CHAPTER 5	SUBJECT MATTER	SUGGESTED REVISION	STAFF RESPONSE
GLOBAL		1) Change subdivision to subsection. (P. Michaels/FTB)	1) No change as such provisions are referred to as subdivisions in regulations.
		2) Change taxpayer's representative to taxpayer's authorized representative. Insert "Board" before "Chair." (FTB)	2) Accepted
		3) Change part to chapter. Change Chief of Board Proceedings discretionary authority to Chief Counsel, or his or her designeee. (BOE)	3) Accepted
		4) Generally refer to all appeals as "matters," except when specifically referring to appeals from actions of the FTB. (BOE)	4) Accepted.
Article 1	**Application and Definitions**		
5001	General Application	1) (a) Delete "tax or fee" to include other programs such as Senior Citizens Homeowners and Renters Property Tax Assistance Law. (b) Same comment. (c) Replace "supersede the rules and procedures in this part" with "apply" and add new sentence stating "To the extent that regulations in this part are in conflict with chapter 4, the provisions of chapter 4 are controlling." (FTB)	1) (a) Staff modified language. (b) Accepted. (c) Staff modified language.
		2) (b) Convoluted. (P. Michaels)	2) Staff clarified language.
		3) (d) Replace "regulations" with "provisions" for consistency. (m) Delete "hearing representative" as unnecessary. (BOE)	3) Accepted.
5002	Definitions	1) (k) Replace "oppressive" with "harsh." (J. Vinatieri).	1) Staff modified language.
		2) (d) Overbroad. Relocate (e) to (a). (j) Define PUC and FTB. (l) Hearing is defined to include a writing, raising confidentiality concerns. (o) Distinction between participant and party, specifically taxpayer's representative. (p) Include "petition for reassessment." (p)(4) Distinction between administrative hearing and hearing. (r) Clarify assessment review. (P. Michaels)	2) (d) Staff modified language. (e) Accepted. (j) No change. (l) Staff modified language. (o) Representatives are no longer defined as parties. (p) Accepted. (p)(4) Staff modified language. (r) Staff modified language.

		3) (h) Add definition for "Claimant." (k) Alternate language for extreme hardship and reasonable cause. (l) Reverse order of oral and write. (o) Clarify taxpayer's representative as party. (p)(1) Replace "and" with "or." (p)(3) Provide generic language. (p)(7) Clarify that provisions don't apply to FTB; alternatively, remove as not definitional. (q) Clarify definition. (t) Incorporate part 4 language. (FTB)	3) (h) Staff modified language. (k) Staff modified language. (l) Staff modified language in response to P. Michaels' comment above. (o) Staff deleted reference to representative. (p)(1) Accepted. (p)(3) Accepted. (p)(7) Accepted/No change. (q) Staff modified language. (t) Staff modified language.
		4) (d) Delete definition for "Board attorney." (g) Simplify language. (p) Change "petition" to "matter." (p)(1) Correct typo. (p)(6) Delete "or adjudication," mention requests for relief, delete paragraph (7). (s) Delete definition of "Tax Counsel." Add definition of "Chief Counsel" and delete definition for "Clerk of the Board." (BOE)	4) Accepted.
		5) Indicate that "hearing summaries" should be neutral. (A. Koch)	5) Inserted "objective."
Article 2	**Requirements of Scheduling Board Hearings**		
Chapter 1	**Meeting Calendars**		
5003	Required Board Meetings	1) (c) Correct typo. (J. Vinatieri)	1) Accepted.
		2) Delete "required" from title. (a) Lower case state; delete last sentence as shouldn't be precluded from holding property tax meetings elsewhere (i.e., traveling controller). (P. Michaels)	2) Accepted. (a) Staff simplified language.
		3) (a) Simplify language. (b) Replace "Special" with "Additional" to avoid Bagley-Keene Open Meeting Act implications. (c) Simplify language. Generally make section more descriptive. (BOE)	3) Accepted.
5004	Annual Adoption of Board Meeting Calendar	1) (b) Simplify language. (P. Michaels)	1) Staff clarified and simplified language.
		2) (c) Clarify and simplify language. (FTB)	2) Staff modified language.
		3) (a) Delete "September" to provide timing flexibility. (c) Expand the circumstances under which the Chief of Board Proceedings may cancel meetings, and clarify Board's ability to cancel or change meetings. (BOE)	3) Accepted.

Chapter 2	Requesting and Scheduling an Oral Hearing		
5005	Right to Oral Hearing	1) Correct typos and replace "decision" with "recommendation." (J. Vinatieri)	1) Staff clarified and simplified language.
		2) Most notices are based on 30 days from the date of the notice, not receipt. (P. Michaels)	2) Staff accepted comment and made other additional clarifying revisions.
		3) Clarify and simplify language, conform language to chapter 2, and provide discretion to hold an oral hearing whether or not an oral hearing was timely requested. (BOE)	3) Accepted.
5005.1	Acknowledgement of Request for Oral Hearing	1) Replace "decision" with "recommendation." (J. Vinatieri)	1) Staff clarified and simplified language.
		2) Simplify language. (P. Michaels)	2) Accepted.
		3) Clarify and simplify language. (BOE)	3) Accepted.
5005.2	Applicability	1) Add new section 5000.5005.2 to cover FTB appeals. (FTB)	1) Staff declined to create a new section 5000.5005.2, but did modify sections 5000.5005 and 5000.5005.1 to convey similar information.
5005.2	Consolidation for Hearing or Decision	1) Taxpayers should have ability to object to consolidation given some unique issues are often included. Also, raised concerns about safeguarding confidential/proprietary data from disclosure. (P. Michaels)	1) Accepted and staff clarified language.
		2) Suggests language. Also, suggests this provision be renumbered outside section 5000.5005. (FTB)	2) Staff modified language/No change.
		3) Generally, clarify and simplify language. Provide for consolidation by consent, and permit objections to consolidation. Also, clarify that individual Board Members may request consolidation. (BOE)	3) Accepted.
5006	Notice of Hearing Response	1) (e)(3) Replace "extreme hardship" with "reasonable cause." (e)(4) Correct typos. (J. Vinatieri)	1) (e)(3) Accepted. (e)(4) Deleted.
		2) Insert claimant, Board, Board Hearing as applicable. (c) Change "and" to "or." (c)(1) Insert "at the time and place noted." (c)(2) Replace "Members" with "to." (c)(3) Change "their" to "its" and insert "except as to those matters not provided in chapter 4;" delete "of Equalization." (c)(last paragraph) Insert "Response to Notice of Board" and delete "notice response." (e)(4) Insert new provision to refer to chapter 4 for FTB appeals procedure. (FTB)	2) Accepted all comments with modifications, except those regarding (e)(4), which were deleted.

		3) (a)(2) Replace "send" with "mail" for consistency with (a)(1). (e)(3) Clarify that a return to the oral hearing calendar is permitted for reasonable cause. Make it clear that section 5000.5006 applies to the FTB in its entirety. (BOE)	3) Accepted.	
5007	Dismissal, Deferral, and Postponement of Hearing	1) (a) Inquires as to authority for and effect of dismissal. (b) Raises concerns over granting 90-day postponements or deferrals in state-assessee matters. (P. Michaels.)	1) (a) Matters will only be dismissed if the taxpayer consents to dismissal or the Department concedes its position, and either event should have the effect of finally resolving the taxpayer's matter. (b) The section does not require 90-day extensions, it simply permits extensions. The Chief of Board Proceedings, the Chief Counsel, and Board Chair will not grant extensions in state-assessee matters that would prevent the Board from performing its constitutional and statutory duties.	
		2) (b) Insert in title "of Hearing or Briefing." (b)(1) Insert in title "Deferral or Postponement for Short Periods of Time," correct grammatical errors; add subparagraphs (D) and (E) to provide the Chief of Board Proceedings with discretion to extend the period upon agreement of the parties, and add subparagraph (F) to provide a catch-all for reasonable cause. (b)(2) Insert title "Deferral or Postponement for Formal Settlement Negotiations;" replace "up to 180 days" with "nine months and thereafter, for periods of time in 160 day increments." Renumber original (b)(3) as (b)(5) and add new (b)(3) to clarify deferrals and postponements due to pending litigation. (FTB)	2) Accepted. Staff modified entire section for greater clarity.	
		(b)(4) Add a new provision to provide for a deferral or postponement until a bankruptcy action is concluded. (b)(5) Insert "(2), (3), or (4)" to reference new paragraphs. (c) Delete "has elapsed." (d) Insert new provision to provide for written notification to the parties. (FTB)	(b)(4) Accepted as to chapter 4 matters only. (b)(5) Staff modified language. (c) Accepted. (d) Accepted.	
5008	Representation at Hearings	1) (a) Delete "at all levels of review" as not congruent; clarify language to include only authorized representatives. (b) Insert "authorized" before "representative(s);" delete "and all those who advise the Board in writing that they represent the taxpayer" as only representatives authorized by taxpayers should receive confidential information; insert "in preparation for and during the hearing" at end of last sentence. (P. Michaels)	1) Accepted.	

		2) Recommend revision to comply with AB 139 and new section 19523.5 of the Rev. & Tax. Code (i.e., action to suspend or disbar a person from practice before the FTB). (c) Insert "Chief of" and "and the Franchise Tax Board." (FTB)	2) Staff modified language.
		3) Insert "During the hearing." (BOE)	3) Accepted.
Chapter 3	**Prehearing Documents and Preparation**		
5009	Power of Attorney	1) (c) Permit substitute forms. (A. Golombe)	1) Accepted.
		2) (a) Correct typos. (b)(2) Include e-mail address. (b)(3) Replace "extent" with "scope." (b)(4) Correct typo. (P. Michaels)	2) Accepted.
		3) (a) Change "party" to "taxpayer," and clarify purpose of form.	3) Accepted
5010	Contribution Disclosure Forms	1) (b) Lower case "Staff." (J. Vinatieri)	1) (b) No change as "Board Proceedings Staff" is a defined term under section 5000.5002(f).
		2) Add reference to Kopp Act.	2) Accepted.
5011	Hearing Summary	1) Summary should be neutral and representatives furnished an advance copy. (A. Koch)	1) Accepted.
		2) (b) Replace "35" with "45." (J. Vinatieri)	2) (b) No change as staff needs at least five days for processing. Also, staff modified to make deadlines more flexible for mailing earlier or later when possible or necessary.
		3) (c) Insert new provision to clarify that this section does not apply to FTB matters. (FTB)	3) Accepted.
		4) To provide greater flexibility: (a) Insert "in general;" replace "shall" with "should;" replace "the" with "an objective;" replace "not later than" with "within;" replace "45" with "40;" replace "prior to" with "of;" clarify provisions regarding modified hearing summaries; provide for notice to other agencies. (b) Insert "The;" replace "Staff" with "Division;" insert "Department" and "generally;" replace "no later than" with "within;" replace "prior to" with "of;" and, clarify provisions regarding modified hearing summaries. (BOE)	4) Accepted.
5012	Additional Briefing	1) Clarify whether taxpayer's still have the authority to file opening briefs in all matters. (a) Correct typos. (J. Vinatieri)	1) Taxpayers may still file opening briefs pursuant to chapters 2, 3, and 4, and staff simplified and modified language to reference the briefing provisions in those chapters. (a) Accepted.

		2) (a) Can staff representing the Department request additional briefing? (b)/(c) What if requests are denied? (P. Michaels)	2) (a) Staff modified language so that only Board Members and Appeals Staff may request additional briefing. (b)/(c) There is no procedure for contesting a determination that additional briefing is unnecessary or that an exception to the page limits should not be granted. However, the Board may always permit additional information to be submitted at the hearing or permit additional briefing to be submitted after the hearing.	
		3) (d) Insert new provision to clarify that this section does not apply to FTB matters. (FTB)	3) Accepted and added cross-reference.	
		4) Delete process for responding to hearing summaries and give Chief of Board Proceedings discretion to determine proper briefing schedule. (BOE)	4) Accepted.	
5013	Preparation for Presentation of Hearing	1) (c) Correct typos. (d) Add provision to allow more time during the hearing if circumstances warrant. (J. Vinatieri)	1) (c) Accepted. (d) Staff modified language.	
		2) (a) Suggests that the phrase "relevant new matters" may be too broad. (P. Michaels)	2) Staff modified language to retain original meaning without the quoted phrase.	
		3) Insert in title "Subpoenas, and Burden of Proof." (a) Replace "judicial" with "adjudicatory." (b) Insert new (b) to inform parties of ability to subpoena witnesses or documents consistent with Gov. Code section 15613 (see former Rules of Practice section 5086) and renumber old (b), (c) and (d) accordingly. (c) Insert new provision to inform the parties of the burden of proof requirements (see former section 5080). (d) Insert "to" before "present." (FTB)	3) Staff modified language. (a) Staff deleted sentence as unnecessary. (b) Accepted and modified section 5000.5034 as well. (c) Inserted as section 5000.5022.2. (d) Accepted.	
		4) (a) Delete "An oral hearing is a quasi-judicial proceeding" as unnecessary. (c) Make time allocation provisions less specific since similar information is provided in section 5000.5022. (BOE)	4) Accepted.	
5014	Presentation of Evidence or Exhibits	1) (b) Replace "The hearing may not be delayed due to the submission of documentary evidence at the hearing" with "However, the Board may accept relevant evidence at the hearing." (J. Vinatieri)	1) (b) Staff modified language to convey original meaning with greater clarity.	
		2) (b) Section should indicate that the Board has discretion to accept evidence at a hearing. (P. Michaels)	2) Accepted. Staff modified language to clarify the Board's discretion.	

		3) (a) Discourage the use of settlement offers and settlement negotiations as evidence; insert "or any other evidence submitted." (b) Insert "to the Chief of Board Proceedings and to the opposing party." (c) Delete "and to each party." (d) Add new provision to allow each party the ability to comment on the evidence presented, and indicate that the Board will be liberal in allowing such evidence (see former section 5079(c)). (e) Include a provision regarding stipulation of fact similar to former Rules of Practice section 5079(f). (f) Include a provision regarding official notice similar to former Rules of Practice section 5079(g). (FTB)	3) (a) Accepted. (b) Staff modified language. (c) No change. (d) Incorporate language as modified by staff into (b). (e)/(f) Staff added new subdivisions (c) and (d), and renumbered original subdivision (c).
		4) The Board should discourage the submission of evidence at the hearing. (SEIU Local 1000)	4) Staff modified subdivision (b) to further explain why documentary evidence should be provided prior to an oral hearing.
5015	Witnesses	1) (a) Clarify further. (P. Michaels)	1) Staff clarified language to provide that any person having relevant information may testify, including representatives of the taxpayer and Department.
		2) (b) Insert "As part of the Response to Hearing Notice," and "and the opposing party" as reflects current practice. (FTB)	2) Accepted.
5015.1	Communications with Board Members	1) American Electronics Association (AeA), Asian American Small Business Association (AASBA), Silicon Valley Leadership Group (SVLG), Aprea & Company on behalf of PricewaterhouseCoopers LLP, Los Angeles Business Council, Historic Filipinotown Chamber of Commerce, J. Vinatieri, P. Michaels, and M. Dakessian support original language as proposed or with minor alterations.	1) Staff retained original language with a few clarifying modifications as alternative 1.
		2) Provide alternative language that would ensure that the Franchise Tax Board (FTB) was invited to participate in and given notice of all communications between taxpayers and Board Members regarding appeals from the FTB. (John Davies, FTB Chief Counsel)	2) Staff included language suggested by FTB Chief Counsel John Davies as alternative 2. Alternative 2 provides the FTB and taxpayers with equal notice of and an equal opportunity to participate in communications with Board Members regarding appeals from the Franchise Tax Board. Staff is considering alternative 2 and has not decided whether to submit it to the Board.
		3) Provide for the disclosure of all communications with Board Members regarding any matters scheduled for a Board hearing that take place between the time the Public Agenda Notice is issued and the date of the hearing. (SEIU Local 1000)	3) Staff included language suggested by SEIU Local 1000 as alternative 3. Alternative 3 applies equally to matters scheduled for hearing under all of the Board's programs and requires the disclosure of certain communications on the record of oral hearings. Staff is considering alternative 3 and has not decided whether to submit it to the Board.

		4) Suggests access by all parties to meeting notes and documents provided to Members prior to the hearing. Also, stated that parties should not be surprised with new facts or arguments voiced at hearing or in meetings that have not been communicated far enough in advance to allow for the preparation of a response. (A. Koch)	4) Staff considered these comments, but does not intend to create any other new alternatives for section 5000.5015.1. However, any interested party may submit its own proposed language for consideration.
		5) Suggests that such communications be prohibited in similar manner to PUC. (L. Goldberg)	5) Staff considered comment, but does not see any need to prohibit communications with Board Members entirely.
		6) Alternative 1: Clarify that all taxpayer's may contact Board Members and Board Staff; replace "case or controversy" with "matter;" and replace "pending" with "awaiting." (BOE)	6) Accepted.
Article 3	**Public Notification of Board Meeting**		
5016	Hearing Agendas	1) (a) Insert "the." (FTB)	1) Staff deleted section.
		2) Delete section because it does not contain information taxpayers need to know to obtain administrative review from the Board, it merely describes internal procedures. (BOE)	2) Accepted.
5017	Public Agenda Notice	1) (a) Replace "ten" with "fifteen." (J. Vinatieri)	1) (a) Staff considered, but could not realistically issue agendas 15 days before scheduled meeting on a regular basis. However, staff will try to issue agendas earlier than 10 days before a scheduled meeting where practicable.
		2) (a) Replace "Not less than" with "within" and delete "and Board committee meetings" as unnecessary. (b)(3) Replace "transacted" with "conducted." (d) Replace "remove" with "support removal of." (P. Michaels)	2) (a) Staff modified language. (b)(3) Accepted. (d) Accepted.
		3) Refer to matters and other items of business as being included on the agenda. (BOE)	3) Accepted.
Article 4	**Day of the Oral Hearing**		
5018	Arrival Time	1) (b) Replace "Notice of Board Hearing" with "Public Agenda Notice." (BOE)	1) Staff accepted comment and modified language to provide more clarity.
5019	Sign-In	1) (a) Lower case "Staff." (J. Vinatieri)	1) (a) No change as "Appeals Staff" and "Board Proceedings Staff" are defined terms under section 5000.5002(e)/(f).

		2) (a) Replace "representatives" with "agents." (a)(2) Correct typo. (a)(3)(B) Overbroad. (a)(4) Insert "authorized" after "or;" insert "or the Department." (a)(5) Insert "authorized" after "If a taxpayer or" and correct typos. (P. Michaels)	2) (a) No Change. (a)(2) Accepted and made changes to use terms "party, agent, and participant, and define such terms by referencing the Kopp Act. (a)(3)(B) Staff modified language of section 5000.5002(g) to narrow the definition of brief. (a)(4) Accepted. (a)(5) Accepted.
		3) Replace "Clerk of the Board" with "Chief of Board Proceedings." (a)(3) Insert "and to the opposing party." (a)(3)(C) Correct typo. (a)(3)(D) Insert "and to the opposing party." (FTB)	3) Accepted. (a)(3) Accepted. (a)(3)(C) Accepted. (a)(3)(D) Staff modified language.
		4) Revise to provide more clarity and correct numbering. (BOE)	4) Accepted.
Article 5	**Board Meeting**		
5020	Conduct of Board Meeting	1) Insert "(including Gov. Code § 11126 (closed sessions)." (P. Michaels)	1) No change. However, staff modified sections 5000.5033.1 and 5000.5033.2 to recognize Gov. Code section 11126's closed session provisions.
		2) (d) Suggests language to identify the date of adoption and amendment of the Rules of Order and to resolve any conflict between the Rules of Order and these regulations. Also, include provisions similar to former Rules of Practice section 5079(e). (FTB)	2) Staff deleted references to the Board of Equalization Rules of Order since they do not contain any information a taxpayer would need to present a matter at an oral hearing. Section 5079(e) of the former Rules of Practice was not included because it is rarely, if ever, utilized.
		3) Replace "provisions" with "laws" and delete (d). (BOE)	3) Accepted.
5021	Call to Order	1) (a)(2) Replace "assessment appeal" with "petition for reassessment" and "appeals" with "petitions." (P. Michaels)	1) Staff modified language.
		2) (a)(2) Modified language to make items the Deputy Controller participates in more specific. (b) Clarify voting on an objection. (BOE)	2) Accepted.
5022	Order of Business and Time Allocation for Oral Hearings	1) (a)(3) Replace "Board Attorney" with "Appeals Staff." (a)(3)(D) Replace "for" with "regarding." (a)(3)(E) Refrain from dislosing confidential taxpayer information. (a)(5) Replace "reply" with "rebut." (P. Michaels)	1) (a) Accepted all the comments and amended sections 5000.5033.1 and 5000.5033.2 to create procedures for conducting certain hearings in closed session.
		2) Replace "judicial" with "adjudicatory;" replace "Clerk of the Board" with "Chief of Board Proceedings." (a)(2) Insert "consistent with the provisions of section 5000.5013(b) and (c)." (a)(4) Delete "as they see fit." (a)(5) Insert ", including by means of visual aids, subject to rulings by the Board Chair." (b) Delete "to." (FTB)	2) Accepted all. However, staff deleted the term "quasi-judicial" without replacement.
		3) Permit the Chief of Board Proceedings to notify the parties regarding their time allocations at the beginning of each hearing, not just at the start of a session. (BOE)	3) Accepted.

5022.1	Public Comment	1) (b) Replace "decline not hear" with "decline to hear." (J. Vinatieri/FTB)	1) Accepted.
		2) (b) Delete "committee" and replace where applicable with "Board." (P. Michaels)	2) Accepted.
		3) (a) Delete "provided, however, that members of the public may not address individual cases on a consent agenda" as public comment cannot be restricted. (Note: accepting public comment will not make a consent item adjudicatory.) (b)/(c) Revise language to provide more clarity. (BOE)	3) Accepted.
5022.2	Burden of Proof	1) Add old section 5080 to address burden of proof. (J. Vinatieri)	1) Accepted.
Article 6	**Voting**		
5023	Quorum	1) Recommend that language be drafted to define "present" to include the Member's presence through video conferencing, consistent with the Board's proposed regulations. (FTB)	1) Accepted.
		2) Make minor clarifying changes. (BOE)	2) Accepted.
5024	Voting and Decisions	1) (d)(5)(E)/(d)(7) Correct typos. (J. Vinatieri)	1) (d)(5)(E)/(d)(7) Deleted/staff modified language.
		2) (b) Revise language to indicate whether a tie vote (i.e., 2-2) results in a decision. (d) Replace "staff" with "Appeals Staff." (d)(5)(A)-(d)(6) Various changes. (P. Michaels)	2) (b) Staff modified language to make it more clear that a majority vote is only needed for affirmative decisions. (d) Accepted. (d)(5)(A)-(d)(6) Staff deleted.
		3) (a) Replace "After the" with "At the conclusion of the oral hearing" and insert "vote to." (c)(3) Recommend that language be drafted to define "present" to include the Member's presence through video conferencing, consistent with the Board's proposed regulations. (d)(5) Insert "for Appeals under chapters 2 and 3," and insert "Formal or," and delete last two paragraphs. Proposed new language for (d)(6)-(d)(11). (e) Insert "During the Same Meeting" as post-hearing re-opening appears to be covered in (d)(10). (e)(2) Replace "reconsider" with "reopen" and insert "and." (e)(3) Replace "members" with "Board" and replace "reconsider" with "reopen." (e)(4) Delete as no need to renotice if vote occurs during the same meeting. (FTB)	3) (a) Accepted. (c)(3) Staff defined in section 5000.5023. (d)(5) Staff clarified language/Accepted/Accepted. (d)(6)-(d)(11) Staff modified subdivision substantially but utilized suggestions where appropriate. (e) Combined (d)(10) and (e). (e)(2) Accepted. (e)(3) Accepted. (e)(4) Accepted.
		4) Revise entire section so that listed actions are not exclusive in order to provide the Board with more flexibility. (BOE)	4) Accepted.

Article 7	**Post Hearing**		
5026	Notice of Board Decision	1) (a)(1) Replace "not later than" with "within." (a)(2) Replace "part 3" with "chapter 4." (c) Replace "but" with "and." (P. Michaels)	1) Accepted.
		2) (a)(2) Recommend changes to three business days as seven days shortens the time period within which to request a rehearing. Also recommend alternative methods for delivery. (b)(3) Add new provision to refer to chapter 4. (FTB)	2) (a)(2) Staff shortened period to 3 business days. (b)(3) Staff modified (e) to incorporate suggestion.
		3) (a) Add language to make dates more flexible. (b) Replace "date of the decision" with "official notice of Board action is mailed." (BOE)	3) Accepted.
5027	Petition for Rehearing	1) (a) Delete "for." (J. Vinatieri)	1) Accepted.
		2) (c) Add new provision to refer to chapter 4. (FTB)	2) Accepted.
		3) Replace "from the date of the Board's decision" with "of when the official notice of Board action is mailed." (BOE)	3) Accepted.
5028	Decision on Petition for Rehearing	1) (a) Replace "Decision" with "recommendation" and insert "and parties to the Petition" after "Proceedings." (b) Replace "Decision" with "recommendation." (c)(2) Replace "on Petition for Rehearing" with "pursuant to section 5000.5026" and after "days" insert "from the date of notification of the denial of the Petition for Rehearing." (J. Vinatieri)	1) Accepted.
		2) (d) Add new provision to refer to chapter 4. (FTB)	2) Accepted.
		3) (a) Provide greater flexibility for deadlines. Deadline should be based on the hearing date. (c) Provide further clarification regarding potential outcomes. (BOE)	3) (a) Accepted/No change. (c) Accepted.
5029	Rehearings	1) (c) Correct typo. (J. Vinatieri)	1) Accepted.
		2) (d) Add new provision to refer to chapter 4. (FTB)	2) Accepted.
5030	Superior Court	1) Insert "constitutional and." (FTB)	1) No change as staff deleted section.
		2) Delete as unnecessary and outside the scope of the project. (BOE)	2) Accepted.
Article 8	**Correspondence and Public Documents**		
5031	Mailing Address	1) Correct typo. (J. Vinatieri)	1) Accepted.
		2) (a) Insert "Except as to appeals from actions of the Franchise Tax Board and." (d) Add new provision to refer to chapter 4. (FTB)	2) No change. Section does not conflict with chapter 4.
5032	Timeliness of Documents	1) Add new provision to refer to chapter 4. (FTB)	1) No change. Section does not coflict with chapter 4.

5033(1)	Public Records	1) Suggests a legislative solution be pursued. (A. Koch)	1) Staff would prefer to reach a consensus on a regulatory solution at this time.
		2) Disagrees due to confidentiality. (J. Vinatieri)	2) The language was borrowed from current Rules of Practice section 5085 and still conveys the general meaning of Gov. Code §§ 6254, 11125.1. However, staff has modified subdivision (b) of alternative 1 to more closely mirror the language used in section 5000.5033, subdivision (a) of alternative 2.
		3) Disagrees with the conduct of oral hearings during open session at public meetings. (P. Michaels)	3) The Board has considered similar comments and declined to change its policy in the past.
		4) (d) Address requests for copies of previously prepared transcripts. (BOE)	4) Accepted.
5033(2)	Hearing Record	1) Agrees. (J. Vinatieri)	1) Changed first alternative to conform to agreed to language.
		2) Suggests that the term hearing only refer to oral hearings, and that term "adjudicatory" be deleted. Indicates that the Bagley-Keene Open Meeting Act permits the Board to conduct oral hearings during closed session. (P. Michaels)	2) Accepted suggestions regarding the terms "hearing" and "adjudicatory." Also modified sections 5000.5033.1 and 5000.5033.2 to specifically recognize closed session provisions of Bagley-Keene Open Meeting Act.
5033.1	Waiver of Confidentiality	1) Disagrees with the concept of waiver as applied to matters other than appeals from the actions of the Franchise Tax Board. (J. Vinatieri/P. Michaels) 2) Suggests that the Bagley-Keene Open Meeting Act requires the Board to hold oral hearings on matters other than appeals from actions of the Franchise Tax Board in closed session. Suggests that the Board's current policies deprive some taxpayers of their right to due process. (P. Michaels)	1)/2) Staff does not see a constitutional due process issue here because taxpayers are free to obtain Board review without an oral hearing by submitting their matter to the Board for decision on the basis of the written record, and may even speak with Board Members outside of a public meeting. However, staff has modified sections 5000.5033.1 and 5000.5033.2 to recognize the Board's statutory authority to conduct certain oral hearings during closed session.
		3) Delete reference to information that is "directly relevant," and use a more definitive standard to avoid disputes and eliminate the need for as much redaction as possible. (P. Michaels, R. Nielsen, L. Goldberg, BOE)	3) Staff modified language so that waivers only apply to hearing summaries prepared for, and information actually discussed at, taxpayers' oral hearings conducted during open sessions at a public meetings. Staff intends to revise the manner in which hearings summaries are prepared to limit the amount of redaction that may be required to implement section if adopted.
		4) Agrees that public deserves enough information to properly observe oral hearings conducted during open session, but recommends protecting bank account, credit card account, and other account numbers from identity theft. (L. Goldberg)	Staff continues to work for a consensus approach and has modified the section to protect account numbers.
		5) Section should protect all person's personal information (i.e., address, phone number, etc.). (J. Sperring)	Staff modified language to apply to any "person" instead of any "taxpayer."

5033.2	Requests for Preservation of Harmful Information.	1) Suggests modifications to allow requests to be filed up to 15 days prior to the hearing, and give the Chair until 5 days before the hearing to make a decision. (J. Vinatieri)	1) No change. Staff's procedure will only work properly if requests are decided prior to the issuance of the Public Agenda Notice.	
		2) Disagrees with concept of a request for confidentiality. (P. Michaels)	2) Staff has modified the language to provide for requests for oral hearings conducted during a closed session.	
		3) Suggests that the Board adopt clear standards for protecting confidential information similar to local appeals Boards, civil court statutes, or Rev. & Tax. Code, § 1605.4. (J. Vinatieri, R. Nielson, P. Michaels, SALT Committee of Cal. Bar. Tax Section, BOE)	3) Staff modified language to allow for the conduct of an oral hearing during a closed session to protect "trade secrets" and other confidential information as defined in Code of Civ. Proc., § 2031.060, which provides California courts with the authority to issue protective orders, and adopted phrasing from Rev. & Tax. Code, § 1605.4.	
		4) Chair may lack authority to take any actions other than granting an oral hearing during a closed session with the agreement of the other Board Members. (P. Michaels, BOE)	4) Staff deleted language giving Chair broad discretion to take whatever actions are necessary and replaced it with authority to grant an oral hearing conducted during a closed session, subject to the other Board Member's ratification at the hearing.	
		5) Suggests having the Chief Counsel advise the Chair. (J. Sperring)	5) Accepted.	
5033.3	Privilege	1) Disagrees, and recommends revising "Board Legal Staff" to make reference more specific. (J. Vinatieri/P. Michaels.)	1) Staff retained the section, but modified it to refer to memoranda from "attorneys in the Board's Legal Department."	
5034	Fees: Filing, Subpoenas, Transcripts, and Copies	1) Note that fees may be charged for serving a subpoena. (BOE)	1) Accepted.	