding procedure, comments, or the substance of the proposal, may be directed to:

Jeanne R. Wolfe
Senior Attorney
State Personnel Board
801 Capitol Mall, MS 53
Sacramento, CA 95814
Phone: (916) 653-1028
Fax: (916) 653-4256
Email: jeanne.wolf@spb.ca.gov

In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Lori Gillihan
Chief, Policy and Compliance Review Division
State Personnel Board
801 Capitol Mall, MS 53
Sacramento, CA 95814
Phone: (916) 653-1028
Lori.Gillihan@spb.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Senior Attorney Wolfe at the above address.

AVAILABILITY OF RULEMAKING FILE

The Board is maintaining a rulemaking file for the proposed regulatory action, which as of the date of this notice contains the following:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~ and underline;
2. A copy of this notice and statement of reasons for the proposed adoption; and
3. Any factual information upon which the proposed rulemaking is based.

If written comments, data or other factual information, studies or reports are received, they will be added to the rulemaking file. The file is available for public inspection during normal working hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814, Fax: (916) 653-4256. Items 1 through 3 are also available on the Board's website at www.spb.ca.gov under "What's New?" Copies may be obtained by contacting the person via the address, email, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and ~~strikeout~~ can be accessed on the Board's website at www.spb.ca.gov under "What's New?"

TITLE 2. STATE PERSONNEL BOARD

Notice is hereby given that the State Personnel Board (Board) proposes to adopt the regulatory changes described below. The Board will consider any and all comments, objections, or recommendations that may be timely submitted regarding this proposed action.

PUBLIC HEARING

A public hearing regarding the proposed regulatory action will be held on March 22, 2017, at 10:00 a.m. in Room 150 at 801 Capitol Mall, Sacramento, California.

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below.

Jeanne R. Wolfe
Senior Attorney
State Personnel Board
801 Capitol Mall, MS 53
Sacramento, CA 95814
Fax: (916) 653-4256
Email: jeanne.wolfe@spb.ca.gov

The written comment period closes on March 22, 2017, at 5:00 p.m. Only written comments received by that time shall be reviewed and considered by the Board before it adopts, amends, or repeals a regulation.

AUTHORITY AND REFERENCE

The Board proposes to adopt the proposed action under the authority granted by the California Constitution, article VII, sections 3 and 5, and Government Code sec-

tions 18701, 19240, 19241, 19241.5, 19083 in order to implement, interpret, and make specific the provisions of the California Constitution, article VII, section 5, and Government Code sections 18532, 18931, 19240, 19241, 19242, 19242.05, 19242.2, 19242.3, 19242.4, 19242.6, 19242.8, 19242.9, 19243.2, 19080, 19080.3, 19080.5, 19082, 19242.6, 19243, 19243.2, 19243.4, and 19244.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

A. Summary of Existing Laws and Regulations Related to the Proposed Action

The Board is a constitutional body responsible for enforcing California’s civil service statutes. (Cal. Const., art. VII, § 3.) In addition, the Board, by majority vote of all its members, prescribes probationary periods and classifications, adopts other rules authorized by statute, and reviews disciplinary actions imposed against state employees. (*Ibid.*) The Board also establishes rules implementing and enforcing the merit principle in the state civil service system. (Gov. Code, § 18660; see Cal. Const., art. VII, § 1, subd. (b).) In addition, the Board promulgates rules related to the Limited Employment and Appointment Program (LEAP) (Gov. Code, § 19240), which is an important and key program in the state’s affirmative action efforts to hire persons with disabilities into state civil service (Gov. Code, §§ 19230 & 19232.) and limited term appointments (Gov. Code §§ 19080.3 & 19093), which allow appointments for temporary staffing needs.

Regulations adopted by the Board are exempt from the Administrative Procedure Act (APA), except as expressly specified. (Gov. Code, §§ 18211, 18215, & 18216.) The Board’s regulations concerning selection, examinations, and classification may be adopted by the Board without public notice or comment; however, regulations related to selection and examinations shall be reasonably available to all interested parties. (Gov. Code, § 18213.) The rulemaking procedures set forth in Government Code section 18214 apply to the adoption of Board regulations concerning other matters.

In this instance, the subject matter of the proposed regulations relates to examinations and selection. These regulations are thus exempt from the APA process; however, the Board finds that a public comment period would be appropriate for this regulatory package.

B. Comparable Federal Regulations or Statutes

The Board has conducted a review of federal regulations and statutes and determined there are no comparable federal regulations or statutes.

C. Policy Statement Overview

This proposed regulatory action will update the Board’s limited–term regulations to be consistent with the proposals impacting proposed changes to the LEAP regulations. The proposal will also eliminate unnecessary procedures when a limited–term appointment is terminated prior to the term of the employment, reduce unnecessary expense, and promote effective use of temporary staffing and resources. The proposed regulations will assist agencies in meeting affirmative action goals for persons with disabilities (Gov. Code, § 19232) and promote qualified pools of LEAP candidates. The proposed regulations are also intended to update, improve, and streamline the LEAP examination and selection process. The proposed definitions in this regulatory action promote clarity, ease of understanding, and consistency with definitions used in the Civil Service Act. The proposed regulatory changes are also necessary to update the Board’s regulations to conform to S.B. 644 (Stats. 2015, Ch. 356, § 8, eff. 1/01/16) and S.B. 848 (Stats. 2016, c. 35, § 8, eff. June 27, 2016).

D. Evaluation of Consistency and Compatibility with Existing State Regulations

In reviewing other state regulations, the Board found that the instant regulatory proposal is consistent and compatible with existing state regulations.

**DETERMINATION OF FISCAL IMPACT ON
PUBLIC AGENCIES**

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Cost or savings to any State agency: This proposed regulatory package is intended to make more efficient the process and procedures related to limited–term appointments and examinations and selection of LEAP candidates. Therefore, the Board expects that any costs or savings to State agencies will be minimal, if any.
- Other nondiscretionary costs or savings imposed on local agencies: None.
- Cost or savings in federal funding to the State: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

ECONOMIC IMPACT ON BUSINESS

- Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.
- Effect on small business: The proposed regulations only set standards related to state civil service examinations and selection. Accordingly, it has been determined that the adoption of the proposed regulations would not affect small businesses in any way.

DESCRIPTION OF COST IMPACT

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 ECONOMIC IMPACT ASSESSMENT

Adoption of these regulations will not:

1. Create or eliminate jobs within California.
2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect worker safety or the state's environment.

It is expected that the adoption of this regulatory package will have a positive impact on the general health and welfare of California residents in that the benefits of this proposed regulatory action include simplifying and streamlining procedures related to limited-term appointments and LEAP.

CONTACT PERSONS:

Inquiries concerning the proposed regulatory action, including questions regarding procedure, comments, or the substance of the proposal, may be directed to:

Jeanne R. Wolfe
Senior Attorney
State Personnel Board
801 Capitol Mall, MS 53
Sacramento, CA 95814
Phone: (916) 653-1028
Fax: (916) 653-4256
Email: jeanne.wolfe@spb.ca.gov

In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Lori Gillihan
Chief, Policy and Compliance Review Division
State Personnel Board
801 Capitol Mall, MS 53
Sacramento, CA 95814
Phone: (916) 653-1028
Lori.Gillihan@spb.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Senior Attorney Wolfe at the above address.

AVAILABILITY OF RULEMAKING FILE

The Board is maintaining a rulemaking file for the proposed regulatory action, which as of the date of this notice contains the following:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~ and underline;
2. A copy of this notice and statement of reasons for the proposed adoption; and
3. Any factual information upon which the proposed rulemaking is based.

If written comments, data or other factual information, studies or reports are received, they will be added to the rulemaking file. The file is available for public inspection during normal working hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814, Fax: (916) 653-4256. Items 1 through 3 are also available on the Board's website at www.spb.ca.gov under "What's New?" Copies may be obtained by contacting the person via the address, email, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

**AVAILABILITY OF THE FINAL STATEMENT
OF REASONS**

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

**AVAILABILITY OF DOCUMENTS ON
THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed on the Board's website at www.spb.ca.gov under "What's New?"

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

The Department of Food and Agriculture (Department) amended subsection 3435(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid (ACP) Interior Quarantine as an emergency action which was effective on October 28, 2016. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than April 26, 2017.

This notice is being provided to be in compliance with Government Code Section 11346.4.

PUBLIC HEARING

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 Department no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed amendment to the Department. Comments may be submitted by mail, facsimile (FAX) at 916.654.1018 or by email to Sara.Khalid@cdfa.ca.gov. The written comment period closes at 5:00 p.m. on March 20, 2017. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Sara Khalid
Department of Food and Agriculture
Plant Health and Pest Prevention Services
1220 N Street
Sacramento, CA 95814
Sara.Khalid@cdfa.ca.gov
916.654.1017
916.654.1018 (FAX)

Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread and the feasibility of its control or eradication (Food and Agricultural Code (FAC) 5321)).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as she deems necessary to protect the agricultural industry from the introduction and spread of pests (FAC Sections 401, 403, 407 and 5322).

Anticipated Benefits from This Regulatory Action

Existing law, FAC Section 403, provides that the department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code that the Secretary is directed or authorized to administer or enforce.

Existing law, FAC Section 5321, provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication.

Existing law, FAC Section 5322, provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in her opinion necessary to circumscribe and exterminate or prevent the spread of any pest that is described in FAC Section 5321.

The existing law obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance

nance of regulations to achieve this goal. This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest, which is a mandated statutory goal.

The amendment of this regulation benefits the citrus industries (nurseries, fruit growers, wholesalers, retailers, exporters) and the environment by having a quarantine program to prevent the artificial spread of ACP over long distances. Almost all of the commercial citrus fruit and nursery stock production is located outside this proposed quarantine area boundary.

The national and international consumers of California citrus benefit by having high-quality fruit available at lower cost. It is assumed that any increases in production costs will ultimately be passed on to the consumer.

The amendment of this regulation benefits homeowners who grow citrus for consumption and host material that is planted as ornamentals in various rural and urban landscapes.

FAC Section 401.5 states, “the department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well-being of agriculturally dependent rural communities in this state.” The amendment of this regulation is preventing the artificial spread of ACP to uninfested areas of the State.

Huanglongbing (HLB) is generally distributed in Florida due to ACP being generally distributed there. The University of Florida Institute of Food and Agricultural Sciences Extension calculated and compared the impact of having and not having HLB present in Florida and concluded HLB had a total impact of \$3.64 billion and eliminated seven percent of the total Florida workforce. The overall California economy benefits by the amendment of this regulation, which is intended to prevent ACP from becoming generally distributed in California and resulting in a similar effect on our economy as to what happened in Florida. This is now critical as HLB has been introduced into California.

There is no existing, comparable federal regulation or statute regulating the intrastate movement of ACP hosts.

The Department considered any other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area, and the only State agency that can implement plant quarantines. As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

AMENDED TEXT

This emergency rulemaking action expanded the quarantine area for ACP in Merced County by approximately 125 square miles. The effect of the amendment of this regulation is to provide authority for the State to perform quarantine activities against ACP within this additional area. The total area that would be under regulation is now approximately 61,467 square miles.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

The Department 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.

Cost impacts on a representative private person or business: Most businesses will not be affected. There are zero citrus production nurseries in the affected area that will be impacted. There are zero retail nurseries in the affected area. There are zero citrus growers in the proposed area. There is no additional cost to growers who take their fruit to a packinghouse inside the current quarantine area. Growers choosing a packinghouse outside the quarantine area have three options: 1. Conduct pre-harvest treatments with an approved pesticide while fruit is still on the trees; 2. Field-clean the fruit to remove leaves and stems during harvest; 3. Send the fruit to a packinghouse within the quarantine area to be cleaned. Pre-harvest treatments cost growers approximately \$60 per acre, and the fruit is required to be covered with a tarp while in transit. Tarps range in price from \$2,500–\$3,000 apiece. Field-cleaning the fruit will cost the grower approximately \$150–\$320 per acre depending on the citrus variety. Field-cleaned fruit does not require a tarp for transport and can be moved within or from the quarantined area. Cleaning at a packinghouse within the quarantine area will cost the grower

approximately \$300–\$400 per acre, and the fruit must remain within the quarantine area, although the loads do not need to be covered with a tarp. There are zero citrus packinghouses located within this quarantine area.

Based on the preceding information, it was determined that due to the amendment of Section 3435(b), the agency is not aware of any cost impact on a representative business or private person. For the vast majority of businesses within the regulated area, no additional costs will be incurred.

Small Business Determination

The Department has determined that the proposed regulations may affect small business.

Significant effect on housing costs: None.

Results of the Economic Impact Analysis

Amendment of these regulations will not:

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

The Department is not aware of any specific benefits the amendment of this regulation will have on worker safety or the health of California residents. The Department believes the amendment of this regulation benefits the welfare of California residents by protecting the economic health of the entire citrus industry. In 2010 the estimated value was \$2.1 billion for citrus fruit and \$28.5 million for citrus nursery stock without all the upstream buyers and downstream retailers included (*Reference: John Gilstrap of California Citrus Nursery Board for citrus nursery stock value and USDA–National Agricultural Statistics Service 2010 data for citrus fruit*). This is a needed source of revenue for the State’s economic health and this amendment will help protect this source of revenue.

ALTERNATIVES CONSIDERED

The Department must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

AUTHORITY

The Department proposes to amend Section 3435(b) pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the FAC.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the FAC.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is: Sara Khalid, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room 210, Sacramento, California 95814, (916) 654–1017, FAX (916) 654–1018, E-mail: Sara.Khalid@cdfa.ca.gov. In her absence, you may contact Laura Petro at (916) 654–1017. Questions regarding the substance of the proposed regulation should be directed to Sara Khalid.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/plant/Regulations.html).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

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 person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Division 3. Economics Chapter 1. Fruit and Vegetable Standardization Subchapter 4. Fresh Fruits, Nuts and Vegetables Article 8. Apricots

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed actions.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department 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

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted via facsimile (FAX) at (916) 900-5345 or by e-mail to steve.patton@cdfa.ca.gov. The written comment period closes at **5:00 p.m. on March 20, 2017**. The Department will consider comments only received at the Department by that time. Submit comments to:

Steve Patton, Branch Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street,
Sacramento, CA 95814
Telephone: (916) 900-5030;
Fax: (916) 900-5345

AUTHORITY AND REFERENCE

Sections 14, 407, 42681, 42682, and 42683 of the Food and Agricultural Code authorize the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Sections 42681, 42682, and 42683 of the Food and Agricultural Code.

This rulemaking action amends California Code of Regulations (CCR) Title 3, Division 3, Chapter 1, Subchapter 4, Article 8, § 1402.7(a)(b)(c), 1402.8.

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

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

Section 42681 of the Food and Agricultural Code authorizes that the director [Secretary] by regulation may prescribe methods of selecting samples of lots or containers of fruits, nuts, and vegetables on a basis of size or other specific classification, which are reasonably calculated to produce by such sampling fair representations of the entire lots or containers which are sampled, and make such other regulations as are reasonably necessary to secure uniformity in the enforcement of this division.

Section 42682 of the Food and Agricultural Code authorizes the director [Secretary] may upon petition of a person that the director [Secretary] finds has a substantial interest in the growing or handling of the particular fruit, nut, or vegetable involved, establish, modify, or rescind by the regulation which initially took effect January 1, 1971, standard container, lid, marking, sizing requirements for commodities, and packing arrangements for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

Section 42683 of the Food and Agricultural Code authorizes that the director [Secretary], in promulgating regulations concerning standard containers, lids, marking, sizing, consumer packages or packing requirements for fruits, nuts, and vegetables, will consider such factors as the ease of handling, identification, federal laws, rules or regulations, containers, lids and packs in substantial use in the industry and the competitive position of the California fruit, nut, and vegetable industry.

The tree fruit industry has reported that marking regulations for variety have created restricted market access by confusing product identified and marketed by variety, but actually sold under commodity-specific identification to consumers.

Container markings identifying variety have encouraged premature harvesting of some varieties under spe-

cific market conditions. Retailer purchases, while driven by a multiplicity of needs, are not specific to variety within commodities. Most often, retail stores display commodities in bulk, with multiple varieties of the commodity combined for consumer purchase.

In 2006, tree fruit regulations were updated, specifically, the requirement to label variety when packing and selling stone fruit. While the changes were added to almost all stone fruits, apricots were not included in the change. This proposed action will update the California Code of Regulations to ensure that the marking and size labeling nomenclature for apricots is consistent with industry packing and marking practices.

Benefits of the Proposed Action: The benefit of this regulatory change will be to ensure that the marking and size nomenclature will be consistent with the tree fruit industry's packing and marking practices. It will afford the apricot industry the same consistency as the peach, plum, nectarine, and prune industries, thus providing an equality to all stone fruit marking and size requirements.

CONSISTENCY EVALUATION

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any State agency: None.

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

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

Costs or savings in federal funding to the State: None.

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

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is (1) unlikely that the proposal will eliminate or create any jobs and/or eliminate existing business; (2) likely that this proposal may create new business or expand current business opportunities for producers and packers of apricots; and (3) likely that this proposal may create new business for apricot handlers; lastly, the proposed rulemaking will create an indirect impact to the protection of public health and safety.

Benefits of the Proposed Action: The benefits of this regulatory change will ensure that the marking and size nomenclature will be consistent with the tree fruit industry's packing and marking practices. It will afford the apricot industry the same consistency as the peach, plum, nectarine, and prune industries, thus providing an equality to all stone fruit marking and size requirements.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. This proposed regulatory action would eliminate varietal and size marking requirements for apricot packers which would reduce costs and provide additional marketing opportunities for the apricot industry. In addition, the proposed regulatory actions were initiated at the request of the impacted industry.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Steve Patton, Branch Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5030;
Fax: (916) 900-5345

The backup contact person for these inquiries is:

Laurel Rudolph, SSA
Inspection and Compliance Branch
California Department of Food, and Agriculture
1220 N Street
Sacramento, CA 95814
Telephone: (916) 900-5233;
Fax: (916) 900-5345

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

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 2800 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice; the proposed text of the regulations; the initial statement of reasons; and petitions received from industry. Copies may be obtained by contacting Laurel Rudolph at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Laurel Rudolph at the address listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

TITLE 4. CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

PROPOSED REGULATORY ACTION

The Authority proposes to adopt Sections 8078.8-8078.14 of Title 4 of the California Code of Regulations (the "Proposed Regulations") concerning the administration of the California Pollution Control Financing Authority's California Americans with Disabilities Small Business Capital Access Loan Program ("CalCAP/ADA Program"). These Proposed Regulations are necessary to implement, interpret, and make specific Article 8 of the California Pollution Control Financing Authority Act (the "Act"). The Proposed Regulations have been approved by the Office of Administrative Law (OAL) on an emergency basis, and this proposed rulemaking would make these changes permanent.

AUTHORITY AND REFERENCE

Authority: Sections 44520(a), 44520(b), and 44559.5(f), Health and Safety Code. Section 44520(b) of the Act authorizes the Authority to adopt regulations relating to small business financing and instructs the Office of Administrative Law to consider such regulations to be "necessary for the immediate preservation of the public peace, health and safety or general welfare." Section 44520(a) and 44559.5(f) of the Act authorizes the Authority to adopt necessary regulations to carry out its powers and duties under this division in administering applications for financing.

Authority: Sections 44559.13 of the Health and Safety Code. Section 44559.13 of the Act authorizes the Authority to assist small businesses in complying with the Americans with Disabilities Act. The intent of the act is not to assist with the physical expansion of the business.

Reference: Sections 44559.1, 44559.2, 44559.3, 44559.5, and 44559.11 of the Health and Safety Code. These Proposed Regulations implement, interpret and make specific sections of the Act by adopting Sections 8078.8, 8078.9, 8078.10, 8078.11, 8078.12, 8078.13, and 8078.14 of Title 4, Division 11, Article 7 of the California Code of Regulations.

Reference: Section 12101 of Title 42 of the United States Code. References the federal Americans with Disabilities Act and amendments thereto.

Reference: Section 4459.5 of the Government Code. References the Certified Access Specialist, which is any person who has been certified pursuant to Section 4459.5 of the Government Code.

Reference: Section 55.53 of the California Civil Code. References a Certified Access Specialist Report, which is a written inspection report pursuant to Section 55.53 of the California Civil Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law establishes the Capital Access Program and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed additions to the regulations allow the Authority to include alternate provisions specific to the California Americans with Disabilities Act Small Business Capital Access Financing Program (“CalCAP/ADA Financing Program”) within CalCAP’s existing Small Business Loan Program. The proposed regulations will create a self-sustaining program to provide loans to assist small businesses in financing the costs of projects that alter or retrofit existing small business facilities, meeting specified criteria, to comply with the federal Americans with Disabilities Act (ADA). The CalCAP/ADA Financing Program will provide a credit enhancement to support private bank loans to small businesses to make required improvements. The businesses that qualify for the program are among the smallest and are at the most risk.

Pursuant to Title 1, Division 1 of the California Code of Regulations Section 12(b), the proposed regulations repeat and rephrase existing law to provide clarity to the CalCAP/ADA Financing Program’s participating financial institutions and qualified borrowers.

The Authority has performed a search of existing regulations and has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

Anticipated Benefits of the Proposed Regulations:

The broad objective of the regulations is to assist small businesses in obtaining capital to make physical alterations or retrofits to existing small business facilities necessary to ensure that the facility is in compliance with the federal ADA and the financing necessary to pay eligible costs of the project. It is anticipated that this program will help reduce the number of physical barriers that restrict access for disabled persons to small business facilities, which may also provide additional revenue streams to the participating small business borrowers. This program also aims to help small businesses obtain the resources they need to avoid potential legal and financial hardships associated with non-compliance with the ADA.

Determination of Inconsistency/Incompatibility with Existing State Regulations: Pursuant to Title 1, Division 1 of the California Code of Regulations Section 12(b), the proposed additions to the regulations repeat and rephrase existing law to provide clarity to the CalCAP/ADA Financing Program’s participating financial institutions and qualified borrowers.

Government Code Section 11346.5(a)(3)(D) requires that the notice of proposed rulemaking shall include, “an evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” CPCFA staff reviewed the California Code of Regulations and found that the only inconsistencies are those that are allowed by Health and Safety Code 44559.11(b), which authorizes the Authority to adopt regulations to establish alternate provisions as necessary to enable the authority to participate in the CalCAP/ADA Program. The inconsistent but statutorily compatible regulations are as follows:

- (a) Section 8078.8(i) and 8078.10(g) which establish the maximum enrollment amount per borrower at \$50,000 and the maximum term of loss coverage at sixty months;
- (b) Section 8078.8(k) which establishes the size of a Qualified Business at 15 or fewer full-time equivalent employees, establishes the allowable total gross annual income of the business from all sources at less than \$1,000,000, and prohibits businesses that provide overnight accommodations;
- (c) Section 8078.10(d) and (e) which establish the contribution rates for the CalCAP/ADA Financing Program; and
- (d) Sections 8078.8(j) and 8078.11(c) and (d) which establish and describe the process of recapture of the CalCAP/ADA Financing Program contributions on an annual basis.

The proposed sections above impose restrictions on eligible businesses and loans in order to ensure that pub-

lic funding is available for the smallest, most vulnerable businesses in need of a credit enhancement to physically alter or retrofit their facilities for ADA compliance without impacting existing CPCFA programs. By increasing the contribution amounts compared to the Capital Access Loan Program for Small Businesses, CPCFA seeks to incentivize participation in the program. CPCFA also aims to ensure that funding is continuously available to support additional loans to small businesses after the funds are initially deployed by establishing a maximum term of loss coverage and a subsequent recapture component.

While these sections are inconsistent with existing regulation, they are allowed because Health and Safety Code 44559.11(b) allows CPCFA to create alternate provisions in order to participate in a program with an alternate funding source; in this instance the sole funding source is the General Fund. Additionally, Health and Safety Code 44559.13 establishes most of these requirements and tasks CPCFA with drafting regulations to elaborate upon the requirements.

§ 8078.8. Definitions.

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Necessity. The proposed amendments are necessary to include definitions specific to the CalCAP/ADA Financing Program.

§ 8078.9. Application by Financial Institution.

This section describes how financial institutions may apply to participate in the CalCAP/ADA Financing Program.

Necessity. The proposed regulation is necessary to provide clarification on how a financial institution may participate in the CalCAP/ADA Financing Program.

§ 8078.10. Loan Enrollment.

This section describes the contents of a completed application, contribution amounts, and terms of the enrollment. For an application to be deemed complete the lender must submit information concerning the borrower and the project, and submit a lender certification that the application meets the CalCAP/ADA Financing Program’s policies and regulations. In addition the borrower must self-certify on several aspects of the project.

Necessity. A description of the application information is necessary to specify the application contents that must be provided in order for the Authority to evaluate whether the loan is qualified for enrollment in the CalCAP/ADA Program.

§ 8078.11. Loss Reserve Accounts.

This section describes the establishment of loss reserve accounts for participating financial institutions,

guidelines governing use of funds deposited in the loss reserve accounts, and lender reporting requirements.

Necessity. A description of how loss reserve funds are to be utilized and managed is necessary to ensure accountability and transparency.

§ 8078.12. Claim for Reimbursement

This section describes how participating financial institutions are to make claims for reimbursement for loans enrolled in the CalCAP/ADA Program.

Necessity. The proposed regulation is necessary to provide a description of how participating financial institutions can file a claim for reimbursement on enrolled loans.

§ 8078.13. Subrogation

This section describes the procedure for the Authority’s right to subrogation of participating financial institution’s collateral during the claim process, should the situation arise.

Necessity. A description of how the Authority is to secure recovery under any collateral or security documents to which the Authority has been subrogated will help the Authority enforce its rights.

§ 8078.14. Termination and Withdrawal from Program

This section describes how a participant in the Program can withdraw or be terminated as a Participating Financial Institution. It also references how to handle the balance of the Loss Reserve Accounts.

Necessity. The proposed regulation is necessary to provide a description of how a Participating Financial Institution can withdraw from the program. It is also necessary as it describes how the Executive Director can terminate participation of a Participating Financial Institution in the Program.

DISCLOSURE REGARDING THE PROPOSED ACTION

The Executive Director of the Authority has made the following determinations regarding the effect of the Proposed Regulations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500–17630: None.

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

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

Significant effect on housing costs: None.

Cost impact on a representative private person or business: The Authority is not aware of any cost im-

pacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Small Business: The proposed regulations will not have an effect on small business because the program is voluntary for any small business that seeks to apply for financial assistance in physically altering or retrofitting its small business facility for compliance with the federal ADA.

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

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Assessment regarding effect on jobs/businesses: The proposed regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business in California.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: The broad objective of the regulations is to enable small businesses who have difficulty obtaining financing to physically alter or retrofit their small business facilities for compliance with the federal ADA. It is anticipated that the increase in ADA compliant small business facilities will increase the physical access and general well-being of disabled citizens.

CONSIDERATION OF ALTERNATIVES

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

The Authority invites interested parties to present statements with respect to alternatives to the Proposed Regulations during the written comment period.

AGENCY CONTACT PERSON

Written comments, inquiries and any questions regarding the substance of the Proposed Regulations shall be submitted or directed to:

Bianca Smith, Program Manager
California Pollution Control Financing Authority
P.O. Box 942809
Sacramento, CA 94209-0001
Telephone: (916) 653-5408
Fax: (916) 589-2805
Email: Bianca.smith@treasurer.ca.gov

Betina Brantley, Associate Treasury Program
Officer
California Pollution Control Financing Authority
P.O. Box 942809
Sacramento, CA 94209-0001
Telephone: (916) 651-6432
Fax: (916) 589-2805
Email: Betina.brantley@treasurer.ca.gov

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Authority. The written comment period on the proposed regulations ends at **5:00 p.m. on March 20, 2017**. All the comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time in order for them to be considered by the Authority.

In the event that substantial changes are made to the proposed regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified regulations for fifteen (15) calendar days after the date on which such regulations, as changed or modified, are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency contact person identified in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the

Authority's office at 801 Capitol Mall, Second Floor, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this notice, the Initial Statement of Reasons and the proposed text of the Proposed Regulations. Copies of these items and all the information upon which the proposed rulemaking is based are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at <http://www.treasurer.ca.gov/cpcfai/index.asp>.

PUBLIC HEARING

CPCFA does not intend to conduct a Public Hearing on the matter of these regulations, unless requested. Any interested person may submit a written request for a public hearing no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested pursuant to Section 11346.8 of the Government Code, the Authority may adopt the Proposed Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed regulations, as modified. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or found at the Authority's website at <http://www.treasurer.ca.gov/cpcfai/index.asp>.

TITLE 5. EDUCATION AUDIT APPEALS PANEL

*Supplement to Audits of K-12 Local Education Agencies [March 1, 2017]
Fiscal Year 2016-17*

The Education Audit Appeals Panel (EAAP) proposes to amend the Audit Guide regulations as described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to Timothy Morgan,

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at **5:00 p.m. on Monday, March 20, 2017**. EAAP will consider only written comments received by that time. Written comments for EAAP's consideration should be directed to:

Timothy Morgan
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, CA 95814

Fax: (916) 445-7626
e-mail: tmorgan@eaap.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Section 14502.1, Education Code.
Reference: Sections 14501, 14502.1, 14503, 14509, and 41020 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking, and the emergency adoption already made, amends title 5, California Code of Regulations, section 19810 to incorporate by reference the sup-

plemental audit guide. It also adopts the supplemental audit guide for 2016–17 which makes clarifying revisions and addresses legislative changes in the conditions of apportionment of school funding. This supplemental filing ensures that audits include subjects pertinent to and/or required by Legislation through January 1, 2017.

Education Code section 14502.1, requires EAAP to develop an annual audit guide and to supplement it by March 1 for consistency with the previous year’s legislation. The purpose of the audit guide is to define terms and specify procedures to guide accountants in the conduct of statutorily required financial and compliance audits of K–12 local education agencies. The Controller, pursuant to Education Code section 14502.1, has proposed amendments to supplement the audit guide for fiscal year 2016–17. The proposed changes derive from the Controller’s proposals and also contain changes designed to clarify audit steps.

PUBLIC BENEFITS

EAAP does not anticipate that these proposed amendments would create specific benefits for the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, nor the increase in openness and transparency in business and government. EAAP has determined that the proposed amendments will ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements. In developing the rulemaking, EAAP evaluated the proposed changes to regulations and determined that they are not inconsistent or incompatible with existing regulations, state or federal.

A description of proposed changes to section 19810, and a discussion of revisions to the audit guide, follow.

**Title 5, Division 1.5
Chapter 3. Audits of California K–12 Local
Education Agencies
Article 2. Audit Reports**

§ 19810. Annual Audit Guides.

The “2016–17 Guide for Annual Audits of K–12 Local Education Agencies and State Compliance Reporting,” (~~July 1, 2016~~March 1, 2017), adopted by the Education Audit Appeals Panel, is incorporated by reference. The guide provides the audit steps, reporting requirements, and other guidance, for the required annual financial and compliance audits, subject to auditor judgment where alternative or additional audit steps

may be appropriate. The annual guide is superseded by a supplemental audit guide, if needed, adopted before March 1 of each fiscal year. Each annual guide and any applicable supplement are available on www.eaap.ca.gov/audit-guide, with paper or electronic copies available on request.

Note: Authority cited: Sections 14502.1 and 47612, Education Code; California Constitution, Article XIII, Section 36, subdiv. (e), subpara 7, and Article XIII A, Section 1, subdiv. (b), subparas 3(C) and 3(D). Reference: California Constitution Article XIII B, Section 1.5; and Sections 8482.3(e)(5), 2574(b)(3)(C), 14501, 14502.1, 14503, 14509, 15286, 41020, 42238.02(b)(3)(B), 47612.5, 47634.2 and 48000, Education Code.

AUDIT GUIDE AMENDMENTS

The proposed supplemental changes to the 2016–17 Audit Guide are as follows:

- *Section S California Clean Energy Jobs Act* updates the procedures to reflect the multi-year review period and the continuing requirement for final project completion reports on construction projects. It also updates references to website information from the California Department of Education and the California Energy Commission. Otherwise the substance of this audit step is unchanged. As can be seen on the Energy Commission’s website, the Commission’s final guidelines were revised on July 13, 2016, after the Department of Education posted the Proposition 39 K–12 Program Funding Results for fiscal year 2016–17, once those funds had been allocated.
- *New Section Q Mental Health Expenditures* is added in compliance with the enactment of Education Code Section 14509. (Stats. 2016, ch. 835 (S.B. 884) section 1.) The new section is specific to fiscal year 2016–17, as the same legislation leaves it to the Controller to decide whether to recommend the same audit procedures in future years.
- *Section BB Mode of Instruction* is technically amended with a change of emphasis, but not outcome, with respect to units of average daily attendance (ADA) reported as classroom instruction but not qualified as such, to make clear that they should be reported as non-classroom based instruction if they qualified for funding on that basis, i.e. by fully complying with the requirements reviewed under Sections CC and EE of the Audit Guide.

DOCUMENT INCORPORATED BY REFERENCE

2016–17 Guide for Annual Audits of K–12 Local Education Agencies (LEAs) and State Compliance Reporting, rev. July 1, 2016 March 1, 2017.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Mandate on local agencies and school districts: None.
2. Cost to any local agency or school district which must be reimbursed: None.
3. Cost or savings to any state agency: None.
4. Other non–discretionary cost or savings imposed upon local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Significant effect on housing costs: None.
7. Significant, statewide adverse economic impact on business including the ability of California businesses to compete with businesses in other states: None.
8. Results of the Economic Impact Assessment:
 - (a) Adoption of these regulations will not:
 - create or eliminate jobs within California;
 - create new businesses or eliminate existing businesses within California; or
 - affect the expansion of businesses currently doing business within California.
 - (b) Benefit of the proposed regulation to the health and welfare of California residents, worker safety, or the State’s environment and quality of life: As stated under the “Informative Digest/Policy Statement Overview” above, the proposed regulations will update and improve audit procedures of K–12 LEAs, which would ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements.
9. Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
10. Business report requirements: None.
11. Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative it has considered or that has otherwise been identified and brought to EAAP’s attention would (1) be more effective in carrying out the purpose for which the action is proposed, (2) would have lesser effects or burdens on affected private persons, or (3) would be more cost–effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law, than the proposed action.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action may be directed to Timothy Morgan, Staff Attorney III, at (916) 445–7745 or by e–mail: tmorgan@eaap.ca.gov, or Mary C. Kelly, Executive Officer, at (916) 445–7745.

AVAILABILITY OF RULEMAKING FILE

The entire rulemaking file will be available for inspection and copying throughout the rulemaking process at EAAP’s office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Economic Impact Assessment. A copy may be obtained by contacting Timothy Morgan at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice or may make any modifications that are related in substance to the originally proposed text. The modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of Timothy Morgan at the address stated above. EAAP will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

This Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout showing any changed or modified text, and the Final Statement of Reasons will be accessible through the EAAP website: www.eaap.ca.gov.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF FISH AND
WILDLIFE**

**CESA CONSISTENCY DETERMINATION
REQUEST FOR**

FedEx Ground Center Project
2080–2017–002–05
Santa Barbara County

California Department of Fish and Wildlife (CDFW) received a notice on January 20, 2017, that Scannell Properties proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves construction of a FedEx Ground–Warehouse/Distribution/Logistics Center (FedEx Center). The FedEx Center would consist of an 181,975–square–foot warehouse/distribution/logistics facility with support office and associated parking. The proposed project will occur at the Sunset Ridge Golf Course, immediately north of the Santa Maria Public Airport along Fairway Drive, in Santa Barbara County, California.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (Service File No 08EVEN–2016–F–0568) (BO) and incidental take statement (ITS) to Scannell Properties on January 12, 2017 which considered the effects of the proposed project on the state threatened and federally endangered California tiger salamander (*Ambystoma californiense*).

Pursuant to California Fish and Game Code section 2080.1, Scannell Properties is requesting a determination that the BO and associated ITS are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and associated ITS are consistent with CESA for the proposed project, Scannell Properties will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF FISH
AND WILDLIFE**

**FISH AND GAME CODE SECTION 1653
CONSISTENCY DETERMINATION
REQUEST FOR**

Mid–French Creek Side–Channel Beaver Dam
Analogue Project
(Tracking Number: 1653–2017–003–001–R1)
Siskiyou County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on January 19, 2017, that the Scott River Watershed Council (Council) proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the construction of six beaver dam analogues at three locations within a naturally occurring side–channel adjacent to French Creek. The proposed project allows for construction of additional beaver dam analogs up to a maximum of 500 linear feet following specified adaptive–management procedures. The proposed project will be carried out on French Creek, tributary to the Scott River watershed, located at 5104 French Creek Road, Etna, Siskiyou County, California.

On September 26, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Mid–French Creek Side–Channel Beaver Dam Analogue Project (Project). The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. 1A161386WNSI; ECM PIN No. CW–828580) for coverage under the General 401 Order on December 22, 2016.

The Council is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the Council will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review,

based on substantial evidence, that the request is not complete, the Council will have the opportunity to submit under Fish and Game Code section 1652.

**DEPARTMENT OF FISH
AND WILDLIFE**

**PROPOSED RESEARCH AND RECOVERY OF
FULLY PROTECTED SPECIES**

Research on the Santa Cruz Long-toed Salamander

The Department of Fish and Wildlife (Department) received a proposal on January 9, 2017, from Dr. Pieter T. Johnson, on behalf of University of Colorado Boulder, requesting authorization to take the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) ('salamander'), for scientific research purposes, consistent with conservation and recovery of the species. The salamander is a Fully Protected amphibian, and is also listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Dr. Johnson is requesting authorization to capture and release salamanders for malformation and chytrid fungus screening. These activities will take place throughout the range of the salamander in Santa Cruz and Monterey counties, in accordance with methods approved by the Department and the U.S. Fish and Wildlife Service (Service).

The proposed research activities include capture of salamanders by hand, with a dipnet, or a seine net. Up to 100 individual salamanders per site will be briefly examined (to measure and photograph morphological deformities, if present) and immediately released back into their native habitat. For a small subset of individuals (maximum of 25 individuals per species per site), skin samples will be collected to test for presence of chytrid fungus. Briefly, this involves using a cotton swab to gently rub the abdomen, underside of the pelvic region, limbs and feet of the salamanders. Sacrifice is not requested or authorized; however, in the unlikely event of an incidental mortality, salvage would be allowed, and the specimen would be deposited in a public scientific institution as designated by the Department and the Service.

Dr. Johnson, and any others working under his permit that are deemed qualified by the Department for this purpose, would conduct the activities described above, in order to provide information on the prevalence of malformations and chytrid fungus in Santa Cruz long-toed salamanders, which is important for species' recovery. No adverse effects on individual salamanders or salamander populations are expected.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Dr. Johnson as the Principal Investigator, to carry out the proposed activities. The researchers are also required to have a valid federal recovery permit for the salamander, and a scientific collecting permit (SCP) to take other terrestrial and aquatic species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected amphibian species after a 30 days' notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected amphibians, it would issue the MOU on or after March 6, 2017, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, Laura.Patterson@wildlife.ca.gov, 916-341-6981.

**DEPARTMENT OF TOXIC SUBSTANCES
CONTROL**

**AAD DISTRIBUTION AND DRY CLEANING
SERVICES, INC.
PROPOSED CONSENT DECREE
(SETTLEMENT AGREEMENT)**

30-Day Public Comment Period: February 3 through
March 6, 2017

WHAT IS BEING PROPOSED: The California Department of Toxic Substances Control ("DTSC") invites the public to review and comment on a Settlement Agreement and [Proposed] Sixth Consent Decree ("proposed Consent Decree") regarding the former AAD Distribution and Dry Cleaning Services, Inc. ("AAD") facility located at 2306 East 38th Street in Vernon, California ("Site") as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq. On December 20, 2016, DTSC lodged the proposed Consent Decree in *California Department of Toxic Substances Control v. Allen's Formal Wear, Inc., et al.*, Case No. CV13-05069-GHK (JCGx), with the United States District Court for the Central District of California. The proposed Consent Decree resolves DTSC's claims against Beverly Hills Cleaners, Inc. (dba Beverly Hills Custom Cleaners, Inc.); Bryan's Cleaners, Inc.; Hytone Cleaners, Inc.; Jeanette Davis, an individual; McFam Corporation; Park Cleaners, a dissolved California corporation; Sundance Cleaners, Inc.; Vic Plassman Cleaners; Sterling Westwood, Inc., a

dissolved California Corporation; Beverly Hills Sterling Inc; and Los Angeles Sterling Cleaners, Inc. for their contributions to contamination at the Site as a result of sending hazardous waste to the AAD facility.

The AAD facility engaged in the management of hazardous waste, including liquid perchloroethylene (“PCE”), PCE and water, and PCE contaminated filter cartridges, carbon, and still oil, primarily from the dry cleaning industry, between 1986 and approximately 2000. Investigations conducted at the Site have detected the presence of PCE in the soil beneath the Site. The Site remains contaminated with hazardous substances, including PCE, and remains the source of threatened releases of hazardous substances into the environment. Although DTSC has not selected a final remedy for the Site, the PCE contamination at, beneath, and/or from the Site requires further action by DTSC.

WHERE DO I GET MORE INFORMATION:

Copies of the proposed Consent Decree and other Site-related documents are available by contacting the DTSC Project Manager listed below; online at the DTSC EnviroStor website https://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=19000031 on the Community Involvement tab; or at the DTSC Regional Records Office, File Room, 9211

Oakdale Avenue, Chatsworth, CA 91311, Phone: Glenn Castillo (818) 717-6522.

WHERE TO SEND COMMENTS: Comments concerning the proposed Consent Decree should include “AAD Sixth CD Comment” in the subject line of your e-mail or letter. All comments must be post-marked or e-mailed by March 6, 2017, and submitted to:

Lori Parnass
DTSC Project Manager
9211 Oakdale Avenue
Chatsworth, California 91311-6505
Lori.Parnass@dtsc.ca.gov
(818) 717-6597

For more information, contact:
Cesar Campos
Public Participation Supervisor
Cesar.Campos@dtsc.ca.gov
(818) 717-6566

For media inquiries, contact:
Sandy Nax
Public Information Officer
Sandy.Nax@dtsc.ca.gov
(916) 327-6114

Departamento de Control de Sustancias Tóxicas

Febrero de 2017

Aviso Público

Nuestra misión es de proteger a Californianos y el medio ambiente de efectos dañosos de sustancias tóxicas, restaurando recursos contaminados, imponer leyes de residuos peligrosos, reducir la generación de residuos peligrosos, y fomentar la fabricación de productos químicos más seguros.

AAD DISTRIBUTION AND DRY CLEANING SERVICES, INC.

DECRETO DE CONSENTIMIENTO PROPUESTO (ACUERDO DE CONCILIACIÓN)

Período de Comentarios Públicos de 30 días: Del 3 de febrero al 6 de marzo de 2017

CUÁL ES LA PROPUESTA: El Departamento de Control de Sustancias Tóxicas (DTSC) de California invita al público a revisar y comentar un Acuerdo de Conciliación y [Propuesta de] Decreto de Sexto Consentimiento (en adelante, el "Decreto de Consentimiento propuesto") relacionado con el ex centro de AAD Distribution and Dry Cleaning Services, Inc. (en adelante, "AAD") ubicado en 2306 East 38th Street en Vernon, California (en adelante, el "Sitio"), autorizado por la Ley Completa de Respuesta, Compensación y Responsabilidad Ambiental (CERCLA), 42 U.S.C. § 9601 et seq. El 20 de diciembre de 2016, el DTSC presentó el Decreto de Consentimiento propuesto en *California Department of Toxic Substances Control v. Allen's Formal Wear, Inc., et al.*, Caso No. CV13-05069-GHK (JCGx), ante el Tribunal de Distrito de Estados Unidos para el Distrito Central de California. El Decreto de Consentimiento propuesto resuelve los reclamos del DTSC contra Beverly Hills Cleaners, Inc. (operando bajo el nombre Beverly Hills Custom Cleaners, Inc.); Bryan's Cleaners, Inc.; Hytone Cleaners, Inc.; Jeanette Davis, una persona física; McFam Corporation; Park Cleaners, una Sociedad Anónima disuelta de California; Sundance Cleaners, Inc.; Vic Plassman Cleaners; Sterling Westwood, Inc., una Sociedad Anónima disuelta de California; Beverly Hills Sterling Inc; y Los Angeles Sterling Cleaners, Inc. por su contribución a la contaminación en el Sitio como resultado del envío de desechos peligrosos al centro de AAD.

El centro de AAD se dedicaba a la administración de desechos peligrosos, incluidos percloroetileno ("PCE") líquido, PCE y agua y cartuchos de filtros contaminados con PCE, carbono y aceite, principalmente de la industria de la limpieza en seco, entre 1986 y aproximadamente el año 2000. Las investigaciones realizadas en el Sitio detectaron la presencia de PCE en la tierra debajo del Sitio. El Sitio sigue contaminado con sustancias peligrosas, incluido PCE, y continúa siendo una fuente de posibles liberaciones de sustancias peligrosas al medio ambiente. Si bien el DTSC no ha seleccionado un remedio definitivo para el Sitio, la contaminación por PCE en el Sitio, debajo de él o proveniente de él requiere mayor acción por parte del DTSC.

DÓNDE OBTENER MÁS INFORMACIÓN: Hay copias del Decreto de Consentimiento propuesto y otros documentos relacionados con el Sitio disponibles contactándose con el Gerente de Proyecto del DTSC que aparece a continuación; por internet en el sitio web EnviroStor del DTSC

https://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=19000031 en la pestaña Community Involvement [Participación de la Comunidad]; o en la siguiente dirección: DTSC Regional Records Office, File Room, 9211 Oakdale Avenue, Chatsworth, CA 91311, Teléfono: Glenn Castillo (818) 717-6522.

A DÓNDE ENVIAR COMENTARIOS: Los comentarios relacionados con el Decreto de Consentimiento propuesto deben incluir "AAD Sixth CD Comment" ["Comentario sobre Sexto DC de AAD"] en el asunto de su correo electrónico o carta. Todos los comentarios deben tener sello postal o enviarse por correo electrónico antes del 6 de marzo de 2017, y enviarse a la siguiente dirección:

Lori Parnass
Gerente de Proyecto del DTSC
9211 Oakdale Avenue
Chatsworth, California 91311-6505
Lori.Parnass@dtsc.ca.gov
(818) 717-6597

Para más información, contacte a:
Cesar Campos
Supervisor de Participación Pública
Cesar.Campos@dtsc.ca.gov
(818) 717-6566

Para solicitudes de prensa,
contacte a:
Sandy Nax
Funcionario de Información
Pública
Sandy.Nax@dtsc.ca.gov
(916) 327-6114



www.cdpr.ca.gov



www.dtsc.ca.gov



www.ca.gov

Personas con discapacidad auditiva pueden utilizar el Servicio de Retransmisión de California al 1-888-877-5378 (TDD).

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. The full text of disapproval decisions is available at www.oal.ca.gov under the “Publications” button. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814–4339, PHONE (916) 323–6225 — FAX (916) 323–6826. Please request by OAL file number.

BOARD OF PHARMACY

**State of California
Office of Administrative Law**

In re:

Board of Pharmacy

Regulatory Action:

Title 16, California Code of Regulations

Amend sections: 1760

AMENDED DECISION OF DISAPPROVAL OF REGULATORY ACTION

Government Code Section 11349.3

OAL Matter Number: 2016–1130–01

OAL Matter Type: Regular (S)

SUMMARY OF REGULATORY ACTION

On November 30, 2016, the Board of Pharmacy (Board) submitted to the Office of Administrative Law (OAL) this proposed regulatory action to amend its “Manual of Disciplinary Guidelines and Model Disciplinary Orders” (Disciplinary Guidelines), which is incorporated by reference in section 1760, Title 16, of the California Code of Regulations. The amendments reorganize the Disciplinary Guidelines, incorporate changes that have occurred in pharmacy law, and establish new terms and conditions of probation.

On January 13, 2017, OAL notified the Board that OAL disapproved the proposed regulations indicating that the regulations failed to comply with the consistency, clarity, and necessity standards of Government Code section 11349.1 and the Board failed to follow procedural requirements of the California Administrative Procedure Act (APA). This Decision of Disap-

proval of Regulatory Action explains the reasons for OAL’s action.

DECISION

Although the January 13, 2017, Notice of Disapproval included consistency, this Disapproval Decision is amended to delete “consistency” as it is no longer an issue. OAL disapproved the above-referenced regulatory action for the following reasons:

1. The proposed regulations failed to comply with the clarity standard of Government Code section 11349.1, subdivision (a)(3);
2. The proposed regulations failed to comply with the necessity standard of Government Code section 11349.1, subdivision (a)(1), and Title 1 of the California Code of Regulations (CCR), section 10, subdivision (b); and
3. The Board failed to follow the required procedures of the APA by omitting to:
 - a. summarize and respond to all of the public comments made regarding the proposed action pursuant to Government Code section 11346.9, subdivision (a)(3);
 - b. make a document relied upon available for at least 15 days for public comment as required by Government Code section 11347.1; and
 - c. properly display text, pursuant to Government Code section 11346.2, subdivision (a)(3) and Title 1 of the CCR, sections 8 and 44.

CONCLUSION

For these reasons, OAL disapproved the above-referenced rulemaking action. Pursuant to Government Code section 11349.4(a), the Commission may resubmit this rulemaking action within 120 days of its receipt of this Decision of Disapproval.

Any changes made to the regulation text to address the issues discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11346.8 and section 44 of title 1 of the CCR prior to adoption. Additionally, any document relied upon and any supplement to the ISR or other document the Board may create or otherwise propose to add to the record in order to address the necessity issue discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11347.1 prior to adoption. The Board must document in the rulemaking file its approval of the final text after consideration of all public comments and relevant information, as well as resolve all other issues raised in this Decision of Disapproval, before resubmitting to OAL.

If you have any questions, please do not hesitate to contact me at (916) 323-6824.

Date: January 23, 2017

Thanh Huynh
Senior Attorney

For: Debra M. Cornez
Director

Original: Virginia Herold
Copy: Anne Sodergren

CALIFORNIA HORSE RACING BOARD

State of California
Office of Administrative Law

In re:

California Horse Racing Board

Regulatory Action:

Title 4, California Code of Regulations

Amend sections: 1632

**DECISION OF DISAPPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

OAL Matter Number: 2016-1201-03

OAL Matter Type: Regular (S)

SUMMARY OF REGULATORY ACTION

This action by the California Horse Racing Board (Board) proposed to amend minimum jockey riding fees for losing mounts and to provide direction for calculating jockey riding fees for second and third place mounts. On December 1, 2016, the Board submitted the above-referenced regulatory action to the Office of Administrative Law (OAL) for review. On January 17, 2017, OAL notified the Board of the disapproval of this regulatory action.

DECISION

The reasons for the disapproval were failure to comply with the "clarity" and "necessity" standards of Government Code section 11349.1. The Board also failed to follow all required procedures under the California Administrative Procedure Act, Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code (sections 11340-11361) (APA). This Decision of Disapproval of

Regulatory Action explains the reasons for OAL's action.

CONCLUSION

For the reasons set forth above, OAL has disapproved this regulatory action. Pursuant to Government Code section 11349.4, subdivision (a), the Board may resubmit this rulemaking action within 120 days of its receipt of this Decision of Disapproval.

Any changes made to the regulation text to address the clarity issues discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11346.8 and section 44 of title 1 of the CCR prior to adoption by the Board. Additionally, any supplement to the ISR or other document the Board may create or otherwise propose to add to the record in order to address the necessity issues discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11347.1 prior to adoption by the Board. The Board must document in the rulemaking file its approval of the final text after consideration of all public comments and relevant information, as well as resolve all other issues raised in this Decision of Disapproval, before resubmitting to OAL.

If you have any questions, please contact me at (916) 323-8916.

Date: January 24, 2017

Kevin D. Hull
Senior Attorney

For: Debra M. Cornez
Director

Original: Rick Baedeker
Copy: Nicole Lopes-Gravelly

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# 2016-1206-03

CALIFORNIA HIGHWAY PATROL

Routes for Transportation of Radioactive Materials

This rulemaking action by the California Highway Patrol amends section 1159 of title 13 of the California Code of Regulations to add three new narrative listings of highway routes used for the transportation of controlled quality shipments of radioactive materials. This rulemaking action also amends the statewide map currently provided in this section and adds one new area route map.

Title 13
AMEND: 1159
Filed 01/18/2017
Effective 04/01/2017
Agency Contact: Tian-Ting Shih (916) 843-3400

File# 2017-0113-06
CALIFORNIA HORSE RACING BOARD
Racing Secretary Conditions & Medication, Drugs and Other Substances

This California Horse Racing Board (Board) submitted this emergency readopt action to maintain the regulations amended in OAL File No. 2016-0715-02E. The emergency rulemaking action amended sections in CCR title 4, to remove a conflict identified by the Los Angeles Superior Court in *De La Torre v. California Horse Racing Board, et al.* (BS 154412). As a result of the conflict identified by the Court between the Board's regulations and the Los Alamitos "house rule", the "house rule" was invalidated. This action is intended to remove the conflicts identified by the Court.

Title 4
AMEND: 1581, 1843
Filed 01/23/2017
Effective 01/23/2017
Agency Contact: Philip Laird (916) 263-6025

File# 2017-0113-01
DEPARTMENT OF DEVELOPMENTAL SERVICES
DDS End of Life Option Act Implementation Regulations

The Department of Developmental Services (DDS) submitted this emergency readoption action to keep in effect three sections adopted in title 17 of the California Code of Regulations in OAL file no. 2016-0713-02ER. The three sections implement DDS protocols and procedures for individuals residing in a developmental center or state-operated facility under DDS jurisdiction who wish to exercise their rights under the End of Life Option Act (Act). The proposed regulations preclude DDS employees and others acting on DDS's behalf from providing end-of-life options on DDS premises (Section 51000); establish procedures for transferring a terminally ill individual residing in a developmental

center or state-operated facility under DDS jurisdiction to an appropriate community facility once the individual requests to exercise his or her rights under the Act (Section 51001); and provide an appeal process for terminally ill individuals seeking to participate in end-of-life options under the Act on the premises of a DDS facility when no community facility option is available (Section 51002).

Title 17
ADOPT: 51000, 51001, 51002
Filed 01/23/2017
Effective 01/23/2017
Agency Contact: Alyssa Carroll (916) 654-3405

File# 2017-0113-05
DEPARTMENT OF FOOD AND AGRICULTURE
Huanglongbing Disease Interior Quarantine

This emergency action by the Department of Food and Agriculture establishes a quarantine area for the Huanglongbing (HLB) disease in the Cerritos area of Los Angeles and Orange counties. The effect of this action provides authority for the state to perform quarantine activities against HLB within this established area, along with the already existing regulated areas in the state.

Title 3
AMEND: 3439(b)
Filed 01/19/2017
Effective 01/19/2017
Agency Contact: Sara Khalid (916) 403-6625

File# 2016-1215-01
DEPARTMENT OF GENERAL SERVICES
Small Business Certification for Preferences

This rulemaking action by the Department of General Services adopts two sections, amends seventeen sections, and repeals one section in title 2 of the California Code of Regulations regarding the Small Business (SB) Certification Program and the Disabled Veteran Business Enterprise (DVBE) Participation Goal Program. These regulations provide direction for state departments, stakeholders, and the public to understand program requirements.

Title 2
ADOPT: 1896.15, 1896.17 AMEND: 1896, 1896.2, 1896.4, 1896.6, 1896.8, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, 1896.20, 1896.22, 1896.62, 1896.71, 1896.73, 1896.80, 1896.82 REPEAL: 1896.83
Filed 01/23/2017
Effective 01/23/2017
Agency Contact: Angel Carrera (916) 375-5975

File# 2017-0113-03
 DEPARTMENT OF HOUSING AND COMMUNITY
 DEVELOPMENT
 AB 587 Fee and Tax Waiver Program Emergency
 Regulations

This emergency action implements a waiver program for manufactured and mobile home owners who have not registered their homes with the Department of Housing and Community Development, as required by law, due to accumulated and unpaid fees, taxes, and penalties.

Title 25
 ADOPT: 5535, 5535.5, 5536, 5536.5
 Filed 01/23/2017
 Effective 01/23/2017
 Agency Contact: Ruth Ibarra (916) 263-3262

File# 2017-0109-01
 DEPARTMENT OF JUSTICE
 Major League Sports Raffle Program

The Department of Justice submitted this emergency readopt action to maintain the regulations adopted in OAL File No. 2016-0418-03E and 2016-1005-01EE. The emergency rulemaking action adopted sections in CCR title 11, to implement SB 549 (chapter 509, statutes of 2015), effective January 1, 2016. The legislation authorizes major league sports raffles at a home game conducted by an eligible organization, as defined in the legislation.

Title 11
 ADOPT: 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2130, 2131, 2132
 Filed 01/18/2017
 Effective 01/23/2017
 Agency Contact: Susanne George (916) 227-2461

File# 2016-1207-01
 DEPARTMENT OF MOTOR VEHICLES
 Vehicle Industry and Business Enterprises

This filing of changes without regulatory effect by the Department of Motor Vehicles amends the heading of Title 13, Division 1, Chapter 1, Article 3.6.

Title 13
 AMEND: Article 3.6 Ch. 1 Div. 1 — Heading
 Filed 01/19/2017
 Agency Contact: Randi Calkins (916) 657-8898

File# 2016-1207-02
 DEPARTMENT OF MOTOR VEHICLES
 Special Interest License Plates

This filing of changes without regulatory effect by the Department of Motor Vehicles updates a subdivision referred to in section 170.12 relating to the review of existing license plates for decency. The subdivision currently referred to is 170.00(c)(3)(D). However, in 2002 revisions, the decency standards were moved from 170.00(c)(3)(D) to 170.00(c)(7)(D). The 2002 revisions failed to make that change in section 170.12. This filing corrects that. No other changes are made to the section.

Title 13
 AMEND: 170.12
 Filed 01/19/2017
 Agency Contact: Randi Calkins (916) 657-8898

File# 2016-1202-01
 DEPARTMENT OF SOCIAL SERVICES
 Admission Agreements in Residential Care Facilities for the Elderly

In this regular rulemaking, the Department of Social Services (the "Department") is amending sections 87101, 87464, 87507, and 87706 in title 22 of the California Code of Regulations. These four sections pertain to residential care facilities for the elderly ("RCFE"), and the amendments primarily update requirements concerning admission agreements between RCFE licensees and residents.

Title 22, MPP
 AMEND: 87101, 87464, 87507, 87706
 Filed 01/18/2017
 Effective 04/01/2017
 Agency Contact: Oliver Chu (916) 657-3588

File# 2016-1206-01
 DEPARTMENT OF SOCIAL SERVICES
 CalWORKs Temporary Absence

The Department of Social Services (DSS) this action to amend sections 42-711 and 82-812 of DSS's Manual of Policies and Procedures (MPP). The amendments will allow a child eligible to receive aid under the CalWORKs program to continue to receive aid while receiving medical treatment in a public hospital during the entire length of the hospital stay, and will introduce what actions are taken under certain reporting rules in the MPP when an individual is determined to be permanently absent from an assistance unit, including when counties may take action based on these changes.

Title MPP
 AMEND: 42-711, 82-812
 Filed 01/20/2017
 Effective 04/01/2017
 Agency Contact: Kenneth Jennings (916) 651-8862

File# 2016-1205-01
DEPARTMENT OF TRANSPORTATION
Encroachment Permits Appeal Procedure

This action adopts appeal procedures upon denial of an encroachment permit, including without limitation, timing requirements, appeal package requirements, and fees.

Title 21
ADOPT: 1413, 1413.1, 1413.2, 1413.3, 1413.4
Filed 01/19/2017
Effective 04/01/2017
Agency Contact: Yin-Ping Li (916) 654-5548

File# 2016-1205-03
DIVISION OF WORKERS' COMPENSATION
Workers' Compensation — Official Medical Fee Schedule—Inpatient Hospital

This action by the Division of Workers' Compensation of the Department of Industrial Relations is submitted to OAL for filing and printing pursuant to Labor Code section 5307.1(g)(2). The action amends the Official Medical Fee Schedule located within title 8 of the California Code of Regulations.

Title 8
AMEND: 9789.25
Filed 01/19/2017
Effective 01/01/2017
Agency Contact: Jarvia Shu (510) 286-0646

File# 2017-0111-01
EDUCATION AUDIT APPEALS PANEL
Supplement to Audits of K-12 Local Education Agencies (LEAs) — FY 2016-17

The Education Audit Appeals Panel (EAAP) submitted this emergency rulemaking action to supplement the 2016-17 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (Audit Guide), incorporated by reference in title 5, California Code of Regulations, section 19810, which is adopted, supplemented, and used for auditing California K-12 Local Education Agencies (LEAs) pursuant to Education Code sections 14502.1 and 41020. The supplemental amendments to the Audit Guide generally address new legislation and include new audit steps for mental health expenditures, updated California Clean Energy Jobs Act procedures and a technical amendment.

Title 5
AMEND: 19810
Filed 01/19/2017
Effective 01/19/2017
Agency Contact:
Timothy E. Morgan (916) 445-7745

File# 2017-0113-04
OFFICE OF SPILL PREVENTION AND RESPONSE
Oil Spill Prevention and Administration Fund Fee

The Office of Spill Prevention and Response submitted this emergency file and print action to readopt the changes adopted in OAL File Nos. 2014-1013-04EFP, 2015-1027-01EFP, and 2016-0115-03EFP, which amended sections 870.15, 870.17, 870.19, and 870.21 of title 14 of the California Code of Regulations to implement changes to the statewide oil spill prevention and response program fee pursuant to Senate Bill 861 (Stats. 2014, ch. 931). This is a statutorily deemed emergency and exempt from review by the Office of Administrative Law, pursuant to Government Code section 8670.7.5.

Title 14
AMEND: 870.15, 870.17, 870.19, 870.21
Filed 01/23/2017
Effective 01/23/2017
Agency Contact: Christine Kluge (916) 327-0910

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN August 24, 2016 TO
January 25, 2017**

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

Title 2
01/23/17 ADOPT: 1896.15, 1896.17 AMEND: 1896, 1896.2, 1896.4, 1896.6, 1896.8, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, 1896.20, 1896.22, 1896.62, 1896.71, 1896.73, 1896.80, 1896.82 REPEAL: 1896.83
01/11/17 ADOPT: 59810
01/11/17 ADOPT: 11140, 11141, 11142, 11143, 11144, 11145, 11146, 11147, 11148, 11149, 11150, 11151, 11153, 11154, 11155, 11157, 11158, 11159, 11161, 11162, 11165, 11166, 11167, 11168, 11170, 11171, 11172, 11173, 11174, 11175, 11176, 11177, 11178, 11070, 11071, 11075, 11100, 11101, 11103, 11104, 11105, 11111, 11113, 11114, 11180, 11181, 11182, 11183, 11184, 11187, 11188, 11189, 11190, 11191,

	11192, 11193, 11194, 11195, 11196, 11197, 11198, 11199, 11200	12/01/16	AMEND: 3435(b)
12/12/16	AMEND: 1859.2, 1859.76	11/22/16	AMEND: 3024.8
12/08/16	AMEND: 22999	11/17/16	AMEND: 3435(b)
12/01/16	AMEND: 18544, 18545, 18700, 18730, 18940.2	11/14/16	AMEND: 3435(b)
11/28/16	AMEND: 10500	11/09/16	AMEND: 3
11/22/16	AMEND: 18940	11/09/16	AMEND: 3435(b)
11/17/16	AMEND: 3001(a)(9), 3004(c)	11/08/16	AMEND: 3435(b)
11/10/16	ADOPT: 554.2 AMEND: 554, 554.1, 554.2, 554.3, 554.4, 554.5, 554.6, 554.7, 554.8, 554.9, 554.10	11/03/16	AMEND: 3589(a)
10/18/16	AMEND: 18951	11/02/16	ADOPT: 3591.28
10/03/16	ADOPT: 649.49 AMEND: 649, 649.3, 649.4, 649.18, 649.50, 649.52, 649.57, 649.60 REPEAL: 649.1, 649.46, 649.51, 649.62	11/02/16	AMEND: 3591.12
09/19/16	ADOPT: 18751 REPEAL: 18751	10/28/16	AMEND: 3435(b)
09/19/16	AMEND: 18215.3, 18232	10/28/16	AMEND: 3435(b)
09/15/16	AMEND: 18942	10/19/16	AMEND: 3435(b)
09/13/16	AMEND: 1181.2, 1181.3, 1181.6, 1183.1, 1183.2, 1183.3, 1183.8, 1183.9, 1183.10, 1183.11, 1183.14, 1183.15, 1183.17, 1183.18, 1185.1, 1185.2, 1185.3, 1185.4, 1185.5, 1187.4, 1187.6, 1187.7, 1187.8, 1187.9, 1187.14, 1187.15, 1190.1, 1190.2, 1190.3, 1190.5	10/17/16	ADOPT: 6722 AMEND: 6000, 6618, 6619, 6720, 6723, 6723.1, 6724, 6726, 6732, 6734, 6768.3, 6738.4, 6744, 6761, 6761.1, 6762, 6764, 6766, 6768, 6769, 6770, 6771, 6776, 6782
09/07/16	ADOPT: 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016	10/13/16	AMEND: 3435(b)
08/31/16	AMEND: 18531.5	10/12/16	ADOPT: 6302 AMEND: 6414
Title 3		10/06/16	REPEAL: 3963
01/19/17	AMEND: 3439(b)	10/06/16	AMEND: 3435(b)
01/12/17	AMEND: 3435(b)	09/30/16	AMEND: 3435(b)
01/10/17	AMEND: 3435(b)	09/27/16	AMEND: 3435(b)
01/10/17	AMEND: 3435(b)	09/27/16	AMEND: 4603, 3883 REPEAL: 3885
01/10/17	AMEND: 3435(b)	09/21/16	ADOPT: 302, 303, 304, 304.1, 304.2, 305, 305.1, 305.2, 305.3, 306, 306.1, 306.2, 306.3, 307, 308, 309, 310, 310.1, 311, 312, 313, 314, 315, 316.1, 316.2, 316.3, 316.4, 317, 318, 319, 320.1, 320.2, 320.3, 321, 322, 322.1, 322.2, 322.3, 323, 323.1, 323.2, 324.1, 324.2, 325, 326, 327, 328, 329, 330.1, 330.2, 340
01/09/17	AMEND: 3591.12	09/20/16	AMEND: 3435(b)
01/05/17	AMEND: 6625	09/20/16	AMEND: 3435(b)
01/04/17	AMEND: 3435(b)	09/16/16	AMEND: 3435(b)
01/03/17	AMEND: 3435(b)	09/14/16	AMEND: 3435(b)
01/03/17	AMEND: 3435(b)	09/07/16	ADOPT: 3442
01/03/17	AMEND: 3435(b)	09/07/16	ADOPT: 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016
12/28/16	AMEND: 1380.19, 1408.2, 1408.9, 1408.13 REPEAL: 1408.10, 1408.11, 1408.14, 1408.16, 1408.17	08/29/16	ADOPT: 3591.26
12/22/16	AMEND: 3435(b)	08/29/16	AMEND: 3435(b)
12/21/16	AMEND: 3435(d)	08/29/16	AMEND: 3591.2
12/19/16	ADOPT: 1358.6	08/26/16	AMEND: 3435(b)
12/05/16	AMEND: 3435(b)	08/25/16	AMEND: 3435(b)
12/05/16	AMEND: 3435(b)	08/24/16	AMEND: 3435(b)
12/05/16	AMEND: 3435(b)	08/24/16	AMEND: 1358.7
12/05/16	ADOPT: 3591.27		
12/05/16	AMEND: 3435(b)	Title 4	
		01/23/17	AMEND: 1581, 1843
		01/09/17	AMEND: 8034, 8035
		01/05/17	ADOPT: 610
		12/22/16	ADOPT: 8078.15, 8078.16, 8078.17, 8078.18, 8078.19, 8078.20, 8078.21

CALIFORNIA REGULATORY NOTICE REGISTER 2017, VOLUME NO. 5-Z

- 12/15/16 ADOPT: 5145, 5146, 5233 AMEND: 5000, 5020, 5031, 5033, 5050, 5051, 5054, 5062, 5063, 5106, 5144, 5170, 5191, 5192, 5194, 5200, 5220, 5230, 5240, 5250, 5255, 5258, 5260, 5300, 5342, 5350, 5370, 5400, 5450, 5560, 5600 REPEAL: 5221
- 12/07/16 ADOPT: 299 AMEND: 297, 300
- 12/01/16 AMEND: 10170.16, 10170.17, 10170.18, 10170.19, 10170.20, 10170.21, 10170.22, 10170.23
- 11/22/16 AMEND: 1699
- 11/17/16 AMEND: 7113, 7116, 7121, 7051, 7055
- 10/17/16 AMEND: 1843.3
- 10/13/16 AMEND: 1734
- 10/11/16 ADOPT: 610
- 09/28/16 AMEND: 1107
- 09/28/16 AMEND: 1007
- 09/15/16 ADOPT: 424, 425, 426, 830, 831, 832, 833, 834, 835, 836 AMEND: 201.5, 303
- 09/13/16 ADOPT: 1489.2
- 08/29/16 ADOPT: 8078.8, 8078.9, 8078.10, 8078.11, 8078.12, 8078.13, 8078.14
- Title 5**
- 01/19/17 AMEND: 19810
- 01/12/17 AMEND: 9517.3
- 12/19/16 AMEND: 80048.8, 80413, 80499
- 12/05/16 AMEND: 80015, 80015.1, 80071
- 11/15/16 ADOPT: 11524, 11525 AMEND: 11520, 11521, 11522
- 09/22/16 ADOPT: 11533, 11534 AMEND: 11530, 11531
- 08/30/16 ADOPT: 1700
- Title 7**
- 10/06/16 AMEND: 211.5, 213, 215, 218
- Title 8**
- 01/19/17 AMEND: 9789.25
- 01/06/17 ADOPT: 9788.1, 9788.2, 9788.3, 9788.4
- 12/15/16 AMEND: 9789.30, 9789.31, 9789.32, 9789.33, 9789.39
- 12/14/16 AMEND: 15201, 15203, 15203.2, 15203.3, 15203.5, 15203.6, 15203.7, 15203.10, 15204, 15205, 15209, 15210, 15210.1, 15210.2, 15211.1, 15211.2, 15216, 15220, 15220.2, 15230, 15251, 15353, 15405, 15422, 15426, 15431.1, 15471, 15472, 15475.2, 15475.3, 15476, 15479, 15480, 15481, 15482, 15482.1, 15482.2, 15483, 15484, 15486, 15486.1, 15487, 15491, 15496, 15497
- 12/08/16 ADOPT: 3342
- 12/05/16 AMEND: 3273
- 10/17/16 ADOPT: 1532.3, 5204 AMEND: 5155
- 09/20/16 AMEND: 334
- Title 9**
- 09/16/16 ADOPT: 4700, 4710, 4711, 4712, 4713, 4714, 4715, 4716, 4717
- Title 10**
- 01/02/17 AMEND: 2594, 2594.1, 2594.2, 2594.3, 2594.4
- 12/15/16 ADOPT: 3733
- 12/12/16 AMEND: 2695.8(e)
- 12/12/16 AMEND: 6658, 6660, 6664
- 12/06/16 AMEND: 2318.6, 2353.1, 2354
- 11/30/16 ADOPT: 2695.81, 2695.82 AMEND: 2698.91
- 11/29/16 AMEND: 2690, 2690.1, 2690.2
- 11/28/16 ADOPT: 6464
- 11/21/16 AMEND: 8000, 8030
- 11/02/16 AMEND: 2498.6
- 09/30/16 ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, 6538
- 09/30/16 ADOPT: 6408, 6410, 6450, 6452, 6454, 6470, 6472, 6474, 6476, 6478, 6480, 6482, 6484, 6486, 6490, 6492, 6494, 6496, 6498, 6500, 6502, 6504, 6506, 6508, 6510, 6600, 6602, 6604, 6606, 6608, 6610, 6612, 6614, 6616, 6618, 6620, 6622
- 09/29/16 AMEND: 3542, 3570, 3577
- 09/27/16 AMEND: 3543
- 09/01/16 ADOPT: 6864
- 08/29/16 AMEND: 3568
- 08/29/16 AMEND: 3569
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- 01/18/17 ADOPT: 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2130, 2131, 2132
- 11/22/16 AMEND: 1005
- 10/31/16 AMEND: 1950, 1953
- 10/17/16 ADOPT: 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2130, 2131, 2132
- 09/22/16 AMEND: 1001, 1052, 1053
- 09/08/16 AMEND: 1001, 1014, 1015, 1055
- 08/30/16 ADOPT: 3205 AMEND: 3000, 3001, 3003, 3201, 3203, 3204
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- 08/31/16 AMEND: 452, 453

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01/03/17 AMEND: 1724.9

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