



# California Regulatory Notice Register

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AUGUST 10, 2018

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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. 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

ADOPTION

MULTI-COUNTY: Riverside Schools Risk Management Authority  
Riverside Schools' Insurance Authority JPA

AMENDMENT

STATE AGENCY: Office of the State Treasurer  
MULTI-COUNTY: Desert Community College District

A written comment period has been established commencing on August 10, 2018, and closing on September 24, 2018. Written comments should be directed to the Fair Political Practices Commission, Attention Brianne Kilbane, 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 September 24, 2018. 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 Brianne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

## AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Brianne Kilbane, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### NOTICE OF PROPOSAL TO AMEND RULE 1588, HORSE INELIGIBLE TO START IN A RACE AND THE PROPOSED ADDITION OF RULE 1842.1, ADDITIONAL REPORTING FOR INTRA-ARTICULAR TREATMENTS

The California Horse Racing Board (Board or CHRB) proposes to amend/add the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1588, Horse Ineligible to Start in a Race, and to add Rule 1842.1, Additional Reporting for Intra-Articular Treatments. The proposed amendment to Rule 1588 will add subsection 1588(m). The new subsection 1588(m) provides that a horse that has received an intra-articular injection (joint injection) within the previous five days (120 hours) prior to the scheduled post-time for the race in which it is entered shall be ineligible to start in such race. The proposed addition of Rule 1842.1 will require veterinarians administering medication or treatment into an articular structure of a horse located within the inclosure to provide an intra-articular treatment record to the trainer, who shall maintain such records of the treatment for a minimum of one year. The trainer shall make such records available to the examining veterinarian for the

purpose of assisting with pre-race veterinary examinations or other examinations as required by the Board. The record of the inter-articular treatment shall be recorded on the form CHRB-24A, Intra-Articular Treatment Record (New 05/18), which is incorporated by reference in Rule 1842.1, and shall state the name of the horse treated, the date and time of the treatment, the intra-articular structures treated, the medication administered, dose, and the reason for the treatment.

## PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 27, 2018**, or as soon thereafter as business before the Board will permit, at the **Los Alamitos Race Course, 4961 Katella Avenue, Los Alamitos, California**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

## WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on September 24, 2018**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6026  
Fax: (916) 263-6022  
E-mail: haroldc@chrb.ca.gov

## AUTHORITY AND REFERENCE

### Rule 1588:

Authority: Sections 19440 and 19562, Business and Professions Code.

Reference: Sections 19440 and 19562, Business and Professions Code.

### Rule 1842.1:

Authority: Sections 19440, 19562, and 19580, Business and Professions Code. Reference: Sections 19440, 19562, and 19580, Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Business and Professions Code section 19440 provides the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations and conditions under which all horse races with wagering on their results shall be conducted in California. Business and Professions Code section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state.

In the fall of 2012, the New York Task Force on Racehorse Health and Safety (Task Force) made a number of recommendations based on its investigation of breakdowns that occurred at the Aqueduct 2011–2012 Fall–Winter race meeting at Aqueduct Race Course in New York. In addition to investigating the rash of breakdowns, the Task Force was charged with advising on policies relating to necropsies, track conditions, and pre-race examination of horses, as well as practices relating to veterinary procedures and equine drug use. The Task Force’s recommendations included enhanced restrictions on the use of intra-articular corticosteroids, which are anti-inflammatory drugs administered by entering a joint. Specifically, the recommendations included trainer reporting requirements for intra-articular treatments, as well as a prohibition on racing after an intra-articular corticosteroid injection. Also, in 2012, the Racing, Medication and Testing Consortium (RMTC) issued its own set of corticosteroid thresholds. The RMTC is an industry organization that works to develop and promote uniform rules and testing standards at the national level. It coordinates research and educational programs that seek to ensure the integrity of racing and the health and welfare of racehorses and participants, and to protect the interests of the racing public. In 2012, the Board adopted the RMTC standards by amending Rule 1844, Authorized Medication, to provide for levels of corticosteroids that may be present in official test samples. While the corticosteroid thresholds contained in the amendment to Rule 1844 effectively stopped corticosteroids from being used within days of a race, the rule did not provide a “stand-down” time as recommended by New York’s Task Force. Rule 1844 treated corticosteroid injections no differently than other authorized medications, which can be administered until 48 of post-time pursuant to Rule 1843.5, Medication, Drugs and Other Substances

Permitted After Entry in a Race. To address the issue, the proposed amendment to Rule 1588 adds a new subsection 1588(m). The new subparagraph provides that a horse that has received an intra-articular injection within the previous five days (120 hours) prior to the scheduled post-time for the race in which it is entered, is ineligible to start in such race. The proposed addition of subsection 1588(m) leaves Rule 1844’s allowable levels of corticosteroids in place while providing a “stand-down” time as recommended by New York’s Task Force.

The proposed addition of Rule 1842.1 would require all Board-licensed veterinarians who administer a medication or treatment into an articular structure of a horse to provide the horse’s trainer with a written record of the treatment. The procedure shall be recorded on the form CHRB–24A, Intra-Articular Treatment Record (New 05/18) (CHRB–24A), which is incorporated by reference in Rule 1842.1. The trainer shall maintain all intra-articular treatment records of horses under his or her care for a minimum of one year from the date of the treatments. The records of intra-articular treatments shall be made available to examining veterinarian for the purpose of pre-race, or other examinations as required pursuant to the Board’s rules and regulations. The CHRB–24A requires the veterinarian who administers the intra-articular treatment to record the date and time of treatment, the intra-articular structures treated, the medication administered, the dose and the reason for the treatment.

POLICY STATEMENT OVERVIEW OF  
ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1588 adds a new subsection 1588(m), which provides that a horse that has received an intra-articular injection within the previous five days (120 hours) prior to the scheduled post-time for the race in which it is entered, is ineligible to start in the race. An intra-articular injection is a procedure used in the treatment of inflammatory joint conditions; however, the procedure may not necessarily heal the problem that is causing inflammation. In addition, inflammation is part of the healing process, so there is a relationship between the proposed timeframe of five days and allowing healing. The addition of subsection 1588(m) will promote the health and safety of racehorses. The health and safety of jockeys will also be advanced, as a reduction in equine injuries and sudden deaths may also mean lower jockey injury rates. Administering the procedure not later than five days prior to the scheduled post-time provides an opportunity for the medication to have an effect. In addition, the intra-articular injections are not administered within 48 hours of post-time, and this gives the examining veterinarian

an opportunity to evaluate the horse without the injection being administered so close to the prerace examination (Rule 1846, Racing Soundness Examination, provides that the horse shall be subject to a veterinary examination for racing soundness on race day not later than two hours prior to official post-time for the race in which the horse is entered.) Ensuring the health of racehorses protects the financial interests of racing associations, horse owners, trainers and jockeys. Racing associations depend on an inventory of sound horses to fill races and generate handle; owners and trainers suffer financial losses when horses are unable to compete for a purse; and injured jockeys lose income when they are unable to ride.

The proposed addition of Rule 1842.1 would require all Board-licensed veterinarians who administer a medication or treatment into an articular structure of a horse to provide the horse's trainer with a written record of the treatment. The procedure shall be recorded on the form CHRB-24A, which is incorporated by reference in Rule 1842.1. The trainer shall maintain all intra-articular treatment records of horses under his or her care for a minimum of one year from the date of the treatments. The records of intra-articular treatments shall be made available to examining veterinarian for the purpose of pre-race, or other examinations as required pursuant to the Board's rules and regulations. The proposed addition of Rule 1842.1 will work in conjunction with the amended Rule 1588 to protect the health and safety of horse and rider. The recording of intra-articular procedures on the form CHRB-24A will make race-day examinations more meaningful, as the trainer can provide a record of such procedures for the examining veterinarian. In turn, the examining veterinarian can make a more complete assessment of the horse. Thorough pre-race examinations ensure the soundness of horses entered to race. Sound racehorses help protect the health and safety of jockeys, as well as the financial interests of racing associations, owners and trainers. The form CHRB-24A, is incorporated by reference in Rule 1842.1, as it would be cumbersome, unduly expensive or otherwise impractical to publish the document in the California Code of Regulations.

#### CONSISTENCY EVALUATION

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

#### DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies and school districts: none.  
Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

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

The Board has made an initial determination that the proposed amendment to Rule 1588 and the addition of Rule 1842.1 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.

The following studies/relevant data were relied upon in making the above determination: New York Task Force on Racehorse Health and Safety Official Report. Investigation of Equine Fatalities at Aqueduct 2011-2012 Fall/Winter Meet.

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

Significant effect on housing costs: none.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment to Rule 1588 and the addition of Rule 1842.1 will not (1) impact the creation of, or eliminate jobs within the State of California; (2) impact the creation of new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The proposed amendment to Rule 1588 and the addition of Rule 1842.1 is a benefit to the health and welfare of California residents who hold occupational licenses as jockeys, apprentice jockeys or other licensees that require close proximity to racehorses, because the proposed regulations safeguard the health and safety of California's racing equines. Sound racehorses help prevent accidents and injuries to horse and rider.

Effect on small businesses: none. The proposal to amend Rule 1588 and the addition of Rule 1842.1 does not affect small businesses because horseracing is not a small business under Government Code Section 11342.610.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), 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, or would be as effective and less burdensome on 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 Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

## CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn  
Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6026  
Fax: (916) 263-6022  
E-mail: [haroldc@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Andrea Ogden, Manager  
Policy, Regulations and Legislation  
Telephone: (916) 263-6033

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed texts of the regulations, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Harold Coburn, or the alter-

native contact person at the address, phone number or e-mail address listed above.

## AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the modified texts, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

## AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn, at the address stated above.

## BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's website address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

## TITLE 4. CALIFORNIA HORSE RACING BOARD

### NOTICE OF PROPOSAL TO AMEND RULE 1632, JOCKEY'S RIDING FEE

The California Horse Racing Board (Board, or CHRB) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1632, Jockey's Riding Fee, to amend subsection 1632(b), which provides the jockey riding fees for losing mounts. The los-

ing mount jockey riding fees under subsection 1632(b) have been increased consistent with California's 2019 minimum wage increase, which is 9.09 percent. The proposed amendment also deletes the dollar amounts for second and third place mounts in the "Less than \$10,000" category. The Board proposed to remove the second and third place mount fees under subsection 1632(b), as subsections 1632(b)(3) through 1632(b)(5) provide direction regarding the amounts to be paid non-winning jockeys, depending on the gross purse level. In addition, the proposed amendment amends subsection 1632(b)(5) for purposes of clarity.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, September 27, 2018**, or as soon thereafter as business before the Board will permit, at the **Los Alamitos Race Course, 4961 Katella Avenue, Cypress, California**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on September 24, 2018**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6026  
Fax: (916) 263-6022  
E-mail: [haroldc@chr.ca.gov](mailto:haroldc@chr.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19501 and 19562, Business and Professions Code. Reference: Sections 19401 (a), 19401 (d), 19420, 19440, 19501, and 19502, Business and Professions Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19401(a) and (d) provides that the intent of Chapter 4 is to allow pari-mutuel wagering on horse races, while assuring protection of the public and providing uniformity of regulation for each type of horse racing. Business and Professions Code section 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19501 states that the scale of minimum jockey riding fees for losing mounts shall be increased whenever the state minimum wage is increased by the percentage of that increase. Business and Professions Code section 19502 provides that the Board shall not permit any portion of an entry, nomination, or other fee paid by an owner to be deducted from a jockey riding fee unless the entry, nomination, or other fee is paid exclusively by the owner and not reimbursed by any other person or entity. Business and Professions Code section 19562 provides that the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in California.

Business and Professions Code section 19501(b)(1) requires an increase in the scale of minimum losing mount jockey riding fees whenever the state minimum wage is increased by the percentage of that increase. The next increase in California's minimum wage will become effective January 1, 2019. The proposed amendment will increase subsection 1632's losing mount jockey riding fees in accordance with Business and Professions Code section 19501(b)(1).

Business and Professions Code section 19501(b)(1) requires an increase in the scale of minimum (losing) jockey riding fees whenever the state minimum wage is increased by the percentage of that increase; however, it does not provide for an increase in second and third place mount fees. Rule 1632 currently provides specific dollar amounts to pay losing mounts, as well as the dollar amounts for second and third place mounts in the "Less than \$10,000" category. Direction regarding second and third place mount fees is otherwise provided

under the provisions of subsections 1632(b)(3) through 1632(b)(5).

Subsection 1632(b)(3) states that the Paymaster of Purses shall use the Horsemen's Agreement<sup>1</sup> to determine the horse owner's place purse when calculating non-winning jockey riding fees. Horsemen's Agreements state the percentage of the gross purse the horse owner will receive, based on the order of the finish. The owner's percentage of the gross purse is the dollar amount from which the Paymaster of Purses will calculate jockey mount fees. The riding fees for a race meeting are promulgated in the Paymaster of Purses' jockey riding fee scale.

Subsection 1632(b)(3) also provides that the losing mount riding fee shall be paid as provided under subsection 1632(b). This is due to the fact that the losing mount fees are specific dollar amounts based on the requirements of Business and Professions Code section 19501. The minimum jockey riding fees for losing mounts are increased whenever California's minimum wage is increased and are not based on the owner's share of the gross purse. Therefore, the losing mount fees must be stated in the regulation.

Subsection 1632(b)(4) provides the formula for calculating the second and third place mount fees for horse races with gross purses between \$10,000 and \$100,000 and up.

Subsection 1632(b)(5) provides additional direction regarding second and third place mount fees. The subsection has been amended for clarity to provide that the third place mount shall earn at minimum \$2 more than the losing mount, and the second place mount shall earn at minimum \$2 more than the third place mount. Subsection 1632(b)(5) ensures that losing mount fees are never equal to or greater than third place mount fees, and that third place mount fees shall be less than second place fees. This is necessary because the periodic increase in losing mount fees mandated by statute has resulted in situations in which the losing mount fee under subsection 1632(b) exceeds the third place mount fees. This is demonstrated by the most recent amendment of Rule 1632 (effective 01/01/18), which resulted in a losing mount fee under subsection 1632(b) of \$2 more than the third place mount fee.

To provide consistency and clarity, subsection 1632(b) has been amended to delete the dollar amounts for second and third place mounts in the "Less than

\$10,000" category. When calculating jockey riding fees for second and third place mounts, the Paymasters of Purses should use the race meeting's jockey riding fee scales, which are based on the provisions of the Horsemen's Agreements, in conjunction with subsections 1632(b)(4) and 1632(b)(5). The proposed amendment will eliminate any inconsistencies that may arise due to the differences between the riding fees for second and third place mounts under subsection 1632(b), and the ongoing statutory increases to the losing mount fees.

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

The proposed amendment to Rule 1632 amends subsection 1632(b) to increase the losing mount jockey riding fees, and to eliminate the dollar amounts for second and third place jockey riding fees for gross purses of less than \$10,000. The Board has determined it is not necessary to state the dollar amounts, as subsections 1632(b)(3) through 1632(b)(5) provide direction for calculating fees to be paid non-winning riders. This will eliminate any disparity between the non-winning jockey riding fees and will deter jockeys from intentionally losing a race rather than put forth his best effort in order to earn more money. This will increase the public's confidence in California horse racing, which may result in increased wagering. An increase in wagering will have a positive economic impact on the industry by increasing handle, which in turn may increase purses and commissions. The specific benefits anticipated from the regulation are compliance with current law and a balanced fee scale which will result in a fair and honest race product.

#### CONSISTENCY EVALUATION

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

#### DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies or school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

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

<sup>1</sup>An agreement for the conduct of a race meeting negotiated by the racing association and the organization that represents the horse owners and trainers of each separate breed of racehorse that competes in the meeting. The agreement addresses such issues as the conditions for the race meeting, the distribution of commissions and purses not governed by statutory formulas, and other matters relating to welfare, benefits and prerogatives of the parties to the agreement.

The Board has made an initial determination that the proposed amendment to Rule 1632 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.

The following studies/relevant data were relied upon in making the above determination: none.

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

Significant effect on housing costs: none.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment to Rule 1632 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California. The proposed amendment to Rule 1632 is a benefit to the health and welfare of California residents because it promotes fairness and compliance with current law. The proposed regulation will provide clarity in calculating jockey riding fees for second and third place mounts which will create a balanced fee scale and eliminate any inequality. This will promote the public's interest in a fair and honest race product by deterring a jockey from intentionally losing a race rather than put forth his best effort in order to earn more money.

Effect on small businesses: none. The proposal to amend Rule 1632 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), 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, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the

proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6026  
Fax: (916) 263-6022  
E-mail: [haroldc@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Andrea Ogden, Manager  
Policy and Regulations  
Telephone: (916) 274-6033

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT  
OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

**TITLE 10. GOVERNOR'S OFFICE OF  
BUSINESS AND  
ECONOMIC DEVELOPMENT**

The Governor's Office of Business and Economic Development (GO-Biz) proposes to adopt amendments to Title 10, Chapter 13, Article 1, Sections 8000, 8020, and 8030 after considering all comments, objections, and recommendations regarding the Proposed Action. These proposed regulatory amendments are hereafter referred to as the "Proposed Action."

PUBLIC PROCEEDINGS, AUTHORITY,  
AND REFERENCE

Any interested person, or his or her authorized representative, may submit written comments relevant to the Proposed Action to GO-Biz at the address below. Comments may also be submitted by email to [calcompetes@gobiz.ca.gov](mailto:calcompetes@gobiz.ca.gov). The written comment period closes at **5:00 p.m. on September 24, 2018**. GO-Biz will only consider comments received at the GO-Biz office by that time. Submit comments to:

Van T. Nguyen, GO-Biz Counsel  
Governor's Office of Business and  
Economic Development  
1325 J Street, Suite 1800  
Sacramento, CA 95814  
Email: [calcompetes@gobiz.ca.gov](mailto:calcompetes@gobiz.ca.gov)

Revenue and Taxation Code sections 17059.2(h) and 23689(h) authorize GO-Biz to amend Title 10, Chapter 13, Article 1, Sections 8000, 8020, and 8030. The Proposed Action implements, interprets, and makes specific sections 17059.2 and 23689 of the Revenue and Taxation Code. A public hearing on the Proposed Action

will be scheduled upon request. To request a hearing, send a letter to the address listed above no later than **fifteen days prior to the close of the written comment period**.<sup>1</sup> GO-Biz will send notice of the hearing to the requestor and to the interested parties on the California Competes Tax Credit (CCTC) interested parties list for regulatory public hearings. The notice will also be posted on the GO-Biz website at least ten days before the public hearing date pursuant to Government Code section 11346.8(a). The notice will provide the date, time, and location of the hearing. If a hearing is scheduled and you have special accommodation or language needs, please contact Van T. Nguyen via email at [calcompetes@gobiz.ca.gov](mailto:calcompetes@gobiz.ca.gov) at least one week in advance of the hearing.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Governor Edmund G. Brown Jr. established the Governor's Economic Development Initiative (GEDI) by signing Assembly Bill 93 (Cmte. on Budget, Chapter 69, Statutes of 2013(AB 93)) and Senate Bill 90 (Galgiani, Chapter 70, Statutes of 2013) into law. GEDI is comprised of the Manufacturing Equipment Sales and Use Tax Exemption, New Employment Credit, and the CCTC. GO-Biz is responsible for implementation of the CCTC. The CCTC is an income tax credit available to businesses statewide. Section 1 of AB 93 makes it clear that the intent of GEDI is to attract and retain high-value employers while at the same time ensuring accountability for the state's job creation efforts and the effective use of taxpayer dollars.

The Proposed Action modifies and clarifies changes to the application process to comply with recent changes to sections 17059.2 and 23689 of the Revenue and Taxation Code, and specifies and clarifies definitions for terms used in the administration of the CCTC. The proposed action also includes a new process for a taxpayer to request permission to submit an application before the next designated application period under limited circumstances.

*Anticipated Benefits of the Proposed Action:*

The Proposed Action will assist businesses by providing specification and clarification of definitions used in the program, some of which had to be amended to bring them in compliance with the recent changes to sections 17059.2 and 23689 of the Revenue and Taxation Code. Similarly, some regulations are being deleted because they have been rendered obsolete by the statutory changes. The amendments also include a new process for a taxpayer to request permission to submit

<sup>1</sup>If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TDD speech-to-text users may dial 7-1-1 for the California Relay Service.

an application before the next designated application period under limited circumstances. This new process will provide greater flexibility for potential applicants to apply for a credit before the next designated application period and potentially increase economic opportunities for California workers.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

No other state agency has issued any regulations relating to the CCTC program; therefore there are no inconsistencies or incompatibilities with existing state regulations relating to the CCTC program.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

*GO-Biz has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

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

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

Cost impacts on a representative private person or business: GO-Biz is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

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

Small business determination: The minor amendments will not have any discernible economic impact on small businesses because they do not impact the cost to prepare the application or impose any additional programmatic burdens or requirements on small businesses. The recent Legislative changes have eliminated the 25% set-aside for small businesses, but any business, including small businesses, may continue to apply for a CCTC. The proposed amendments simply conform the regulations to the revised statute.

Results of the Economic Impact Analysis/Assessment: The amendments are designed to provide clarity to businesses on the definitions and application process. The amendments do not substantively alter the application or program implementation processes. Further, they make clear the information business applicants will need to gather and submit as part of the application and evaluation processes. These amendments do not: 1) benefit or otherwise impact worker safety and

the state's environment, 2) impact the creation/elimination of California jobs, 3) the creation/elimination of California businesses, or 4) impact the expansion of existing California businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), GO-Biz 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 provision of law.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Van T. Nguyen, GO-Biz Counsel  
Governor's Office of Business and  
Economic Development  
1325 J Street, Suite 1800  
Sacramento, CA 95814  
Email: [calcompetes@gobiz.ca.gov](mailto:calcompetes@gobiz.ca.gov)  
Phone: (916) 322-2984

Or:

Scott Dosick, CCTC Assistant Deputy Director  
Governor's Office of Business and  
Economic Development  
1325 J Street, Suite 1800  
Sacramento, CA 95814  
Email: [calcompetes@gobiz.ca.gov](mailto:calcompetes@gobiz.ca.gov)  
Phone: (916) 322-0676

Please direct requests for copies of the text of the proposed amended regulations, the Initial Statement of Reasons (ISOR), or other information upon which the rulemaking is based to Van T. Nguyen at the above address.

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

GO-Biz will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons.

Copies may be obtained by downloading them at [www.business.ca.gov/calcompetes.aspx](http://www.business.ca.gov/calcompetes.aspx) or contacting Van T. Nguyen at [calcompetes@gobiz.ca.gov](mailto:calcompetes@gobiz.ca.gov).

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, GO-Biz may adopt the proposed regulations substantially as described in this notice. If GO-Biz makes modifications which are sufficiently different from 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 GO-Biz adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Van T. Nguyen at the email address indicated above. GO-Biz will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Van T. Nguyen at the email address above.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the ISOR, and the text of the proposed amendments can be accessed through the GO-Biz website at [www.business.ca.gov/calcompetes.aspx](http://www.business.ca.gov/calcompetes.aspx).

### TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

**Public Comments Due by September 24, 2018, at 5:00 p.m.**

Notice is also given that any interested person, or authorized representative, may submit written comments

relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to:

Commission on POST  
Attn: Cheryl Smith  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605-1630

#### AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code § 13503 (authority of Commission on POST) and Penal Code §13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code §13503(e) which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code §13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers.

The California Emergency Medical Services Authority (EMSA), which established First Aid/CPR training standards for public safety personnel, has approved revisions to the California Code of Regulations, Division 9, Title 22, Chapter 1.5 First Aid Standards for Public Safety Personnel, that significantly increase the level of skills to be taught to peace officers.

POST has updated Regulation 1070 to add AED to the specialized subject and refer to EMSA for required instructor training requirements. Regulation 1082 has been updated to add AED and refer to EMSA (Title 22, Chapter 1.5, Section 1028(a) of the California Code of Regulations).

The benefits anticipated by the proposed amendments to the regulations will be to update the POST-Certified Instructor course and content, which will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

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

**ADOPTION OF PROPOSED REGULATIONS**

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

**ESTIMATE OF ECONOMIC IMPACT**

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

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code §§ 17500-17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulations would have no effect on housing costs.

**RESULTS OF ECONOMIC IMPACT  
ASSESSMENT PER GOVERNMENT  
CODE § 11346.3(b)**

The adoption of the proposed amendments of regulations will neither create, nor eliminate, jobs in the State of California, nor result in the elimination of existing businesses or create, or expand, businesses in the State of California.

The proposed amendments of regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California. There would be no impact that would affect worker safety or the state's environment.

**COST IMPACT ON REPRESENTATIVE PRIVATE  
PERSONS OR BUSINESSES**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**CONSIDERATION OF ALTERNATIVES**

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

**CONTACT PERSON**

Questions regarding this proposed regulatory action may be directed to Cheryl Smith, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, at [cheryl.smith@post.ca.gov](mailto:cheryl.smith@post.ca.gov), or (916) 227-0544. The alternate contact is Robert "RC" Smith at [rc.smith@post.ca.gov](mailto:rc.smith@post.ca.gov) or (916) 227-4864.

**TEXT OF PROPOSAL**

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based

upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at: <http://www.post.ca.gov/regulatory-actions.aspx>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) named above.

**TITLE 13. AIR RESOURCES BOARD**

NOTICE OF PUBLIC HEARING TO CONSIDER  
PROPOSED AMENDMENTS TO THE  
LOW-EMISSION VEHICLE III GREENHOUSE  
GAS EMISSION REGULATION

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 Low-Emission Vehicle III Greenhouse Gas Emission Regulation.

DATE: September 27, 2018

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., September 27, 2018, and may continue at 8:30 a.m., on September 28, 2018. Please consult the agenda for the hearing, which will be available at least ten days before September 27, 2018, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND  
SUBMITTAL OF COMMENTS

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 August 10, 2018. Written comments not physically submitted at the hearing must be submitted on or after August 10, 2018, and received **no later than 5:00 p.m. on September 24, 2018**. 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: Clerk of the Board, 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, § 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 38550, 38566, 39500, 39600, 39601, 43013, 43018, 43018.5, 43101, 43104, and 43105. This action is proposed to implement, interpret, and make specific California Health and Safety Code, sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43018.5, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, and 43211.

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

**Sections Affected:**

Proposed amendment to California Code of Regulations, title 13, sections 1961.2 and 1961.3 and to the “California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” as last amended September 2, 2015, incorporated by reference in Title 13, CCR, section 1961.2.

**Background and Effect of the Proposed Regulatory Action:**

**Overview**

In order to address the need to further reduce vehicle emissions and achieve California’s goal of reducing climate changing greenhouse gas emissions, in January 2012, CARB adopted its second generation of greenhouse gas emission standards for light-duty vehicles as part of the Low-Emission Vehicle III (or LEV III) program. The LEV III regulations established increasingly stringent greenhouse gas standards for 2017 through 2025 model year light-duty vehicles, and maintained the stringency for subsequent model years. These regulations were adopted by the Board as part of the Advanced Clean Cars rulemaking package that also includes the state’s zero-emission vehicle (ZEV) regulation.

California’s greenhouse gas emission programs for light-duty vehicles (passenger vehicles) are a fundamental component of the State’s strategy to protect the health of its citizens and its natural resources, including from the threats of climate change.<sup>1</sup> California’s programs have operated successfully in tandem with complementary standards set by other agencies for many years. Recognizing the value of a national program, California has accepted compliance with greenhouse gas emission standards adopted by the United States Environmental Protection Agency (U.S. EPA) for the 2012 through 2025 model years. To do so, CARB adopted the so-called “deemed to comply” option, which allows compliance with U.S. EPA’s regulations as an alternative to complying with California’s regula-

tions for these model years, because the U.S. EPA standards, at the time, would deliver equivalent greenhouse gas emission reductions as California’s standards.<sup>2,3</sup>

One important element of the originally adopted federal greenhouse gas emission standards was a requirement that U.S. EPA later conduct a midterm evaluation (MTE) to re-assess the appropriateness of the greenhouse gas emission standards for the 2022 through 2025 model years. This report was required by law to be based upon a comprehensive joint Technical Assessment Report,<sup>4,5</sup> consisting of hundreds of pages of analysis and documentation, which was prepared jointly by U.S. EPA, CARB, and National Highway Traffic Safety Administration (NHTSA) staff. The purpose of the MTE was to evaluate updated information to determine if the standards should be strengthened, maintained at their current level of stringency, or weakened. On January 13, 2017, U.S. EPA released its Final Determination<sup>6</sup> to maintain the current National Program of greenhouse gas emission standards for 2022 through 2025 model year vehicles, finding that automakers are well positioned to meet the standards at lower costs than previously estimated.

CARB also conducted a California-specific Midterm Review<sup>7</sup> of the appropriateness of these standards, which also examined a number of other issues relating to the LEV III regulations and ZEV regulation, and issued a report on the findings. Based on the CARB

<sup>2</sup>All manufacturers are currently exercising the option of complying with the federal greenhouse gas emission standards.

<sup>3</sup>Although California’s light-duty greenhouse gas regulations also apply to model years beyond 2025, the “deemed to comply” option is not available for the 2026 and subsequent model years. Consequently, the 2026 and subsequent model years are not addressed in this rulemaking.

<sup>4</sup>See 40 C.F.R. § 86.1818–12(h)(2).

<sup>5</sup>U.S. EPA, NHTSA, CARB, *Draft Technical Assessment Report: Midterm Evaluation of Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards for Model Years 2022–2025* (July 2016), available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100OXEO.PDF?Dockey=P100OXEO.PDF>.

<sup>6</sup>U.S. EPA, *Final Determination on the Appropriateness of the Model Year 2022–2025 Light-duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation* (January 2017, EPA-420-R-17-001), available at: <https://www.regulations.gov/contentStreamer?documentid=EPA-HQ-OAR-2015-0827-6270&attachmentNumber=1&contentType=pdf>.

<sup>7</sup>California Air Resources Board, *California’s Advanced Clean Cars Midterm Review* (January 18, 2017), available at: [https://www.arb.ca.gov/msprog/acc/mtr/acc\\_mtr\\_finalreport\\_full.pdf](https://www.arb.ca.gov/msprog/acc/mtr/acc_mtr_finalreport_full.pdf).

<sup>1</sup>California Air Resources Board, *California’s 2017 Climate Change Scoping Plan*. (November 2017) available at: [https://www.arb.ca.gov/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf).

Midterm Review, the Board concluded (in Resolution 17–3<sup>8</sup>) that:

Given U.S. EPA has issued a Final Determination affirming the 2022 through 2025 model year federal greenhouse gas standards will remain as adopted, it is appropriate to continue California’s participation in the 2017 through 2025 model year National Program by maintaining the “deemed to comply” provision allowing for compliance with the adopted U.S. EPA greenhouse gas standards for the 2022 through 2025 model years.

On April 13, 2018, the U.S. EPA issued a notice withdrawing its previous Final Determination for the MTE of the federal passenger vehicle greenhouse gas regulations and issuing a revised 11–page Final Determination that the federal greenhouse gas standards are not appropriate, “may be too stringent,” and should be changed.<sup>9</sup> The U.S. EPA did this without properly explaining why it was departing from the extensive evidence within the Technical Assessment Report, and without sharing any data or analysis with CARB or adequately explaining the reasons for reaching a different conclusion than had been reached by the previous well–reasoned Final Determination.

On August 1, 2018, as a consequence of the U.S. EPA’s new Final Determination, the Acting Administrator for the U.S. EPA and the Deputy Administrator for NHTSA signed a joint Notice of Proposed Rulemaking (NPRM) that would, if finalized, significantly weaken the U.S. EPA’s standards and which purports to attack California’s long–standing authority in this area. The NPRM stated it would provide a 60–day comment period, commencing from the time of publication in the Federal Register.

The NPRM proposes to arrest U.S. EPA’s carbon dioxide (CO<sub>2</sub>) emissions targets at the levels set for model year 2020. The proposal would also limit the standards to CO<sub>2</sub> tailpipe emissions and would fail to address other, more potent greenhouse gas emissions from vehicles. The agencies also proposed to find CARB’s greenhouse gas and ZEV standards preempted by federal law, and to withdraw the waiver of federal preemption that the U.S. EPA granted to California in 2013 for the greenhouse gas and ZEV requirements of its Advanced Clean Cars program, at 78 Federal Register 2,112 (Jan. 9, 2013).

This proposal is contrary to the facts and the law. It is belied by the comprehensive, multi–year analysis of the

initial Final Determination that found the standards cost–effective and achievable. It frustrates Congressional intent, upheld by the Supreme Court and lower federal courts, in the Clean Air Act and the Energy Policy and Conservation Act to conserve energy and protect the environment by setting maximum feasible standards. It jeopardizes the successful coordinated National Program for reducing these emissions that has helped position the auto industry for continued innovation and competitiveness in an international market.

This threat of weakening the standards of the unified National Program, left unaddressed, could substantially slow progress towards the emission reductions needed to address the serious threat climate change poses to California, the country, and the world. Thus, U.S. EPA has now stated both that the current rigorous standards are inappropriate — necessitating this rulemaking — and doubled down by stating that it intends to abandon the rigorous federal standards that the record supports. This will force upon regulated entities and the public considerable uncertainty as to the fate of the unified National Program. And it will obscure the clear path that it laid through the coming years to save money and resources and achieve the pollution reductions necessary to protect our health and environment. Issuance of this federal NPRM affirms the importance of CARB taking this proposed action to be clear California is maintaining the current standards.

### Current Proposal

CARB is proposing amendments to the LEV III greenhouse gas emission regulation to clarify that the “deemed to comply” option is available only for the currently adopted federal greenhouse gas regulations (incorporated in the Code of Federal Regulations and last amended on October 25, 2016). These clarifying amendments will ensure that the effects of any federal weakening for model years 2021 through 2025 are not felt in California during those model years. Weakening the standards, as U.S. EPA has proposed, would be unfounded and contrary to the intent of the Clean Air Act. Such an unfounded weakening removes a material predicate of California’s decision to accept compliance with U.S. EPA standards. This clarification is thus consistent with the fundamental understandings underlying the current unified National Program for light–duty emission control.

CARB may also consider other changes to the sections affected during the course of this rulemaking process. Specifically, CARB requests comments on potential flexibilities that might allow for continued compliance with the federal standards, or reward national actions to promote cleaner vehicles.

<sup>8</sup> State of California, Air Resources Board, Resolution 17–3. March 24, 2017. Agenda Item No.: 17–3–8. Advanced Clean Cars Midterm Review. Available at: <https://www.arb.ca.gov/msprog/acc/mtr/res17-3.pdf>.

<sup>9</sup> 83 Fed.Reg. 16,077 (April 13, 2018).

**Objectives and Benefits of the Proposed Regulatory Action:**

The proposed amendments will ensure that appropriate and necessary greenhouse gas emission reductions and public health protections<sup>10</sup> are achieved by California’s standards. They are also important for maintaining the pace of greenhouse gas emission reductions that are necessary to achieve our statutory targets, and to address extraordinary and compelling conditions in California.<sup>11</sup> Achieving these targets is critical for helping to combat the effects of climate change, including raging wildfires, coastal erosion, disruption of water supply, threats to agriculture, spread of insect-borne diseases, and continuing health threats from air pollution. The proposed amendments are also consistent with the extensive technical determinations from the 2017 Final Determination and CARB’s MTR, showing that the standards are appropriate. These proposed amendments will provide predictability for manufacturers to make the necessary investments in cleaner vehicles for Californians that have reduced climate, public health and welfare impacts, promote innovation, and are less costly to operate.

CARB remains committed to a national program that is based on a robust technical foundation and sound economic analysis, such that it fulfills CARB’s statutory mandates to protect public health and welfare and the environment. CARB has been, and remains, willing to consider well-founded and necessary changes to the program, including flexibilities that reduce compliance costs, so long as they continue to provide the necessary greenhouse gas emission reductions. Federal action that is consistent with these principles could render this CARB rulemaking unnecessary.

There are no expected benefits to public safety or worker safety as a result of this rulemaking.

**Comparable Federal Regulations:**

As mentioned, although the current California and federal greenhouse gas regulations for 2021 through 2025 model year light-duty vehicles are equivalent in

<sup>10</sup> Although the vehicle standards in question directly regulate greenhouse gas emissions, and the LEV III criteria pollutant emission fleet average standards are not being changed, reducing greenhouse gases is critically important to protect public health in California. Greenhouse gases worsen climate change; in turn, climate change results in hotter weather conditions that are already eroding California’s ability to attain and maintain compliance with ambient air quality standards. Moreover, criteria pollutant emissions in California from the production and delivery of petroleum and gasoline could change as a result of the federal action, thus increasing public health risks.

<sup>11</sup> Senate Bill 32 (Chapter 249, Statutes 2016, Pavley) requires that the state reach 40 percent emission reductions below 1990 levels by 2030. Executive Order S-3-05 sets a goal of 80 percent emission reductions below 1990 levels by 2050.

stringency, U.S. EPA has stated that the federal standards “are inappropriate and may need to be weakened.”<sup>12</sup> The proposed amendments are necessary to preserve the emission benefits of the current California LEV III greenhouse gas regulation by safeguarding against the unwarranted relaxation of the standards and resulting loss of California emission reductions for model years 2021 through 2025 due to the linkage of the California regulation and federal passenger vehicle greenhouse gas regulation.

**An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code § 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, §§ 11346.2, subd. (c), 11346.9)

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

DISCLOSURE REGARDING THE  
PROPOSED REGULATION

**Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5)&(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, costs or 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.

**Housing Costs (Gov. Code, § 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.

<sup>12</sup> 83 Fed.Reg. 16,077 (April 13, 2018).

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 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, § 11346.5, subd. (a)(10)):**

The proposed amendments do not qualify as major regulations, because they would leave current regulatory conditions intact. Accordingly, the proposed amendments will not have an economic impact on California businesses and individuals compared to a baseline of current conditions, and formal requirements for major regulations do not apply. However, in the interest of transparency, staff have prepared a thorough economic analysis of these proposed amendments, commensurate with analyses done for major regulations, and it is available as Appendix D to the Initial Statement of Reasons (ISOR). This Standard Regulatory Impact Assessment (SRIA) Equivalent Document was submitted to the California Department of Finance on June 7, 2018. Comments received from the California Department of Finance are in Appendix E to the ISOR and are summarized below.

**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.

**Benefits of the Proposed Regulation:**

The objective of the proposed regulatory action is to preserve the California greenhouse gas emission reductions anticipated from the LEV III light-duty vehicle greenhouse gas emission regulation.

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.

**California Department of Finance Comments on the SRIA Equivalent Document and CARB Responses:**

**Comment from the California Department of Finance:**

Finance generally concurs with the methodology used to estimate impacts of proposed regulations. If the federal standards were to change, the timing and details would be important to model in order to assess any impacts to California. However, if the sensitivity analysis captures most of the components, only the magnitudes of estimates may change.

**CARB Response:**

Thank you for your review. We will update the analysis in the Standard Form 399 and other documents, as appropriate, if there are any developments at the federal level.

**Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):**

In accordance with Government Code sections 11346.5, subdivision (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. The proposed amendments do not include new reporting requirements or modify existing reporting requirements.

**Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 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, § 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, because they would not change the stringency of the current regulations. Because the stringency would not change in California, the regulations will continue to result in net cost savings for small business through more efficient motor vehicles, which will be more cost-effective to own and operate than in the absence of the standards, as previously estimated when the regulations were initially adopted.

**Consideration of Alternatives (Gov. Code, § 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 pur-

pose 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

When the Advanced Clean Cars Program was proposed in 2012, CARB 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, included in Appendix B of the ISOR entitled Appendix B: Draft Environmental Analysis for the Advanced Clean Cars Program, dated December 7, 2011, determined the Advanced Clean Cars Program could result in adverse impacts to aesthetics, air quality, and noise, biological resources, cultural resources, geology/soils, hazards/hazardous materials, hydrology/water quality, traffic and utilities, however the portion of the program specific to the LEV III regulation did not find any adverse environmental impacts. Staff has determined that no additional environmental review is required for the current proposed amendments because there are no changes that involve new significant environmental effects or a substantial increase in severity of previously identified significant effects in the prior 2011 EA. The basis for reaching this conclusion is provided in Chapter VI 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 Mike McCarthy, Chief Technology Officer, Emissions Compliance, Automotive Regulations and Science Division at (626) 771-3614 or (designated back-up contact) Sarah Carter, Staff Air Pollution Specialist, Emissions Compliance, Automotive Regulations and Science Division at (626) 575-6845.

### 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 Proposed Amendments to the Low-Emission Vehicle III Greenhouse Gas Emission Regulation."

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, beginning on August 7, 2018.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, at (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 <http://www.arb.ca.gov/regact/2018/leviii2018/leviii2018.htm>.

**TITLE 13. AIR RESOURCES BOARD**

**NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED INNOVATIVE CLEAN TRANSIT REGULATION, A REPLACEMENT OF THE FLEET RULE FOR TRANSIT AGENCIES, AND DRAFT ENVIRONMENTAL ANALYSIS PREPARED FOR THE REGULATION**

This notice announces the availability of the proposed Innovative Clean Transit (ICT) 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 ICT Regulation.

DATE: September 27, 2018

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., September 27, 2018, and may continue at 8:30 a.m., on September 28, 2018. Please consult the agenda for the hearing, which will be available at least ten days before September 27, 2018, to determine the day on which this item will be considered.

**WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS**

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 and Draft EA will begin on August 10, 2018. Written comments not physically submitted at the hearing must be submitted on or after August 10, 2018 and received **no later than 5:00 p.m. on September 24, 2018**. 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: Clerk of the Board  
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, § 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, 39002, 39003, 39012, 39017, 39018, 39027, 39500, 39600, 39601, 39606, 39650, 39655, 39658, 39659, 39667, 40000, 43000.5, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43701(b), 43801 and 43806. This action is proposed to implement, interpret, and make specific California Health and Safety Code, sections 38501, 38510, 38560, 38596, 39002, 39003, 39017, 39027, 39500, 39600, 39601, 39650, 39655, 39658, 39659, 39667, 40000, 43000.5, 43013, 43018, 43101, 43104, 43105, 43701(b), 43801 and 43806; California Vehicle Code, sections 233, 350, 545, and 28114; Title 49, United States Code, Sections 5303 and 5324; and Title 49, Code of Federal Regulations, section 665.13.

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

##### **Sections Affected:**

Proposed amendments to California Code of Regulations, title 13, sections 2023, 2023.1, 2023.2, 2023.3, 2023.4, and adoption of sections 2023.5, 2023.6, 2023.7, 2023.8, 2023.9, 2023.10 and 2023.11, and to recodify all of these into a new Article 4.3.

##### **Documents Incorporated by Reference (Cal. Code Regs., tit.1, § 20, subd. (c)(3)):**

The following procedure would be incorporated in the regulation by reference as specified by sections 2023(b)(39) and 2023.4(c)(3)(C):

- Society of Automotive Engineering (SAE) International, Recommended Practice for Measuring Fuel Economy and Emissions of Hybrid-Electric and Conventional Heavy-Duty Vehicles, J2711\_200209 (September 20, 2002), available at: [https://www.sae.org/standards/content/j2711\\_200209/](https://www.sae.org/standards/content/j2711_200209/).

##### **Background and Effect of the Proposed Regulatory Action:**

Transit fleets operate in local communities and have a key role, not only in helping transit-dependent riders, but also in helping to shape transportation systems. Public transit agencies are our clean air partners and have played, and will continue to play, an important role in helping California meet air quality standards and greenhouse gas (GHG) emissions reduction goals; namely, by employing the cleanest technologies, providing safe and reliable public transit services in low income and disadvantage communities (DAC) to reduce light-duty passenger vehicle miles traveled and single occupancy trips, and reducing congestion on roadways.

Under the current Fleet Rule for Transit Agencies (Transit Fleet Rule), sections 2023, 2023.1, 2023.2, 2023.3, and 2023.4, title 13, California Code of Regulations (CCR), public transit agencies operating urban bus fleets were required to select either the diesel bus path or the alternative-fuel bus path and comply with retrofit, fuel purchase, fleet average, and reporting requirements. The diesel bus path required retrofitting existing buses with diesel particulate filters, while agencies utilizing alternative-fuel path had to ensure that eighty-five percent of urban bus purchases were alternative fueled buses. To date, about 55 percent of all buses in California operate on alternative fuels.

In the 2006 amendment to the Transit Fleet Rule, there was a 15 percent zero-emission bus (ZEB) purchase requirement for larger transit agencies defined as with more than 200 urban buses to purchase ZEBs starting in 2011. Ten transit agencies subject to the ZEB purchase requirements accounted for about 60 percent of the statewide urban bus fleet. To date, except for the ZEB purchase requirement, all other regulatory provisions have been met and are being implemented.

In 2009, CARB staff presented ZEB technology evaluations to the Board and concluded that the ZEB technologies were not commercially ready at that time. The Board, through Resolution 09-49, found, among other things, that technologies had not sufficiently advanced to appropriately assess commercial readiness, that costs of ZEBs remained significantly higher than the target prices on which the existing fleet rule had been premised, and that a new focus on GHG emissions reductions from transit was appropriate. The Board directed staff to prepare proposed amendments to the regulation to delay the ZEB purchase requirement, conduct further research on commercial-readiness metrics, implement the purchase requirement once commercial readiness had been achieved, and report back to the Board in 2012 on progress towards ZEB commercialization.

In 2010, CARB staff issued a regulatory advisory to temporarily withhold the implementation of the purchase requirement for ZEBs. In the advisory, CARB stated it did not intend to enforce the ZEB purchase requirement until CARB had developed and the Board had approved new purchase requirements based on the technology evaluation.

As part of the ZEB purchase requirement, the 2006 amendments included an advanced demonstration of ZEBs for transit agencies on the diesel path and a CARB evaluation of the status of technology. Five transit agencies in the Bay Area formed the Zero-Emission Bay Area (ZEBA) program. The original ZEBA program included twelve fuel cell electric buses (FCEBs) deployed in 2010 with an additional FCEB added to the fleet and put into service in late in 2015. At the time, FCEBs were the only available zero-emission technology to meet the demands of transit service. To date, the ZEBA program has demonstrated impressive milestone accomplishment and the feasibility of incorporating ZEBs into transit fleet operation.

CARB staff conducted a comprehensive technology evaluation in 2015 and concluded the ZEB technologies were now in their early commercialization stage. To date, both battery electric and fuel cell electric buses in active fleets can have bus availability of nearly 90%, which demonstrates technology improvement and viability. CARB staff updated the Board in February 2016 at a public hearing about the status of ZEB technology, price, and deployment. Significant technology advancements have been made in ZEBs with increased reliability and availability, declining costs for both vehicle and infrastructure, improved performance, and extended mileage range. Essential ZEB deployment experience has been gained from multiple fleets, including transit agencies and universities, through operating ZEBs in regular revenue service. A viable ZEB market has now developed with several transit agencies committing to fully electrify their fleets, all major bus manufacturers announcing ZEB production, and ZEB production facilities moving to California. In the update to the Board, staff discussed plans to reinstate ZEB purchase requirements, including the public process on amending the rule with a broader goal of making a transition to an all ZEB fleet. Staff has continued to analyze and update technical and cost information, as well as evaluate various regulatory strategies. This proposed ICT regulation is a result of that process.

Staff is proposing the following elements to ensure a successful and smooth transition to a complete ZEB fleet:

(1) ZEB Rollout Plan

- Each transit agency would be required to submit a ZEB Rollout Plan approved by governing board.

- The Rollout Plan will demonstrate how a transit agency plans for ZEB purchase and infrastructure buildout, and associated financial planning and workforce training.
- The ZEB Rollout Plan would be submitted to the Board, with due dates of June 30, 2020, for a large transit agency (with 100 or more transit buses) and June 30, 2023, for a small transit agency (with fewer than 100 transit buses).
- (2) ZEB purchase requirements
  - A large transit agency would purchase ZEBs according to the following schedule:
    - Starting January 1, 2023, 25 percent of annual new buses purchased;
    - Starting January 1, 2026, 50 percent of annual new buses purchased; and
    - Starting January 1, 2029, 100 percent of annual new buses purchased.
  - A small transit agency would purchase ZEBs according to the following schedule:
    - Starting January 1, 2026, 25 percent of annual new buses purchased; and
    - Starting January 1, 2029, 100 percent of annual new buses purchased.
- (3) Waiver for early compliance
  - purchase requirements otherwise effective in calendar year 2023 would be waived if California transit agencies collectively purchase 1,000 or more ZEBs by December 31, 2020.
  - purchase requirements otherwise effective in calendar year 2024 would be waived if California transit agencies collectively purchase 1,150 or more ZEBs by December 31, 2021.
- (4) Zero-Emission Mobility Option
  - A transit agency may use zero-emission cars or vans or bicycles to meet a portion of its ZEB requirements.
- (5) ZEB Bonus credit
  - Bonus credits for early placement of ZEBs, including extra credits for early FCEBs; however,
  - Bonus credits do not apply to the waiver for early compliance.
- (6) Optional Joint Zero-Emission Bus Group
  - Allows for transit agencies to form a Joint Zero-Emission Bus Group to pool resources and more efficient utilization of infrastructure.
- (7) Use of low NOx engines
  - Starting January 1, 2020 transit agencies would be required to purchase low NOx engines if available for the bus and fuel type being purchased. The requirement does not apply to buses dispatched from NOx exempt areas.

- (8) Use of renewable fuels
  - o Starting January 1, 2020, large transit agencies would be required to use renewable fuels for diesel and compressed natural gas (CNG) buses when fuel contracts are renewed to support existing renewable fuel policies.
- (9) Deferral from ZEB purchase requirements
  - o A transit agency may submit a request for extension or exemption from ZEB purchase requirements, under conditions outside the transit agency's control.
- (10) Reporting
  - o Starting 2021 all transit agencies would be required to report their fleet information annually for the prior compliance year.

Staff recognizes the challenges transit agencies are facing to transition to ZEB fleets, and the commitments that transit agencies, local government agencies, and the State need to make. Even though ZEB technologies have advanced rapidly in recent years, continued improvements in ZEB costs and performance are still needed to facilitate the transition to full zero-emission technologies. Staff plans to provide the Board with an update on costs and performance of ZEBs by the end of 2021, which is two years before the first ZEB purchase requirement starts in 2023.

The performance review would identify the status of ZEB technology and would help the State design policies to further advance zero-emission technologies, and inform funding strategies related to zero-emission vehicles and infrastructure.

**Objectives and Benefits of the Proposed Regulatory Action:**

The proposed ICT regulation is identified in the State Strategy for the State Implementation Plan (State SIP Strategy) and 2017 Scoping Plan as a necessary component for California to achieve established near- and long-term air quality and climate mitigation targets. In California, the transportation sector is responsible for 41 percent of total GHG emissions, 80 percent of NOx emissions, and 90 percent of diesel particulate matter (PM). Diesel PM is a fine particulate, a toxic air contaminant, and a carcinogen that significantly threatens public health and the environment.<sup>1</sup>

Broadly implementing zero-emission technologies is a necessary component to effectively address these multiple and complicated air quality and climate protection issues. ZEBs have a higher equivalent fuel efficiency compared to the conventional internal combustion engine (ICE) technologies and provide immediate

health benefits to local communities and significantly reduce petroleum and other fossil fuel use. The proposed ICT regulation is one step needed to accelerate the transition to zero emissions in the heavy-duty vehicle sector.

In general, the proposed ICT regulation would provide benefits in the following areas:

- (1) Health benefits to Californians and workers at transit agencies through improved air quality and reduced premature mortality, hospital visits, and lost school or work days;
- (2) Environmental benefits in air quality improvement, climate protection, and energy consumption reductions.

The anticipated benefits are summarized below:

**Air Quality and Climate Benefits**

The demanding air quality and climate protection goals that California faces require cleaner technologies deployed, especially in the transportation sector. The proposed ICT regulation helps reduce emissions through several ways:

- (1) Eliminates tailpipe emissions and avoids excess emissions caused by deteriorated vehicles;
- (2) Increases fuel efficiency and thereby reduces the use of energy, which is the major source of carbon dioxide (CO<sub>2</sub>) emissions through a combustion process;
- (3) Better utilizes non-emitting renewable sources, such as solar energy;
- (4) Reduces emissions from oil and gas extraction and production processes; and
- (5) For the near term, pairs with the use of low NOx engines for additional NOx emission reduction.

**Public Health and Worker Safety Benefits**

Reduced emissions of PM<sub>2.5</sub> and NOx reduce premature mortality, hospitalizations, and emergency room visits. These benefits will accrue to the general public and workers exposed to emissions from transit buses, such as bus operators, passengers, and employees who work around bus traffic.

**Energy Saving and Reduction of Petroleum Fuel Dependence**

In the long term, implementation of the proposed ICT regulation will lead the heavy-duty vehicle sector to transform from petroleum and other fossil-based fuels toward hydrogen or electricity for public transportation. The superior equivalent fuel efficiency of ZEBs and the fuel sources together help pave a low carbon future for the heavy-duty vehicle sector.

In addition, the proposed ICT regulation incents other zero-emission mobility options for transit agencies. The zero-emission mobility option can further reduce

<sup>1</sup>California Air Resources Board (CARB). Overview: Diesel Exhaust and Health. Available: <https://www.arb.ca.gov/resources/overview-diesel-exhaust-and-health>. Accessed July 23, 2018.

emissions, enhance mobility, and improve efficiency in the public transit system.

Leading Zero-Emission Technologies in Other Heavy-Duty Sectors

Transit agencies have played an important role as the leader deploying cleaner, more efficient technologies in the heavy-duty vehicle sector. Examples include diesel particulate matter filters, CNG engines, and low NOx engines. Transit agencies are also playing that leadership role in transforming the heavy duty sector to zero-emission technologies. Transferable technologies include drivetrains, fueling and charging systems, workforce training, and operations and maintenance expertise.

Benefits in Disadvantaged Community and Job Creation

The proposed ICT regulation is anticipated to deliver public health and environmental benefits that include GHG, criteria, and toxic pollutant emission reductions in disadvantaged communities (DACs) where there are more transit dependent riders. Additionally, California is home to ZEB manufacturing, which brings high-quality jobs to local communities. There are several ZEB manufacturing plants in California, which stand to increase production of ZEBs, and thus manufacturing and related jobs, including in DAC areas. Electricians, construction companies (such as infrastructure installers), some bus manufacturers, fuel cell and battery production, and electric drivetrain parts and components businesses can fall into the small business category, which may benefit.

Other Societal Benefits

The proposed ICT regulation includes options to encourage improved mobility and connectivity with zero-emission transportation modes. These efforts would make communities and cities more sustainable and enhance the benefits of investments in cleaner technologies by reducing growth in light-duty vehicle miles traveled (VMT). In the long term, advanced transportation systems and technologies, such as battery electric vehicles and zero-emission micro transit, have the potential to be a transformative element of a cleaner, safer, and more efficient transportation system.

**Comparable Federal Regulations:**

There are no comparable federal regulations, necessitating the proposed ICT regulations to protect public health and achieve climate protection benefits.

**An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 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 regula-

tions are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED REGULATION

**Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5)&(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). Costs are not reimbursable when they may be fully financed by local agencies raising their own fees. (See, e.g., *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal App. 4th 794, 812; *Connell v. Superior Court* (1997) 59 Cal. App. 4th 382, 397-403; *County of Fresno v. State of California* (1991) 53 Cal. 3d 482, 487-88; Cal. Gov. Code section 17556(d)). The local transit agencies have authority to raise fees, if needed, to address the costs of this regulation. Therefore this is not a reimbursable mandate.

The proposed ICT regulation directly impacts transit agencies, who are local agencies. The costs and cost-savings to transit agencies varies annually. Specific costs to each agency are expected to vary based on the size of their bus fleet. Agencies with the largest bus fleets are likely to be impacted the most. Without additional funding support, upfront costs from purchasing ZEBs and improving or adding infrastructure would outweigh cost-savings in the early years of regulation adoption. Over time, cost-savings in ZEB maintenance, fuel costs, credit value from the Low Carbon Fuel Standard (LCFS) program, and the buildout of ZEB infrastructure is estimated to result in an overall cost-savings to transit agencies. This total cost estimate does not consider the potential incentives, grants, or other funding sources available to transit agencies, which is estimated to reduce some of the upfront cost.

Transit agencies will need to identify means of addressing capital costs of bus purchase and infrastructure buildout in early years. The proposed ICT regulation is structured to provide an opportunity for transit agencies to take early action, ahead of regulatory deadlines, and

would allow agencies to be eligible for grant funding, which could substantially reduce or eliminate the incremental costs of ZEB purchases and infrastructure.

The State is committed to providing funding to help with transition to zero-emission technologies. There are several funding sources that could offset the incremental costs to transit agencies without relying on financing options (see the Initial Statement of Reasons (ISOR) Chapter III, Section C). For example, on May 31, 2018, the California Public Utility Commission (CPUC) unanimously approved transportation electrification projects proposed by three major Investor Owned Utilities (IOUs), with a total of \$738 million including \$236 million from Pacific Gas and Electric and \$343 million from Southern California Edison on medium and heavy-duty infrastructure, required under Senate Bill 350, chapter 547, statutes of 2015.<sup>2</sup> This approval would reduce the infrastructure costs to transit agencies in those utility service areas. In addition, on May 25, 2018, CARB approved allocations for Volkswagen Environmental Trust Funds that included up to \$65 million for zero-emission transit buses.

If insufficient funding is available to cover the up-front incremental costs, local agencies may also need to consider alternative methods to purchase buses, including battery lease arrangements that mitigate the higher bus costs. In some cases, local governments or transit agencies may need to augment grant funding to address the remaining incremental costs. Local governments or transit agencies may need to reallocate revenue resources among different municipality services or transportation programs to comply with the ICT regulation.

Cost or Savings for State Agencies:

The ICT proposal will impose costs on CARB. In addition to current resources allocated to transit-related programs, CARB estimates one additional position is necessary to:

- develop a reporting system prior to initial reporting by transit agencies in 2021, assisting transit agencies with compliance and annual reporting,
- disseminate information to transit fleets, and
- conduct compliance and enforcement activities, including auditing reported information and visiting sites to confirm vehicle equipment.

The cost of the position is estimated to be \$165,000 in 2020, and \$164,000 every year afterwards. The funding to cover the additional staff is expected to come from the Air Pollution Control Fund.

<sup>2</sup> Application of San Diego Gas & Electric Company (U 902E) for Approval of SB 350 Transportation Electrification Proposals (Cal.P.U.C. Decision 18-05-040 May 31, 2018) No. A17-01-020 and Related Matters A 17-01-021, 17-01-022.

The ICT proposal is not expected to have adverse impacts on other state agencies.

Other Non-Discretionary Costs or Savings on Local Agencies:

The proposed ICT regulation affects transit agencies and is not expected to impose any non-discretionary costs or saving to transit agencies.

Cost or Savings in Federal Funding to the State:

The Federal Transit Administration (FTA) provides grants to local public transit systems, including buses. Since 1964, FTA has partnered with state and local governments to create and enhance public transportation systems, investing more than \$11 billion annually to support and expand public transit services. FTA provides annual formula grants to transit agencies nationwide as well as discretionary funding in competitive processes. The proposed ICT regulation is not expected to impose any costs or saving in Federal Funding to the State.

**Housing Costs (Gov. Code, § 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, §§ 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.

Industries that manufacture or support ZEB technologies will see a demand increase as a result of the proposed ICT regulation. These businesses vary in size, revenue, and type of operations. The main impacted businesses include:

- ZEB manufacturers within motor vehicle manufacturing industries (NAICS code 3361)
- Electrical vehicle supply equipment (EVSE) suppliers and installers (NAICS codes 3359 and 3353)
- Construction and engineering service for hydrogen fueling station (NAICS code 5413)
- Utilities (NAICS code 2211) as electricity generator and distribution, and hydrogen producer (NAICS code 3251)

There are several ZEB manufacturers with plants located in California, including BYD Motors Inc., Complete Coach Works, Ebus, El Dorado National-California, Gillig, GreenPower, and Proterra. The increase in the production and usage of ZEBs could also benefit

various businesses related to the ZEB component supply chain, including those involved in battery, fuel cell, and electric drivetrain businesses. Some of these are also located in California.

Because of the reduced use of conventional buses with internal combustion engines, the demand decrease is expected in the industries of conventional bus manufacturing and oil and gas. As most conventional bus manufacturers are likely to manufacture ZEBs at the same time, they may shift their operations to ZEB manufacturing to accommodate the increased demand for ZEB technologies.

Small businesses in the industries described above could face similar impacts as typical businesses. Electricians, construction companies, including infrastructure installers, some bus manufacturers, fuel cell and battery production, and electric drivetrain parts and components businesses may fall into the small business category. The benefits to ZEB manufacturers and other related business discussed above also apply to small businesses. But there is insufficient information about these indirect effects to quantify them or conclude they would be significant.

## MAJOR REGULATION

### **Statement of the Results of the Standardized Regulatory Impact Analysis (Gov. Code, § 11346.3, subd. (c)):**

In April 2018, CARB submitted a Standardized Regulatory Impact Analysis (SRIA) to the Department of Finance (DOF) for its review. CARB has updated the proposed ICT regulation since the original SRIA submittal, and to address DOF comments. The revisions are discussed in the ISOR, Chapter VIII, Section A.

#### *The Creation or Elimination of Jobs within the State*

Employment growth slows minimally for local government during the early years of the assessment as transit agencies begin phasing-in ZEB technologies. In later years, as operating and maintenance spending decreases, local government sees positive, though small, employment growth relative to current conditions.

Industries that manufacture, install, and support ZEB technologies may see employment growth at levels higher than current conditions. These industries include ZEB manufacturing, charging infrastructure manufacturing, engineering services, electricity generation, and hydrogen generation. With manufacturing facilities located in California, BYD, Proterra and GreenPower may bring significant employment opportunities. Some of these industries may fall into the category of small businesses and they would expect to see an increase in these types of jobs.

As transit agencies begin the deployment of ZEBs, demand for maintenance and conventional fuels de-

cline, corresponding with the slowing in employment growth that is anticipated in these industries.

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

The proposed ICT regulation would provide incentives for the expansion of ZEBs and related component manufacturing. Business creation can occur both within the state and outside. Many manufacturers of ZEBs and component suppliers are already operating in California, suggesting there will be growth in the state.

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

The proposed ICT regulation imposes requirements on California transit agencies that are publicly owned and operated. No significant impacts to the competitiveness of businesses in California due to the proposed ICT regulation are anticipated.

#### *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 proposed ICT regulation is unlikely to have any significant impact on investments in California. The induced demand for ZEB technologies by the transit agencies is not likely responsible for the overall decrease in gross domestic private investment for the proposed ICT regulation. As modeled, the proposed ICT regulation shows a slight decrease in investment growth, likely driven by the cumulative changes in government demand across multiple industries as ZEB technologies are phased in. The relative changes to growth in private investment, however, were indiscernible from the baseline (current conditions) in the SRIA analysis (ISOR Appendix B). The updated assumptions in the proposed ICT regulation analyzed here are not anticipated to change this result.

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

Due to the proposed ICT regulation, there is anticipated to be growth in the industries that manufacture ZEB technologies, including the manufacturing industry for ZEB infrastructure and parts. There is still opportunity to improve upon existing technologies as there have been steady advancements in BEBs and FCEBs historically, which staff assumes will continue throughout the life of the ICT regulation but were not quantified. The innovation and technology demonstration as a result of the proposed ICT regulation could assist with the development of other zero emission heavy-duty vehicles.

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 ICT regulation would reduce GHG, PM, and NOx emissions. When compared with current conditions from 2020 to 2050, the proposed ICT regulation is estimated to result in cumulatively 19 million metric tons (MMT) of reductions in CO<sub>2</sub>e, 7,032 tons reduction in NOx, and 39.4 tons reduction in PM<sub>2.5</sub>.

Reduced emissions of PM<sub>2.5</sub> and NOx provide health benefits which lead to avoided premature mortality, avoided hospitalizations, and avoided emergency room visits. Emission reductions also reduce occupational exposure for individuals, such as bus operators, passengers, and employees who work around bus traffic.

Department of Finance Comments and Responses

The responses to DOF's comments are also included in the ISOR, Appendix B-2.

**1. DOF Comment:** Battery disposal will increasingly be an issue once this proposed regulation is fully implemented. Either transit agencies will face disposal costs, or there will be environmental costs. The SRIA must include one or the other to fully cover regulatory impacts.

**Response:**

All batteries have a finite lifetime. Proper disposal at the end of battery life is important for environmental protection. However, the batteries used by ZEBs are expected to outlast the transit buses and the cost of recycling may not be incurred by the transit agencies.

Batteries used by zero-emission technologies are rechargeable and have a longer life span compared to conventional batteries. Though the energy capacity of the batteries used in ZEBs will degrade over time, when used properly, the battery life can often outlast the bus life. According to a study conducted by the National Renewable Energy Laboratory (NREL), it is anticipated that the batteries will retain approximately 70 percent of their initial capacity, and potentially operate for 10 years after bus retirement when treated properly.<sup>3,4</sup>

<sup>3</sup> National Renewable Energy Laboratory (NREL). Battery Second Use for Plug-In Electric Vehicles Analysis. Available: <https://www.nrel.gov/transportation/battery-second-use-analysis.html>. Accessed July 23, 2018.

<sup>4</sup> NREL (2015). Identifying and Overcoming Critical Barriers to Widespread Second Use of PEV Batteries. February, 2015. Available: <https://www.nrel.gov/docs/fy15osti/63332.pdf>.

Some ZEB manufacturer(s) even provide a 12-year battery warranty. A transit agency can choose to recondition a battery to extend its useful life. The average bus life in California is about 14 years. Upon the retirement of a transit bus, if the battery still has remaining useful life, the battery can be reconditioned and resold or repurposed for other uses, such as energy storage, which does not have as severe demand on the battery.

NREL suggested that used batteries could replace grid-connected combustion turbine peaker plants, and provide peak-shaving service.<sup>5</sup> The NREL study concluded that the battery's second use can "eliminate end-of-service costs for automotive battery owner and provide low- to zero-emission peaking services to electric utilities, reducing cost, use of fossil fuels, and greenhouse gas emissions . . . the overall benefit to society can be quite large."<sup>6</sup>

If a battery continues to be used after bus retirement, it will not incur a disposal cost to the transit agencies. On the contrary, it could become a new revenue source for the transit agencies when these batteries are repurposed for different uses. However, the cost of battery disposal has to be paid at a certain point of its lifetime. This new revenue source from battery repurposing could be used to pay for the disposal cost. Staff was not able to obtain sufficient data regarding the residual value of the batteries after they are retired from buses to provide estimates, because few battery electric buses have reached the end of life stage. However, some lithium-ion battery manufacturers do provide an attractive residual value to customers upon the retirement of a battery.<sup>7</sup> Therefore, staff believes that the residual value can offset the recycling cost and does not include a residual battery value in the economic analysis for the transit agencies

**2. DOF Comment:** The SRIA must have growth in the number of buses over time that is at least proportional to population growth, rather than assuming that the total remains at 2016 levels.

<sup>5</sup> NREL (2015). Identifying and Overcoming Critical Barriers to Widespread Second Use of PEV Batteries. February, 2015. Available: <https://www.nrel.gov/docs/fy15osti/63332.pdf>.

<sup>6</sup> (NREL). Battery Second Use for Plug-In Electric Vehicles Analysis. Available: <https://www.nrel.gov/transportation/battery-second-use-analysis.html>. Accessed July 23, 2018.

<sup>7</sup> EnerDel applies a 25% of residual value to retired batteries. Available: <http://enerdel.com/services/guaranteed-residual-value/>. Accessed July 10, 2018.

The 2029 population is projected to be more than 10 percent larger than the 2016 population. Economic trends suggest that growth is more urban, and with limited road capacity, the demand for public transportation will likely rise. The SRIA notes that the relative costs per bus will remain the same no matter the total, but a higher total will increase electricity demand and demand for low-carbon fuels. A key assumption is that renewable fuel prices decrease, with hydrogen prices falling to around 30 percent of current levels, and greater demand could either stimulate production or stress supplies and raise prices. There is a great deal of inherent uncertainty about how markets will develop, but the current static assumption will likely understate the scale of changes. Not keeping up with population growth also understates the health benefits of reducing emissions in urban areas.

### **Response:**

In the SRIA, a static population based on the National Transit Database (NTD) 2016 was used for cost analysis.<sup>8</sup> The total number of buses may increase over time as human population and/or passenger miles grow. The cost analysis in the ISOR has been updated to incorporate growth of bus population, which represents Metropolitan Planning Organizations' (MPOs) forecasts and human population increase. As shown in CARB's mobile source emissions inventory, EMFAC 2017, the statewide growth rates of urban buses ranges from 0.7 percent to 1.4 percent per year between 2020 and 2050. This forecast is based on MPOs' vehicle miles traveled (VMT) targets and human population growth. For areas governed by an MPO that forecasts transit growth in target years of the Regional Transportation Plan/Sustainable Communities Strategy, the growth rate is generated by linear interpolation of the growth between the base year and target years. For areas that are not covered by an MPO, or where a local MPO does not provide transit growth, the county-level human population growth rate published by the Department of Finance was used as a surrogate for transit growth.<sup>9</sup>

This growth will increase the number of ZEBs projected under the proposed ICT regulation, as well as the

number of conventional internal combustion buses projected under current conditions. The vehicle number growth will then have an effect on the associated costs for both the proposed ICT regulation and current conditions. The growth impact on cost is modeled and included for ZEB infrastructure with the proposed ICT regulation because all infrastructure will be new. However, it is difficult to model for the infrastructure for buses with internal combustion engines due to limited or no information. For instance, it is uncertain which transit agencies will need to have major infrastructure expansion, like adding a new facility, or whether existing fueling infrastructure and space will need to be upgraded or expanded to accommodate such growth. For example, a depot yard that is servicing 100 buses may have a capacity of 110 buses, or may need to be expanded. This granular information is not readily available. Therefore, the increase of fueling infrastructure for buses with internal combustion engines is not included in the current conditions, which will result in a lower total cost. If total costs in the current conditions are a lower estimate, the incremental costs in the proposed ICT regulation relative to current conditions would be a higher estimate. This assumption results in a conservative assumption for total costs in the proposed ICT regulation.

The bus population growth was accounted for in the emission reduction modeling and the infrastructure for ZEBs. Therefore, there is no change on emission reductions and health benefits. This growth will also not change the fuel prices for conventional fossil fuels and electricity. The prices of compressed natural gas, gasoline and diesel are based on the energy prices for the transportation sector in the Energy Information Administration's (EIA) Annual Energy Outlook 2018 (Reference case and Pacific region). Compared with other vehicles in the transportation sector, transit buses consume a small amount of the total energy. A population increase of 0.7 to 1.4 percent is not expected to impact fuel prices. Electricity price is determined by rate schedules and is also not anticipated to be impacted by minor changes in the bus population.

Hydrogen price, however, is more dependent on station throughput. The higher the throughput is, the lower the hydrogen price. It is possible that an increase in the population of buses that use hydrogen could result in a decrease in the price of hydrogen. Given the lack of hydrogen market history, the price impact of this change in bus population is difficult to predict and was not estimated as part of the economic analysis. The current assumption without incorporating bus growth for hydrogen price is conservative, and the costs may be lower than presented.

<sup>8</sup> National Transit Database (NTD) (2016). 2016 Annual Database Revenue Vehicle Inventory, Available: [https://www.transit.dot.gov/sites/fta.dot.gov/files/Revenue%20Vehicle%20Inventory\\_0.xlsx](https://www.transit.dot.gov/sites/fta.dot.gov/files/Revenue%20Vehicle%20Inventory_0.xlsx).

<sup>9</sup> California Air Resources Board (CARB) (2018). EMFAC2017 Volume III-Technical Documentation. March 1, 2018. Available: <https://www.arb.ca.gov/msei/downloads/emfac2017-volume-iii-technical-documentation.pdf>.

3. **DOF Comment:** Public transit is no longer the only option to personal vehicles for individuals, and some private companies are now providing bus service, for their employees, as an alternative to public buses. If transit agencies raise prices to cover higher initial costs of this proposed regulation, such alternatives may be even more attractive, and undercut the estimated benefits. The SRIA could usefully add a discussion of these dynamics.

**Response:**

There will be upfront capital costs associated with ZEBs and their infrastructure due to the proposed ICT regulation. This might raise concerns that transit agencies may pass on the incremental costs to individuals through changes in service or fares. The State is aware of these concerns and is committed to providing incentives to help ease the transition to zero-emission technologies. In fact, the proposed ICT regulation is structured to provide opportunities for transit agencies to take advantage of substantial incentive funding that is being prioritized to ensure a successful transition to zero-emission technologies. These funding opportunities should substantially offset the upfront capital costs.

There are several major funding programs established to reduce the incremental costs associated with zero-emission technologies, such as Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP). For fiscal year (FY) 2017–2018, the budget allocated up to \$180 million for the HVIP program with a minimum of \$35 million set aside to fund ZEBs exclusively. An additional \$125 million has been allocated to the HVIP program per Senate Bill 856 for the FY 2018–2019. Transit agencies can use state and federal grant funding to reduce or eliminate most of the initial incremental capital costs of the proposed regulation. In addition, staff estimated that, in the long term, the cost savings outweigh the capital costs of adding ZEBs. Therefore, the likelihood of transit agencies raising fares to cover the higher initial cost is low. If a transit agency considers a fare increase, any increase has to be approved by the board of a transit agency.

Transit systems are evolving, and there could be many innovative alternatives to public transit in the near future. Some alternatives, such as private shuttle and ride-hailing (transportation network companies) services, have become popular in recent years. This would be the case with or without the proposed ICT regulation. Alternatives that might arise to supplant public transit cannot be easily predicted. In addition, the emissions impacts of those replacements could be minimal because other transportation modes are transitioning to low- and zero-emission pathways. The proposed ICT regulation itself is not anticipated to significantly alter

the dynamic between public transit and other personal/private alternatives. Staff views any significant change in fares by transit agencies to cover initial capital costs as unlikely, given that the proposed regulation is structured to provide ample funding for transit agencies to offset those costs. In addition, the proposed ICT regulation contains a Zero-Emission Mobility program option that can synergistically work with these alternatives to increase accessibility to the entire transit system.

**Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):**

There are no reporting requirements for businesses. The only reporting requirements are for transit agencies. Even if Government Code sections 11346.5, subdivision (a)(11), and 11346.3, subdivision (d), applied, the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to transit agencies are necessary for the health, safety, and welfare of the people of the State of California. The information contained in the reports is necessary for CARB to assess transit agencies' ability and potential to transition to zero-emission technologies, and to mitigate barriers.

**Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):**

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. The proposed ICT regulation directly impacts transit agencies, who are local governmental agencies. The impacts are discussed in ISOR Appendix B. There are no direct regulatory costs incurred by individuals as a result of the proposed ICT regulation. Transit agencies that experience increased costs may pass on costs to individuals, through changes in service or bus fares. However, grant funding can help reduce or eliminate most of the initial capital costs of the proposed ICT regulation, and in the long term the cost savings outweigh the incremental capital costs of adding ZEBs.

**Effect on Small Business (Cal. Code Regs., tit. 1, § 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 because the proposed ICT regulation directly impacts transit agencies, which are a part of local governments. There is no cost for small or typical private-sector businesses.

**Consideration of Alternatives (Gov. Code, § 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 IX of the ISOR for the proposed alternatives. Staff has discussed eight alternative concepts in the ISOR, including stricter and less stringent ZEB purchase requirement, buses with low NOx engines paired with renewable fuel purchase requirements, performance-based approach, bus manufacturer sales requirements, voluntary ZEB purchase, California Transit Association's Statewide Transit Electrification Proposal, and proposals from environmental groups and labor unions.

Staff has conducted economic analyses on two of the alternatives. Alternative 1 requires 100 percent ZEB purchase starting 2020, which is much more stringent than the proposed ICT regulation. Alternative 1 could provide more emission reductions and health benefits from early years; however, it also bears some risks. First, it moves all infrastructure cost earlier which could be too much of a financial burden for transit agencies to accommodate. Second, a sudden high cost in the early years does not allow transit agencies time to plan for funding sources and could result in adverse impacts like service cuts. Third, it does not allow transit agencies time to adjust for the new technology learning curve and troubleshooting. Fourth, this alternative does not allow the use of funding sources that may be available in later years and therefore increases the upfront program incremental cost. The costs of Alternative 1 in combination with limited access to funding programs make it unlikely for transit agencies to continue normal bus purchase patterns. This may result in transit agencies keeping high emitting buses longer or may result in transit agencies reducing service. Alternative 1 was rejected due to the high initial costs without adequate opportunity for funding.

Alternative 2 requires purchase of low NOx engines when new bus purchases are made, and the use of renewable fuels. It does not require the purchase of any ZEBs. This alternative results in lower direct costs to transit agencies and fewer emission benefits. It would not decrease GHG or PM emissions, would not achieve the maximum NOx reduction possible, and would not advance the adoption of heavy duty zero-emission technologies that have a great fuel efficiency advantage and therefore potentials to reduce GHG emissions and fossil fuel dependency. Though Alternative 2 requires renewable fuel purchase, GHG emission reductions are

already claimed by the LCFS program. The proposed ICT regulation is identified as a State SIP strategy and is designed to help achieve California's air quality and climate protection goals. Alternative 2 is rejected because it will not reduce GHG emissions, which is a key goal of the regulation and will not help the State to achieve the long-term air quality and climate protection goals.

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 United States Environmental Protection Agency (U.S. EPA) for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA). The adopted regulatory action would be submitted as a SIP revision because it amends 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 ICT regulation, has prepared a draft environmental analysis (Draft EA), which analyzes the ICT Regulation in accordance with the requirements of its regulatory program certified by the Secretary of Natural Resources. (California Code of Regulations, title 17, sections 60006–60008; California Code of Regulations, title 14, section 15251, subdivision (d)). The Draft EA assesses the potential for significant adverse and beneficial environmental impacts associated with the proposed actions and provides a programmatic environmental analysis of the reasonably foreseeable compliance responses that could result from implementation of the proposed regulations.

The resource areas from the California Environmental Quality Act (CEQA) Guidelines Environmental Checklist were used as a framework for a programmatic environmental analysis of the direct, and reasonably foreseeable indirect, environmental impacts resulting from implementation of the proposed regulations. The Draft EA provides an analysis of both the beneficial and adverse impacts and feasible mitigation measures for the reasonably foreseeable compliance responses associated with the recommended amendments.

The Draft EA concluded that implementing the proposed regulations could result in the following short-term and long-term beneficial and adverse impacts:

- 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 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 potentially significant and unavoidable adverse impacts are primarily related to short-term, construction-related activities. This explains why some resource areas are identified above as having both less-than-significant impacts and potentially significant impacts. Please refer to the Draft EA for further details.

The Draft EA is included as Appendix C to the ISOR and can be obtained from CARB's website at: <https://www.arb.ca.gov/regact/2018/ict2018/ict2018.htm>.

Copies of the Draft EA may also be obtained from CARB's Public Information Office, 1001 I Street, First Floor, Environmental Services Center, Sacramento, California, 95814.

#### 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 Yachun Chow, Manager, Zero Emissions Truck and Bus Section, at (916) 322-7450 or (designated back-up contact) Shirin Barfjani, Air Pollution Specialist, at (916) 445-6017.

#### 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 Innovative Clean Transit Regulation a Replacement of the Fleet Rule for Transit Agencies.

Beginning on August 7, 2018, 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:

<https://www.arb.ca.gov/regact/2018/ict2018/ict2018.htm>.

Copies may also be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

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 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 comments 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://www.arb.ca.gov/regact/2018/ict2018/ict2018.htm>.

**TITLE 14. BOARD OF FORESTRY AND  
FIRE PROTECTION**

**“SRA Fire Safe Regulations, 2020”  
Title 14 of the California Code of Regulations  
(14 CCR),  
Division 1.5, Chapter 7  
Subchapter 2, Articles 1–5**

**Adopt  
1276.04**

**Amend**

**1270; 1270.01; 1270.03; 1270.04; 1270.05;  
1270.06; 1271.00; 1273.00; 1273.01; 1273.02;  
1273.03; 1273.04; 1273.05; 1273.06; 1273.07;  
1273.08; 1273.09; 1274.00; 1274.01; 1274.02;  
1274.03; 1274.04; 1275.00; 1275.01; 1275.10;  
1275.15; 1275.20; 1276.00; 1276.01; 1276.02;  
1276.03**

**Repeal**

**1270.07; 1270.08; 1270.09; 1271.05; 1272.00;  
1273.10; 1273.11; 1274.05; 1274.06; 1274.07;  
1274.08; 1274.09; 1274.10**

**NATURE OF PROCEEDING**

Notice is hereby given that the California State Board of Forestry and Fire Protection (Board) is proposing to take the action described in the Informative Digest.

**PUBLIC HEARING**

The Board will hold a public hearing on Thursday, September 27, 2018, at its regularly scheduled meeting commencing at 9:00 a.m., at the Holiday Inn Express Yreka–Shasta Area, 707 Montague Road, Yreka, CA. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. Additionally, pursuant to **Government Code (GOV) § 11125.1(b)**, writings that are public records pursuant to **GOV § 11125.1(a)** and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends on Tuesday, September 25, 2018.

The Board will consider only written comments received at the Board office by that time and those written comments received at the public hearing, including written comments submitted in connection with oral testimony at the public hearing. The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Edith Hannigan  
Land Use Planning Policy Manager  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9th Street  
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[PublicComments@BOF.ca.gov](mailto:PublicComments@BOF.ca.gov)

**AUTHORITY AND REFERENCE**  
(pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14)

**14 CCR § 1122** Note: Authority cited: Section 4290, Public Resources Code; Reference: Sections 4290 and 4291, Public Resources Code.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**  
(pursuant to GOV § 11346.5(a)(3)(A), (D))

Pursuant to Public Resources Code (PRC) § 4290, the Board is required to “. . . adopt regulations implementing minimum fire safety standards related to defensible space which are applicable to state responsibility area lands under the authority of the department.” The statute, among other things, requires minimum wildfire protection standards in conjunction with building, construction and development in State Responsibility Area (SRA). The regulations set standards for future design and construction of structures, subdivisions and developments in SRA and provide for basic emergency access and perimeter wildfire protection. These measures provide for emergency access; signage and building numbering; private water supply reserves for emergency fire use; and vegetation modification. This action amends the existing regulations for the purposes of improving regulatory clarity and uniform implementation

of wildfire protection standards associated with residential subdivision development.

The Board first adopted regulations to implement PRC § 4290 effective on May 30, 1991. Amendments were made to Article 1, Administration, §§ 1270, 1270.02-1270.09, effective January 31, 2013. A more exhaustive set of revisions, amending Articles 2 through 5, were made effective on January 1, 2016.

The 2016 revisions to the Fire Safe Regulations were the result of a workgroup charged by the Board to review the existing development requirements against relevant codes and statutes, such as the California Fire Code; current fire apparatus equipment dimensions; and social and regulatory changes to land development processes in California, and amend, repeal, or adopt regulations in these articles as necessary. Revising these rules was intended to reduce inconsistencies or conflicts within and between codes and regulations; address the needs of fire apparatus and civilian vehicles during a wildfire emergency; and improve clarity to the regulated public regarding the applicability, enforcement, and implementation of these rules.

Since 1991, the SRA Fire Safe Regulations have contained a provision to allow counties to certify their local ordinances as meeting or exceeding the Board standards, which allows counties to use those local standards in the SRA instead of the statewide Board standards. Those certifications become invalid when the county amends their local ordinances or when the Board amends the state regulations. As a result of the Board’s 2016 changes to the Fire Safe Regulations, all previously issued certifications were voided. After receiving and reviewing local ordinances for compliance with these new regulations between 2016 and 2018, the Board became aware that other regulations contained in the California Fire Code, the California Building Code, the California Vehicle Code, the California Manual of Uniform Traffic Control Devices, and other state codes and regulations have similar and potentially conflicting requirements as those found in the SRA Fire Safe Regulations.

In addition, it became apparent that many counties were unaware of the SRA Fire Safe Regulations and certification process, and that a greater effort to communicate the requirements in the SRA Fire Safe Regulations to both stakeholders and CAL FIRE Units was required. As counties submitted their revised ordinances to the Board for certification, the Board realized these communication efforts and compliance rates would be improved if SRA Fire Safe Regulation updates coincided with the triennial updates to the California Fire Code. This proposed update, and future updates, to the Fire Safe Regulations will have the same effective date as the California Fire Code triennial updates.

The **purpose** of the proposed action is to:

- Reorganize the Fire Safe Regulations to reduce confusion and improve consistency;
- Accurately reflect the applicable construction and installation permits under these regulations;
- Reduce confusion regarding the enforcing agencies;
- Provide greater flexibility to local jurisdictions' processes for allowing exceptions to these rules;
- Ensure definitions for these regulations are relevant, up to date, and consistent with their usage in the following articles;
- Promote county compliance with the SRA Fire Safe Regulations and to clarify the process by which that occurs;
- Apply field-tested methods to ingress and egress requirements;
- Provide greater flexibility to local jurisdictions when they implement their street and building naming and numbering system(s); and
- Allow for greater flexibility in implementing setback requirements and to require ongoing defensible space maintenance on communal property, such as that under the control of a homeowner's association.

The effect of this proposed action is to amend the requirements for fire safe development in the State Responsibility Area for consistency with related statutes and codes and to meet the needs of current firefighting apparatus, with an effective date to be set concurrently with the triennial California Fire Code update.

The primary benefit of the proposed action is the continued protection of new development in the SRA from wildfire. These protection measures will increase the safety of people and property by providing defensible space that may allow them to escape an oncoming wildfire; allow firefighters to find, defend, and protect their property; and to prevent the ignition of property due to flying embers. The proposed action will also increase government efficiency through the consolidation of several relevant regulatory sections into one section and the reduction of duplicative or inconsistent regulations. This action uses public feedback to improve regulatory compliance by clarifying the standards and requirements.

There is no comparable Federal regulation or statute.

Board staff conducted an evaluation on whether or not the proposed action is inconsistent or incompatible with existing State regulations pursuant to **GOV § 11346.5(a)(3)(D)**. State regulations related to the proposed action were, in fact, relied upon in the development of the proposed action (including the California Fire Code, California Building Code, and 14 CCR

§ 1299.03) to ensure the consistency and compatibility of the proposed action with existing State regulations. Otherwise, Board staff evaluated the balance of existing State regulations related to defensible space for new construction in the SRA and found no existing State regulations that met the same purpose as the proposed action. Based on this evaluation and effort, the Board has determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The proposed regulation is entirely consistent and compatible with existing Board rules; it simply amends current regulatory language.

Statutes to which the proposed action was compared: Sections 730, 4111, 4117, 4290 and 4291, Public Resources Code; Sections 18001.8, 18007, 18008, 19970, 19971, and 19976.1, Health and Safety Code; Sections 65852.2, 65852.22, and 65852.150, Government Code; Sections 35250, 35550, and 35750, Vehicle Code.

Two documents are incorporated by reference in these regulations:

American Association of State and Highway Transportation Officials Standard Specifications for Highway Bridges, 17th Edition, published 2002 (known as AASHTO HB-17)

National Fire Protection Association (NFPA) Standard 1142, "Standard on Water Supplies for Suburban and Rural Fire Fighting," 2017 Edition (known as NFPA 1142)

#### MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed action is not mandated by Federal law or regulations.

The proposed action neither conflicts with, nor duplicates, Federal regulations.

There are no comparable Federal regulations related to defensible space requirements for new construction, in the SRA or otherwise. No existing Federal regulations meeting the same purpose as the proposed action were identified.

#### OTHER STATUTORY REQUIREMENTS (pursuant to GOV § 11346.5(a)(4))

There are no other matters as are prescribed by statute applicable to the specific State agency or to any specific regulation or class of regulations.

#### LOCAL MANDATE (pursuant to GOV § 11346.5(a)(5))

The proposed action does not impose a mandate on local agencies or school districts.

**FISCAL IMPACT**  
(pursuant to GOV § 11346.5(a)(6))

There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

A local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.

The proposed action will not result in the imposition of other non-discretionary costs or savings to local agencies.

The proposed action will not result in costs or savings in Federal funding to the State.

The proposed action will not result in costs to any State agency. The proposed action may result in savings to a State agency by slowing or stopping wildfire and through increased government efficiency through the consolidation of several relevant regulatory sections into one section and the reduction of duplicative or inconsistent regulations.

**HOUSING COSTS**  
(pursuant to GOV § 11346.5(a)(12))

The proposed action will not significantly affect housing costs.

**SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY AFFECTING  
BUSINESS, INCLUDING ABILITY TO COMPETE**  
(pursuant to GOV §§ 11346.3(a), 11346.5(a)(7)  
and 11346.5(a)(8))

The proposed 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 (by making it costlier to produce goods or services in California).

**FACTS, EVIDENCE, DOCUMENTS,  
TESTIMONY, OR OTHER EVIDENCE RELIED  
UPON TO SUPPORT INITIAL DETERMINATION  
IN THE NOTICE THAT THE PROPOSED ACTION  
WILL NOT HAVE A SIGNIFICANT ADVERSE  
ECONOMIC IMPACT ON BUSINESS**  
(pursuant to GOV § 11346.2(b)(5) and GOV  
§ 11346.5(a)(8))

Contemplation by the Board of the economic impact of the provisions of the proposed action through the lens of the decades of contemplating fire safety in land use and development in California that the Board brings to bear on regulatory development.

**STATEMENTS OF THE RESULTS OF THE  
ECONOMIC IMPACT ASSESSMENT (EIA)**

The results of the economic impact assessment are provided below pursuant to GOV § 11346.5(a)(10) and prepared pursuant to GOV § 11346.3(b)(1)(A)–(D). The proposed action:

- (A) Will not create jobs within California;
- (A) will not eliminate jobs within California;
- (B) will not create new businesses;
- (B) will not eliminate existing businesses within California;
- (C) will not affect the expansion or contraction of businesses currently doing business within California;
- (D) will yield nonmonetary benefits. For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the Informative Digest/Policy Statement Overview.

**COST IMPACTS ON REPRESENTATIVE PERSON  
OR BUSINESS**  
(pursuant to GOV § 11346.5(a)(9))

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. No adverse impacts are to be expected.

**BUSINESS REPORT**  
(pursuant to GOV §§ 11346.5(a)(11) and 11346.3(d))

The proposed action does not impose a business reporting requirement.

**SMALL BUSINESS**  
(defined in GOV § 11342.610)

Small businesses, within the meaning of GOV § 11342.610, are not expected to be affected by the proposed action.

Small business, pursuant to 1 CCR § 4(a):

- (1) is legally required to comply with the regulation;
- (2) is not legally required to enforce the regulation;
- (3) does not derive a benefit from the enforcement of the regulation;

- (4) may incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

Pursuant to CCR § 4(b), the reason(s) the regulation does not affect small business are the same as provided in the Economic Impact Analysis in the Initial Statement of Reasons.

#### ALTERNATIVES INFORMATION

In accordance with **GOV § 11346.5(a)(13)**, the Board must determine that no reasonable alternative it considers, 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, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

#### CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Edith Hannigan  
Land Use Planning Policy Manager  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-8007

The designated backup person in the event Ms. Hannigan is not available is Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Dias may be contacted at the above address or phone.

#### AVAILABILITY STATEMENTS

(pursuant to GOV § 11346.5(a)(16), (18))

All of the following are available from the contact person:

1. Express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion.
2. Initial Statement of Reasons, which includes a statement of the specific purpose of each adoption, amendment, or repeal, the problem the Board is addressing, and the rationale for the determination by the Board that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed.
3. The information upon which the proposed action is based (pursuant to **GOV § 11346.5(b)**).
4. Changed or modified text. After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications 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 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who testified at the hearings, submitted comments during the public comment period, including written and oral comments received at the public hearing, or requested notification of the availability of such changes from the Board of Forestry and Fire Protection. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### FINAL STATEMENT OF REASONS

When the Final Statement of Reasons (FSOR) has been prepared, the FSOR will be available from the contact person on request.

#### INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board web site at:

[http://bofdata.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://bofdata.fire.ca.gov/regulations/proposed_rule_packages/).

**TITLE 15. CALIFORNIA PRISON  
INDUSTRY AUTHORITY**

**Title 15, Crime Prevention and Corrections,  
Division 8  
California Prison Industry Authority**

**NOTICE IS HEREBY GIVEN**

[Government Code Section 11346.5, Subdivision  
(a)(1)]

The California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2808 and 2809 in order to implement, interpret and make specific Penal Code 2808, propose to amend section 8000 regarding the definition of employee; amend section 8004.3 for clarity to include the words “inmate worker” in the title and add industrial accidents as testing events; renumber and amend 8106.2 as 8106 and remove unnecessary reference to Title 2 CCR section 599.962; to add new section 8200, renumber existing 8106 as 8201, add new sections 8202, 8203, 8204, 8205, and 8206, renumber and amend 8106.1 as 8207, add new sections 8208, 8209, 8210, 8211, 8212, 8213, 8214, and 8215 concerning personnel substance testing; and renumber subsections 8198 and 8199 as 8298 and 8299 regarding incompatible activities and the CALPIA conflict-of-interest code.

**PUBLIC HEARING**

At this time, no public hearing has been scheduled concerning the proposed adoption to regulations. Anyone may request a public hearing by contacting the Contact Person below. Requests for public hearings must be made no later than **September 10, 2018**, 15 days prior to September 25, 2018.

**PUBLIC COMMENT PERIOD**

The public comment period will close **September 25, 2018**. Any person may submit public comments regarding the proposed changes in writing. To be considered, comments must be received before the close of the comment period. Use one of the following to submit:

**MAIL or HAND DELIVER**  
CALPIA/Legal Services Unit  
560 East Natoma Street  
Folsom, CA 95630

**FAX**  
(916) 358-2709

**E-MAIL**  
[PIAregs@calpia.ca.gov](mailto:PIAregs@calpia.ca.gov)

**CONTACT PERSONS**

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action to:

**M. Doherty, Regulatory Analyst**  
**California Prison Industry Authority**  
**560 East Natoma Street**  
**Folsom, CA 95630**  
**Telephone (916) 358-1711**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**C. Pesce, Administrative Assistant**  
**California Prison Industry Authority**  
**560 East Natoma Street**  
**Folsom, CA 95630**  
**Telephone (916) 358-1711**

**AUTHORITY AND REFERENCE**

The California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2808, in order to implement, interpret and make specific Penal Code 2808 and 2809, propose to amend section 8000 regarding the definition of employee; amend section 8004.3 for clarity to include the words “inmate worker” in the title and add industrial accidents as testing events; renumber and amend 8106.2 as 8106 and remove unnecessary reference to Title 2 CCR Section 599.962; to add new section 8200, renumber existing 8106 as 8201, add new sections 8202, 8203, 8204, 8205, and 8206, renumber and amend 8106.1 as 8207, add new sections 8208, 8209, 8210, 8211, 8212, 8213, 8214, and 8215 concerning personnel substance testing; and renumber subsections 8198 and 8199 as 8298 and 8299 regarding incompatible activities and the CALPIA conflict-of-interest code.

**INFORMATIVE DIGEST**

In order to fully support CALPIA’s purpose to operate like a private, self-sustaining business and have the

ability to function safely and efficiently, new and amended regulations are necessary as follows. The existing regulations need to be revised to keep current with trends in substance use, identify reasonable suspicion testing for employees appointed to designated sensitive positions, include by reference regulations for commercial drivers, and notify employees of processes, procedures and employees rights. In light of a recent court decision on employees' status, amended regulations to eliminate any confusion for the General Manager. Revisions are necessary to distinguish separate regulations pertaining to inmate workers and staff for testing. Due to industrial accidents, revisions are sought for testing in industrial accidents. In order to keep regulations consistent, and maintain structure, revisions renumber sections regarding incompatible activity and CALPIA's conflict-of-interest code.

POLICY STATEMENT OVERVIEW

The proposed new and amended regulations are necessary to update the definition of employee; distinguish inmate worker testing from staff testing; include industrial accidents as incidents for inmate worker testing to reduce accidents and injuries; include reference to commercial driver testing requirements for ease of use, provide the most attainable safety in the workplace with respect to current trends in substance use causing unsafe work environments; correct grammatical errors; renumber and reorganize text; and reorganize the regulations to move the conflict-of-interest code and ethics to the end of the regulatory sections for clarity and ease of understanding.

The definition of employee is updated to include the General Manager to remove any confusion regarding the General Manager as an employee of CALPIA. Making this change to expressly affirm the General Manager status as an employee is also consistent with the recent decision of *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*, Ct. App. 8249546, filed April 30, 2018, embracing the standard presuming that all workers are employees. As there are separate regulations for inmate worker testing and staff testing, the title for inmate worker testing is amended for clarity. In addition, as industrial accidents are of the utmost concern in operations, industrial accidents are added to testing events for inmate workers who may work on heavy machinery or engage in industrial operations.

The proposed new and amended regulations affirm the existing requirements that employees appointed to designated sensitive positions are subject to reasonable suspicion testing and expand the substances which may be tested as affecting worker performance and safety. New substances and substance use trends often occur

rapidly, and emerging trends are outside the scope of current substances listed for testing. For example, many synthetic drugs have the same adverse effects on worker performance and safety as drugs currently listed in the regulations but are not currently tested for nor detected by current testing. Therefore, the proposed new and amended regulations provide for inclusion of additional substances and their cut-off levels. The proposed new and amended regulations also provide notice of the process and procedures for substances, drugs, and alcohol testing of employees not previously detailed giving greater notice to employees including incorporating by reference federal testing requirements for commercial drivers.

**Evaluation of Inconsistency/Incompatibility with Existing Regulations:**

During the process of developing this regulation, CALPIA has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing laws and regulations.

**Local Mandates:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 17630.

**Fiscal Impact Statement:**

Cost to any local agency or school district that is required to be reimbursed in accordance with Government Code Sections 17500 through 17630:	None.
Cost or savings to any state agency:	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:**

CALPIA has made an initial determination that the proposed action will have no significant effect on housing costs.

**Significant Statewide Adverse Economic Impact on Business:**

CALPIA has initially 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 they are not affected by the internal management of CALPIA employees.

**Results of the Economic Impact Analysis/Assessment:**

In accordance with Government Code Section 11346.3(b), the CALPIA has made the following assessments regarding the proposed regulation:

**Creation or Elimination of Jobs within the State of California**

CALPIA has determined that these regulatory changes will have no impact on the creation or elimination of existing jobs within California because those jobs are not affected by the internal management of CALPIA employees.

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

These regulatory changes will have no effect on the creation of new or elimination of existing businesses within California because those businesses are not affected by the internal management of CALPIA employees.

**Expansion of Businesses Currently Doing Business within the State of California**

These regulatory changes will have no effect on the expansion of businesses currently doing business within the State of California because they are not affected by the internal management of CALPIA employees.

**Benefits of the Regulations**

The proposed regulatory action will keep testing regulations and standards current with trends in substance use, identify reasonable suspicion testing for employees appointed to designated sensitive positions, include by reference regulations for commercial drivers for clarity and understanding, and notify employees of processes, procedures and employees' rights benefiting both CALPIA and employees with streamlined and relevant regulations, in addition to providing expanded notice. The proposed regulations are also beneficial in light of a recent court decision on employees' status, because the amended regulations eliminate any confusion for the General Manager. Revisions are necessary to distinguish separate regulations pertaining to inmate workers and staff for testing benefiting operations with clearly distinguished standards. Additional benefits of the regulations are that they increase the likelihood of reduced industrial accidents, by including testing in industrial accidents. Finally, in order to keep regulations consistent, and maintain structure, revisions renumber incompatible activity and the conflict-of-interest code benefiting operations with organized and easily accessible regulations. **Thus, this proposed action benefits the public and general welfare.**

**Cost Impacts on Representative Private Persons or Businesses**

CALPIA 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 Businesses**

CALPIA has determined that this action has no significant adverse economic impact on small businesses because they are not affected by the internal management of CALPIA inmate workers.

**Consideration of Alternatives**

CALPIA must determine that no reasonable alternative considered by CALPIA, or that has otherwise been identified and brought to the attention of CALPIA, 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 implementing the statutory policy or other provision of law.

Interested persons are invited to submit written statements or arguments with respect to any alternatives to the changes proposed during the written comment period.

**Reports Relied Upon**

None.

**Availability of Proposed Text, Initial Statement of Reasons, and Rulemaking Record; Documents on CALPIA's Website**

The Proposed Text, Initial Statement of Reasons, and all the information upon which this proposal is based have been placed in the rulemaking record, which is available to the public upon request directed to the CALPIA's contact person. The documents will also be made available on the CALPIA website: [www.calpia.ca.gov](http://www.calpia.ca.gov).

**Availability of Changes to Proposed Text**

After considering all timely and relevant comments received, the PIB may approve the proposed regulations substantially as described in this Notice. If CALPIA 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 days before the PIB reviews and approves the regulations as revised. CALPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice or can be viewed by visiting CALPIA's website: [www.calpia.ca.gov](http://www.calpia.ca.gov).

**Availability of the Final Statement of Reasons**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from CALPIA's contact person or by visiting the CALPIA website: [www.calpia.ca.gov](http://www.calpia.ca.gov).

**DECISION NOT TO PROCEED**

**DEPARTMENT OF JUSTICE**

Pursuant to Government Code Section 11347, the California Department of Justice (Department) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on March 16, 2018, Z-2018-0306-01. The proposed rulemaking concerned firearm dealers and their utilization of the Dealer Record of Sale (DROS) Entry System.

Any interested person with questions concerning this rulemaking should contact Jacqueline Dosch, Staff Services Manager I at the California Department of Justice, Division of Law Enforcement, Bureau of Firearms, 4949 Broadway, Sacramento, CA, 95820.

The Department will also publish this Notice of Decision Not to Proceed on its website at: <https://oag.ca.gov/firearms/regs>.

**RULEMAKING PETITION DECISIONS**

**DEPARTMENT OF PUBLIC HEALTH**

July 27, 2018  
 Hannah Y. Chanoine  
 O'MELVENY & MYERS LLP  
 Times Square Tower  
 7 Times Square  
 New York, NY 10036-6537

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

**RESPONSE TO PETITION P-17-02 — TO AMEND CALIFORNIA CODE OF REGULATIONS, TITLE 17 REGARDING PROCESSED PET FOOD**

Dear Ms. Chanoine,

Thank you for contacting the California Department of Public Health (Department) on behalf of O'Melveny & Myers LLP (O'Melveny) who represents Canidae Corporation. Under Government Code section 11340.7(c), any interested person may petition a state agency to amend a regulation. On September 5, 2017, the Department received from O'Melveny a petition to

amend California regulations regarding the use of the term "natural" on the labeling of processed pet food. On April 2, 2018, a public hearing was held by the Department regarding this petition. The Department allowed the receipt of additional written testimony until May 2, 2018. Pursuant to the requirements of Government Code section 11340.7, the Department issues this response to O'Melveny's petition.

The Department appreciates the correspondences received by interested parties prior to and after the hearing on April 2, 2018, the testimony provided at the hearing, and the additional information provided by the Pet Food Institute on May 1, 2018. The Department has carefully reviewed and considered the data and information submitted regarding the petition.

The Department recognizes the importance and complexity of the issues raised by this petition and has decided to exercise its authority and grant O'Melveny's petition to initiate the rulemaking process to amend Title 17 of the California Code of Regulations.

The Department enforces the Pure Pet Food Act.<sup>1</sup> The Department may promulgate regulations in order to promote "honesty and fair dealing" for consumers including labelling information for processed pet food.<sup>2</sup> California Code of Regulations, title 17, section 19005 provides definitions for processing pet food. California Code of Regulations, title 17, section 19025 provides labeling and restrictions for pet food labels. The Department believes that changes to the above regulations may be necessary to provide clarity for the industry and consumers while continuing to ensure the quality and safety of processed pet food.

The Department welcomes the input of stakeholders during the rulemaking process set forth under the Administrative Procedure Act (Government Code section 1340 et. seq.).

Under Government Code section 11340.7(d), any interested person has the right to obtain a copy of the petition submitted to the agency. To request a copy, please contact the Office of Regulations by email: [regulations@cdph.ca.gov](mailto:regulations@cdph.ca.gov), by phone: (916) 558-1710, or by mail: California Department of Public Health, 1415 L Street, Suite 500, Sacramento, CA 95814.

Sincerely,

/s/

Keith Van Wagner  
 Assistant Chief Counsel  
 Regulations, Privacy & Special Projects

<sup>1</sup> See California Health and Safety Code section 113055.

<sup>2</sup> See California Health and Safety Code section 113115.

DEPARTMENT OF PUBLIC HEALTH

SENT VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

July 27, 2018  
Philip R. Recht, Esq.  
Mayer Brown LLP  
350 South Grand Avenue  
25th Floor  
Los Angeles, CA 90071-1503

Dear Mr. Recht:

Thank you for your petition pursuant to section 11340.6 of the Government Code. The California Department of Public Health (CDPH) received the petition on June 28, 2018. Your petition seeks to amend sections 70701, 70703, and 70529 of Title 22 of the California Code of Regulations (CCR) regarding general acute care hospital (GACH) administration regulations. Per Government Code section 11340.7, CDPH issues the following decision on the petition.

The petition seeks to amend California Code of Regulations, title 22, division 5, chapter 1, article 7, section 70703, subdivision (a), as follows:

Each hospital shall have an organized medical staff responsible to the governing body for the adequacy and quality of the care rendered to patients.

(1) The medical staff shall be composed of physicians and, where dental or podiatric services are provided, dentists or podiatrists. The medical staff may also include certified registered nurse anesthetists . . .

The petition seeks to amend California Code of Regulations, title 22, division 5, chapter 1, article 7, section 70529, subdivision (b), as follows:

All physicians, dentists and podiatrists providing services in the outpatient unit shall be members of the organized medical staff. Certified registered nurse anesthetists providing services in the outpatient unit may also be members of the organized medical staff. All other health care professionals providing services in outpatient settings shall meet the same qualifications as those professionals providing services in inpatient services.

The petition seeks to amend California Code of Regulation, title 22, division 5, chapter 1, article 7, section 70701, subdivision (a)(1), as follows:

The governing body shall:

Adopt written bylaws in accordance with legal requirements and its community responsibility which shall include but not be limited to provision for: . . .

(E) Membership on the medical staff which shall be restricted to physicians, dentists, podiatrists, ~~and~~ clinical psychologists and certified registered nurse anesthetists competent in their respective fields, worthy in character and in professional ethics. No hospital shall discriminate with respect to employment, staff privileges or the provision of professional services against a licensed clinical psychologist within the scope of his/her licensure, or against a licensed physician and surgeon or podiatrist on the basis of whether the physician and surgeon or podiatrist holds an M.D., D.O. or D.P.M. degree, or against a certified registered nurse anesthetist on the basis of the category of license held by such practitioner.

The regulations that you seek to amend relate to the composition of the organized medical staff who are responsible to the governing body for the adequacy and quality of patient care at a GACH facility. As a result, CDPH is the agency with jurisdiction over the subject matter of your petition.

CDPH is not in a position to grant your petition as requested for the following reasons:

CDPH is currently drafting comprehensive updates to the GACH administration regulations in title 22, division 5, chapter 1, article 7 of the California Code of Regulations. This rulemaking is still in the development phase and has not yet been finalized and published for public comment. As a result, CDPH will consider the request and the background information provided therein as it continues to develop and finalize the rulemaking in progress.

In addition, CDPH received a number of petitions with similar rulemaking requests. All but one of the requests came directly from staff at one health facility. To the extent this is an isolated request, the specific type of change requested is potentially more suitable for a program flex. The licensee may choose to submit a program flex application for CDPH review in accordance with Health and Safety Code section 1276(b) and California Code of Regulations, title 22, section 70129.

As a result, CDPH must deny your petition to amend title 22 CCR section 70703. However, since your petition addresses a subject that is part of an active rulemaking, CDPH will consider the amendments requested, as well as any additional requests, as part of the existing rulemaking.

CDPH appreciates your interest in the rulemaking process. If you have any questions, you may contact me at Keith.VanWagner@cdph.ca.gov or (916) 558-1710.

Sincerely,  
/s/  
Keith Van Wagner  
Assistant Chief Counsel

**ACCEPTANCE OF PETITION  
TO REVIEW ALLEGED  
UNDERGROUND REGULATIONS**

**DEPARTMENT OF CORRECTIONS AND  
REHABILITATION**

**OFFICE OF ADMINISTRATIVE LAW**

**ACCEPTANCE OF PETITION TO REVIEW  
ALLEGED UNDERGROUND REGULATIONS**

**(Pursuant to title 1, section 270, of the California  
Code of Regulations)**

The Office of Administrative Law has accepted the following petition for consideration. Please send your comments to:

Elizabeth Heidig, Assistant Chief Counsel  
Office of Administrative Law  
300 Capitol Mall, Ste. 1250  
Sacramento, CA 95814

A copy of your comment must also be sent to the petitioner and the agency contact person.

Petitioner:

Trayzon C. Gilbert, F-23761  
Post Office Box 8103  
San Luis Obispo, California 93409

Agency contact:

Ying Sun, Chief  
Department of Corrections and Rehabilitation  
Regulations and Policy Management Branch  
Post Office Box 942883  
Sacramento, California 94283-0001

Please note the following timelines:

Publication of Petition in Notice Register: August 10, 2018

Deadline for Public Comments: September 10, 2018

Deadline for Agency Response: September 24, 2018

Deadline for Petitioner Rebuttal: No later than 15 days after receipt of the agency's response

Deadline for OAL Decision: December 10, 2018

The attachments are not being printed for practical reasons or space consideration. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or [mmolina@oal.ca.gov](mailto:mmolina@oal.ca.gov).

RECEIVED

MAY 30 2018

STATE OF CALIFORNIA  
OFFICE OF  
ADMINISTRATIVE LAW

PETITION TO THE OFFICE OF ADMINISTRATIVE LAW

RE: Alleged Underground Regulation

FROM: Trayzon Charles Gilbert (Petitioner)

DATE: 5/15/18

Use of this form is optional. It requests the information required by California Code of Regulations, title 1, section 260, for a petition challenging an alleged underground regulation. Although you are not required to use this specific form, the mandatory information required by California Code of Regulations, title 1, section 260, including the supporting documentation, must be included in your petition. If you create a separate petition, or if you use this form and need to add extra pages, be sure that each page is labeled clearly.

1. Identifying Information:

Your name: Trayzon Charles Gilbert CDCR# P23761

Your address: P.O. Box 8103, San Luis Obispo, Ca. 93409

Your telephone number (if you have one): N/A

Your email (if you have one): N/A

2. State agency or department being challenged: California Department of Corrections and Rehabilitation (CDCR).

3. Provide a complete description of the purported underground regulation. Attach a written copy of it. If the purported underground regulation is found in an agency manual, identify the specific provision of the manual alleged to comprise the underground regulation. Please be as precise as possible.

Department of Operational Manual (DOM) Article 25, § 52100.4;  
CDCR's policy to cover the cell windows of inmates accused  
of indecent exposure, and its policy to force such  
inmates to wear a special-made jumpsuit  
equipped with a padlock on at the back of the  
neck, locking one inside.

Page 1 of 3

4. Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation. Custody staff have repeatedly singled me out as a sex offender, by covering my cell windows with yellow placards whenever I've been accused of masturbating inside the cell, even when I was later found NOT GUILTY at the MS hearing.

5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code AND that no express statutory exemption to the requirements of the APA is applicable. This policy is unconstitutional because it creates a dangerous environment where those inmates who are being identified as sex offenders through CDCR's use of yellow placards, are becoming the target of other inmates.

6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution. AS a result of CDCR's policy to cover my cell window with yellow placards, I have received continuous death threats. on 4/12/18, those threats escalated to violence where a I was slashed across the back by a security threat group and called a "rapist" and "childmolester".

7. (Optional) Please attach any additional relevant information that will assist OAL in evaluating your petition.

8. Certifications: *[Signature]* 5/23/18  
 I certify that I have submitted a copy of this petition and all attachments to the state agency which has issued, used, enforced, or attempted to enforce the purported underground regulation: *DM Article 25, § 52100.A*

Name of person in agency whose rule you are challenging to whom petition was sent:

Title: *Regulations and Policy Management Branch, CDCR*

Address: *P.O. Box 942883, Sacramento, Ca. 94283-0001*

**SUMMARY OF REGULATORY ACTIONS**

**REGULATIONS FILED WITH SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2018-0615-01  
 CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY  
 Nondiscrimination Compliance and Enforcement

This filing of changes without regulatory effect by the California Health and Human Services Agency repeals provisions relating to compliance and enforcement of the prohibition of discrimination in state-funded programs and activities. SB 1442 (Stats. 2016, ch. 870) reorganized various statutes regarding discrimination and transferred authority over such matters to the Department of Fair Employment and Housing.

Title 22  
 REPEAL: 98300, 98301, 98302, 98303, 98304, 98305, 98306, 98310, 98311, 98312, 98313, 98314, 98320, 98321, 98322, 98323, 98324, 98325, 98326, 98340, 98341, 98342, 98343, 98344, 98345, 98346, 98347, 98348, 98349, 98360, 98361, 98362, 98363, 98364, 98365, 98366, 98370, 98380, 98381, 98382, 98400, 98410, 98411, 98412, 98413  
 Filed 07/25/2018  
 Agency Contact: Jerry Scribner (916) 651-6906

File# 2018-0613-03  
 CALIFORNIA SCHOOL FINANCE AUTHORITY  
 State Charter School Facilities Incentive Program

This regular rulemaking action amends regulations pertaining to the State Charter School Facilities Incentive Program to, inter alia, (1) allow for the increasing of awards in the event additional funding becomes available; (2) align draw down requirements with existing grant agreement language; (3) allow for extensions of time to draw down; and (4) make changes without regulatory effect.

Title 4  
 AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10190

Filed 07/26/2018  
 Effective 07/26/2018  
 Agency Contact: Katrina Johantgen (213) 620-2305

File# 2018-0719-01  
 CALIFORNIA SCHOOL FINANCE AUTHORITY  
 California School Facility Grant Program

This emergency rulemaking by the California School Financing Authority readopts amendments made in prior matter No. 2018-0420-01E to regulations pertaining to the Charter School Facility Grant Program.

Title 4  
 Filed 07/30/2018  
 Effective 07/30/2018  
 Agency Contact: Katrina Johantgen (213) 620-2305

File# 2018-0718-02  
 DEPARTMENT OF CORRECTIONS AND REHABILITATION  
 Provisions of Care and Treatment Exclusions

In this emergency action, submitted as operationally necessary pursuant to Penal Code section 5058.3, the Department of Corrections and Rehabilitation amends two sections regarding the basis for providing health care services. The amendments are to definitions and conditions that may be excluded from care.

Title 15  
 AMEND: 3350, 3350.1  
 Filed 08/01/2018  
 Effective 08/01/2018  
 Agency Contact: Justin McCall (916) 691-3325

File# 2018-0711-03  
 DEPARTMENT OF JUSTICE  
 Department of Industrial Relations Bond Form

The Department of Justice submitted this action to file with the Secretary of State, pursuant to Government Code section 11343.8, amendments to the Department of Industrial Relations bond form titled "Foreign Labor Contractor Bond."

Title 11  
 AMEND: 49.18  
 Filed 07/31/2018  
 Effective 07/31/2018  
 Agency Contact: Cara M. Porter (415) 510-3508

File# 2018-0717-02  
 DEPARTMENT OF PESTICIDE REGULATION  
 Conflict-of-Interest Code

This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing only.

Title 3  
 AMEND: 3  
 Filed 07/31/2018  
 Effective 08/30/2018  
 Agency Contact: Stephanie Ota (916) 322-4553

Title 14  
 ADOPT: 817.04  
 AMEND: 790  
 Filed 07/30/2018  
 Effective 07/30/2018  
 Agency Contact: Christine Kluge (916) 327-0910

**File# 2018-0720-01**  
**OFFICE OF SPILL PREVENTION AND RESPONSE**  
**Certificates of Financial Responsibility**

This third emergency re-adopt file and print action by the Office of Spill Prevention and Response amends nine sections and adopts one section 798 to implement changes to the statewide oil spill prevention and response program pursuant to Senate Bill 861 (Stats. 2014, ch. 931). This is a statutorily deemed emergency and exempt from review by the Office of Administrative Law, pursuant to Government Code section 8670.7.5.

Title 14  
 ADOPT: 798  
 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797  
 Filed 07/30/2018  
 Effective 07/30/2018  
 Agency Contact: Christine Kluge (916) 327-0910

**File# 2018-0720-02**  
**OFFICE OF SPILL PREVENTION AND RESPONSE**  
**Drills and Exercises**

This emergency file and print action re-adopts drills and exercises to be performed at inland facilities. This is a statutorily deemed emergency and exempt from review by the Office of Administrative Law pursuant to Government Code section 8670.7.5.

Title 14  
 ADOPT: 820.02  
 Filed 07/30/2018  
 Effective 07/30/2018  
 Agency Contact: Christine Kluge (916) 327-0910

**File# 2018-0720-03**  
**OFFICE OF SPILL PREVENTION AND RESPONSE**  
**Oil Spill Contingency Plans — Inland Facilities/**  
**Definitions & Abbreviations**

This emergency re-adopt by the Office of Spill Prevention and Response amends section 790 of title 14 of the California Code of Regulations (CCR) to modify existing definitions and abbreviations. It also adopts section 817.04 of title 14 of the CCR to establish contingency plan requirements for "Inland Facilities."

**File# 2018-0720-04**  
**OFFICE OF SPILL PREVENTION AND RESPONSE**  
**Statewide Oil Spill Response Organizations (OSRO)**  
**Ratings**

This third emergency re-adopt file and print action by the Office of Spill Prevention and Response amends eight sections in title 14 of the California Code of Regulations to implement changes to the statewide oil spill prevention and response program pursuant to Senate Bill 861 (Stats. 2014, ch. 931). This is a statutorily deemed emergency and exempt from review by the Office of Administrative Law, pursuant to Government Code section 8670.7.5.

Title 14  
 AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07  
 Filed 07/30/2018  
 Effective 07/30/2018  
 Agency Contact: Christine Kluge (916) 327-0910

**File# 2018-0717-04**  
**OFFICE OF TRAFFIC SAFETY**  
**Conflict-of-Interest Code**

This is a Conflict-of-Interest code that has been approved by the Fair Political Commission and is being submitted for filing with the Secretary of State and printing only.

Title 2  
 AMEND: 58200  
 Filed 08/01/2018  
 Effective 08/31/2018  
 Agency Contact: Lilliann Isaak (916) 509-3030

**File# 2018-0726-03**  
**VETERINARY MEDICAL BOARD**  
**Fee Schedule**

This action by the Veterinary Medical Board readopts prior emergency rulemaking no. 2018-0221-03E, which increased several types of examination and licensure fees.

Title 16  
 AMEND: 2070, 2071  
 Filed 08/01/2018  
 Effective 09/05/2018  
 Agency Contact:  
 Amanda Drummond (916) 515-5238

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN February 28, 2018 TO  
August 1, 2018**

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

**Title 1**

05/21/18 AMEND: 44

**Title 2**

08/01/18 AMEND: 58200  
 07/17/18 REPEAL: 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2700, 2701, 2702, 2703, 2704, 2705  
 07/03/18 ADOPT: 18308, 18308.1, 18308.2, 18308.3  
 06/21/18 AMEND: 1859.190, 1859.194, 1859.195, 1859.198  
 06/19/18 AMEND: 554.7  
 05/17/18 ADOPT: 11027.1 AMEND: 11028  
 05/16/18 ADOPT: 20150, 20151, 20152, 20153, 20154, 20155, 20156, 20157, 20158, 20159, 20160, 20161, 20162, 20163, 20164, 20165  
 05/09/18 AMEND: 321  
 05/09/18 AMEND: 11034  
 04/25/18 AMEND: 18401  
 04/25/18 AMEND: 18450.1  
 04/23/18 ADOPT: 1859.90.4 AMEND: 1859.2, 1859.90, 1859.90.2, 1859.90.5  
 04/16/18 AMEND: 1859.2, 1859.51, 1859.70, 1859.82, 1859.93.1  
 04/12/18 AMEND: 1859.2, 1859.81  
 04/04/18 AMEND: 41000  
 04/02/18 ADOPT: 243, 243.1, 243.2, 243.3, 243.4, 243.5, 243.6, 548.120, 548.120.1, AMEND: 249, 266, 266.1, 266.2, 266.3, 548.121, 548.122, 548.123, 548.124  
 04/02/18 AMEND: 38000, 38000.5, 38000.10  
 03/20/18 AMEND: 18746.1, 18746.4  
 03/20/18 AMEND: 18746.3  
 03/20/18 REPEAL: 18901  
 03/14/18 ADOPT: 61200, 61201, 61210, 61211, 61212, 61213, 61214, 61215, 61216, 61217  
 03/12/18 AMEND: 586.1(a)  
 03/12/18 ADOPT: 599.855

03/08/18 ADOPT: 20020, 20021, 20022, 20023, 20024, 20025, 20026, 20027

**Title 3**

07/31/18 AMEND: 3  
 07/19/18 AMEND: 3591.2  
 06/28/18 AMEND: 3435(b)  
 06/21/18 AMEND: 3439(b)  
 06/21/18 AMEND: 3591.5  
 06/18/18 AMEND: 1280.11  
 06/04/18 ADOPT: 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8401, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, 8608  
 05/30/18 AMEND: 3439(b)  
 05/24/18 AMEND: 3439(b)  
 05/24/18 AMEND: 6502  
 05/18/18 AMEND: 3439(b)  
 04/30/18 AMEND: 3439(b)  
 04/04/18 AMEND: 3591.15  
 03/27/18 AMEND: 3439(b)  
 03/26/18 AMEND: 3439(b)  
 03/13/18 AMEND: 3591.15  
 03/01/18 AMEND: 6628

**Title 4**

07/26/18 AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10190  
 07/18/18 AMEND: 2050  
 07/09/18 AMEND: 10325, 10326  
 07/03/18 AMEND: 10152, 10153, 10154, 10155, 10158 (amended and renumbered), 10159 (amended and renumbered), 10160 (amended and renumbered). REPEAL: 10156, 10157  
 07/02/18 ADOPT: 5700, 5710, 5711, 5720, 5721, 5722, 5730, 5731 AMEND: 5000, 5020, 5100  
 05/30/18 AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.12, 10091.13, 10091.14, 10091.15  
 05/25/18 AMEND: 5000, 5033, 5035, 5037, 5054, 5060, 5101, 5102, 5120, 5144, 5170, 5191, 5212, 5230, 5240, 5250, 5540 REPEAL: 5259  
 05/17/18 AMEND: 12590  
 05/15/18 AMEND: 12204, 12220, 12238, 12560

**CALIFORNIA REGULATORY NOTICE REGISTER 2018, VOLUME NO. 32-Z**

04/30/18	AMEND: 10170.2, 10170.3, 10170.4, 10170.5, 10170.6, 10170.7, 10170.9, 10170.10	32620, 32621, 32625, 32630, 32635, 32640, 32644, 32645, 32647, 32648, 32649, 32650, 32661, 32680, 32690, 32700, 32720, 32721, 32722, 32724, 32726, 32728, 32730, 32732, 32734, 32735, 32736, 32738, 32739, 32740, 32742, 32744, 32746, 32748, 32750, 32752, 32754, 32761, 32762, 32763, 32770, 32772, 32774, 32776, 32980, 32990, 32992, 32993, 32994, 32995, 32996, 32997 REPEAL: 32036, 32037, 32610, 32611, 32806, 32808, 32810, 95000, 95010, 95020, 95030, 95040, 95045, 95050, 95070, 95080, 95090, 95100, 95150, 95160, 95170, 95180, 95190, 95200, 95300, 95310, 95320, 95330
04/10/18	AMEND: 10179	
04/09/18	ADOPT: 5700, 5710, 5711, 5720, 5721, 5722, 5730, 5731 AMEND: 5000, 5020, 5100	
03/29/18	AMEND: 7051, 7054, 7055, 7056, 7063, 7071	
03/22/18	AMEND: 1699	
03/15/18	ADOPT: 8078.22, 8078.23, 8078.24, 8078.25, 8078.26, 8078.27, 8078.28, 8078.29, 8078.30, 8078.31, 8078.32, 8078.33, 8078.34, 8078.35 AMEND: 8070, 8071, 8072, 8073, 8074, 8076, 8078.3 REPEAL: 8078.1, 8078.2	
03/13/18	AMEND: 5032, 5033, 5170, 5180, 5190, 5193, 5194, 5230, 5240, 5255, 5260, 5342, 5350, 5400, 5700	05/08/18 AMEND: 9789.31, 9789.32, 9789.39
03/05/18	AMEND: 10091.1, 10091.2, 10091.3, 10091.4, 10091.5, 10091.6, 10091.7, 10091.8, 10091.9, 10091.10, 10091.12, 10091.13, 10091.14, 10091.15	04/27/18 AMEND: 9789.25 03/19/18 AMEND: 344.18 03/09/18 ADOPT: 3345
<b>Title 5</b>		
07/23/18	AMEND: 40050.2, 40100.1, 40513, 40514, 41021	
07/03/18	ADOPT: 71396, 71397, 71398, 71399	
06/21/18	AMEND: 19810	
06/07/18	AMEND: 19810	
05/18/18	ADOPT: 11301, 11309, 11310, 11311, 11312 AMEND: 11300, 11316 REPEAL: 11301, 11309, 11310	
05/08/18	AMEND: 75020	
04/30/18	AMEND: 41906.5, 41906.6	
04/30/18	AMEND: 42909	
<b>Title 8</b>		
05/30/18	AMEND: 1618.1	
05/17/18	ADOPT: 11770, 11771, 11771.1, 11771.2, 11772, 11773	
05/08/18	AMEND: 31001, 32020, 32030, 32040, 32050, 32055, 32060, 32075, 32080, 32085, 32090, 32091, 32100, 32105, 32120, 32122, 32130, 32132, 32135, 32136, 32140, 32142, 32145, 32147, 32149, 32150, 32155, 32162, 32164, 32165, 32166, 32168, 32169, 32170, 32175, 32176, 32178, 32180, 32185, 32190, 32200, 32205, 32206, 32207, 32209, 32210, 32212, 32215, 32220, 32230, 32295, 32300, 32305, 32310, 32315, 32320, 32325, 32350, 32360, 32370, 32375, 32380, 32400, 32410, 32450, 32455, 32460, 32465, 32470, 32500, 32602, 32605, 32612, 32615,	
<b>Title 9</b>		
06/21/18	AMEND: 4350	
05/17/18	AMEND: 3850, 3850.010	
05/14/18	AMEND: 3560, 3560.010, 3560.020, 3705, 3726, 3735, 3750, 3755	
05/08/18	ADOPT: 4020, 4020.1	
03/20/18	AMEND: 7140.5	
<b>Title 10</b>		
06/13/18	AMEND: 2498.5	
05/31/18	AMEND: 2715, 2728.5, 2752	
05/22/18	AMEND: 2498.6	
04/20/18	ADOPT: 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6538	
03/27/18	AMEND: 30.60 REPEAL: 30.105	
03/26/18	AMEND: 2318.6, 2353.1, 2354	
03/26/18	AMEND: 2318.6, 2353.1	
03/22/18	AMEND: 3525, 3527, 3561, 3569, 3570, 3575, 3602, 3603, 3681	
03/20/18	AMEND: 3541	
03/07/18	AMEND: 6656, 6657, 6660, 6664	
<b>Title 11</b>		
07/31/18	AMEND: 49.18	
06/21/18	AMEND: 1005	
06/18/18	AMEND: 1005, 1007, 1008, 1052	
06/13/18	ADOPT: 51.32	
06/05/18	AMEND: 1005, 1007, 1008	
06/05/18	ADOPT: 49.18	
05/21/18	ADOPT: 5505, 5506, 5507, 5508, 5509, 5510, 5511, 5512, 5513, 5514, 5515, 5516, 5517, 5518, 5519, 5520, 5521, 5522	
04/11/18	ADOPT: 118.1	
04/03/18	AMEND: 51.26	

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04/03/18	ADOPT: 51.30	03/27/18	AMEND: 1038, 1299.03, 1666.0
03/29/18	AMEND: 2021	03/02/18	AMEND: 120.7, 705
03/13/18	AMEND: 1045	03/02/18	ADOPT: 197
03/07/18	AMEND: 115.1		
03/07/18	AMEND: 115.2	<b>Title 15</b>	
03/07/18	AMEND: 115.3	08/01/18	AMEND: 3350, 3350.1
03/07/18	AMEND: 115.4	06/28/18	AMEND: 3043.3
03/07/18	AMEND: 115.5	06/14/18	AMEND: 3000, 3075.1, 3075.2, 3075.3, 3521.1, 3521.2, 3720, 3763 REPEAL: 3800, 3800.1, 3800.2, 3800.3
<b>Title 12</b>		06/13/18	ADOPT: 3087, 3087.1, 3087.2, 3087.3, 3087.4, 3087.5, 3087.6, 3087.7, 3087.8, 3087.9, 3087.10, 3087.11, 3087.12
07/05/18	AMEND: 451, 452, 453, 454, 455	06/07/18	ADOPT: 3371.1 AMEND: 3043.7, 3044 REPEAL: 3371.1
<b>Title 13</b>		05/15/18	AMEND: 3000, 3030, 3190, 3269
07/23/18	ADOPT: 223.00, 223.02, 223.04, 223.06, 223.08, 223.10, 223.12, 223.14, 223.16	05/01/18	ADOPT: 2449.1, 2449.2, 2449.3, 2449.4, 2449.5, 2449.6, 2449.7, 3043.1, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3490, 3491, 3492, 3493 AMEND: 3043, 3043.5 (renumbered to 3043.7), 3043.6 (renumbered to 3043.8), and 3044 REPEAL: 2449.2, 2449.3, 2449.5, 3042, 3043.1, 3043.2, 3043.3, 3043.4, 3043.7
07/16/18	AMEND: 1151.1, 1152.4, 1152.4.1		
06/12/18	ADOPT: 1231.3 AMEND: 1212.5, 1218, 1239, 1264	04/17/18	ADOPT: 2240 REPEAL: 2240
05/30/18	ADOPT: 125.19 AMEND: 125.00, 125.02 REPEAL: 127.06	04/09/18	AMEND: 3016, 3315
05/07/18	AMEND: 423.00	03/05/18	ADOPT: 3378.9, 3378.10 AMEND: 3000, 3023, 3043.8, 3044, 3084.9, 3269, 3335, 3337, 3341, 3341.2, 3341.3, 3341.5, 3341.6, 3341.8, 3341.9, 3375, 3375.1, 3375.2, 3376, 3376.1, 3378, 3378.1, 3378.2, 3378.3, 3378.4, 3378.5, 3378.6, 3378.7, 3378.8 REPEAL: 3334
04/26/18	AMEND: 1153	03/01/18	ADOPT: 3349.1, 3349.2, 3349.3, 3349.4, 3349.5, 3349.6, 3349.7, 3349.8, 3349.9 AMEND: 3349
04/18/18	AMEND: 1151.9.1		
03/12/18	AMEND: Appendix (Article 2.0)	<b>Title 16</b>	
<b>Title 14</b>		08/01/18	AMEND: 2070, 2071
07/30/18	ADOPT: 798 AMEND: 791, 791.6, 791.7, 792, 793, 794, 795, 796, 797	06/18/18	AMEND: 1735.2
07/30/18	ADOPT: 820.02	06/14/18	REPEAL: 1399.620, 1399.621, 1399.622, 1399.623
07/30/18	ADOPT: 817.04 AMEND: 790	06/07/18	AMEND: 321, 364
07/30/18	AMEND: 819, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07	06/04/18	ADOPT: 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5025, 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5041, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5053, 5054, 5055, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5401, 5402, 5403, 5404,
07/19/18	AMEND: 3805.1		
07/05/18	AMEND: 1038		
07/02/18	AMEND: 916.9, 936.9, 956.9		
06/28/18	ADOPT: 1726, 1726.1, 1726.2, 1726.3, 1726.3.1, 1726.4, 1726.4.1, 1726.4.2, 1726.4.3, 1726.5, 1726.6, 1726.6.1, 1726.7, 1726.8, 1726.9, 1726.10 REPEAL: 1724.9		
06/28/18	AMEND: 18660.25, 18660.34		
06/28/18	AMEND: 502		
06/25/18	AMEND: 7.50		
06/07/18	AMEND: 1760, 1774, 1774.1, 1774.2		
05/24/18	ADOPT: 3803.1, 3803.2, 3803.3 AMEND: 3802, 3803		
05/16/18	AMEND: 131		
05/10/18	ADOPT: 29.11		
05/09/18	AMEND: 18660.5, 18660.10, 18660.21, 18660.34		
05/01/18	ADOPT: 650 AMEND: 703 REPEAL: 650		
04/24/18	AMEND: 131		
04/19/18	AMEND: 4800		
04/02/18	AMEND: 265		
04/02/18	ADOPT: 749.9		
03/29/18	AMEND: 29.15		

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	03/15/18 AMEND: 30145, 30145.1, 30205, 30231, 30275, 30278.1, 30309, 30310, 30311, 30314, 30336.8, 30408, 30409, 30456.8, 30535
	<b>Title 18</b>
	07/02/18 AMEND: 283
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	05/08/18 ADOPT: 30100, 30101, 30102, 30201, 30202, 30203, 30204, 30205, 30301, 30302, 30303, 30304, 30305, 30401, 30402, 30403, 30501, 30502, 30601, 30602, 30603, 30604, 30605, 30606, 30701, 30702, 30703, 30704, 30705, 30707, 30708, 30709, 30710, 30711, 30800, 30801, 30802, 30803, 30804, 30805, 30806, 30807, 30808, 30809, 30810, 30811, 30812, 30813, 30814, 30815, 30816, 30817, 30818, 30819, 30820, 30821, 30822, 30823, 30824, 30825, 30826, 30827, 30828, 30829, 30830, 30831, 30832
05/15/18 AMEND: 1399.395	
04/20/18 AMEND: 1749	
03/19/18 AMEND: 4422	
03/14/18 AMEND: 1805.1, 1811	
03/05/18 AMEND: 2070, 2071	
03/01/18 AMEND: 9.1, 12, 12.1, 12.5, 15.1, 16, 19, 20, 43, 45, 87.9	
<b>Title 17</b>	
07/24/18 AMEND: 100000	03/19/18 ADOPT: 35001, 35002, 35003, 35004, 35005, 35006, 35007, 35008, 35009, 35010, 35011, 35012, 35013, 35014, 35015, 35016, 35017, 35018, 35019, 35020, 35021, 35022, 35023, 35024, 35025, 35026, 35027, 35028, 35029, 35030, 35031, 35032, 35033, 35034, 35035, 35036, 35037, 35038, 35039, 35040, 35041, 35042, 35043, 35044, 35045, 35046, 35047, 35048, 35049, 35050, 35051, 35052, 35053, 35054, 35055, 35056, 35057, 35058, 35059, 35060, 35061, 35062, 35063, 35064, 35065, 35066, 35067, 35101 AMEND: 1032, 1124.1, 1249, 1336, 1422.1, 1705.1, 2251, 2303.1, 2433, 3022, 3302.1, 3502.1, 4106, 4703, 4903, 5200, 5202, 5210, 5211, 5212, 5212.5, 5213, 5214, 5216, 5217, 5218, 5219, 5220, 5220.4, 5220.6, 5221, 5222, 5222.4, 5222.6, 5223, 5224, 5225, 5226, 5227, 5228, 5229, 5230, 5231, 5231.5, 5232, 5233, 5234, 5234.5, 5235, 5236, 5237, 5238, 5240, 5241, 5242, 5244, 5245, 5246, 5247, 5248, 5249, 5249.4, 5249.6, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5267, 5268, 5310, 5311, 5312, 5331, 5335, 5335.4, 5335.6, 5336, 5336.5, 5337, 5337.4, 5337.6, 5338, 5338.4, 5338.6, 5700 REPEAL: 1807, 1828, 4508, 4609, 4700, 4701, 4702,
06/07/18 AMEND: 30400, 30413, 30417, 30418, 30419, 30420, 30427.2 (re-numbered to 30427), 30435, 30442, 30443, 30447, 30461, 30467	
06/04/18 ADOPT: 40100, 40101, 40102, 40115, 40116, 40118, 40126, 40128, 40129, 40130, 40131, 40133, 40135, 40137, 40150, 40155, 40156, 40159, 40162, 40165, 40167, 40169, 40175, 40177, 40178, 40180, 40182, 40200, 40205, 40220, 40222, 40223, 40225, 40232, 40234, 40236, 40238, 40240, 40242, 40250, 40252, 40254, 40256, 40258, 40260, 40262, 40264, 40266, 40268, 40270, 40272, 40275, 40277, 40280, 40282, 40290, 40292, 40300, 40305, 40306, 40310, 40400, 40401, 40403, 40405, 40406, 40408, 40410, 40411, 40412, 40415, 40500, 40510, 40512, 40513, 40515, 40517, 40525, 40550, 40601	
05/30/18 AMEND: 95835, 95911	
05/23/18 ADOPT: 51101, 51102, 51103, 51104, 51105, 51106	
05/07/18 ADOPT: 98201, 98202, 98203	
04/20/18 AMEND: 6000, 6025, 6035, 6040, 6045, 6050, 6051, 6055, 6060, 6065, 6070, 6075 REPEAL: 6015, 6020	

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- Title 20**  
 07/19/18 AMEND: 1602, 1604, 1605.3, 1606, 1607  
 05/29/18 ADOPT: 1314, 1353 AMEND: 1302, 1304, 1306, 1308, 1344, 2505  
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 07/25/18 REPEAL: 98300, 98301, 98302, 98303, 98304, 98305, 98306, 98310, 98311, 98312, 98313, 98314, 98320, 98321, 98322, 98323, 98324, 98325, 98326, 98340, 98341, 98342, 98343, 98344, 98345, 98346, 98347, 98348, 98349, 98360, 98361, 98362, 98363, 98364, 98365, 98366, 98370, 98380, 98381, 98382, 98400, 98410, 98411, 98412, 98413  
 07/05/18 AMEND: 66272.62  
 06/29/18 ADOPT: 72329.2  
 06/20/18 AMEND: 97174, 97177.25  
 06/20/18 ADOPT: 130000, 130001, 130003, 130004, 130006, 130007, 130008, 130009, 130020, 130021, 130022, 130023, 130024, 130025, 130026, 130027, 130028, 130030, 130040, 130041, 130042, 130043, 130044, 130045, 130048, 130050, 130051, 130052, 130053, 130054, 130055, 130056, 130057, 130058, 130062, 130063, 130064, 130065, 130066, 130067, 130068, 130070, 130071, 130080, 130081, 130082, 130083, 130084, 130090, 130091, 130092, 130093, 130094, 130095, 130100, 130110, 130200, 130201, 130202, 130203, 130210, 130211  
 05/09/18 AMEND: 97212, 97240, 97241, 97246, 97249  
 04/26/18 ADOPT: 69511.2 AMEND: 69511  
 04/12/18 AMEND: 7000  
 04/10/18 AMEND: 20000
- 03/01/18 AMEND: 2706-5, 2706-7
- Title 22, MPP**  
 07/12/18 AMEND: 87211  
 05/09/18 AMEND: 35015, 35017, 35019  
 04/11/18 AMEND: 101215.1, 101216.1, 101416.2  
 03/13/18 ADOPT: 85100, 85101, 85118, 85120, 85122, 85140, 85142, 85164, 85165, 85168.1, 85168.2, 85168.4, 85170, 85187, 85190
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 07/12/18 ADOPT: 335, 335.2, 335.4, 335.6, 335.8, 335.10, 335.12, 335.14, 335.16, 335.18  
 07/02/18 ADOPT: 3979.9  
 06/28/18 ADOPT: 3929.16  
 06/19/18 ADOPT: 3939.54  
 06/11/18 AMEND: 2924  
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 05/03/18 ADOPT: 2910.1 REPEAL: 2910.1  
 04/19/18 ADOPT: 3949.14  
 04/16/18 ADOPT: 335, 335.2, 335.4, 335.6, 335.8, 335.10, 335.12, 335.14, 335.16, 335.18, 335.20  
 03/29/18 AMEND: 595  
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- Title 25**  
 06/04/18 ADOPT: 6932 REPEAL: 6932
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 07/17/18 AMEND: 25805  
 06/14/18 AMEND: 15100, 15110, 15120, 15130, 15150, 15160, 15170, 15180, 15185, 15186, 15186.1, 15187, 15188, 15190, 15200, 15210, 15240, 15241, 15242, 15250, 15260, 15280, 15290, 15320, 15330, Appendix A, Appendix B, Appendix C  
 06/07/18 AMEND: 27001  
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