

**State of California
Office of Administrative Law**

RECEIVED
OCT 28 2016
Board Proceedings

In re:
Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

Amend sections: 282, 283

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

California Code of Regulations, Title 1,
Section 100

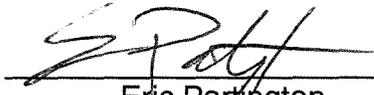
OAL Matter Number: 2016-0929-02

OAL Matter Type: Nonsubstantive (N)

This change without regulatory effect by the State Board of Equalization corrects outdated references and information in sections 282 and 283 of title 18 of the California Code of Regulations.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: October 26, 2016


Eric Partridge
Senior Attorney

For: Debra M. Cornez
Director

Original: David J. Gau
Copy: Richard Bennion

OFFICE OF ADMINISTRATIVE LAW

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DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk
DATE: October 27, 2016
RE: Return of Rulemaking Materials
OAL Matter Number 2016-0929-02
OAL Matter Type Nonsubstantive (N)

OAL hereby returns the rulemaking record your agency submitted for review regarding "Temporary Certification/Permanent Certification."

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

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2016-0929-02N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

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

2016 SEP 29 P 2:19
OFFICE OF
ADMINISTRATIVE LAW

OCT 26 2016
1:49pm

AGENCY WITH RULEMAKING AUTHORITY
State Board of Equalization

AGENCY FILE NUMBER (If any)

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	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Temporary Certification/Permanent Certification	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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
	AMEND 282, 283
TITLE(S) 18	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"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
<input type="checkbox"/> File & Print	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Other (Specify) _____	<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 checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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 Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130
FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) rbennion@boe.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
Joann Richmond
TYPED NAME AND TITLE OF SIGNATORY
Joann Richmond, Chief, Board Proceedings Division

DATE
September 29, 2016

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 26 2016

Office of Administrative Law

Text of Proposed Changes to

Title 18. Public Revenue

Rule 282. Temporary Certification.

(a) A person shall not perform the duties of an appraiser, as defined in ~~Rule~~regulation 281, unless the person has been issued a temporary or permanent certificate by the Board, nor shall the person continue to perform such duties for more than a year (excluding any break in service as an appraiser of less than six months which is reported to the Board) without having been permanently certified.

(b) The Board shall issue a temporary certificate to any other person employed to perform the duties of an appraiser for property tax purposes in the service of the state, a county, a city and county, or an appraisal commission if the person meets the minimum qualifications set out in subsection (a) of ~~Rule~~regulation 283 or has equivalent qualifications which, in the opinion of both the assessor and the Board, demonstrate that the person is competent to perform the work of an appraiser. The assessor shall submit such qualifications to the Board on a form supplied by the Board.

(c) . . . (unchanged).

(d) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Section 24002.5, Government Code; and Sections 670 and 673, Revenue and Taxation Code.

Text of Proposed Changes to

Title 18. Public Revenue

Rule 283. Permanent Certification.

(a) The Board shall issue a permanent certificate to any person employed to perform the duties of an appraiser for property tax purposes in the service of the state, a county, a city and county, or an appraisal commission who, within one year of employment, attains a passing grade on a certification examination prepared or approved by the Board and who meets the following minimum qualifications:

(1) The person is currently employed by, or has a bona fide employment offer from, the Board, a county assessor, a city and county assessor, or an appraisal commission, and

(2) Either the person is a graduate of an accredited four-year institution of higher education, or

(3) The person has graduated from high school (or has the equivalent of a high school education as determined by the taking of a general educational development test approved by the California Department of Education) and has four years of relevant experience. "Relevant experience" means employment experience within the last ten years in any of the following occupations:

(A) an accountant, auditor, real property appraiser, building cost estimator, engineer, real estate loan agent, real estate loan underwriter, right-of-way agent, licensed building contractor, or

(B) a real estate licensee, licensed by the California ~~Bureau~~Department of Real Estate, engaged in buying, selling, leasing, or managing real estate, or

(C) an appraiser aide or appraiser trainee in an assessor's office or in the Board's Property Tax Department~~property taxes department of the Board~~, or

(D) an employee, other than an appraiser, appraiser aide, or appraiser trainee, of an assessor's office or of the Board's Property Tax Department~~property taxes department of the Board~~, except that such employment time shall be limited to qualifying for only 2/3 of the four-year experience requirement. The remaining 1/3 of time shall be accumulated by other relevant experience as described in subparagraphs (A), (B), and (C) above or by education in an accredited institution of higher education.

Four years of relevant experience or any combination of relevant experience and of education in an accredited institution of higher education totaling four years can be substituted for the educational requirement in subsection (a)(2). When fewer than four years of education in an accredited institution of higher education are used to meet the minimal qualifications, the number of qualifying years or fractions thereof shall be determined by the number of units in which passing grades were received. One year of education requirement shall consist of either 30 semester units or 45 quarter units. The qualifications of the person seeking

permanent certification in this manner shall be submitted on a form supplied by the Board when the person files the application.

(b) When a person has been temporarily certified under subsection (b) of ~~Rule~~ regulation 282 by reason of equivalent qualifications or under subsection (c) of ~~Rule~~ regulation 282 by reason of election or appointment as assessor, the person shall be admitted to the examination referred to in subsection (a). Upon receiving a passing grade in the examination, the person shall be issued a permanent certificate by the Board.

(c) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 670 and 673, Revenue and Taxation Code; and Section 24002.5, Government Code.

CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues

Section 282. *Temporary Certification.*

Section 283. *Permanent Certification.*

A. Factual Basis

Government Code section 11342.600 defines the term “regulation” to include every “rule . . . of general application.” Government Code section 15606 authorizes the State Board of Equalization (Board) to prescribe “rules for its own government and the transaction of its business,” including the assessment of state-assessed property under chapter 4 (commencing with section 721) of part 2 of division 1 of the Revenue and Taxation Code (RTC), as well as “rules and regulations” governing county assessors when assessing and local boards of equalization when equalizing under division 1 of the RTC. As a result, the regulations the Board has adopted to implement, interpret and make specific the property tax laws codified in division 1 of the RTC and codified in division 1 of title 18 of the California Code of Regulations are commonly referred to as “Property Tax Rules” or “rules,” rather than property tax regulations or regulations. (See, e.g., Rule 1 explaining that chapter 1 of division 1 of title 18 contains “rules” that “govern assessors when assessing, county boards of equalization and assessment appeals boards when equalizing, and the [Board]”; and the “Property Tax Rules” in the Property Tax Law Guide (PTLG)¹ published by the Board.) However, California Code of Regulations, title 18, section (Rule) 282, subdivisions (a) and (b), cross-reference “regulation 281” and “regulation 283,” respectively, and Rule 283, subdivision (b), cross-references “regulation 282” in two places, even though the regulations being cross-referenced are commonly referred to as “Property Tax Rules” or “Rules.” Therefore, the Board proposes to replace “regulation” with “Rule” in the cross-references so that Rules 282 and 283 more clearly refer readers to Rules 281, 282, and 283.

Also, Rule 283, subdivision (a)(3)(B), refers to a person’s experience as “a real estate licensee, licensed by the California Department of Real Estate, engaged in buying, selling, leasing, or managing real estate.” However, the Governor’s Reorganization Plan No. 2 replaced the Department of Real Estate, which was previously part of the Business, Transportation and Housing Agency, with the Bureau of Real Estate, which is part of the Department of Consumer Affairs, as the entity that issues real estate licenses under part 1 (commencing with section 10000) of division 4 of the Business and Professions Code (BPC), operative July 1, 2013. Assembly Bill No. (AB) 1317 (Stats. 2013, ch. 352, §§ 15, 16) amended BPC sections 10004 and 10005 to reflect the change by defining the term “Bureau” to mean the Bureau of Real Estate in

¹ The PTLG is available at <http://www.boe.ca.gov/lawguides/property/current/ptlg/property-taxes-law-guide.html>.

the Department of Consumer Affairs and providing that statutory references to “bureau,” “department,” and “Department of Real Estate” in part 1 of division 4 of the BPC now mean the Bureau of Real Estate. Therefore, the Board proposes to change “Department” to “Bureau” in Rule 283, subdivision (a)(3)(B), to reflect the amendments to BPC sections 10004 and 10005 made by AB 1317 to implement the Governor’s Reorganization Plan No. 2.

In addition, Rule 283, subdivision (a)(3)(C) and (D), refers to a person’s experience as an appraiser aide or appraiser trainee or other type of employee in the “property taxes department of the Board.” However, the Board recently created a new “Property Tax Department” and assigned the new department the property tax related duties previously performed by the “property taxes department” referred to in Rule 283. Therefore, the Board proposes to change Rule 283, subdivision (a)(3)(C) and (D), to refer to the “Board’s Property Tax Department,” instead of referring to the “property taxes department of the Board,” to reflect the Board’s recent organizational change.

The Board has determined that the changes to Rules 282 and 283 are appropriate for processing under California Code of Regulations, title 1, section (Rule) 100. This is because the changes update Rule 283 to reflect organizational changes in state government and the Board, make minor grammatical changes to two cross-references in each of the rules, and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes

The following Rule 100 changes are proposed to Rules 282 and 283:

TEXT OF PROPOSED CHANGES

Rule 282. Temporary Certification.

(a) A person shall not perform the duties of an appraiser, as defined in ~~Rule~~regulation 281, unless the person has been issued a temporary or permanent certificate by the Board, nor shall the person continue to perform such duties for more than a year (excluding any break in service as an appraiser of less than six months which is reported to the Board) without having been permanently certified.

(b) The Board shall issue a temporary certificate to any other person employed to perform the duties of an appraiser for property tax purposes in the service of the state, a county, a city and county, or an appraisal commission if the person meets the minimum qualifications set out in subsection (a) of ~~Rule~~regulation 283 or has equivalent qualifications which, in the opinion of both the assessor and the Board, demonstrate that the person is competent to perform the work of an appraiser. The assessor shall submit such qualifications to the Board on a form supplied by the Board.

(c) . . . (unchanged).

(d) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Section 24002.5, Government Code; and Sections 670 and 673, Revenue and Taxation Code.

Rule 283. Permanent Certification.

(a) The Board shall issue a permanent certificate to any person employed to perform the duties of an appraiser for property tax purposes in the service of the state, a county, a city and county, or an appraisal commission who, within one year of employment, attains a passing grade on a certification examination prepared or approved by the Board and who meets the following minimum qualifications:

(1) The person is currently employed by, or has a bona fide employment offer from, the Board, a county assessor, a city and county assessor, or an appraisal commission, and

(2) Either the person is a graduate of an accredited four-year institution of higher education, or

(3) The person has graduated from high school (or has the equivalent of a high school education as determined by the taking of a general educational development test approved by the California Department of Education) and has four years of relevant experience. "Relevant experience" means employment experience within the last ten years in any of the following occupations:

(A) an accountant, auditor, real property appraiser, building cost estimator, engineer, real estate loan agent, real estate loan underwriter, right-of-way agent, licensed building contractor, or

(B) a real estate licensee, licensed by the California ~~Bureau~~Department of Real Estate, engaged in buying, selling, leasing, or managing real estate, or

(C) an appraiser aide or appraiser trainee in an assessor's office or in the Board's Property Tax Department~~property taxes department of the Board~~, or

(D) an employee, other than an appraiser, appraiser aide, or appraiser trainee, of an assessor's office or of the Board's Property Tax Department~~property taxes department of the Board~~, except that such employment time shall be limited to qualifying for only 2/3 of the four-year experience requirement. The remaining 1/3 of time shall be accumulated by other relevant experience as described in subparagraphs (A), (B), and (C) above or by education in an accredited institution of higher education.

Four years of relevant experience or any combination of relevant experience and of education in an accredited institution of higher education totaling four years can be substituted for the educational requirement in subsection (a)(2). When fewer than four years of education in an

accredited institution of higher education are used to meet the minimal qualifications, the number of qualifying years or fractions thereof shall be determined by the number of units in which passing grades were received. One year of education requirement shall consist of either 30 semester units or 45 quarter units. The qualifications of the person seeking permanent certification in this manner shall be submitted on a form supplied by the Board when the person files the application.

(b) When a person has been temporarily certified under subsection (b) of ~~Rule~~regulation 282 by reason of equivalent qualifications or under subsection (c) of ~~Rule~~regulation 282 by reason of election or appointment as assessor, the person shall be admitted to the examination referred to in subsection (a). Upon receiving a passing grade in the examination, the person shall be issued a permanent certificate by the Board.

(c) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 670 and 673, Revenue and Taxation Code; and Section 24002.5, Government Code.