

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826



DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Jeanne Wolfe
FROM: OAL Front Desk
DATE: December 2, 2015
RE: Return of Rulemaking Materials
OAL Matter Number 2015-1016-02
OAL Matter Type File and Print Only (FP)

OAL hereby returns the rulemaking record your agency submitted for review regarding "Application of Merit to Appointments and Recordkeeping."

If this is an approved matter, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption concerning the effective date of the regulation approved in this matter applies, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the agency will include the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's web site after OAL posts the Internet Web site link to the full text of the regulation that is received from the agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Unless an exemption applies, Government Code section 11343 now requires:

1. Section 11343(c)(1): Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. Section 11343(c)(2): Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at postedregslink@oal.ca.gov.

NOTE ABOUT EXEMPTIONS. Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; or regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq. regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2015-1016-02FP	EMERGENCY NUMBER
NOTICE		REGULATIONS	

ENDORSED - FILED
 in the office of the Secretary of State
 of the State of California

DEC 02 2015
 3:45 PM

2015 OCT 16 A 10:57
 OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY California State Personnel Board	AGENCY FILE NUMBER (If any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Application of Merit to Appointments and Recordkeeping	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) None
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT Sections 25 and 26
	AMEND
TITLE(S) 2	REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
	<input checked="" type="checkbox"/> File & Print
	<input type="checkbox"/> Other (Specify) _____
	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> Print Only
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State
<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <u>1/1/2016</u>
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission
<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Jeanne Wolfe	TELEPHONE NUMBER 916-651-1043
FAX NUMBER (Optional) 916-653-1280	E-MAIL ADDRESS (Optional) jeanne.wolfe@spb.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 10/14/15
TYPED NAME AND TITLE OF SIGNATORY Suzanne M. Ambrose, Executive Officer	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 02 2015

Office of Administrative Law



FINAL TEXT OF REGULATIONS

Text added to the Board's regulations is shown in underline type.
Text deleted from the Board's regulations is shown in ~~strikeout~~ type.

CALIFORNIA CODE OF REGULATIONS TITLE 2. ADMINISTRATION DIVISION 1. ADMINISTRATIVE PERSONNEL CHAPTER 1. STATE PERSONNEL BOARD SUBCHAPTER 1. GENERAL CIVIL SERVICE ARTICLE 2. GENERAL PROVISIONS

§ 25. State Civil Service Appointments and Promotions.

Article VII of the California Constitution, state civil service laws and regulations, and the merit principle apply to all appointments and promotions in state civil service regardless of the budget allotment from which the salary or wage is payable, including blanket position allotments.

NOTE: Authority cited: Sections 18660 and 18701, Government Code.
Reference: Article VII, Sections 1 and 3, California Constitution.

§ 26. Record Retention Requirements.

(a) Unless otherwise specified herein, appointing powers shall retain the following records for a minimum of five years from the date of creation of the record:

(1) Affirmative action and equal employment opportunity (EEO) records, including, but not limited to, policies and procedures, EEO officer's duty statement, and complaint and response records;

(2) Examination records, including, but not limited to, the examination bulletin, examination planning documents and/or forms, job analysis, list of accepted and rejected candidates, all applications received with accepted and rejected notations, minimum qualification verifications, any notices sent to candidates, examination questions, model answer sheets, candidate answer sheets, rating criteria, rating sheets and rater's notes for each candidate;

(3) Merit, selection, and appointment records, including, but not limited to, the duty statement of the position being filled, all job announcements and bulletins, all applications received for the job opening, pre-employment background and reference checks, minimum qualification verifications, application screening criteria, interview

rating criteria, interview questions, interview scoring or rating sheets, records documenting the reasons why the selected candidate was hired for the position, the Request for Personnel Action, the Notice of Personnel Action, probationary reports, loyalty oaths and oaths of office, and history of mandated training. These records also include employee disciplinary records, except the minimum five-year record retention requirement does not apply to specified disciplinary records if Government Code section 19589, a stipulated settlement agreement between the employee and appointing power, or a collective bargaining agreement between the state and a recognized employee organization provides otherwise; and

(4) Records related to established positions that describe the title, series, grade, duties, and responsibilities of the position, regardless of the funding source, and any requests for classification of new positions or reclassification of existing positions.

(b) For the types of records described in subdivision (a)(3) that are routinely and customarily maintained in the employee's official personnel file, the appointing powers shall retain those records for a minimum of five years from the creation date of the document or from the effective date of the employee's appointment, whichever date is later.

(c) Records subject to the requirements of this section shall be readily accessible and produced for review and inspection by the Board. Records are not required to be maintained in any particular file or location; however, all records shall be retained in an orderly and systematic manner, and may be retained electronically.

(d) As used in this section, "records" include any books, papers, or other data, on whatever medium recorded. A record will normally encompass all matters included within section 250 of the Evidence Code. Duplicate copies of the same record are not required to be retained.

NOTE: Authority cited: Sections 18660 and 18701, Government Code. Reference: Sections 18573, 18661, and 19232, Government Code.