



# California Regulatory Notice Register

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## PROPOSED ACTION ON REGULATIONS

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California Behavioral Health Planning Council  
Department of Water Resources

##### Multi-County:

Sacramento Area Council of Governments  
Pacific Charter Institute  
Kings Canyon Unified School District

#### *Adoption*

##### Multi-County:

Child 36  
Opportunities for Learning-Baldwin Park  
Opportunities for Learning-Capistrano  
Opportunities for Learning-William S. Hart

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

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. CALIFORNIA TRANSPORTATION COMMISSION**

NOTICE IS HEREBY GIVEN that the California Transportation Commission, pursuant to the authority vested in it by Section 87306 of the Government Code, proposes amendments to its conflict-of-interest code. A comment period has been established commencing on October 25, 2019 and closing on December 9, 2019. All inquiries should be directed to the contact listed below.

The California Transportation Commission proposes to amend its Conflict-of-Interest code to include employee positions that involve the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of Section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest Code include: newly designating the positions of Staff Services Manager III, Staff Services Manager II — Programming, Legislation/Finance, Senior Transportation Engineer, Senior Transportation Planner, Associate Transportation Planner, Associate Governmental Program Analyst — Programming and Staff Services Analyst — Programming. The amendments also rename the Assistant Executive Director position to Deputy Director and delete the position of Administrative. Copies of the amended code are available and may be requested from the contact listed below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than December 9, 2019, or at the conclusion of the public hearing, if requested, whichever comes later, to the contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person’s representative requests a public hearing, he or she must do so not later than November 24, 2019.

The California Transportation Commission has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

California Transportation Commission  
 Attention: Zilan Chen  
 1120 N Street, MS-52  
 Sacramento, CA 95814  
 (916) 653-0162  
[zilan.chen@catc.ca.gov](mailto:zilan.chen@catc.ca.gov)

**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**

**STATE AGENCY:**

California Behavioral Health Planning Council  
 Department of Water Resources

**MULTI-COUNTY:**

Sacramento Area Council of Governments  
 Pacific Charter Institute  
 Kings Canyon Unified School District

**ADOPTION**

**MULTI-COUNTY:**

Child 36  
 Opportunities for Learning-Baldwin Park  
 Opportunities for Learning-Capistrano  
 Opportunities for Learning-William S. Hart

A written comment period has been established commencing on October 25, 2019 and closing on December 9, 2019. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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 December 9, 2019. 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 Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-3854.

#### **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 Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-3854.

### **TITLE 2. SECRETARY OF STATE**

NOTICE IS HEREBY GIVEN that the Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the SOS at its office not later than 5:00 p.m. on December 10, 2019.

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 contact persons listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the SOS, upon its own mo-

tion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Public Comment Period: October 25, 2019, through December 10, 2019.

#### AUTHORITY AND REFERENCE

Under the authority established in Government Code section 12172.5, the California Secretary of State may adopt regulations to assure the uniform application and administration of state election laws.

Further authority is established in Elections Code section 15367, which states that the Secretary of State, in consultation with recognized statistical experts, election verification and integrity stakeholders, voting system manufacturers, and local elections officials, shall adopt regulations to implement and administer this article (Risk Limiting Audits).

Authority cited: Section 15367, Elections Code; Section 12172.5, Government Code.

Reference cited: Sections 320, 362, 2194, 15150, 15154, 15290, 15360, 15366, 15367, 15620, 15621 and 20194, Elections Code.

#### INFORMATIVE DIGEST

Elections Code sections 15365–15367 were enacted in 2018 through the passing of Assembly Bill (AB) 2125 (Chapter 913, Statutes of 2018) and established a post-election risk-limiting audits pilot program. Existing law in Section 15360 of the Elections Code requires an elections official, during the official canvass of an election in which a voting system is used, to conduct a public manual tally of the ballots cast in 1 percent of the precincts chosen at random by the elections official. AB 2125 authorized the use of risk-limiting audits in lieu of the 1 percent manual tally beginning with the March 3, 2020, statewide primary election. The bill requires the Secretary of State to adopt regulations to implement and administer the risk-limiting audits pilot program. Elections Code sections 15365–15367 shall remain in effect only until January 1, 2021, and as of that date they will be repealed.

Pursuant to section 15367(b)(1) of the Elections Code, the Secretary of State has drafted these proposed

regulations in consultation with recognized statistical experts, election verification and integrity stakeholders, voting system manufacturers, and local elections officials to implement and administer risk-limiting audits. Therefore, the Secretary of State is proposing to add sections 20110 through 20126 of Title 2, Division 7, Chapter 2 to Code of Regulations to establish the procedures for implementing and administering the risk-limiting audits pilot program.

#### POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

Risk-limiting audits provide statistical assurance that election outcomes are correct by manually examining portions of the audit trail: paper ballots or voter-verifiable paper records. Risk-limiting audits also provide efficient and cost-effective scientific verification of election results when elections officials have adequate resources and education to conduct such an audit. By definition, a risk-limiting audit strictly limits the probability that an incorrect electoral outcome will pass the audit without being corrected.

Elections Code section 15367 requires the SOS to adopt regulations that would do all of the following:

1. Require elections officials to establish appropriate audit boards and procedures to conduct risk-limiting audits.
2. Establish criteria for public education on risk-limiting audits.
3. Establish procedures to ensure the security of the ballots, the selection of ballots to be inspected during each audit, and the rules governing cast vote records and other data involved in risk-limiting audits.
4. Establish the calculations and other methods to be used in the audit to determine whether or when the audit of any contest is required to include the examination of more ballots, and to establish calculations and methods to be used in such an escalation, and to determine whether and when the audit of each contest is complete.
5. Establish procedures and requirements for testing and disclosing the algorithms and source code of any software used by the SOS for the selection of ballots to be included when elections officials conduct risk-limiting audits under this article.
6. Establish requirements for the content of the risk-limiting audit report in the certification of the official canvass of the vote.
7. Establish procedures and requirements to ensure the audit process is observable and verifiable by the public, including disclosing the methods used

to select samples and to calculate the risk, providing public opportunity to verify that the correct ballots were inspected during the audit, and providing public opportunity to observe the inspection of the voters' marks on the ballots during the audit.

The proposed regulations accomplish the mandate of the statute. The benefit of these proposed regulations is that they will provide guidance to the SOS and local elections officials on the procedure for conducting risk-limiting audits. These proposed regulations will also provide the opportunity for the public to take part in and observe the audit process. Along with bringing more transparency in the post-election canvass process these proposed regulations will strengthen the public trust the State of California's election process.

**CONSISTENCY/COMPATIBILITY WITH EXISTING STATE REGULATIONS**

After conducting an evaluation for regulations in this area, the SOS has determined that these are the only regulations dealing with the post-election risk-limiting audits pilot program. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations. This regulatory proposal creates new regulations relating to Elections Code sections 15365-15367.

Documents Incorporated by Reference: California Post-Election Risk-Limiting Audit Ballot Manifest Format (dated October 15, 2019).

Documents Relied Upon in Preparing the Regulations: None.

**FISCAL IMPACT ESTIMATES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None.

Business Impact: The SOS has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed changes provide regulations that would give county elections officials an option to con-

duct a comprehensive post-election audit in lieu of their current practice of 1 percent manual tally. As stated in the Policy Statement and Overview/Anticipated Benefits of the Proposal found above, the benefits of the regulation to the health and welfare of California residents lies in the fact that these regulations will also provide the opportunity for the public to take part in and observe the audit process. Along with bringing more transparency in the post-election canvass process, these proposed regulations will strengthen the public trust in the State election process.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability to Compete: The SOS has made an initial determination that this regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business: The SOS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

Effect on Small Business: The SOS has determined that the proposed regulations would not affect small businesses. The proposed regulations would give county elections officials an option to conduct a comprehensive post-election audit in lieu of their current practice of 1 percent manual tally. The proposed regulations affect counties and individuals, neither of which are small businesses.

Result of Economic Impact Assessment/Analysis Summary Comments: The full Economic Impact Statement is presented in the Initial Statement of Reasons. These regulations are not anticipated to create or eliminate jobs within the State of California, create or eliminate existing businesses within the State of California, or expand or eliminate existing businesses within the State of California. The benefits of these regulations are to comply with a legislative mandate and to strengthen the public trust in the State of California's election process.

**CONSIDERATION OF ALTERNATIVES**

The SOS must determine that no reasonable alternative to the regulations it considered 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 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.

The SOS has determined that regulations are necessary because Elections Code section 15367(b)(1) expressly requires regulations.

Any interested person may present statements or arguments relevant to the above determinations.

**AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE RULEMAKING FILE**

The SOS has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the SOS's website.

Copies of the express language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the SOS contact or on the website listed below.

**AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

**CONTACT PERSONS**

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Raj Bathla  
Secretary of State  
1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 695-1597  
Or to: rbathla@sos.ca.gov

The backup contact person is:

Taylor Kayatta  
Secretary of State  
1500 11<sup>th</sup> Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 695-1530  
Or to: tkayatta@sos.ca.gov

Website Access: Materials regarding this proposal can be found at [www.sos.ca.gov](http://www.sos.ca.gov).

**TITLE 10. DEPARTMENT OF BUSINESS OVERSIGHT**

NOTICE IS HEREBY GIVEN  
(Government Code Section 11346.5,  
Paragraph (a)(1))

The Commissioner of the Department of Business Oversight (Department) proposes to make the following changes in subchapter 6 of title 10, chapter 3 of the California Code of Regulations: amend sections 1404, 1408, 1409, 1409.1, 1411, 1422, 1422.4, 1422.4.5, 1422.5, 1422.6.2, 1422.7.1, 1422.9, 1422.10, 1422.12, 1423, 1424, 1425, 1426, 1437, 1550, and 1552; rename subchapter 6; adopt section 1422.5.1; and adopt article 15, including sections 1620.01, 1620.02, 1620.02.1, 1620.03, 1620.05, 1620.06, 1620.07, 1620.08, 1620.10, 1620.11, 1620.12, 1620.13, 1620.14, 1620.15, 1620.16, 1620.17, 1620.19, 1620.21, 1620.22, 1620.25, 1620.27, 1620.28, and 1620.29. The proposed sections relate to the implementation of AB 1284 (Dababneh, Chapter 475, Statutes of 2017), which renamed the "California Finance Lenders Law" the "California Financing Law," effective October 4, 2017, and which requires a program administrator that administers a Property Assessed Clean Energy (PACE) program on behalf of a public agency to be licensed by the Commissioner of Business Oversight (Commissioner) under the renamed California Financing Law, beginning January 1, 2019. The proposed sections also provide the Commissioner with authority to transition all licensees under the California Financing Law onto the Nationwide Multistate Licensing System and Registry (NMLS), the national licensing database for providers of financial services and products.

**AUTHORITY**  
(Government Code Section 11346.5,  
Paragraph (a)(2))

The Department proposed this regulatory action under the authority vested in Financial Code section 22150.

**REFERENCE**  
(Government Code Section 11346.5,  
Paragraph (a)(2))

The Department proposes this regulatory action to implement, interpret, and make specific Business and Professions Code sections 31, 494.5, 17900, 17910, 17913, and 17926; Civil Code sections 1633.7, 1798.17, 1798.18, and 1798.24; Family Code section 17520; Financial Code sections 331, 331.5, 22000,

22001, 22017, 22018, 22100, 22100.5, 22101, 22101.5, 22102, 22103, 22104, 22105, 22105.2, 22105.3, 22105.4, 22106, 22107, 22108, 22109, 22112, 22153, 22154, 22156, 22157, 22158, 22159, 22161, 22162, 22163, 22164, 22165, 22166, 22170, 22680, 22681, 22682, 22683, 22684, 22685, 22686, 22687, 22689, 22690, 22692, 22700, 22709, and 22714; Government Code section 7473; Penal Code section 11077.1; Streets and Highways Code sections 5898.16, 5898.17, 5913, 5925, 5926, and 5940; and chapter 29.1 of part 3 of division 7 of the Streets and Highways Code.

INFORMATIVE DIGEST  
(Government Code Section 11346.5,  
Paragraph (a)(3))

A. PACE Program Administrators

A public agency<sup>1</sup> may authorize public agency officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property.<sup>2</sup> These arrangements are commonly known as Property Assessed Clean Energy (PACE) programs. Existing law authorizes a private entity to administer a PACE program on behalf of, and with the written consent of, a public agency.

On October 4, 2017, the Governor signed into law AB 1284 (Dababneh, Chapter 475, Statutes of 2017), which renamed the “California Finance Lenders Law” the

“California Financing Law,” effective immediately, and which generally requires a private entity that administers a PACE program on or behalf of a public agency to be licensed by the Commissioner of Business Oversight under the renamed California Financing Law, beginning January 1, 2019. The private entities are defined as “program administrators.” AB 1284 amended the California Financing Law to establish licensing requirements and standards for program administrators. The California Financing Law is administered by the Department.

AB 1284 requires a program administrator to comply with licensure requirements that are the same as those for a finance lender or broker already subject to licensure under the California Financing Law, such as the location of its business, maintenance and preservation of its records, reporting, including filing an annual report under oath, prohibiting making false or misleading statements, and advertising.

In the conduct of their business, program administrators typically make PACE financing available to property owners through general contractors and other third parties who are arranging to perform energy and water upgrades for property owners. AB 1284 defines these third parties as “PACE solicitors” when they are soliciting property owners to enter into contracts for PACE financing (defined as “assessment contracts”). The individuals who act on behalf of the PACE solicitors and solicit property owners are defined as “PACE solicitor agents.” Operative January 1, 2019, AB 1284 requires a program administrator to establish and maintain a process for the enrollment of a PACE solicitor and a PACE solicitor agent, including requiring a PACE solicitor or a PACE solicitor agent to meet specified minimum background checks, and prohibits a program administrator from enrolling a PACE solicitor or a PACE solicitor agent if the program administrator makes specified findings. The bill requires a program administrator to establish and maintain a process to promote and evaluate the compliance of a PACE solicitor and a PACE solicitor agent with applicable law, and to establish and maintain a process to cancel the enrollment of a PACE solicitor or PACE solicitor agent who fails to meet minimum qualifications. AB 1284 also requires a program administrator to establish and maintain a training program for PACE solicitor agents, in accordance with certain requirements.

In addition to the licensing and oversight provisions in AB 1284, commencing on April 1, 2018, the bill prohibits a program administrator from approving an assessment contract for funding and recording by a public agency unless the program administrator makes a reasonable good faith determination that the property own-

<sup>1</sup> Streets and Highways Code section 5898.20, subparagraphs (c)(3)(A) through (C) provide that, for financing the installation of water efficiency improvements, “public agency” means a city, county, city and county, municipal utility district, community services district, sanitary district, sanitation district, or water district; for financing the installation of distributed generation renewable energy sources or energy efficiency improvements, “public agency” means a county, city, city and county, or a municipal utility district, an irrigation district, or public utility district that owns and operates an electric distribution system; and for financing the public improvements, “public agency” means a city as defined in Section 5005. The term as used in this Notice of Rulemaking Action is intended to have the same meaning.

<sup>2</sup> A voluntary contractual assessment on property may be authorized pursuant to paragraph (2) of subdivision (a) of section 5898.20 of the Streets and Highways Code; a voluntary contractual assessment or a voluntary special tax on property may be levied to finance the installation of distributed general renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements pursuant to a chartered city’s constitutional authority under section 5 of article XI of the California Constitution; and a special tax on property may be authorized pursuant to subdivision (b) of section 53328.1 of the Government Code. For simplicity, the reference to “contractual assessments” includes all of these.

er has a reasonable ability to pay the “PACE assessments,” subject to specified requirements and procedures.<sup>3</sup>

This rulemaking action proposes amending and enacting rules to implement AB 1284. This rulemaking action makes conforming amendments to existing rules under the California Financing Law to account for the name change and the regulatory oversight of program administrators, PACE solicitors, and PACE solicitor agents. It further adds a new article to the regulations that is solely applicable to the activities of program administrators, PACE solicitors, and PACE solicitor agents. The new article contains new sections which do the following:

- Add new definitions related to PACE financings;
- Clarify persons excluded from licensing definitions;
- Require employees be familiar with regulatory requirements;
- Clarify requirements for translated documents;
- Set forth requirements related to advertising;
- Require disclosures;
- Define the books and records to be maintained;
- Set forth requirements for processing complaints;
- Provide examples of prohibited deceptive dealings and misleading statements;
- Implement PACE solicitor and PACE solicitor agent enrollment standards;
- Set forth standards for monitoring compliance;
- Set forth standards for periodic reviews;
- Set forth requirements for canceling enrollment;
- Set forth requirements for education programs;
- Set forth requirements for annual reports;
- Set forth standards regarding determinations of a property owner’s ability to pay;
- Set forth standards for determining property owner income;
- Set forth conditions on emergency improvements;
- Require documentation of the useful life of improvements; and
- Set forth guidance on meeting the commercially reasonable standard for evaluating PACE financing applications.

The broad objectives of the regulations are to protect property owners who are offered PACE financing from deception, misrepresentations, or misunderstandings, to promote transparency in PACE financing, to provide

<sup>3</sup> A “PACE assessment” is defined as a voluntary contractual assessment, voluntary special tax, or special tax, as described in subdivisions (a), (b), and (c) of section 26054 of the Public Resources Code.

oversight of persons soliciting property owners, and to facilitate a fair marketplace where the financing option can provide benefits to both property owners and the environment. The specific benefits are protection of property owners in PACE financing transactions; continued viability of PACE programs through the public confidence in effective oversight; and advancing innovative environmental solutions by ensuring the PACE marketplace has uniform statewide oversight.

**B. Transitioning to NMLS**

The proposed rulemaking action has program administrators applying for licensure through NMLS rather than applying in paper directly with the Department and further requires all licensees under the California Financing Law to transition their licenses onto NMLS. NMLS is an online licensing system that was developed and is operated by State Regulatory Registry LLC, a nonprofit affiliate of the Conference of State Bank Supervisors. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008<sup>4</sup> required all state licensed and federally registered mortgage loan originators to be registered with the system. Since development, the system has expanded and now serves as a multistate licensing system for many financial services providers. Currently, the Department licenses mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, student loan servicers, and program administrators through NMLS. Under the California Financing Law, some licensees are licensed through NMLS, including mortgage lenders, mortgage brokers, mortgage loan originators, and program administrators, while other lenders and brokers not engaged in the business of making or brokering loans secured with residential real property or financing PACE transactions are not on NMLS. Through this rulemaking action, the Department proposes to amend existing rules to transition all licensees under the California Financing Law onto NMLS.

The broad objectives of these provisions are to allow all California Financing Law applicants and licensees to use the same national database and to modernize the application and license maintenance process. The specific benefits include reducing the regulatory burden on licensees with a multistate presence, providing consumers with a common location nationally to access information on financial services providers, and streamlining the licensing process internally by leveraging the technology already developed and used nationally.

The proposed regulations are not inconsistent or incompatible with existing state regulations.

**C. Documents Incorporated by Reference**

This rulemaking action incorporates by reference the following documents in their entirety:

<sup>4</sup> 12 U.S.C. section 5101 et seq.

- “Form MU1,” the uniform licensing form developed by NMLS, entitled “NMLS Company Form,” Version 11.0, dated 9/12/2015, available at [Company \(MU1\) Form](#) and directly from the Department.<sup>5</sup>
- “Form MU2,” the uniform licensing form developed by the NMLS for a person that directly or indirectly exercises control over a licensee, or a branch thereof, including qualifying individuals and branch managers specified in Form MU1, entitled “NMLS Individual Form,” Version 9, dated 9/12/16, available at [Individual \(MU2\) Form](#) and directly from the Department.<sup>6</sup>
- “Form MU3,” the uniform licensing form developed by the NMLS for the branch office of a licensee, entitled “NMLS Branch Form,” Version 10, dated 3/31/14, available at [Branch \(MU3\) Form](#) and directly from the Department.<sup>7</sup>

**ANY OTHER MATTERS  
PRESCRIBED BY STATUTE**  
(Government Code Section 11346.5,  
Paragraph (a)(4))

No other matters are prescribed by statute.

**DETERMINATION REGARDING  
MANDATE ON LOCAL AGENCIES OR  
SCHOOL DISTRICTS; ESTIMATE OF  
COSTS OR SAVINGS TO ANY LOCAL  
AGENCY OR SCHOOL  
DISTRICT, OR TO FEDERAL FUNDING**  
(Government Code Section 11346.5,  
Paragraphs (a)(5) and (a)(6))

This regulatory action does not impose a mandate on local agencies or school districts. This regulatory action will not result in any cost to any local agency or school district required to be reimbursed, will not result in other nondiscretionary cost or savings imposed on local agencies, and will not result in cost or savings in federal funding to the state.

<sup>5</sup> <https://mortgage.nationwidelicencingsystem.org/licenses/resources/LicenseeResources/NMLS%20Company%20Form.pdf>.

<sup>6</sup> <https://mortgage.nationwidelicencingsystem.org/licenses/resources/LicenseeResources/NMLS%20Individual%20Form.pdf>.

<sup>7</sup> <https://mortgage.nationwidelicencingsystem.org/licenses/resources/LicenseeResources/NMLS%20Branch%20Form.pdf>.

**ESTIMATE OF COST OR  
SAVINGS ON STATE AGENCY**  
(Government Code Section 11346.5,  
Paragraph (a)(6))

This Department will conduct regulatory examinations of licensees and confirm compliance with the new provisions. In addition, the Department may have enforcement actions related to the new provisions. Since the number of new licensees is expected to remain around five, the Department does not anticipate more than \$50,000 in annual costs relating to this rulemaking action.

The Department is not aware of any costs or savings for any other state agency.

**DETERMINATION REGARDING  
ADVERSE ECONOMIC IMPACT**  
(Government Code Section 11346.5,  
Paragraph (a)(7) and (8))

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

**DESCRIPTION OF ALL COST  
IMPACTS ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**  
(Government Code Section 11346.5 Paragraph (a)(9))

A representative business will incur costs complying with this regulatory action. A representative business will incur costs above those incurred solely because of the requirements set forth in statute, for the following new requirements:

- Requiring employees be familiar with regulatory requirements;
- Requirements related to advertising;
- Requiring disclosures;
- Requiring specified books and records to be maintained;
- Requiring processes complaints;
- Requiring specific PACE solicitor and PACE solicitor agent enrollment standards;
- Requiring standards for monitoring compliance;
- Requiring standards for periodic reviews;
- Requiring procedures for canceling or withdrawing enrollment;
- Requiring specific education programs; and
- Requiring specific annual reports.

The Department anticipates the compliance costs may be between \$200,000 and \$500,000 for five to ten potential applicants.

RESULTS OF ECONOMIC IMPACT ASSESMENT  
(Government Code Section 11346.5,  
Paragraph (a)(10))

**The creation or elimination of jobs within the state:**

The Department has assessed whether this rulemaking action will create or eliminate jobs. The provisions in this action will not create jobs. While implementation of the requirements in this rulemaking action will require resources, once implemented the requirements will not result in activities that will produce jobs. The requirements of this rulemaking action may include provisions that will eliminate jobs. If PACE solicitors or PACE solicitor agents are unable to meet the enrollment standards in Financial Code section 22680 as clarified and interpreted in this rulemaking action, these businesses and individuals will not be able to offer PACE financing to property owners.

**The creation of new businesses or the elimination of existing businesses within the state:**

The Department has assessed whether this rulemaking action will create new businesses or eliminate existing businesses. This rulemaking action will not result in the creation of new businesses. The Department is not aware of any provision in this rulemaking action that will result in the elimination of a business and therefore has determined that this rulemaking action will not result in the elimination of existing businesses within the state. The rulemaking action balances the regulatory requirements against the benefits of public protection and based on the Department's assessment the action does not burden business to the extent of eliminating businesses.

**The expansion of businesses currently doing business within the state:**

The Department has assessed whether this rulemaking action will result in the expansion of business currently doing business within the state. The Department has determined that this rulemaking action will not result in the expansion of business currently doing business within the state. The regulatory requirements on program administrators will initially require the reallocation of resources for a business to achieve compliance with the new regulatory requirements. In the long term, this rulemaking action may positively impact the PACE financing marketplace by increasing public confidence in the market, and consequently future expansion is possible.

**The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment:**

The Department has assessed whether this rulemaking action will result in benefits to the health and wel-

fare of California residents, worker safety, and the state's environment. The regulatory requirements proposed in this rulemaking action will help improve the welfare of California residents and the state's environment by establishing processes and protections intended to prevent fraud and misrepresentation in the PACE financing marketplace.

DETERMINATION OF  
EFFECT ON SMALL BUSINESS  
(Section 4 of Title 1 of the  
California Code of Regulations)

This regulatory action may impact small business.

FINDING REGARDING REPORT  
(Government Code Section 11346.5,  
Paragraph (a)(11))

This regulatory action defines the content of reports required by statute. The Commissioner finds that the information required is necessary for the health, safety, or welfare for the people of the state that the regulation applies to businesses.

EFFECT ON HOUSING COSTS  
(Government Code Section 11346.5,  
Paragraph (a)(12))

This regulatory action will not have a significant effect on housing costs.

STATEMENT REGARDING  
REASONABLE ALTERNATIVES  
(Government Code Section 11346.5,  
Paragraph (a)(13))

The Department must determine that no reasonable alternative considered by the Department or that 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; 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.

COMMENT DEADLINE  
(Government Code Section 11346.5,  
Paragraph (a)(15))

Written comments related to the proposed action must be received by December 9, 2019 to be considered

by the Department before it proceeds with this regulatory action. Comments may be submitted by e-mail to the following address: [regulations@dbo.ca.gov](mailto:regulations@dbo.ca.gov), and copy [colleen.monahan@dbo.ca.gov](mailto:colleen.monahan@dbo.ca.gov).

Comments may be submitted by U.S. mail to the following address:

Department of Business Oversight  
Attention: Mark Dyer, Regulations Coordinator  
1515 K Street, Suite 200  
Sacramento, CA 95814

**PUBLIC HEARING**

(Government Code Section 11346.5,  
Paragraph (a)(17))

A public hearing has not been scheduled. Any interested person or his or her duly authorized representative may request a public hearing no later than 15 days prior to the close of the written comment period. If the Department receives a request for a public hearing, the Department will provide notice of the time, date, and place of the hearing by emailing the notice to every person who has subscribed to electronically receive notice of activity related to this rulemaking action with the Department.

**AVAILABILITY OF THE NOTICE,  
STATEMENT OF REASONS, TEXT OF  
PROPOSED REGULATIONS AND  
RULEMAKING FILE**

(Government Code Section 11346.5,  
Paragraphs (a)(16) and (20), and Subdivision (b))

The Department has prepared a statement of reasons for the proposed action and has available all the information upon which the proposal is based and the express terms of the proposed action. This notice of rulemaking, the text of the proposed regulatory action, and the initial statement of reasons for the proposed regulatory action are available on the Department's website at [www.dbo.ca.gov](http://www.dbo.ca.gov). To access the documents from the Department's Web site, select the "Licensees" link in the top banner of the home page, select "Laws and Regulations" from the drop-down menu, select the "Regulations/Rulemaking" link, and select the "California Financing Law" link.

To subscribe to electronically receive notice of activity on this rulemaking action such as revised text, from the Department's homepage ([dbo.ca.gov](http://dbo.ca.gov)), select "Contact Us" from top banner. Select "Subscribe to DBO emails" and provide the requested information. When requested, indicate your request to receive notices related to rulemaking, and submit your request.

The initial statement of reasons and proposed text may also be obtained at the front counter of any of the Department's locations, below, by requesting Document PRO 02/17-B or 02/17-C. The documents are also available from the contact person designated at the end of this notice.

Los Angeles Office:  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013-2344

Sacramento Office:  
1515 K Street, Suite 200  
Sacramento, CA 95814-4052

San Diego Office:  
1350 Front Street, Room 2034  
San Diego, CA 92101-3697

San Francisco Office:  
One Sansome Street, Suite 600  
San Francisco, CA 94104-4448

As required by the Administrative Procedure Act, the Legal Division maintains the rulemaking file. The rulemaking file is available for public inspection and copying throughout the rulemaking process at the Department of Business Oversight, Legal Division, 1515 K Street, Suite 200, Sacramento, California 95814.

**AVAILABILITY OF CHANGED OR  
MODIFIED TEXT**

(Government Code Section 11346.5,  
Paragraph (a)(18))

If the Department makes changes 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 Department adopts, amends, or repeals the proposed text. A request for a copy of any modified text should be addressed to the contact person designated below. The modified text will also be available on the Department's website. The Department will accept written comments on the modified text for at least 15 days after the date on which it is made available.

**AVAILABILITY OF THE  
FINAL STATEMENT OF REASONS**

(Government Code Section 11346.5,  
Paragraph (a)(19))

Upon its completion, the final statement of reasons will be available, and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONTACT PERSON  
(Government Code Section 11346.5,  
Paragraph (a)(14))

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to:

Mark Dyer, Regulations Coordinator  
Department of Business Oversight  
1515 K Street, Suite 200  
Sacramento, California 95814

Telephone: (916) 322-1977  
e-mail: mark.dyer@dbo.ca.gov

Inquiries regarding the substance of the proposed regulation may be directed to:

Colleen Monahan, Senior Counsel  
Department of Business Oversight  
1515 K Street, Suite 200  
Sacramento, California 95814

Telephone: (916) 322-3553  
e-mail: colleen.monahan@dbo.ca.gov

## TITLE 10. DEPARTMENT OF INSURANCE

REG-2019-00021

### SUBJECT OF HEARING

California's Insurance Commissioner will hold a public hearing to consider the application of the California Automobile Assigned Risk Plan ("CAARP" or "Plan") for changes to the Simplified Manual of Rules and Rates.

### AUTHORITY AND REFERENCE TO ADOPT RATES

The Commissioner will consider the application pursuant to the authority vested in him by Section 11620 of the California Insurance Code. The Commissioner's decision on the application will implement, interpret, or make specific the requirements of Insurance Code Section 11624(e). Government Code section 11340.9(g) applies to this proceeding.

### HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the application at the following date, time, and place:

**Date: December 11, 2019**  
**Time: 1:00 p.m.**

**Place: Department of Insurance Hearing Room**  
**300 South Spring Street**  
**Los Angeles, CA 90013**

**The hearing will continue on the date noted above until all testimony has been submitted or until 5:00 p.m., whichever is earlier.**

### ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

### WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the application prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Contact Person:  
Michael Riordan, Attorney  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov)  
Telephone: (415) 538-4226  
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Emily Gallagher, Attorney  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[gallaghere@insurance.ca.gov](mailto:gallaghere@insurance.ca.gov)  
Telephone: (415) 538-4108

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on December 11, 2019**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail or facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Spring Street 12<sup>th</sup> Floor  
Los Angeles, CA 90013  
Telephone: (213) 346–6635

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

**CA 19–05**

On January 1, 2019, Regulation 2018–00020 Gender Non–Discrimination in Automobile Insurance Rating became effective. The regulation eliminates the use of a driver’s gender in private passenger automobile insurance rating in California. Gender has been eliminated from the list of optional rating factors shown in CA Insurance Code Section 1861.02.

CAARP proposes updating its classification codes must be updated to comply with the regulation.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the application will not result in any new program mandates on local agencies or school districts.

MANDATES ON LOCAL  
AGENCIES OR SCHOOL  
DISTRICTS OR COSTS WHICH  
MUST BE REIMBURSED  
PURSUANT TO GOVERNMENT CODE  
SECTIONS 17500 THROUGH 17630

The Insurance Commissioner has initially determined that the application will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO ANY STATE AGENCY;  
FEDERAL FUNDING

The Commissioner has determined that the application will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

SIGNIFICANT STATEWIDE  
ADVERSE ECONOMIC IMPACT ON  
BUSINESSES AND THE ABILITY OF  
CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal 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. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE  
PERSONS OR ENTITIES

The Insurance Commissioner has initially determined that the proposal will not affect private person or entities.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the application will not affect housing costs.

IMPACT ON SMALL BUSINESS

The proposed rate changes will not affect small businesses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The application would not mandate the use of specific technologies or equipment.

ALTERNATIVES

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

PLAIN ENGLISH

The application describing the proposal is in plain English. However, the application itself is based on technical actuarial principles.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed rate application in addition to the Informative Digest included in this notice. The Initial Statement of Reasons, Notice of Proposed Action and Regulation Text are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details on CAARP's proposal are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

A Final Statement of Reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared. A copy of the Final Statement of Reasons will also be posted on the Department's web site.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's application, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the Department amends the application with changes that are sufficiently related to the original application, the Department will make the full text of the amended rates, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended rates.

**TITLE 10. DEPARTMENT OF INSURANCE**

**REG-2019-00022**

SUBJECT OF HEARING

California Insurance Commissioner Ricardo Lara will hold a public hearing to address the proposed amendments to the California Low Cost Automobile ("CLCA") Plan of Operations.

AUTHORITY TO ADOPT RULES AND PROCEDURES AND REFERENCE

The Commissioner will consider the proposed changes pursuant to the authority vested in him by Section 11620 of the California Insurance Code. The Com-

missioner's decision on the proposed changes will implement, interpret, or make specific the requirements of Insurance Code Section 11624(e). Insurance Code Section 11620(c) applies to this proceeding.

#### HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed changes at the following date, time, and place:

**Date: December 11, 2019**

**Time: 1:00 p.m.**

**Place: Department of Insurance Hearing Room  
300 South Spring Street  
Los Angeles, CA 90013**

**The hearing will continue on the date noted above until all testimony has been submitted or until 5:00 p.m., whichever is earlier.**

#### ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

#### WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the application prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Contact Person:

Michael Riordan, Attorney  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[riordanm@insurance.ca.gov](mailto:riordanm@insurance.ca.gov)  
Telephone: (415) 538-4226  
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Emily Gallagher, Attorney  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[gallagher@insurance.ca.gov](mailto:gallagher@insurance.ca.gov)  
Telephone: (415) 538-4108

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

#### DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on December 11, 2019**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail or facsimile transmission. Please select only one method to submit written comments.

#### ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Spring Street 12<sup>th</sup> Floor  
Los Angeles, CA 90013  
Telephone: (213) 346-6635

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### **LC 19-03**

On January 1, 2019, Regulation 2018-00020 Gender Non-Discrimination in Automobile Insurance Rating

became effective. The regulation eliminates the use of a driver's gender in private passenger automobile insurance rating in California. Gender has been eliminated from the list of optional rating factors shown in CA Insurance Code Section 1861.02.

CAARP proposes updating its classification codes must be updated to comply with the regulation.

**LC 19-04**

Currently the Statistical Guidelines in the LCA Plan of Operations displays California zip codes two ways: (1) cities alphabetically by county and (2) zip codes numerically by county.

To improve efficiency and cut costs the data could be provided in a single comprehensive exhibit. This would reduce the number of manual pages and be easier to update.

To do this CAARP proposes a single Statistical Guidelines exhibit. The exhibit would contain zip code and statistical code information in a single exhibit reducing the number of exhibits currently utilized.

In addition the current process to update zip codes require approval of the CA Low Cost Subcommittee, CAARP Advisory Committee, and the California Department of Insurance. This delay impacts producers and applicants trying to secure coverage in the LCA plan.

CAARP proposes authorization to release updated statistical guideline zip code without making a formal regulatory filing.

This will have no impact on the way CAARP assigns applications. It would mirror the approved method in place for annual update to the Federal Poverty Guideline information used by CAARP to determine income eligibility for the LCA program. Like the Federal Poverty Guidelines used to set income eligibility USPS zip codes are public information. Because zip codes can change, be eliminated, or added several times in a year insureds and potential insureds in the LCA program could be impacted. Allowing CAARP to address and changes quickly ensures that coverage will be available.

**COMPARABLE FEDERAL LAW**

There are no comparable existing federal regulations or statutes.

**LOCAL MANDATE DETERMINATION**

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

**MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630**

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

**COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING**

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE**

The Commissioner has initially determined that the proposal 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. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

**COST IMPACT ON PRIVATE PERSONS OR ENTITIES**

The Insurance Commissioner has initially determined that the proposal will not affect private person or entities.

**IMPACT ON HOUSING COSTS**

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

**IMPACT ON SMALL BUSINESS**

The Insurance Commissioner has initially determined that the proposal will not affect small business.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The Insurance Commissioner has initially determined that specific technologies or equipment will be needed.

ALTERNATIVES

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

PLAIN ENGLISH

The proposed changes describing CAARP's proposals are in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendments in addition to the Informative Digest included in this notice. The Initial Statement of Reasons, Notice of Proposed Action and Text of Regulations are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details on CAARP's proposal are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

A Final Statement of Reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared. A copy of the Final Statement of Reasons will also be posted on the Department's web site.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California

94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

**TITLE 13. CALIFORNIA AIR RESOURCES BOARD**

This notice announces the availability of the Proposed Advanced Clean Trucks (ACT) Regulation and a Draft Environmental Analysis (Draft EA) for public comment. The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider the Proposed ACT Regulation.

DATE:

December 12, 2019

TIME:

9:00 a.m.

LOCATION:

California Environmental Protection Agency  
California Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., December 12, 2019, and may continue at 9:00 a.m., on December 13, 2019. Please consult the agenda for the hearing, which will be available at least ten days before December 12, 2019, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND  
SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 25, 2019. Written comments not physically submitted at the hearing must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Any written comments on the Draft EA must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

Clerks' Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 38501, 38510, 38560, 38566, 39500, 39600, 39601, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, 43104. Reference: Sections 38501, 38505, 38510, 38560, 38580, 39000, 39003, 39650, 39655, 43000, 43000.5, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205, 43205.5.

INFORMATIVE DIGEST OF PROPOSED ACTION  
AND POLICY STATEMENT OVERVIEW  
(GOV. CODE. section 11346.5, subd. (a)(3))

**Sections Affected:**

Proposed adoption of sections 1963, 1963.1, 1963.2, 1963.3, 1963.4, 1963.5, 2012, 2012.1, 2012.2, and 2012.3, and to codify all of these into a new Article 3.1, title 13, California Code of Regulations.

DOCUMENTS INCORPORATED  
BY REFERENCE

(Cal. Code Regs., tit. 1, section 20, subd. (c)(3))

The following would be incorporated in the regulation by reference as specified by the following sections:

- 40 CFR section 86.1803–01, amended on July 1, 2011, incorporated by reference in section 1963(c)(15)(A).

BACKGROUND AND EFFECT OF THE  
PROPOSED REGULATORY ACTION

Mobile sources and the fossil fuels that power them are the largest contributors to the formation of ozone, greenhouse gas (GHG) emissions, fine particulate matter (PM<sub>2.5</sub>), and toxic diesel particulate matter (PM). In California, the transportation sector alone accounts for 41 percent of total GHG emissions (50 percent when upstream emissions from fuel is included) and is a major contributor to oxides of nitrogen (NO<sub>x</sub>) and PM emissions. The Proposed ACT Regulation will contribute to achieving the state's criteria pollutant and GHG reduction goals and cleaner technology targets.

The purpose of the Proposed ACT Regulation is to accelerate the use of zero-emission vehicles (ZEVs) in the medium- and heavy-duty truck sector and reduce the amount of harmful emissions generated from on-road mobile sources. The primary objectives of the proposed ACT regulation include the following:

- Accelerate first wave of zero-emission truck deployments in best suited applications;
- Achieve 100 percent zero-emission pickup-and-delivery in local applications by 2040;
- Support the Ports of Los Angeles and Long Beach Clean Air Action Plan for 100 percent zero-emission drayage trucks by 2035;
- Support AB 739 requiring California state government fleets to purchase ZEVs;
- Enable a large-scale transition to zero-emission technology;
- Maximize the total number of ZEVs deployed;
- Complement existing and future programs;

- Provide environmental benefits, especially in disadvantaged communities thereby supporting the implementation of AB 617;
- Ensure requirements are technologically feasible and cost effective; and
- Foster a self-sustaining zero-emission truck market.

The deployment of ZEVs meets goals identified in the State Implementation Plan (SIP), the 2017 Climate Change Scoping Plan, and the 2016 ZEV Action Plan that supports the Governor's Executive Orders B-16-12 and B-48-18, which call for 1.5 million ZEVs in California by 2025 and 5 million ZEVs by 2030, and establishes several milestones on the pathway towards meeting these targets. In 2018, Governor Brown issued Executive Order B-55-18, which sets a target to achieve carbon neutrality in California no later than 2045, and to achieve and maintain net negative emissions thereafter. The Proposed ACT Regulation directly supports achieving these goals through the required sale of ZEVs in California from all large medium- and heavy-duty vehicle manufacturers.

#### Background and Program Overview

Zero-emission truck and buses can meet the needs of most local and regional operations with technology that is available today. Studies have shown that most straight trucks (designed with all axles on a single chassis), particularly those used in local delivery applications, do not travel more than 100 miles per day. A wide assortment of zero-emission trucks and buses are commercially available today that exceed 100 miles of available range. In addition, several battery electric and fuel cell models are being demonstrated that exceed over 200 miles per day.

The Proposed ACT Regulation was first identified as the "Last Mile Delivery" measure in the 2016 Mobile Source Strategy, which is part of the SIP and the 2017 Climate Change Scoping Plan. This measure is needed for California to achieve established near- and long-term air quality and climate mitigation targets. Last mile delivery fleets are well suited for introducing zero-emission technology because they operate in urban centers, have stop and go driving cycles, and are centrally maintained and fueled. Therefore, development of the Proposed ACT Regulation began with an initial focus on these pickup-and-delivery applications; however, as development progressed staff found that other vocational uses have similar operating characteristics that are well suited for electrification. Additionally, zero-emission technology continues to improve rapidly, and costs continue to come down so that zero-emission trucks and buses are now being offered in a wide variety of vehicle classes with varying electric range and utility. Nearly one hundred different models

are commercially available in California with more to come.

Zero-emission technology deployments are needed in the medium- and heavy-duty market to meet the state's emission reduction goals, but to date, the major truck manufacturers have been relatively absent in this space. For the past decade, smaller startup truck manufacturers have stepped in to fill market demand and have been designing and marketing zero-emission trucks. These startup companies have significantly advanced the technology. However, they do not yet have broad dealer networks or regional service facilities that can be leveraged quickly to provide support and maintenance services for large numbers of ZEVs. They also may lack the ability to deliver very large orders for major fleets that have been interested in operating zero emission trucks. This has hampered ZEV market expansion for early adopter fleets. At workshops discussing this proposal, a number of fleets that have been operating zero-emission trucks for years expressed concern about their experience in securing service and repairs to support their ZEVs in operation from smaller startups companies. In a few cases, orders for a large number of ZEVs were placed and not fulfilled. In addition, some of these fleets also had early experiences with ZEV products that were launched by large manufacturers that were also discontinued due to issues with their ZEV component suppliers.

The Proposed ACT Regulation is focused on requiring large truck manufacturers to sell zero-emission trucks in California to broaden the market and to send a clear signal that medium- and heavy-duty ZEVs will be a major part of California's overall strategy to reduce criteria emissions, reduce climate impacts, and reduce petroleum use. The Proposed ACT Regulation would also require one-time reporting from large entities about their contracting practices in meeting their transportation needs and how truck and bus owners currently use their vehicles. Information collected from these companies would help CARB structure future end-user regulatory strategies including whether large entities that hire truck fleets could become a point of regulation, help ensure a level playing field, and help CARB determine any appropriate exemptions or flexibilities. This information would be used in developing future regulations designed to further accelerate the purchase and use of ZEVs in fleets. Using both approaches of requiring manufacturers to build ZEVs and requirements to use them, in combination with early market support from funding programs, will significantly accelerate the market for ZEV technology.

#### Summary of Proposal

The Proposed ACT Regulation includes two primary elements. First, it requires manufacturers to sell ZEVs

as a percentage of annual truck and bus sales in California. Second, it requires one-time reporting of information from large organizations including retailers, manufacturers, and government agencies, about contracted services requiring the use of trucks and shuttles in addition to their heavy-duty vehicle fleet.

### ZEV Sales Requirement

#### Applicability

- ZEV sales requirement applies to manufacturers that certify incomplete chassis or complete vehicles greater than 8,500 lbs. gross vehicle weight rating (GVWR).
- Manufacturers with less than 500 annual California sales are exempt, but may opt-in to earn credits for selling ZEVs.

#### Sales Percentage

- Class 2b-3 group (consisting mainly of full size pickup trucks and vans) and Class 7-8 tractor group (consisting of on-road semi-trucks that haul trailers) ZEV sales begin at 3 percent of California sales beginning in 2024 model year (MY) and increase to 15 percent by 2030 MY (Class 2b-3 pickups would be excluded until 2027 MY).
- ZEV sales for all other vehicles in the Class 4-8 group begin at 7 percent of California sales in 2024 MY and increase to 50 percent in 2030 MY.
- The ZEV sales percentage requirements remain constant past 2030 MY.

#### Credits

- Manufacturers can earn credits starting with the 2021 MY.
- Starting with the 2024 MY, ZEP Certification would be required, where applicable, for ZEVs to earn credits.
- Compliance would be based on a credit and deficit system to provide flexibility for manufacturers to sell more ZEVs in one weight category and fewer in another.
- Credits may be banked and traded
- Near-zero-emission vehicles (plug-in hybrids with some all-electric range) would earn partial credits, and could be used to offset up to half of each manufacturer's annual deficits through the 2030 MY.

#### Manufacturer Reporting

- Manufacturers would need to report annually to demonstrate compliance, to earn credits, and to report details about credit trade transactions.

### Large Entity Reporting Requirement

- Large entities are defined as a government agency or a private organization that met one of the following in calendar year 2019:
  - Received more than \$50 million in total annual gross revenue and operated a facility in California.
  - Owned 100 or more Class 2b and greater vehicles and operated a facility in California
  - Dispatched 100 or more Class 2b and greater vehicles.
- Large entities would be required to report information by April 1, 2021, about the following:
  - Their contracting practices with motor carriers and for services that require the use of shuttles or trucks, and
  - Those who own trucks and buses would need to report information about their fleets, how they are operated, and where they are assigned or dispatched.
- To streamline the process, affected entities would be required to complete a one-time submittal of aggregated and approximate data for representative facilities, rather than detailed information about every facility.
  - Additionally, entities with vehicles would be required to report approximate, representative information about the vehicle types owned, rather than reporting operational data for every vehicle.

### OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

The purpose of the Proposed ACT Regulation is to accelerate the use of zero-emission vehicles (ZEVs) in the medium- and heavy-duty truck sector and reduce the amount of harmful emissions generated from on-road mobile sources. For a list of the ten primary objectives of the proposed ACT regulation, please refer to the "Background and Effect of the Proposed Regulatory Action," above. Include the following:

#### *Environmental Benefits*

The Proposed ACT Regulation would assist in attaining air quality standards, reducing health risks to individuals living in California, and meeting climate change goals. The emission reductions achieved by staff's proposal will contribute to the reduction of cumulative risk of mortality and morbidity from mobile source emissions in the state. The majority of these benefits will be in the state's most populated and impacted

areas near ports and city centers. These areas include the South Coast, San Francisco Bay Area, San Joaquin Valley, San Diego County, and the Sacramento Air Basins.

The Proposed ACT Regulation is expected to result in significant NO<sub>x</sub>, PM<sub>2.5</sub>, and GHG emission reductions due to replacing internal combustion powered vehicles with zero-emission technology. ZEVs produce no tailpipe emissions, reduce brake wear PM emissions, and have lower associated upstream emissions. Table ES-1 summarizes the expected criteria emission benefits in 2031 and 2040. These emission reductions contribute to the State SIP Strategy and Climate Change Scoping Plan.

**Table ES-1: Expected Emission Reductions of Proposed ACT Regulation**

*Calendar Year: 2031 — NO<sub>x</sub> (tpd): 5.0 — PM<sub>2.5</sub> (tpd): 0.16 — WTW GHG (MMT/yr): 0.4*

*Calendar Year: 2040 — NO<sub>x</sub> (tpd): 16.9 — PM<sub>2.5</sub> (tpd): 0.46 — WTW GHG (MMT/yr): 1.7*

*Economic Impacts*

ZEVs are more expensive upfront but provide operational savings in terms of lower fuel and maintenance costs. The Proposed ACT Regulation is expected to result in a total cost saving of \$4.9 billion to truck transportation in California compared to Business as Usual from 2020 through 2040, mostly due to fuel cost savings. This estimate includes infrastructure cost, higher cost of the vehicles, maintenance and fuel savings, and cost savings due to the Low Carbon Fuel Standard. It does not include vehicle or infrastructure incentives. Incentive programs such as the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Program (HVIP), utility investments, and other funding may be used to offset some potential cost to consumers. The estimated total statewide health benefits derived from criteria emission reductions are estimated to be an additional \$5.7 billion in savings.

The Proposed ACT Regulation requires that manufacturers must build and sell more costly zero-emission trucks, certify their powertrain using the ZEP Certification procedure, and report information to CARB as part of their regulatory requirements. The research, manufacture, certification, and development of ZEVs by manufacturers will contribute to the companies' costs associated with the Proposed ACT Regulation. However, the required ZEV sales can also count towards compliance with the existing California and federal Phase 2 GHG regulations simultaneously. Reporting requirements for vehicle manufacturers are not expected to be significant since most of the information needed is already reported as part of Phase 2 GHG compliance. It is not straightforward to predict how these costs and cost-

savings would be passed on to consumers. Vehicle pricing is complex, and different manufacturers could use different strategies to pass on these costs. It is possible that manufacturers may pass on incremental ZEV costs through the price of ZEVs themselves, through the rest of their non-ZEV fleet, or some combination thereof. Consumers may also be affected by the increased cost of taxes due to potentially higher cost of vehicles but may benefit from the operational cost savings.

The Proposed ACT Regulation also requires one-time reporting for large companies and government agencies who would need to report about their California facility locations, and how they and their contractors move freight and perform other services. Large fleet owners would also need to report information about what vehicles they own, and how they operate. The cost of complying with this one-time reporting requirement is not expected to be significant.

*Challenges and Long-Term Benefits*

Although ZEV technology has advanced rapidly in recent years, there are still challenges both fleets and manufacturers have to address to successfully deploy ZEVs. Common challenges for deploying zero-emission technologies include high upfront capital costs for both vehicle purchase and fueling/charging infrastructure expansion, challenges with scalability, managing electricity costs, vehicle operation flexibility, and workforce training.

Continued improvements in ZEV costs and performance are still needed to facilitate the full transition to zero-emission technology. However, the transition to zero-emission technology is essential for California to meet its long-term air quality and climate protection goals.

The Proposed ACT Regulation provides sufficient time for manufacturers to bring new ZEVs to the market, aided by several major funding programs to support early demonstrations and to kick start the market by reducing the incremental costs of commercial zero-emission technologies. Fleet owners can also benefit from lower operating and maintenance costs including Low Carbon Fuel Standard credits to significantly reduce operating costs while supporting the low carbon fuel market. As ZEV sales increase, technology improves, and incremental costs decline, a self-sustaining medium- and heavy-duty ZEV market is achievable in a wide range of applications.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations, necessitating the Proposed ACT Regulations to protect public health and achieve climate protection benefits.

AN EVALUATION OF  
INCONSISTENCY OR INCOMPATIBILITY WITH  
EXISTING STATE REGULATIONS  
(Gov. Code, section 11346.5, subd. (a)(3)(D))

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE  
PROPOSED REGULATION

FISCAL IMPACT/LOCAL  
MANDATE DETERMINATION  
REGARDING THE PROPOSED ACTION  
(Gov. Code, section 11346.5, subs. (a)(5)and(6))

The determinations of the Board’s Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Cost to Any Local Agencies and School Districts Requiring Reimbursement under section 17500 et seq.

Pursuant to Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the proposed regulatory action is a mandate that would create costs and cost-savings to local agencies, but not to school districts. However, these costs to local agencies are not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500). The mandate is not reimbursable because costs associated with the proposed regulation apply generally to all entities that purchase affected vehicles and respond to the reporting requirement, including local agencies. Therefore, the regulation does not constitute a “Program” imposing any unique requirements on local agencies as set forth in section 17514 of the California Government Code.

The Proposed ACT Regulation directly impacts local government entities, who are local agencies. Cities and counties are required to complete the Large Entity Reporting requirement in 2021. There are 58 counties and 482 cities in California and each would be required to report information about their fleets and the type of transportation services for which they contract.

Many cities and counties in California levy a Utility User Tax on electricity usage. This tax varies from city to city and ranges from no tax to 11 percent. A value of 3.53 percent was used in this analysis representing a

population-weighted average (SCO, 2016)<sup>1</sup>. By increasing the amount of electricity used, there will be an increase in the amount of the utility user tax revenue collected by cities and counties.

Fuel taxes on gasoline and diesel to fund transportation improvements at the state, county, and local levels. Displacing gasoline and diesel with electricity and hydrogen will decrease the total amount of gasoline and diesel dispensed in the state, resulting in a reduction in fuel tax revenue collected by local governments.

Sales taxes are levied in California to fund a variety of programs at the state and local level. The Proposed ACT Regulation will require the sale of more expensive zero-emission trucks in California which will result in direct increase in sales tax revenue collected by local governments. Overall, local sales tax revenue may increase less than the direct increase from vehicle sales if overall business spending doesn’t increase.

The local government fleet is estimated to make up 2.9 percent of California’s fleet based on information from manufacturers and the Department of General Services. A proportionate amount of the total costs are assumed to pass-through to local governments.

The estimated fiscal impacts to local government compared to a business as usual baseline are estimated –\$0.6 million over the first three years of the regulation and \$4 million over the regulatory lifetime.

Cost or Savings for State Agencies:

The Proposed ACT Regulation will impose costs on CARB. The Proposed ACT Regulation would have a small impact on staffing resources and would require two additional Air Pollution Specialist positions responsible for administering contracts to set up the reporting systems, assisting stakeholders with inquiries, data analysis and auditing of information submitted by manufacturers and fleets, supporting ACT enforcement actions and other general implementation duties. Each position has a fully burdened cost to CARB of \$180,000 in Fiscal Year (FY) 2020–2021 and \$179,000 every year afterwards.

The manufacturer reporting requirement will require modifying an existing reporting system or developing a new system to handle the reporting. The estimated cost is up to \$200,000 in FY 2020–2021 in contracting costs to set up a method for performing credit calculations and to track credit transactions to determine compliance with the rule.

Similarly, the fleet and large entity reporting requirement will require developing a new system to upload or receive reported data. The estimated cost is \$200,000 in

<sup>1</sup> (SCO, 2016) California State Controller’s Office, User Utility Tax Revenue and Rates (web page: [https://sco.ca.gov/Files-ARD-Local/LoSCzRep/2016-17\\_Cities\\_UUT.pdf](https://sco.ca.gov/Files-ARD-Local/LoSCzRep/2016-17_Cities_UUT.pdf), last accessed June 2019).

FY 2020–2021 in contracting costs to set up the large entity reporting system.

Fuel taxes on gasoline and diesel fund transportation improvements at the state, county, and local levels. Displacing gasoline and diesel with electricity and hydrogen will decrease the total amount of gasoline and diesel dispensed in the state. This will result in a reduction in revenue collected by the state for use in multiple levels of government.

The Energy Resource Fee is a \$0.0003/kWh surcharge levied on consumers of electricity purchased from electrical utilities. The revenue collected is deposited into the Energy Resources Programs Account of the General Fund which is used for ongoing energy programs and projects deemed appropriate by the Legislature, including but not limited to, activities of the California Energy Commission.

The state collects registration fees to fund transportation improvements at the state, county, and local levels. The fee structure for ZEVs is different from diesel vehicles with some fees such as the Vehicle License Fee being higher and others such as weight fees being lower. These differences result in lower registration fees for the ZEVs. These lower fees result in reduced revenue collected by the state for use in transportation services.

Sales taxes are levied in California to fund a variety of programs at the state and local level. This Proposed ACT Regulation will require the sale of more expensive zero-emission trucks in California which will result in higher sales tax collected by the state governments. Overall, state sales tax revenue may increase less than the direct increase from vehicle sales if overall business spending doesn't increase.

The state government fleet is estimated to make up 2.1 percent of California's fleet based on information from manufacturers and the Department of General Services. A proportionate amount of the total costs are assumed to pass-through to the state government.

The estimated fiscal impacts to the state government compared to a business as usual baseline are estimated –\$1.4 million over the first three years of the regulation and –\$2.1 billion over the regulatory lifetime.

Other Non-Discretionary Costs or Savings on Local Agencies:

The Proposed ACT Regulation affects local agencies, but is not expected to impose any non-discretionary costs or saving to local agencies.

Cost or Savings in Federal Funding to the State:

The Proposed ACT Regulation is not expected to impose any costs or saving in Federal Funding to the State.

**HOUSING COSTS**

(Gov. Code, section 11346.5, subd. (a)(12))

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs. Nothing in the regulation is expected to impact housing costs.

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

(Gov. Code, sections 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8))

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

**MAJOR REGULATION: STATEMENT OF THE RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS**

(Gov. Code, section 11346.3, subd. (c))

[Work in Progress]

In August 2019, CARB submitted a Standardized Regulatory Impact Analysis (SRIA) to the Department of Finance (DOF) for its review. CARB has updated the Proposed ACT Regulation since the original SRIA submittal, and to address DOF comments. The revisions are discussed in the ISOR, Chapter IX.

The Creation or Elimination of Jobs within the State

The Proposed ACT Regulation is estimated to result in a slightly positive job impact from approximately 2025 to 2040. These changes in employment represent less than 0.04 percent of baseline California employment. The total employment impacts are net of changes at the industry level. As the requirements of the Proposed ACT Regulation go into effect, the industries generally realizing reductions in production cost or increases in final demand see an increase in employment growth. This includes the truck transportation, construction, and manufacturing sectors and upstream industries. The largest decrease in employment results from the public sector, which is estimated to realize a decrease in fuel and sales tax revenue and registration fees. The oil and gas extraction industry and automotive repair and maintenance industry see a decreased employment growth rate due to a reduction in final demand for their goods and services.

*The Creation of New Businesses or the Elimination of Existing Businesses within the State*

The overall jobs and output impacts of the Proposed ACT Regulation are very small relative to the total California economy, representing changes of less than 0.03 percent. The trend of decreasing production costs for the truck transportation industry has the potential to result in an expansion or increases in businesses in this industry if sustained over time. However, the decreasing trend in demand for gasoline and diesel fuel following the implementation of this Proposed ACT Regulation has the potential to result in a decrease in businesses in this industry if sustained over time.

*The Competitive Advantages or Disadvantages for Businesses Currently Doing Business within the State*

The Proposed ACT Regulation imposes a sales mandate on large truck manufacturers. These truck manufacturers are headquartered and produce vehicles entirely out-of-state for a national and international market. There are small manufacturing entities in- and out-of-state that would not be required to sell ZEVs in California. Any risk of creating a competitive advantage is mitigated by the 500 vehicle sales threshold. Any small manufacturer that is able to increase sales would become subject to the same ZEV requirements as other large manufacturers.

Early credit generation incentives are proposed to benefit all manufacturing entities, and therefore would not give an explicit competitive advantage or disadvantage to competing manufacturers.

*The Increase or Decrease of Investment in the State*

Private domestic investment consists of purchases of residential and nonresidential structures and of equipment and software by private businesses and nonprofit institutions. It is used as a proxy for impacts on investments in California because it provides an indicator of the future productive capacity of the economy.

The relative changes to growth in private investment for the Proposed ACT Regulation show an increase of private investment of about \$177 million in 2030 and \$428 million in 2040, or less than 0.01 percent of a business as usual baseline investment.

*The Incentives for Innovation in Products, Materials, or Processes*

Staff is proposing incentives for early ZEV sales by allowing credits to be generated from ZEV sales starting with the 2021 MY, 3 years prior to the first sales requirements in the 2024 MY. Staff anticipates growth in industries that manufacture ZEV technologies, including first and second tier suppliers for manufacturers of ZEVs, which will strengthen the supply chain, and promote technology improvements earlier than they would

have otherwise occurred. This growth will help foster and support a self-sustaining medium- and heavy-duty ZEV market.

*The Benefits of the Regulations, Including, But Not Limited to, Benefits to the Health, Safety, and Welfare of California Residents, Worker Safety, and the State's Environment and Quality of Life, Among Any Other Benefits Identified By the Agency*

The Proposed ACT Regulation would reduce GHG, PM, and NOx emissions. The Proposed ACT Regulation is expected to achieve a reduction of 5.0 tpd of NOx and 0.16 tpd of PM<sub>2.5</sub> by 2031 which is a key year in meeting the SIP. It would continue to achieve additional emissions reductions past 2031 as ZEV sales percentages stay flat and continue to increase the number of ZEVs in the fleet. The Proposed ACT Regulation is also expected to cumulatively reduce well-to-wheel GHG emissions by 11.2 million metric tons of carbon dioxide (MMT CO<sub>2</sub>) from 2020 to 2040.

The Proposed ACT Regulation would also result in benefits to businesses and the State of California as a whole, as summarized here and discussed in detail in the ISOR Chapter V. Truck and bus owners through lowered total cost of ownership and lower fuel costs can reduce their overall costs by using ZEVs. Utility providers would benefit from shifting electricity load to off-peak periods and increased electricity demand, and could lower electricity costs due to increased utilization of infrastructure. Additionally, utilities will better be able to meet the requirements of SB350. Benefits from energy savings and reduction on petroleum fuel dependence are realized by the State as a whole, as well as disadvantaged communities and the State's economy.

*Department of Finance Comments and Responses*

**1. DOF Comment:** In general, Finance concurs with the methodology used to estimate impacts of proposed regulations. The SRIA clearly lays out for the public the proposed regulatory impacts, and does a good job of showing how this proposed regulation fits in with the overall strategy for California to reduce emissions. However, the SRIA also must be modified to include benefits — such as avoided health costs — on an annual basis.

**Response:**

The analysis in the ISOR has been updated to display annual avoided health cost benefits rather than just showing the total for the analysis period. There are three types of benefits modeled in the analysis: avoided health costs, avoided social cost of carbon, and direct cost savings. The annual valuation of health benefits and social cost of carbon are displayed in Chapter V. Annual direct costs and associated savings are displayed in Chapter IX.

**BUSINESS REPORT**

(Gov. Code, sections 11346.5, subd. (a)(11);  
11346.3, subd. (d)):

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES**  
(Gov. Code, section 11346.5, subd. (a)(9))

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. Manufacturers are responsible for meeting the ZEV sales percentage requirement, but none of the regulated manufacturers build vehicles in California. Most fleets do not currently have a requirement to purchase ZEVs. As a result, manufacturers bear risk in that they may have to sell vehicles below cost to fleets to meet the requirements of the regulation. Any ZEV costs that manufacturers cannot pass on through sale of their ZEVs may be added to the cost of the rest of their non-ZEV fleet, or the manufacturer may not pass on the cost and must absorb the cost themselves. The impacts are discussed in the ISOR, Chapter IX. There are no direct costs to individuals as a result of this regulation; however, individuals may experience indirect costs resulting from macroeconomic effects. Individuals may see health benefits due to ZEVs displacing non-ZEV vehicles and providing statewide, regional, and local emission benefits. Manufacturers and fleets will see increased and decreased costs as a result of this rule and will pass through to individuals in the state.

**EFFECT ON SMALL BUSINESS**

(Cal. Code Regs., tit. 1, section 4, subs. (a) and (b))

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses. There is no expected direct cost on small businesses under the Proposed ACT Regulation. No manufacturers or fleets who would be regulated under this rule are small businesses.

Small businesses who operate trucks will not be required to purchase zero-emission trucks, but may independently decide to do so. This may enable cost savings for small businesses due to electric trucks' lower cost of operation.

**CONSIDERATION OF ALTERNATIVES**

(Gov. Code, section 11346.5, subd. (a)(13))

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, 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 provisions of law.

The analysis of such alternatives can be found in Chapter X of the ISOR for the proposed alternatives. Staff has discussed six alternative concepts in the ISOR, including stricter and less stringent ZEV sales requirements, credit for low NOx engines paired with ZEV sales requirement, fleet ZEV purchase requirements, the Truck and Engine Manufacturers Association's targeted sector sales requirement coupled with a purchase requirement proposal, and proposals from environmental groups.

No alternative proposed was found to be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing law. The Board has not identified any reasonable alternatives that would lessen any adverse impact on small business.

**STATE IMPLEMENTATION PLAN REVISION**

If adopted by CARB, CARB plans to submit the proposed regulatory action to the U.S. EPA for approval as a revision to the SIP required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it adopts regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

**ENVIRONMENTAL ANALYSIS**

CARB, as the lead agency for the proposed regulation, has prepared a draft EA under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The EA concluded that implementation of the proposed regulation could result in: beneficial impacts to energy demand, and greenhouse gases; less than significant impacts, or no impacts, to air quality, energy demand,

greenhouse gases, land use planning, mineral resources, population and housing, public service, and recreation; and potentially significant [indirect/secondary] adverse impacts to aesthetics, agricultural and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use planning, mineral resources, noise, transportation and traffic, and utilities and service systems. The draft EA, included as Appendix D to the ISOR, is entitled Draft Environmental Analysis. Written comments on the draft EA will be accepted during a 45-day public review period starting on October 25, 2019 and ending at 5 p.m. on December 9, 2019.

#### SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

#### AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency repre-

sentative Craig Duehring, Manager, In-Use Control Measures Section, at (916) 323-2361 or (designated back-up contact) Paul Arneja, Air Resources Engineer, at (916) 322-5616.

#### AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Staff Report: Initial Statement of Reasons — Public Hearing to Consider the Proposed Advanced Clean Trucks Regulation.

Copies of the ISOR and the full text of the proposed regulatory language, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 22, 2019.

The agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed to Bradley Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may vote on a resolution directing the Executive Officer to: make any proposed modified regulatory language that is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action, and any additional supporting documents and information, available to the public for a period of at least 15 days; consider written comments submitted during this period; and make any further modifications as may be appropriate in light of the comments received available for further public comment. The Board may also direct the Executive Officer to: evaluate all comments received during the public comment periods, including comments regarding the Draft Environmental Analysis, and prepare written responses to those comments; and present to the Board, at a subsequently scheduled public hearing, the final proposed regulatory language, staff's written responses to com-

ments on the Draft Environmental Analysis, along with the Final Environmental Analysis for action.

**FINAL STATEMENT OF REASONS AVAILABILITY**

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

**INTERNET ACCESS**

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2019/advancedcleantrucks>.

**TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION**

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) section 12838.5 and Penal Code (PC) section 5055, and the rulemaking authority granted by PC section 5058, proposes to repeal sections 3352, 3352.1, 3355, and 3355.2; amend sections 3999.98, 3999.99, and 3999.320; and adopt sections 3999.100 et seq., 3999.200 et seq., 3999.300 et seq., and 3999.400 et seq. of the California Code of Regulations (CCR), Title 15, Division 3, concerning medical care for CDCR patients.

**PUBLIC HEARING**

Date and Time:

**December 18, 2019 — 10:00 a.m. to 11:00 a.m.**

Place:

Elk Grove Police Service Center  
Elk Grove City Council Chambers  
8400 Laguna Palms Way  
Elk Grove, CA 95758

Purpose:

To receive comments about this action.

The Elk Grove City Council Chambers 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 Department 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.

**PUBLIC COMMENT PERIOD**

The public comment period will close **December 18, 2019, at 5:00 p.m.** Any person may submit public comments in writing (by mail or by e-mail) regarding the proposed changes. To be considered, comments must be submitted to California Correctional Health Care Services (CCHCS), Health Care Regulations and Policy Section, P.O. Box 588500, Elk Grove, CA, 95758, or by e-mail to [HealthCareRegulations@cdcr.ca.gov](mailto:HealthCareRegulations@cdcr.ca.gov) before the close of the comment period.

**CONTACT PERSON**

Please direct any inquiries regarding this action to:

**J. Inderkum**  
**Risk Management Branch**  
**California Correctional Health Care Services**  
**P.O. Box 588500**  
**Elk Grove, CA 95758**  
**(916) 691-2921**

**D. Gouldy**  
**Associate Director**  
**Risk Management Branch**  
**California Correctional Health Care Services**  
**(916) 691-2922**

**AUTHORITY AND REFERENCE**

GC section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

PC section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

References cited pursuant to this regulatory action are as follows: Section 312, Code of Federal Regulations; Sections 3406, 3407, 3409, 3500–3524, 5008.2, 5054, and 7570–7576, PC; Sections 1150, 1279.1, 1337–1338.5, and 1366–1366.4, Health and Safety Code; Sections 2069–2071, 2700 et seq., 2700–2838.4, 2725(b), 2761, 2776, 2836.1, 2836.2, 2836.3, 2840, 2878, 3500–3546, 4040(a)(2), 4076, 4170, 4171(b), 4500 et seq., and 4521, Business and Professions Code; Sections 3200–3212, and 3203, Probate Code; *Plata v. Newsom* (No. C01–1351 JST), U.S. District Court, Northern District of California; *Clark v. California* (No. C96–1486 CRB), U.S. District Court, Northern District of California; and Armstrong Remedial Plan. *Armstrong v. Newsom* (Number C94–2307 CW), U.S. District Court, Northern District of California.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CDCR and CCHCS propose to repeal sections 3352, 3352.1, 3355, and 3355.2; amend sections 3999.98, 3999.99, and 3999.320; and adopt sections 3999.100 et seq., 3999.200 et seq., 3999.300 et seq., and 3999.400 et seq. of the CCR, Title 15, Division 3, concerning medical care for CDCR patients. Current regulations provide for health care definitions and certain provisions of medical care for CDCR patients; however, current regulations are outdated and lacking in critical areas of medical care delivery and governance.

Health care has undergone extensive policy changes to meet requirements set forth in class action settlement agreements and court monitoring for the CDCR in the medical, mental health, and dental programs. In the class action lawsuit, *Plata v. Newsom*, United States District Court for the Northern District of California, inmates alleged their access and quality of medical care did not meet constitutional requirements and allegedly suffered cruel and unusual punishment. A settlement agreement filed in 2002 required CDCR to overhaul its medical care policies and procedures, and to allocate significant resources to ensure timely access to adequate care. As a result of numerous improvements made during the intervening years, the existing regulations in the CCR, Title 15, regarding the provision of medical care do not reflect the current practices and processes of CDCR. The proposed regulations contain extensive and significant updates to the existing medical care regulations, which are vital to ensuring patients receive complete and comprehensive health care.

This action provides the following:

- Establishes comprehensive health care regulations for the provision of care to CDCR patients.

- Aligns regulatory language with current department processes and practices.
- Repeals obsolete and outdated regulations related to medical care.

#### FORMS INCORPORATED BY REFERENCE

- CDCR 1824, Reasonable Accommodation Request (Rev. 09/17)
- CDCR 7225, Refusal of Examination and/or Treatment (Rev. 03/19)
- CDCR 7421, Advance Directive for Health Care (Rev. 06/18)
- CDCR 7465, Physician Orders for Life-Sustaining Treatment (Rev. 08/16)
- CDCR 7536, Durable Medical Equipment and Medical Supply Receipt (Rev. 05/17)
- CDCR 7551, Administration or Declination of Coccidioidomycosis Screening (01/16)

#### BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The Department anticipates the proposed regulations will benefit both the Department and patients within its jurisdiction by clarifying processes for the delivery of medical services within CDCR institutions. Clarification of processes will avoid confusion and prevent inconsistencies throughout the correctional health care system. Patients will receive timely access to and continuity of care which may result in better patient health care outcomes.

#### EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING REGULATIONS

Pursuant to GC section 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the Department has determined these proposed regulations are not inconsistent or incompatible with any existing regulations within CCR, Title 15, Division 3.

#### LOCAL MANDATES

The proposed regulatory action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to GC section 17500–17630.

#### FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*.

- Cost to any local agency or school district that is required to be reimbursed: *None*.
- Other nondiscretionary cost or savings imposed on local agencies: *None*.
- Cost or savings in federal funding to the state: *None*.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs because the proposed action aligns regulatory language with current Department practices related to the provision of medical care which only affects CDCR patients.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has determined 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 because the proposed action aligns regulatory language with current Department practices related to the provision of medical care which only affects CDCR patients.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT

The proposed regulatory action repeals outdated regulations and establishes comprehensive medical care regulations which reflect current processes and practices of the Department. These proposed changes will be beneficial to the health and welfare of CDCR patients, staff, and the general public by ensuring timely access to safe, efficient, and effective medical care for CDCR patients.

The Department has determined that the proposed regulations will have no impact on the creation of new or the elimination of existing jobs or businesses within California or affect the expansion of businesses currently doing business in California because the proposed action aligns regulatory language with current Department practices related to the provision of medical care which only affects CDCR patients.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would nec-

essarily incur in reasonable compliance with the proposed action. The proposed action aligns regulatory language with current Department practices related to the provision of medical care which only affects CDCR patients.

#### EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will have no significant adverse economic impact on small businesses because the proposed action aligns regulatory language with current Department practices related to the provision of medical care which only affects CDCR patients.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, 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 provisions of law.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony, reasonable alternative, or other evidence provided that would alter the CDCR's initial determination to proceed with this action.

#### AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared, and will make available, the proposed text and the Initial Statement of Reasons (ISOR) of the proposed regulatory action. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the contact person listed in this Notice. The proposed text, ISOR, and Notice of Proposed Action will also be made available on CCHCS's website <http://www.cchcs.ca.gov/>.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the contact person listed in this Notice.

AVAILABILITY OF CHANGES TO  
PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt 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 for at least 15 calendar days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person listed in this Notice. The Department will accept written comments on the modified regulations for 15 calendar days after the date on which they are made available.

**TITLE 17. AIR RESOURCES BOARD**

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of the proposed 2019 amendments to the regulations designating areas of California as Attainment, Nonattainment, Nonattainment–transitional, or Unclassified for pollutants with State ambient air quality standards.

DATE:

December 12, 2019

TIME:

9:00 a.m.

LOCATION:

California Environmental Protection Agency  
California Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., December 12, 2019, and may continue at 8:30 a.m., on December 13, 2019. This item is scheduled to be heard on the Board’s Consent Calendar, unless removed upon the request of a Board member or if someone in the audience submits a request–to–speak card on this item. Please consult the agenda for the meeting, which will be available at least ten days before December 12, 2019, to determine when this item will be considered.

WRITTEN COMMENT PERIOD AND  
SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present com-

ments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 25, 2019. Written comments not physically submitted at the hearing must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Any written comments on the Environmental Analysis must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

Clerks’ Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, Section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, Sections 39600, 39601, 39607(e), 39608, and 40925.5. This action is proposed to implement, interpret, and make specific Sections 39607(e), 39608, and 40925.5.

INFORMATIVE DIGEST OF PROPOSED ACTION  
AND POLICY STATEMENT OVERVIEW  
(GOV. CODE, Section 11346.5, subd. (a)(3))

**Sections Affected:** Proposed amendment to California Code of Regulations, title 17, Section 60201.

BACKGROUND AND EFFECT OF THE PROPOSED REGULATORY ACTION

CARB is charged with the responsibility of adopting ambient air quality standards in consideration of the public health, safety, and welfare (Health and Safety Code [H and SC] Section 39606). To date, CARB has adopted State ambient air quality standards (State standards) for ten pollutants, set forth in CCR, title 17, Section 70200. In addition, H and SC Section 39607(e) requires CARB to establish designation criteria which provide the basis for designating areas of California as Attainment or Nonattainment with respect to the State standards. The designation criteria are set forth in CCR, title 17, Sections 70300 through 70306, and appendices 1 through 3 thereof. Based on these designation criteria, H and SC Section 39608 further requires CARB to establish and annually review area designations for State standards.

CARB may also consider other changes to the sections affected during the course of this rulemaking process.

OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

During the annual review, CARB determines whether changes to the existing area designations are warranted based on an evaluation of recent air quality data. The proposed amendments to the area designations classify the air quality in communities as to whether it meets the State standards. Depending on the proposed changes to an area's designation, the local air quality management district of air pollution control district (district) may be required to adopt and submit a plan to correct for deficiencies in meeting the State standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. Districts may modify the emissions reduction strategy or alternative measure of progress in the plan if the district demonstrates to CARB's satisfaction that the modified strategy is at least as effective in improving air quality as the strategy in the plan.

The annual review and update of the area designations gives the public, businesses, and government an indication of whether the health-based standards are being met. This information allows the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. In addition, businesses and government are given the opportunity to make informed decisions regarding worker health and safety.

Objectives:

This year's review of the area designations is based on air quality data from 2016 through 2018. The proposed amendments provide for the following changes:

- Ozone Area Designations (Section 60201):
- Redesignate Santa Barbara County in the South Central Coast Air Basin as Attainment. This area is currently designated as Nonattainment-transitional.
- Redesignate Yuba County and that portion of Sutter County outside of the Sutter Buttes in the Sacramento Valley Air Basin as Nonattainment. This area is currently designated as Attainment.

Benefits:

*Environmental Justice.* Some communities experience higher exposures to air pollutants, and it is a priority of CARB to ensure that full protection is afforded to all Californians. CARB's designations provide members of these communities with updated information about the air quality of their communities which, as stated, allows them to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities.

*Safeguarding the quality of the physical environment.* An area's designation status provides a classification that assists local districts to more accurately assess local air quality. As discussed above, depending on the proposed changes to an area's designation, a district may be required to adopt and submit a plan to correct for deficiencies in meeting the State standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. As a result, indirect benefits to the quality of the physical environment may result if the district adopts or amends its regulations with a goal toward achieving the State standards.

*Encouraging a regional approach to the State ambient air quality, whenever possible.* The proposed designations by discrete areas allow each local district to assess the air quality of individual areas and address their unique situations and needs. This approach allows each local district to identify the most cost-effective, efficient, and acceptable approach to achieve the State standards.

*Consistency with the State goal of providing a decent home and suitable living environment.* The annual review and update of the area designations gives local districts an updated and more accurate indication of whether the health-based standards are being met. This information allows local districts to make informed decisions regarding appropriate actions to meet the State standards.

*Protection of worker safety.* The annual review and update of the area designations gives the public, businesses, and government an updated and more accurate

indication of whether the health-based standards are being met. This information also allows businesses and government the opportunity to make better informed decisions regarding worker health and safety.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal or local regulations that address area designations for the State standards.

AN EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

(Gov. Code, Section 11346.5, subd. (a)(3)(D))

The proposed changes, as well as the process for effecting those changes, to the area designations are consistent and compatible with existing State regulations.

In proposing the designation changes, CARB has considered the data for record (defined in California Code of Regulations, title 17, Section 70301(a)),<sup>1</sup> which meet the representativeness and completeness criteria. The representativeness criteria are set forth in Appendix B to the Initial Statement of Reasons (ISOR) and in the California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 1. The completeness criteria are also set forth in Appendix B to the ISOR and in the California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 3.

In addition, CARB has considered the criteria for designating areas as Nonattainment (California Code of Regulations, title 17, Section 70303), Nonattainment-transitional for ozone (California Code of Regulations, title 17, Section 70303.5), and Attainment (California Code of Regulations, title 17, Section 70304) in making these proposed designations.

During the process of developing the proposed regulatory action, CARB conducted a search of any similar

regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATION

FISCAL IMPACT/LOCAL MANDATE DETERMINATION REGARDING THE PROPOSED ACTION

(Gov. Code, Section 11346.5, subds. (a)(5) and (6))

The determinations of the Board’s Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code Sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, nor costs or mandate to school districts. The proposed regulatory action would trigger reporting requirements under the H and SC Sections 40910–40930 and potentially create costs to one local air district, which is not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with Section 17500), and cost savings to another local air district by allowing the suspension of the reporting requirements under the H and SC Sections 40910–40930.

HOUSING COSTS

(Gov. Code, Section 11346.5, subd. (a)(12))

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

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

(Gov. Code, Sections 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8))

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

<sup>1</sup> California Code of Regulations, title 17, Section 70301(a) provides, “Except as otherwise provided in this article, designations shall be based on ‘data for record.’ (1) Data for record are those data collected by or under the auspices of the state board or the districts for the purpose of measuring ambient air quality, and which the Executive Officer or his or her delegate has determined comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures. (2) Any other data which are provided by a district or by any other person will be data for record if the Executive Officer or his or her delegate determines within 90 days of submittal of complete supporting documentation that the data comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures . . .”

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT  
(Gov. Code, Section 11346.5, subd. (a)(10))

**NON-MAJOR REGULATION: Statement of the  
Results of the Economic Impact Assessment (EIA):**

*Effect on Jobs/Businesses:*

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

The area designations are labels that describe the healthfulness of the air quality in each area. Because these regulations by themselves are simply labels of an area's air quality, they do not contain any specific requirements for action, but may trigger or suspend the review, adoption, and submittal of a triennial plan by a local district. As a result, in most cases they have no specific, direct economic impact. In general, this regional approach to categorizing air quality allows each district to identify the most cost-effective and efficient approach to achieve the ambient air quality standards. The change in ozone designation from Nonattainment to Attainment for Santa Barbara County will suspend a reporting requirement for the Santa Barbara County Air Pollution Control District and will result in cost savings. Conversely, the change in ozone designation from Attainment to Nonattainment for Yuba and Sutter Counties will reinstate a reporting requirement for the Feather River Air Quality Management District and will result in some costs to the district.

In addition, the annual review and update of the area designations gives the public an indication of whether the health-based standards are being met, thereby allowing the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. These personal health and residency decisions may translate into cost savings from reduced medical expenses, hospitalizations, and time off from work, as well as improved psychological benefits. It also allows businesses and government the opportunity to make informed decisions about worker health and safety. These business and government decisions may also translate into cost savings from reduced workers' expenses such as medical expenses, hospitalizations, time off from work, and workers' compensation, as well as improved worker morale.

*Benefits of the Proposed Regulation:*

The objective of the proposed amendments to the regulation is to review and update the area designations which give the public, businesses, and government, an indication of whether the health-based standards are being met.

A summary of these benefits is provided; please refer to "Objectives and Benefits," under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion, above.

COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES  
(Gov. Code, Section 11346.5, subd. (a)(9))

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. CARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS  
(Cal. Code Regs., tit. 1, Section 4, subds. (a) and (b))

The Executive Officer has also determined under California Code of Regulations, title 1, Section 4, that the proposed regulatory action would not affect small businesses because the proposed regulatory actions are simply labels of an area's air quality; they do not contain any specific requirements for action, other than triggering the review, adoption, and submittal of a triennial plan by the local district. As a result, they have no specific, direct impact on small businesses.

CONSIDERATION OF ALTERNATIVES  
(Gov. Code, Section 11346.5, subd. (a)(13))

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, 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 provisions of law.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the pro-

posed regulation and concluded that this is exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed action may result in significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Section VII of the ISOR.

#### SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

#### AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative, Theresa Najita, Air Pollution Specialist, Central Valley Air Quality Planning Section, at (916) 322-7297 or Jenette Kwong, Air Resources Engineer, Air Quality Analysis Section, at (916) 324-9460.

#### AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: ISOR for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: "Proposed 2019 Amendments to Area Designations for State Ambient Air Quality Standards."

Copies of the ISOR, which includes the full text of the proposed regulatory language in underline and strike-out format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 22, 2019.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with Section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

#### FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested

from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

#### INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2019/2019-state-area-designations-regulation>.

#### TITLE 17. AIR RESOURCES BOARD

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed Fuel Cell Net Energy Metering Greenhouse Gas Emission Standard Regulation.

**DATE:**

December 12, 2019

**TIME:**

9:00 a.m.

**LOCATION:**

California Environmental Protection Agency  
California Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., December 12, 2019, and may continue at 8:30 a.m., on December 13, 2019. Please consult the agenda for the hearing, which will be available at least ten days before December 12, 2019, to determine the day on which this item will be considered.

#### WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 25, 2019. Written comments not physically submitted at the hearing must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Any written comments on the Environmental Analysis must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely

comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

**Postal mail:**

Clerks' Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814

**Electronic submittal:** <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

#### AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39600 and 39601, and Public Utilities Code section 2827.10. This action is proposed to implement, interpret, and make specific section 2827.10 of the Public Utilities Code.

#### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOV. CODE, section 11346.5, subd. (a)(3))

**Sections Affected:** Proposed adoption of California Code of Regulations, title 17, subchapter 10, article 4, subarticle 5.2, sections 95408, 95409, 95410, 95411, and 95412.

#### DOCUMENTS INCORPORATED BY REFERENCE

(Cal. Code Regs., tit. 1, section 20, subd. (c)(3))

The following documents would be incorporated into the regulation by reference:

United States Environmental Protection Agency. Mandatory Reporting of Greenhouse Gases; Final Rule. Title 40 Code of Federal Regulations, Part 98, Subpart A, Table A-1. October 30, 2009.

<https://www.govinfo.gov/content/pkg/FR-2009-10-30/pdf/E9-23315.pdf>, Section 95410(a)(4).

United States Environmental Protection Agency. Mandatory Reporting of Greenhouse Gases; Final Rule. Title 40 Code of Federal Regulations, Part 98, Subpart A, Table A-1. December 11, 2014. <https://www.govinfo.gov/content/pkg/FR-2014-12-11/pdf/2014-28444.pdf>, Section 95410(a)(4).

## BACKGROUND AND EFFECT OF THE PROPOSED REGULATORY ACTION

CARB staff is proposing the Fuel Cell Net Energy Metering Greenhouse Gas Emission Standards Regulation (Regulation), as required by Assembly Bill (AB) 1637 (Low, Chapter 658, Statutes of 2016). The Fuel Cell Net Energy Metering (Fuel Cell NEM) Program was established by the legislature in 2003 and has been extended and expanded over the years, most recently by AB 1637 in 2016. The Fuel Cell NEM Program provides eligible customer-generators with a bill credit for electricity generated and exported from a fuel cell system and avoids or limits the amount that fuel cell customer-generators ordinarily pay for various utility costs. The Program is overseen by the California Public Utilities Commission (CPUC) and implemented by three Investor-Owned Utilities (IOUs): Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric.

In addition to extending the Fuel Cell NEM Program, AB 1637 also added the requirement that CARB develop greenhouse gas (GHG) emission standards that fuel cell generation resources must meet in order to be eligible for the Program. By statute the GHG emission standards must reduce “greenhouse gas emissions compared to the electrical grid resources, including renewable resources, that the fuel cell electrical generation resource displaces, accounting for both procurement and operation of the electrical grid” (Public Utilities Code section 2827.10). CARB is to “establish a schedule of annual GHG reduction standards . . .” and “. . . update the schedule every three years with applicable standards for each intervening year.”

The purpose of the Regulation is to establish an annual schedule of annual GHG emission standards, to be updated every three years, in accordance with AB 1637 requirements. The Regulation sets fuel cell NEM GHG emission standards for 2017 through 2022, and establishes a process by which the Executive Officer will update the emission standards every three years beginning in 2022.

CARB may also consider other changes to the sections affected during the course of this rulemaking process.

## OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

The objectives of the Regulation are to set Fuel Cell NEM GHG emission standards that conform with AB 1637 requirements and ensure that eligible fuel cell generation resources emit fewer GHG emissions than the grid energy they displace. In developing the proposed GHG emission standards, CARB staff evaluated the potential effects additional fuel cell resources would likely have on the displacement of various grid resources, including the potential displacement of renewable resources, future resource procurement by affected utilities, and operation of the electrical grid. From May 2017 through July 2019, CARB staff conducted an informal public process consisting of one working group meeting and three workshops to discuss proposed emission standard calculation methodologies and seek stakeholder input. During this process, CARB staff informally proposed and considered four possible methodologies to set the Fuel Cell NEM GHG emission standards. In consultation with California Energy Commission (CEC) staff, and per stakeholder feedback, CARB staff determined that fuel cell resources would displace marginal (as opposed to baseload) generator resources. Further, marginal generators would either be simple cycle-gas turbines, combined-cycle gas turbines, and, for a small percentage of hours in the year, renewable generators like wind and solar power plants.

The current proposal uses an equation that incorporates 2017 data from CEC and the California Independent System Operator (CAISO) to calculate the 2017 Fuel Cell NEM GHG emission standard. The CEC data provide marginal generator emission rates, and the CAISO data show the number of hours that the day-ahead market electricity price was \$0 (zero) or less, which serves as a proxy for the number of hours that renewable generators were the marginal generators. CARB staff also developed a methodology to set the GHG emission standards for future years. This methodology is rooted in the idea that fuel cell electrical generating resources should reduce their GHG emissions at the same rate as California’s electricity sector.

To establish this reduction rate, CARB staff calculated the average annual expected reduction needed to move from 2016 electricity sector emissions to the Integrated Resource Planning (IRP) GHG emission targets that CARB’s Board adopted in July 2018 in response to Senate Bill (SB) 350 (de León, Chapter 547, Statutes of 2015). SB 350’s 2030 Renewables Portfolio Standard (RPS) goal of 50 percent was later changed to be 60 percent by SB 100 (de León, Chapter 312, Statutes of 2018), and the IRP emission target utilized in the development of this Regulation takes into account this update.

This reduction in the Fuel Cell NEM emission standards, and the AB 1637 requirement that Fuel Cell NEM Program eligibility is assessed annually, means that fuel cell electrical general resources must decrease GHG emissions over time. This can occur either through increasing efficiency or through switching to eligible biofuels. This drive towards greater efficiency or a switch to eligible biofuels is also aligned with the goals outlined in the 2017 Scoping Plan Update, which states that while “natural gas is an important energy source, we must move toward cleaner heating fuels . . .” In proposing a methodology that results in Fuel Cell NEM GHG emission standards 1) representing reductions relative to the electricity generation being displaced, and 2) reducing consistently over time, the Regulation meets not only AB 1637 requirements but also aligns with the State’s legislatively mandated longer-term climate and electricity sector goals. Fuel cells, which utilize but do not combust natural gas, also have the potential to reduce criteria pollutants, which is another critical priority in the State.

The Regulation would establish Fuel Cell NEM GHG emission standards for the years 2017 through 2022 and lays out the process by which the Executive Officer would update the standards every three years, beginning in 2022. The 2017 through 2022 standards would be 409, 399, 389, 379, 370, and 360 kg CO<sub>2</sub>e/MWh, respectively. CARB staff considers the Regulation to be the best method for meeting the requirements of AB 1637 for the following reasons:

- The proposed standards use 2017 public data which reflect actual emissions based on electricity grid operation.
- The proposed standards take into account renewables procurement in two ways: 1) by decreasing marginal generator emissions by the amount of time that renewables are on the margin, and 2) by reducing the GHG emission standards by 2.5 percent annually, commensurate with 2030 electricity-sector GHG emission (IRP) targets set pursuant to SB 350 and taking into consideration the updated RPS target set by SB 100.
- The proposed standards use the most recently available data for every three-year update, which ensures that future GHG emission standards continue to reflect the operation of the electricity grid, including combined/simple-cycle generator GHG emission rates and the number of hours that renewable generators are operating on the margin.

The proposed method for calculating the Fuel Cell NEM GHG emission standards is based on operational data of electricity generating units in California, accounts for the impact that renewable electricity genera-

tion has on the GHG emissions of marginal generation, and takes into account GHG emissions reductions that are required of the electricity sector pursuant to SB 350, including the updated 2030 RPS target set by SB 100. CARB staff’s proposal complies with legislative direction in AB 1637 and provides both relative certainty for potential Fuel Cell NEM Program participants and assured emission reductions by declining steadily every year.

A detailed description of the proposed Regulation is provided in Chapter I of the “Staff Report: Initial Statement of Reasons (ISOR) — Proposed Fuel Cell Net Energy Metering Greenhouse Gas Emission Standards Regulation,” referred to as the ISOR. The Proposed Regulation Order is Appendix A of the ISOR.

The Fuel Cell NEM Program is a voluntary, incentive-based program administered by CPUC and implemented by IOUs. Even if a fuel cell electrical generation resource meets the fuel cell NEM GHG emission standards established in this Regulation, there are numerous other factors, beyond the scope of this Regulation, that would determine whether the resource is eligible for fuel cell NEM and/or whether the fuel cell is installed.

Generally speaking, fuel cell installations have the potential to reduce GHG, nitrogen oxides (NO<sub>x</sub>), and particulate matter (PM) emissions relative to the grid electricity that they displace. However, the Regulation is not anticipated to provide any direct GHG, NO<sub>x</sub>, or PM emission reduction benefits because it would only set numeric standards for a voluntary program that, by statute, is implemented by CPUC. By statute, CPUC is also tasked with determining what fuel cells meet those standards and administering the voluntary Fuel Cell NEM Program. The Regulation is not anticipated to provide any direct benefits to the protection of public health and safety, worker safety, or the environment.

#### COMPARABLE FEDERAL REGULATIONS

There are not any comparable Fuel Cell NEM federal regulations.

#### AN EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

(Gov. Code, section 11346.5, subd. (a)(3)(D))

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE  
PROPOSED REGULATION

FISCAL IMPACT/LOCAL MANDATE  
DETERMINATION REGARDING THE  
PROPOSED ACTION

(Gov. Code, section 11346.5, subs. (a)(5) and (6))

The determinations of the Board’s Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency (other than approximately six hours of staff time starting in 2022 and continuing every three years until 2047), would not create costs or savings in federal funding to the State, would not create costs or mandate to any local agency or school district, or other nondiscretionary cost or savings to State or local agencies.

HOUSING COSTS

(Gov. Code, section 11346.5, subd. (a)(12))

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

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

(Gov. Code, sections 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8))

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT

(Gov. Code, section 11346.5, subd. (a)(10))

**NON-MAJOR REGULATION: Statement of the  
Results of the Economic Impact Assessment (EIA):**

As required by AB 1637, the proposed regulation sets annual GHG emission standards for fuel cell generating

resources participating in the Fuel Cell NEM Program which is administered by CPUC and implemented by IOUs. Though the proposed regulation sets standards, statute (AB 1637) requires that other entities must implement those standards. Businesses are not anticipated to act as a result of the proposed regulation alone, therefore, the proposed regulation is not anticipated to cause any economic impact to private businesses or individuals in California.

As such the proposed regulation is not anticipated to have any statewide economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, the expansion of businesses currently doing business within the State of California, or on representative private persons. Pursuant to CCR, title 1, section 4, the proposed regulation would not affect small businesses because it does not contain any requirements for action.

The proposed regulation is not anticipated to provide any direct GHG emission reduction benefits because any such benefits would only occur once CPUC adopts and administers the standards.

*Effect on Jobs/Businesses:*

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Assessment in the ISOR.

*Benefits of the Proposed Regulation:*

The objective of the proposed Regulation is to ensure that eligible fuel cell generation resources participating in CPUC’s Fuel Cell NEM Program emit fewer GHG emissions than the grid energy they displace. The Regulation establishes a schedule of annual GHG emission standards for the continued operation of the Fuel Cell NEM Program, as required by AB 1637. The Fuel Cell NEM Program is a voluntary, incentive-based program administered by CPUC and implemented by IOUs. Even if a fuel cell electrical generation resource meets the Fuel Cell NEM GHG emission standards established in this Regulation, there are numerous other factors, beyond the scope of this Regulation that would determine whether the resource is eligible for Fuel Cell NEM and/or whether the fuel cell is installed.

Generally speaking, fuel cell installations have the potential to reduce GHG, NOx, and PM emissions relative to the grid electricity that they displace. However,

the Regulation is not anticipated to provide any direct GHG, NOx, or PM emission reduction benefits because it would only set numeric standards for a voluntary program that, by statute, is implemented by CPUC. By statute, CPUC is also tasked with determining what fuel cells meet those standards and administering the voluntary Fuel Cell NEM Program.

A summary of these benefits is provided, please refer to “Objectives and Benefits” under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion above.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**  
(Gov. Code, section 11346.5, subd. (a)(9))

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. The Regulation is not anticipated to have any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**EFFECT ON SMALL BUSINESS**  
(Cal. Code Regs., tit. 1, section 4, subds. (a) and (b))

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses.

As required by AB 1637, the proposed regulation sets annual GHG emission standards for fuel cell generating resources participating in the Fuel Cell NEM Program which is administered by CPUC and implemented by IOUs. Though the proposed regulation sets standards, statute (AB 1637) requires that other entities must implement those standards. Businesses are not anticipated to act as a result of the proposed regulation alone; therefore, the proposed regulation is not anticipated to cause any economic impact to private businesses or individuals in California. Pursuant to CCR, title 1, section 4, the proposed regulation would not affect small businesses because it does not contain any requirements for action.

**CONSIDERATION OF ALTERNATIVES**  
(Gov. Code, section 11346.5, subd. (a)(13))

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, 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 provisions of law.

The Executive Officer analyzed three alternatives to the proposed amendments and determined that all of the alternatives would be less effective in carrying out the requirements of AB 1637, as described below.

Take No Action Alternative for Complete Regulation. An overall “no action” alternative means that CARB would not develop GHG emission standards for the Fuel Cell NEM Program. If CARB were to take “no action,” CARB would not be complying with the requirements of AB 1637 to set GHG emission standards for the Fuel Cell NEM Program. For this reason, the take “no action” alternative is neither practical nor beneficial.

Set GHG Emission Standard Based on the ACC Model. Under this alternative, CARB would use either the 2017 ACC model or 2018 ACC model to calculate the Fuel Cell NEM GHG emission standards. The ACC model was developed by Energy + Environmental Economics (E3) for CPUC to evaluate how effective energy efficiency programs are at reducing power generation carbon dioxide emissions. The 2017 ACC model was suggested by stakeholders during the informal public process preceding this rulemaking. Use of the 2017 ACC would result in lower GHG emission standards than those of the proposed regulation (2017 ACC model result: 324 kg CO<sub>2</sub>e/MWh in 2017; proposed regulation: 409 kg CO<sub>2</sub>e/MWh in 2017). After the 2017 ACC model was revised in 2018, CARB was advised by E3 staff that, because of fundamental changes to how the model calculated emissions, the 2018 ACC model was no longer appropriate for the purposes of the Fuel Cell NEM GHG emission standards. Because the developers of the model advised that the 2018 ACC model was not appropriate for its use, CARB staff did not consider it appropriate for use for the proposed Regulation. Further, though it was possible for CARB staff to utilize the 2017 ACC model for the proposed Regulation, if CARB were to use it, when CARB staff update the Fuel Cell NEM GHG emissions standards in 2022, staff would either have to update the 2017 version of the ACC model themselves or contract with an outside entity (e.g., E3) to do so. CARB staff determined that this model updating effort would be too resource (staff time and/or State funding) intensive to make it worthwhile; therefore, staff explored use of a different method that was more transparent and easier to update.

Use Curtailment Hours as a Proxy for the Number of Hours Renewables Are on the Margin. Under this alternative, CARB would begin with the same general approach to developing the GHG emission standards as proposed. This begins with calculating GHG emission

rates for combined and simple cycle gas generation using CEC data from the Thermal Efficiency of Natural Gas–Fired Generation in California report (CEC 2018). In the Regulation, this number is then adjusted by the number of hours that electricity prices in the day–ahead market was \$0 (zero) or below according to the CAISO 2017 Annual Report on Market Issues and Performance (CAISO 2017) to reflect the percentage of time that renewables are on the margin. The alternative described here would instead adjust the combined and simple cycle gas generation emission rate by the number of hours renewable generation is curtailed, for the relevant year, as can be found at the CAISO Managing Oversupply webpage.<sup>1</sup> Using curtailment hours in the Fuel Cell NEM GHG emission standards calculation results in a Fuel Cell NEM eligible emission rate of approximately 308 kg CO<sub>2</sub>/MW for 2017. Curtailment can occur at times of low demand and high “must take” power generation, which is not necessarily indicative that renewables are the marginal generator. Also, on CAISO’s managing oversupply webpage it is noted that “Congestion occurs when available, least–cost energy cannot be delivered to some loads because transmission facilities do not have sufficient capacity to deliver the energy.” Therefore, congestion can also cause renewable generation curtailment for generation that is not marginal. Using curtailment hours in the Fuel Cell NEM GHG emission standards calculation results in a 2017 Fuel Cell NEM GHG emission standard of 308 kg CO<sub>2</sub>e/MWh. The proposed 2017 Fuel Cell NEM GHG emission standard is 409 kg CO<sub>2</sub>e/MWh. CARB staff believes that using the curtailment data would not reflect the amount of time renewables are on the operating margin and is therefore not the most accurate way to meet statutory requirements.

The proposed method for calculating the Fuel Cell NEM GHG emission standards is based on operational data of electricity generating units in California, accounts for the impact that renewable electricity generation has on the GHG emissions of marginal generation, and takes into account GHG emissions reductions that are required of the electricity sector pursuant to SB 350, including the updated 2030 RPS target set by SB 100. Therefore, CARB staff believes this is the best method for calculating the marginal California generator emission rate for use in the Fuel Cell NEM GHG emission standards.

CARB has not identified any alternatives that would lessen any adverse impact on small businesses. The Regulation does not meet the major regulation threshold as specified in section 57005 of the Health and Safe-

ty Code; therefore, CARB did not include any major regulation alternatives in the analysis.

## ENVIRONMENTAL ANALYSIS

### A. *Introduction*

This chapter provides the basis for CARB’s determination that the proposed Fuel Cell Net Energy Metering Greenhouse Gas Emission Standards Regulation is exempt from the requirements of the California Environmental Quality Act (CEQA). A brief explanation of this determination is provided in section B below. CARB’s regulatory program, which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans for the protection and enhancement of the State’s ambient air quality, has been certified by the California Secretary for Natural Resources under Public Resources Code section 21080.5 of CEQA (14 CCR 15251(d)). Public agencies with certified regulatory programs are exempt from certain CEQA requirements, including, but not limited to, preparing environmental impact reports, negative declarations, and initial studies. CARB, as a lead agency, prepares a substitute environmental document (referred to as an “Environmental Analysis” or “EA”) as part of the Staff Report prepared for a proposed action to comply with CEQA (17 CCR 60000–60008). If the Fuel Cell Net Energy Metering Greenhouse Gas Emission Standards Regulation is finalized, a Notice of Exemption will be filed with the Office of the Secretary for the Natural Resources Agency and the State Clearinghouse for public inspection.

### B. *Analysis*

CARB has determined that the proposed Fuel Cell Net Energy Metering Greenhouse Gas Emission Standards Regulation is categorically exempt from CEQA under the “Class 8” exemption (14 CCR 15308) because it is an action taken by a regulatory agency for the protection of the environment. The Regulation sets GHG emission standards for the Fuel Cell NEM Program, as required by AB 1637. Generally speaking, fuel cell installations reduce GHG and other air emissions relative to the fossil fuel–derived grid electricity that they displace. While the Regulation is not anticipated to provide direct GHG or other air pollution emission reduction benefits (as noted above it would set a standard for a voluntary program that, by statute, CPUC is tasked with administering), the proposed GHG emission standard is designed to ensure that participating entities have lower GHG emissions than the grid resources they displace. The proposed action is designed to protect the environment, and CARB has determined there is no substantial evidence indicating the proposal could adversely affect air quality or any other environmental resource area, or that any of the exceptions to this exemp-

<sup>1</sup> <http://www.caiso.com/informed/Pages/ManagingOversupply.aspx>

tion applies (14 CCR 15300.2). Therefore, this activity is exempt from CEQA.

### SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerks' office at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

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- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

### AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Carey Bylin, Manager, Energy Section, at (916) 445-1952 or (designated back-up contact) Mary Jane Coombs, Branch Chief, at (916) 322-7554.

### AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: ISOR for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is titled: Staff Report: Initial Statement of Reasons for Rulemaking-Proposed Fuel Cell Net Energy Metering Greenhouse Gas Emission Standards Regulation.

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB's website listed below or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 22, 2019.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

### FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice or may be accessed on CARB's website listed below.

### INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2019/fuelcellnem19>.

**TITLE 17. AIR RESOURCES BOARD**

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed amendments to the regulation for limiting ozone emissions from indoor air cleaning devices:

**DATE:**

December 12, 2019

**TIME:**

9:00 a.m.

**LOCATION:**

California Environmental Protection Agency  
 California Air Resources Board  
 Byron Sher Auditorium  
 1001 I Street  
 Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., December 12, 2019, and may continue at 8:30 a.m., on December 13, 2019. Please consult the agenda for the hearing, which will be available at least ten days before December 12, 2019, to determine the day on which this item will be considered.

**WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS**

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 25, 2019. Written comments not physically submitted at the hearing must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Any written comments on the Environmental Analysis must be submitted on or after October 25, 2019, and **received no later than December 9, 2019**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that, when possible, written and email statements be filed at least 10 days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

Clerk’s Office, California Air Resources Board  
 1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

**AUTHORITY AND REFERENCE**

This regulatory action is proposed under the authority granted in California Health and Safety Code, section 41985, 41985.5, and 41986. This action is proposed to implement, interpret, and make specific Health and Safety Code, sections 41985, 41985.5 and 41986, by amending California Code of Regulations, title 17, sections 94800–94819.

**INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOV. CODE, section 11346.5, subd. (a)(3))**

**Sections Affected:** Proposed amendments to California Code of Regulations, title 17, sections 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, and 94809.

**DOCUMENTS INCORPORATED BY REFERENCE**

(Cal. Code Regs., tit. 1, section 20, subd. (c)(3))

The following test methods would be incorporated in the regulation by reference as specified in section 94805:

- Canadian Standards Association (CSA), 2015. “Standard for Electrostatic Air Cleaners,” C22.2 no. 187–15, as revised by CSA on April, 2016. Copyrighted.
- American National Standards Institute/Underwriters Laboratory (ANSI/UL), 2018. “Standard 73 for Safety for Motor–Operated Appliances,” as revised by ANSI/UL on August 8, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 153 for Safety for Portable Electric Luminaires,” as revised by ANSI/UL on July 27, 2018. Copyrighted.

- ANSI/UL, 2018. “Standard 484 for Safety for Room Air Conditioners,” as revised by ANSI/UL on September 6, 2018. Copyrighted
- ANSI/UL, 2018. “Standard 507 for Safety for Electric Fans,” as revised by ANSI/UL on November 15, 2018. Copyrighted
- ANSI/UL, 2018. “Standard 867 for Safety for Electrostatic Air Cleaners,” as revised by ANSI/UL on August 7, 2018. Copyrighted
- ANSI/UL, 2016. “Standard 998 for Safety for Humidifiers,” as revised by ANSI/UL on April 4, 2016. Copyrighted.
- ANSI/UL, 2018. “Standard 1017 for Safety for Vacuum Cleaners, Blower Cleaners, and Household Floor Finishing Machines,” as revised by ANSI/UL on July 19, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1278 for Safety for Movable and Wall- or Ceiling-Hung Electric Room Heaters,” as revised by ANSI/UL on August 20, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1993 for Safety for Self-Ballasted Lamps and Lamp Adapters,” as revised by ANSI/UL on August 6, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1995 for Safety for Heating and Cooling Equipment,” as revised by ANSI/UL on August 17, 2018. Copyrighted.
- ANSI/UL, 2018. “Standard 1598 for Safety for Luminaires,” as revised by ANSI/UL on August 28, 2018. Copyrighted.
- ANSI/UL, 2017. “Standard 499 for Electric Heating Appliances,” as revised by ANSI/UL on February 23, 2017. Copyrighted.

#### BACKGROUND AND EFFECT OF THE PROPOSED REGULATORY ACTION

The California Air Resources Board (CARB) proposes to amend the California Code of Regulations, title 17 Subarticle 1, Sections 94800–94809 to reduce the potential for Californians to be exposed to ozone from indoor air cleaning devices. Assembly Bill (AB) 2276 (Pavley, Stats. 2006, ch. 770) directed CARB to adopt regulations to protect public health from ozone emitted by indoor air cleaning devices. CARB approved a regulation, which became effective in 2008, that requires all portable indoor air cleaners sold in California after October 18, 2010, to be tested, certified, and labeled as complying with electrical safety standards, and have an ozone emission concentration limit of 0.050 parts per million. Besides the testing requirement, the regulation requires manufacturers to notify all of their known distributors, retailers, and sellers about the regulation, pro-

vide them with a copy of the regulation, and send documentation of this notification and contact information for their distributors, retailers, and sellers to CARB. Finally, manufacturers, distributors, retailers, sellers, and testing laboratories are required to update and maintain production, quality control, sales, and testing records for at least three years, and make them available to CARB upon request. Several minor amendments to the regulation were approved in 2010 and manufacturers were required to meet all provisions of the regulation by October 1, 2012.

The current regulation addresses air cleaning devices designed for rooms, whole houses, buildings, vehicles, and personal use (i.e. are carried or worn). Currently exempted devices include in-duct air cleaners that are an electrically connected component of a heating, air conditioning, and ventilation (HVAC) system and a subset of ozone-producing devices that are used for specific industrial purposes. Industrial-use devices, as defined in the regulation, are exempt as long as specified labeling and point-of-purchase requirements are met.

Since the regulation was adopted in 2007, nearly 2,500 air cleaning devices from more than 330 manufacturers have been certified by CARB. CARB also maintains an online list of certified devices, which is widely used by consumers around the United States, leading to additional public health benefits outside of the state. Although the air cleaner regulation has been successfully implemented for over a decade, the California market has diversified and expanded, with changes in air cleaner technology and increasing sales driven by California-specific market drivers such as widespread smoke impacts from wildfires, public concern about health effects from air pollution, and the use of air cleaners to address cannabis-related (marijuana) odors. Amendments are needed to address market changes as well as to make corrections, updates, and other small changes.

#### OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

**Objectives:** The proposed amendments would strengthen the regulation by requiring the certification of electronic in-duct air cleaning devices and modifying industrial use exemptions. The proposal also streamlines the certification process by reducing the testing required to certify certain devices, and eliminating the requirement for manufacturers of certified devices to complete the notification requirement. The amendments also clarify requirements manufacturers need to meet prior to certification and to maintain certification of their device(s). CARB also proposes to update the regulation text to the latest versions of the approved test standards and incorporate additional test

standards for dual-function devices and electronic in-duct devices.

**Benefits:** Eliminating the exemption from the existing regulation for in-duct air cleaners and requiring their ozone testing and certification will reduce the potential for exposure to harmful ozone to the California public. A TechSci Research market report commissioned by CARB states that 103,200 electronic in-duct air cleaners were purchased by Californians in 2017, with a projected 30 percent increase to 146,620 by 2023. Electronic air cleaners are capable of producing ozone so requiring the certification of in-duct air cleaners meets the legislative requirement in AB 2276 to protect public health by restricting ozone emissions from indoor air cleaning devices.

The California Legislature found, in Section 1. Article 8. of the enabling legislation, that exposure to ozone results in significant numbers of hospitalizations due to respiratory and cardiac illnesses and significant numbers of premature deaths. At the time the regulation was drafted, language was included in some of the exempted industrial uses that limited the application of ozone to times when people were not present in the space to be treated. Amendments to the regulation clarify that ozone-generating air cleaners used for exempted industrial applications can only be used when people are not present. These amendments are intended to benefit workers in those industries where ozone is intentionally used, as well as bystanders and members of the public.

These clarifications may also result in environmental justice-related benefits. Several commercial sectors where uncertified ozone-producing devices are permitted for industrial uses typically employ people of color and are low-wage jobs — such as in agricultural processing, hotel maintenance, property remediation, and motor vehicle detailing. For example, ozone-producing air cleaners are used for an industrial purpose in fruit and vegetable sorting and packing facilities. Clarifying that industrial use exemptions apply if the ozone-generating air cleaners are used when people are not present could lead to health benefits for workers in this sector, who are disproportionately low-income workers of color, working in the fruit and vegetable sorting and packing rooms. Similar benefits could be derived for other low-income workers in the hotel, remediation services, and vehicle detailing and reconditioning employment sectors.

#### COMPARABLE FEDERAL REGULATIONS

There is no federal regulation that limits ozone emissions from indoor air cleaning devices, as defined in the air cleaner regulation. There is a federal regulation on

allowable levels of ozone emitted from medical devices, which is 0.050 parts per million (ppm).<sup>1</sup> Indoor air cleaning devices are intended to remove pollutants from the air, and, in most cases, do not meet the definition of a medical device.

#### AN EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

(Gov. Code, section 11346.5, subd. (a)(3)(D))

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

#### MANDATED BY FEDERAL LAW OR REGULATIONS

(Gov. Code, sections 11346.2, subd. (c), 11346.9)

The proposed regulatory action is not mandated by federal law or regulations.

#### DISCLOSURES REGARDING THE PROPOSED REGULATION

#### FISCAL IMPACT/LOCAL MANDATE DETERMINATION REGARDING THE PROPOSED ACTION

(Gov. Code, section 11346.5, subds. (a)(5) and (6))

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would not create un-absorbable costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create costs nor a mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

<sup>1</sup> U.S. Food and Drug Administration. Code of Federal Regulations Title 21. Special Requirements for Specific Devices. Accessed at: <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=801.415>.

HOUSING COSTS  
(Gov. Code, section 11346.5, subd. (a)(12))

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY AFFECTING  
BUSINESS, INCLUDING ABILITY TO COMPETE  
(Gov. Code, sections 11346.3, subd. (a), 11346.5,  
subd. (a)(7), 11346.5, subd. (a)(8))

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

RESULTS OF THE ECONOMIC IMPACT  
ANALYSIS/ASSESSMENT  
(Gov. Code, section 11346.5, subd. (a)(10))

**NON-MAJOR REGULATION: Statement of the  
Results of the Economic Impact Assessment (EIA):**

(A) The creation or elimination of jobs within the State of California.

The proposed amendments are not expected to have a direct job impact in manufacturing; however, a few jobs may be created for technicians in testing laboratories and in research and development.

(B) The creation of new business or the elimination of existing businesses within the State of California.

The proposed amendments are not expected to result in creation of new businesses or the elimination of existing businesses within the State of California.

(C) The expansion of businesses currently doing business within the State of California.

The proposed amendments are not expected to result in the expansion of businesses within the State of California.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed amendments are intended to benefit public health by restricting ozone emissions from in-duct air cleaning devices and by limiting the use of ozone for exempted purposes to times when people are not present. This could lead to improved public health overall, and a reduction in

medical-related expenses associated with exposure to ozone.

Effects on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

Economic Benefits of the Proposed Regulation to Manufacturers:

Manufacturers of certified air cleaning devices will also benefit from the elimination of the notification requirement for these manufacturers. This amendment will directly benefit more than 330 manufacturers of currently certified air cleaners, with an estimated annual cost savings of approximately \$57,000, or \$570,000 over the 10-year time period of this analysis.

Manufacturers of portable air cleaners that use a UV lamp emitting light greater than or equal to 240 nanometer (nm) in wavelength and a spectral peak of 254 nm, with or without mechanical filtration, will also experience cost savings because they are no longer required to test their devices for ozone emissions. This amendment is projected to result in an annual cost savings of \$35,000 for these manufacturers, with 10-year cost savings of \$350,000.

These benefits will result in total cost savings for manufacturers of certified air cleaning devices of \$920,000 over the next 10 years.

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to further reduce Californians' exposure to ozone emitted from indoor air cleaning devices. By requiring the certification of in-duct air cleaners not exempted for an industrial purpose, CARB is ensuring that air cleaners that emit unhealthy levels of ozone are excluded from the California marketplace. When ozone-producing air cleaners are used for an exempted industrial purpose, the amendments stipulate that the exemption applies if the devices are used when people are not present, therefore seeking to ensure that people are not exposed to unhealthy levels of ozone. These amendments could lead to improved public health overall, and a reduction in medical-related expenses associated with exposure to ozone.

A summary of these benefits is provided, please refer to "Objectives and Benefits", under the Informative Digest of Proposed Action and Policy Statement Over-

view Pursuant to Government Code 11346.5(a)(3) discussion, above.

**BUSINESS REPORT**

(Gov. Code, sections 11346.5, subd. (a)(11);  
11346.3, subd. (d))

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

**COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**  
(Gov. Code, section 11346.5, subd. (a)(9))

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. Only manufacturers of electronic in-duct air cleaners are newly required to comply with the proposed amendments by having their air cleaners tested for ozone emissions prior to sales in California, at a one-time cost of \$5,000 per ozone test. Over the initial 10-year period following implementation of the amended regulation, it is predicted that total costs to manufacturers of electronic in-duct air cleaners are estimated to be \$1,350,000. Manufacturers may also incur negligible incidental costs to comply with minor changes in labeling requirements and to marketing materials.

The total cost of the amended regulation is anticipated to be approximately \$1,890,000 over a ten-year period. This represents the cost to California consumers if manufacturers are able to pass along fully their ozone testing costs and mark-up. This cost increase would represent less than one percent increase in the average price of an electronic in-duct air cleaners for California consumers.

**EFFECT ON SMALL BUSINESS**

(Cal. Code Regs., tit. 1, section 4, subds. (a) and (b))

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect one manufacturer of in-duct air cleaners that is considered a small business and is located in California. This small business is expected to incur initial costs of \$15,000 to comply with the ozone testing requirement of the proposed amendments.

**CONSIDERATION OF ALTERNATIVES**  
(Gov. Code, section 11346.5, subd. (a)(13))

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, 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 provisions of law.

The Executive Officer analyzed two alternatives to the proposed amendments and determined that these would be less effective in carrying out the purpose for which the action is proposed. Further description of the alternatives considered can be found in Chapter IX of the ISOR.

**ENVIRONMENTAL ANALYSIS**

CARB, as the lead agency for the proposed amendments to the Regulation for Limiting Ozone Emissions From Indoor Air Cleaning Devices, has prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The EA determined that the proposed amendments would not result in any significant adverse impacts on the environment. The basis for reaching this conclusion is provided in Chapter VI of the ISOR. Written comments on the EA will be accepted during the 45-day public review period starting on October 25, 2019, and ending on December 9, 2019.

**SPECIAL ACCOMMODATION REQUEST**

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o

necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

#### AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative, Julia Gress, Air Pollution Specialist, Indoor Exposure Assessment Section, at (916) 324-9233 or Patrick Wong, Manager, Indoor Exposure Assessment Section, at (916) 323-1505 (the designated back-up contact).

#### AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Public Hearing to Consider the Proposed Amendments to the Regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 22, 2019.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, (916) 445-9564. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

#### FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

#### INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at: <https://ww2.arb.ca.gov/rulemaking/2019/aircleaner2019>.

### **TITLE 19. OFFICE OF STATE FIRE MARSHAL**

#### **California Fire Service Training and Education Program**

The State Fire Marshal (SFM) is providing notice to adopt proposed regulations relevant to fees for certification and training standards for California fire service personnel described below, after considering all comments and objections, or recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. Written comments will be accepted for at least 45 days beginning October 25, 2019 and ending December 10, 2019. The written comment period **closes at 12:00 a.m. (Pacific Time) on December 10, 2019**. All written comments received by that date and time will be considered and responded to as part of the compilation of the rulemaking file.

Submit comments to contact via:

- Email: [diane.arend@fire.ca.gov](mailto:diane.arend@fire.ca.gov) (include in the subject line of the email “**Comments: State Fire Training — Fee List**”); or
- US Mail (postmarked no later than December 9, 2019):

**CAL FIRE/Office of the State Fire Marshal  
PO Box 944246  
Sacramento, CA 94244–2460  
Attn: Diane Arend, Code Development and Analysis**

- Hand deliver to:

**CAL FIRE/Office of the State Fire Marshal  
2251 Harvard Street, 4<sup>th</sup> Floor  
Sacramento, CA 95815  
Attn: Diane Arend, Code Development and Analysis  
8:00 a.m. to 5:00 p.m. (PT)**

PUBLIC HEARING

The SFM has not scheduled a public hearing on this proposed action. However, the SFM will hold a public hearing to accept comments if a written request is received from any interested party or their authorized representative no later than 15 days before the close of the 45–day written comment period, pursuant to Government Code Section 11346.8. Submit requests to the contact person(s) indicated below.

AUTHORITY AND REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Section 13155 with reference to 13159(d), Health and Safety Code to verify that minimum curriculum requirements are being met pertaining to, facilities, and faculty standards for schools, seminars, or workshops operated by, or for the state, for the specific purpose of training fire service personnel. The proposed regulations imple-

ment, interpret, and make specific sections 13155 through and 13159.10 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The broad objective of this proposed rulemaking action is to better define the regulatory requirements of the SFM Fire Service Training and Education Program and the enforcement and maintenance of those requirements for students, instructors and academies.

The regulations proposed in this rulemaking action implements, interprets, clarifies, and makes specific the regulatory requirements of the SFM Fire Service Training and Education Program by making the following changes:

- Provide editorial updates, changes without regulatory effect, identified in Title 19 California Code of Regulations.
- Clarify the appeals process when alternative application to the methods and procedures has been denied.
- Add revised certification exam fees information and update the list of fees for course registration and handling, course certifications, exams, duplicates and reviews in Section 1990.12. Removes obsolete or retired course fees and certifications; adds replacements.

Summary of Existing Laws

Health and Safety Code Section 13157 authorizes the California Fire Service Training and Education Program to be established in the Office of the State Fire Marshal and to:

- (a) Promulgate and adopt rules and regulations necessary for implementation of the program.
- (b) Establish the courses of study and curriculum to be used in the program.
- (c) Establish prerequisites for the admission of personnel who attend courses offered in the program.
- (d) Establish and collect admission fees and other fees that may be necessary to be charged for seminars, conferences, and specialized training given, which shall not be deducted from state appropriations for the purposes of this program.
- (e) Collect such fees as may be established pursuant to subdivision (d) of Section 13142.4.

Summary of Existing Regulations

Existing regulations regarding the proposed changes establish the requirements in California Code of Regulations, Title 19, Division 1, Chapter 13 for the California Fire Service Training and Education Program.

The State Fire Marshal is proposing to amend CCR, Title 19, Chapter 13, Sections 1980.05, 1980.06, 1980.07, 1990.09, and 1990.12.

The SFM consulted with the Statewide Training and Education Advisory Committee (STEAC) along with the State Board of Fire Services (SBFS) for recommendations and analysis of the proposed amendments and they concur with this proposal. Further, both advisory committees, STEAC and SBFS, had made recommendations to the State Fire Marshal to adopt these changes. These were conversations only and there were no documents relied upon in these consultations.

Summary of Effect

The proposed regulations will require an applicant to appeal to the Assistant State Fire Marshal for alternative application to the methods and procedures when a written petition has been denied; and establish and collect admission fees and other fees that may be necessary to be charged for seminars, conferences, and specialized training given. These changes have no negligible effect on the training system.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Objective and Anticipated Benefits

The broad objective of the proposed action is to accurately define the certification, diploma, and course fees associated with the current State Fire Training curriculum. The specific benefit anticipated from the regulation is the addition of current an accurate course fees.

The SFM developed the regulations in cooperation and with the knowledge and approval of STEAC and SBFS and has sought out their recommendations and analysis of the proposed amendments. The advisory committee concurred with the proposal.

Additionally, this regulatory proposal provides a direct benefit to the protection of public health and safety of Californians by better preparing emergency first responders. The regulations impact the safety of Californians by better preparing emergency first responders. The regulations also provide for the protection of the emergency response workers by establishing the knowledge, skills, and abilities necessary to perform their jobs safely and effectively.

Evaluation of Consistency

The Office of the State Fire Marshal (OSFM) determined this proposed regulation is not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the OSFM has concluded that this is the only regulation that concerns firefighter training and education for the purposes cited in the Health and Safety Code Section 13157.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

There are no other matters prescribed by statute applicable to the Office of the State Fire Marshal, or to any specific regulation or class of regulations. There are no other matters to identify.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following initial determinations:

1. Mandate on local agencies and school districts: **None.**
2. Cost or savings to any other State agency: **None.**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Sections 17500–17630: **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 statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States: **None.**  
**Statewide adverse economic impact directly affecting businesses and individuals:** The Board concluded that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.
7. Significant effect on housing costs: **None.**
8. There is no cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Participation in the State Fire Training system is voluntary.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The SFM concludes that the adoption of these regulations *will not*:

- a) Create or eliminate jobs within California;
- b) create new businesses or eliminate existing businesses within California; or
- c) affect the expansion of businesses currently doing business within California.

The State Fire Marshal has assessed that this regulatory proposal:

- d) will benefit the public health and welfare of California residents, worker safety, and the environment by providing standardized training throughout the state.

**SMALL BUSINESS DETERMINATION**

The State Fire Marshal has made the initial determination that the amendments to these regulations will have no effect on small businesses and the State Fire Marshal has not identified any alternatives that would lessen any adverse impact, if any, on small businesses. The proposed regulation will not affect small business because the California Fire Service Training and Education Program targets governmental agencies that employ and/or train fire fighters. Some small businesses also provide training resources but these proposed regulations will not affect their operation or their ability to profit.

**BUSINESS REPORT**

This regulatory proposal does not mandate any new reporting or recordkeeping requirements beyond the business practice that has already been established by the SFM.

**CONSIDERATION OF ALTERNATIVES**

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

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

**CONTACT PERSON(S)**

Inquiries concerning the proposed regulatory action, or requests for copies of the proposed text (the “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 may be directed to:

- CAL FIRE/Office of the State Fire Marshal:  
**General Inquiries or requests for copies:**  
 Diane Arend, Regulations Coordinator  
 (916) 568–2917  
[diane.arend@fire.ca.gov](mailto:diane.arend@fire.ca.gov)

**Substantive or technical questions:**  
 Caryn Petty, Deputy SFM, State Fire Training  
 (916) 662–0611  
[caryn.petty@fire.ca.gov](mailto:caryn.petty@fire.ca.gov)

Chris Fowler, Supervising Deputy SFM,  
 State Fire Training  
 (916) 508–4120  
[chris.fowler@fire.ca.gov](mailto:chris.fowler@fire.ca.gov)

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

The State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office indicated above. As of the date this notice is published in the Notice Register, the SFM’s rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons for the proposed action, the economic impact assessment contained in the initial statement of reasons and documents incorporated by reference or relied upon. Copies may be obtained through the contact person(s) at the address or telephone number listed above.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding a public hearing, if requested, and considering all timely and relevant comments received by the State Fire Marshal, and following the 45–day comment period, the SFM may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes indicated — shall be made available to the public for at least 15 days before the SFM adopts, amends, or repeals the regulations as revised. The SFM will accept written comments on the modified regulations for 15 days after the date on which they are made available. To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modified regulations. Please send requests for copies of any modified regulations to the contact person.

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

AVAILABILITY OF THE  
FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons (FSOR) may be obtained by making a written request to the contact person at the above address or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS ON  
THE INTERNET

Copies of the Notice of Proposed Action (NOPR), the Initial Statement of Reasons (ISOR), the Text of Proposed Regulations (ET) in underline and strikeout, and any other materials or documents incorporated by reference or relied upon may be accessed through the SFM website at: <http://osfm.fire.ca.gov/divisions/code-development-and-analysis/title-19-development/>.

**TITLE 23. DEPARTMENT OF  
WATER RESOURCES**

NOTICE IS HEREBY GIVEN that the Department of Water Resources, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on October 25, 2019 and closing on December 9, 2019. All inquiries should be directed to the contact listed below.

The Department of Water Resources proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include reorganizations consisting of creation of new divisions and positions, restructuring of current divisions as well as other technical changes to reflect the current organizational structure of the Department.

The proposed amendment and explanation of the reasons can be obtained from the contact person set forth below.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than December 9, 2019 or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than November 25, 2019.

The Department of Water Resources has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Amanda Jack  
Assistant Filing Officer  
(916) 651-6851  
form700@water.ca.gov

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF  
DEVELOPMENT SERVICES**

**Amendment to the 1915(c) Home and  
Community-Based Services Waiver for Persons  
with Developmental Disabilities**

Overview

The Department of Health Care Services (DHCS) in partnership with the Department of Developmental Services (DDS) is seeking to amend the 1915(c) Home and Community Based Services (HCBS) Waiver for Persons with Developmental Disabilities.

Description of Waiver Amendment

The HCBS waiver is available statewide to provide persons with developmental disabilities the desired services and supports needed to implement their Individual Program Plan.

The purpose of this amendment is to add:

- State-Operated Mobile Crisis Team as a provider type under Behavioral Intervention Services.
- a rate methodology for the State-Operated Mobile Crisis Team under Behavioral Intervention Services

- a rate methodology for State–Operated Community Crisis Homes under Behavioral Intervention Services
- a rate methodology for State–Operated Enhanced Behavioral Supports Homes under Community Living Arrangement Services

The aggregate fiscal impact of this amendment is estimated to be \$71,883,104 for waiver years 3, 4, and 5.

The DDS is soliciting input on the proposed amendment to the 1915(c) HCBS Waiver for Persons with Developmental Disabilities under the Social Security Act. The waiver amendment application will be posted on the DDS website at <http://www.dds.ca.gov/waiver/home.cfm>. The public comment period will begin on October 25, 2019. Public comments will be considered through November 24, 2019. Comments or requests to review/receive a hardcopy of the application can be submitted via email to [Carie.Powell@dds.ca.gov](mailto:Carie.Powell@dds.ca.gov) or in writing to the Department of Developmental Services, Attn: Federal Programs Operations Section, 1600 Ninth Street, Room 310, MS 3–8, Sacramento, CA 95814.

If you have any questions please contact Carie Powell, Chief, Federal Programs Operations Section at (916) 654–1972 or [Carie.Powell@dds.ca.gov](mailto:Carie.Powell@dds.ca.gov).

<p><b>SUMMARY OF REGULATORY ACTIONS</b></p>
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**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# 2019–0904–03  
BOARD OF FORESTRY AND FIRE PROTECTION  
Safety Element Review, 2019

The Board of Forestry and Fire Protection (Board) amended a section of the Board’s Safety Element Review regulations. The amendments include a Board option for a consultation with a local jurisdiction’s board of supervisors or city council members if the local jurisdiction did not accept the Board’s recommendations to improve wildland fire risk reduction or mitigation in the jurisdiction’s adoption or amendment of its general plan safety element.

Title 14  
AMEND: 1265.03  
Filed 10/16/2019  
Effective 01/01/2020  
Agency Contact: Edith Hannigan (916) 862–0120

File# 2019–1010–01  
BOARD OF GOVERNORS, CALIFORNIA  
COMMUNITY COLLEGES  
Tutoring Referrals

The Board of Governors of the California Community Colleges submitted this action dealing with tutoring referrals to OAL as a print only file. Pursuant to Education Code section 70901.5, this action was filed with the Secretary of State by the Board on October 10, 2019, is exempt from the Administrative Procedure Act and OAL review, and was submitted to OAL only for the purpose of publishing the regulations in the California Code of Regulations.

Title 5  
AMEND: 58170  
Filed 10/10/2019  
Effective 11/09/2019  
Agency Contact: Tanya Bosch (916) 445–4826

File# 2019–0827–02  
CALIFORNIA HEALTH BENEFIT EXCHANGE  
Identity Verification Requirement

This certificate of compliance filing by the California Health Benefit Exchange proposes to make permanent the regulations adopted in OAL File Nos. 2014–0908–02E and 2016–1116–02EE regarding identity verification requirements.

Title 10  
ADOPT: 6464  
Filed 10/09/2019  
Effective 10/09/2019  
Agency Contact: Faviola Adams (916) 228–8668

File# 2019–0830–01  
CALIFORNIA HORSE RACING BOARD  
Authorized Medication

In this resubmittal of OAL Matter No. 2019–0624–03S, the California Horse Racing Board (“CHRB”) is removing clenbuterol, or its metabolites or analogs, as a drug substance that may be present in the official urine test sample for any horse competing in a race. Additionally, CHRB is requiring that a horse that is prescribed or otherwise tests positive for clenbuterol in a blood, urine, or other official test sample be placed on the Veterinarian’s List until clenbuterol is no longer detected in the horse’s blood or urine by an official test sample.

Title 4  
AMEND: 1844, 1866.1  
Filed 10/10/2019  
Effective 01/01/2020  
Agency Contact: Harold Coburn (916) 263-6026

File# 2019-0829-03  
COMMISSION ON PEACE OFFICER STANDARDS  
AND TRAINING  
Reimbursement for Training

The Commission on Peace Officer Standards and Training amended a regulation that addresses reimbursements for training courses. The amendments establish new reimbursement plans that address regional training needs and clarify the new statutory authority of the funding source for reimbursements.

Title 11  
AMEND: 1015  
Filed 10/11/2019  
Effective 01/01/2020  
Agency Contact: Scott Loggins (916) 227-2807

File# 2019-0829-02  
DEPARTMENT OF JUSTICE  
CA Pawn and SecondhandDealer System Regulations

In this regular rulemaking, the Department of Justice (“DOJ”) is adopting regulations pertaining to the California Pawn and SecondhandDealer System, “which is a single, statewide, uniform electronic reporting system that receives secondhand dealer reports and is operated by” DOJ (“CAPPS”). (Bus. and Prof. Code, section 21627.5.) The regulations being adopted include definitions, property description and transaction reporting requirements, and intended seller or pledger identification and fingerprinting requirements. Additionally, DOJ proposes to adopt regulations pertaining to an initial license fee and license renewal fee for a licensed pawnbroker or secondhand dealer.

Title 11  
ADOPT: 999.500, 999.503, 999.504, 999.505,  
999.506  
Filed 10/11/2019  
Effective 01/01/2020  
Agency Contact: Melan Noble (916) 210-7011

File# 2019-0905-01  
DIVISION OF WORKERS’ COMPENSATION  
Workers’ Compensation — Official Medical Fee  
Schedule — Inpatient Hospital

This action by the Division of Workers’ Compensation within the Department of Industrial Relations amends the Official Medical Fee Schedule — Inpatient Hospital. This action was submitted to OAL for filing and printing only pursuant to Labor Code section 5307.1, subdivision (g)(2).

Title 8  
AMEND: 9789.25  
Filed 10/16/2019  
Effective 11/01/2019  
Agency Contact: Jarvia Shu (510) 286-0646

File# 2019-0830-02  
EDUCATION AUDIT APPEALS PANEL  
Audits of K — 12 LEAs — FY 2019-20

In this certificate of compliance, the Education Audit Appeals Panel makes permanent the adoption of the 2019-20 Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting (Audit Guide), pursuant to Education Code section 14502.1.

Title 5  
AMEND: 19810  
Filed 10/14/2019  
Effective 10/14/2019  
Agency Contact:  
Timothy E. Morgan (916) 445-7745

File# 2019-0903-01  
NEW MOTOR VEHICLE BOARD  
Substitution or Withdrawal of Counsel

This rulemaking action by the New Motor Vehicle Board updates the requirements regarding substitution or withdrawal of counsel from a protest, petition, or appeal to include a citation to Rule 3.1362 of the California Rules of Court.

Title 13  
AMEND: 551.25  
Filed 10/15/2019  
Effective 01/01/2020  
Agency Contact:  
Danielle R. Phomsopha (916) 327-3129

**PRIOR REGULATORY  
DECISIONS AND CCR  
CHANGES FILED WITH THE  
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit [www.oal.ca.gov](http://www.oal.ca.gov).