



California Regulatory Notice Register

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California Earthquake Authority

California Labor and Workforce Development Agency

Multi-County:

Marin Clean Energy

Adoption

Multi-County:

Opportunities for Learning — California, Inc.

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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

Amendment

STATE AGENCY:

California Earthquake Authority
California Labor and Workforce Development Agency

MULTI-COUNTY:

Marin Clean Energy

Adoption

MULTI-COUNTY:

Opportunities for Learning — California, Inc.

A written comment period has been established commencing on June 26, 2020 and closing on August 10, 2020. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his 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 his 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 August 10, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-5854.

**AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES**

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

TITLE 2. STATE ALLOCATION BOARD

**THE STATE ALLOCATION BOARD
PROPOSES TO AMEND REGULATION
SECTIONS 1860 THROUGH 1860.21,
INCLUDING ASSOCIATED FORMS AND
GRANT AGREEMENT, TITLE 2, CALIFORNIA
CODE OF REGULATIONS, RELATING TO THE
FULL-DAY KINDERGARTEN FACILITIES
GRANT PROGRAM**

**PROPOSED AMENDMENTS TO THE
FOLLOWING REGULATION SECTIONS:**

- 1860, 1860.2, 1860.3, 1860.4, 1860.5, 1860.6, 1860.10, 1860.11, 1860.13, 1860.15, 1860.18, AND 1860.19

**PROPOSED AMENDMENTS TO THE
FOLLOWING FORMS**

- *Application for Funding*, Form SAB 70-01 (Rev. 10/19), which is incorporated by reference and referenced in Regulation Section 1860.2
- *Fund Release Authorization*, Form SAB 70-02 (Rev. 10/19), which is incorporated by reference and referenced in Regulation Section 1860.2
- *Expenditure Report*, Form SAB 70-03 (Rev. 10/19), which is incorporated by reference and referenced in Regulation Section 1860.2
- *Grant Agreement*, (Rev. 10/19), which is incorporated by reference and referenced in Regulation Section 1860.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections, including associated forms and grant agreement, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representa-

ive, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17280, 17375, 17375(a), 17375(b), 17375(b)(2), 17375(b)(2)(A), 17375(b)(3), 17375(b)(4), 17375(c), 17375(e), 17375(f), 17375(g), 17375(h) of the Education Code; 16304 and 16304.1 of the Government Code. The proposals interpret and make specific reference Sections 8973, 17070.15, 17072.10(b), 17072.10(d), 17072.10(e), 17074.10, 17075.10, 17075.15, 17280, 17375, 17375(a), 17375(b), 17375(b)(2), 17375(b)(2)(A), 17375(b)(2)(B), 17375(b)(3), 17375(b)(4), 17375(c), 17375(d), 17375(e), 17375(f), 17375(g), 17375(h), 41024, and 42238.01 of the Education Code; 14608 and 15490(c), Government Code; 1771.3 and 1771.5, Labor Code.

**INFORMATIVE DIGEST/POLICY OVERVIEW
STATEMENT**

Assembly Bill (AB) 1808, Chapter 32, Statutes of 2018 (Committee on Budget, Education Finance: Education Omnibus Trailer Bill), established the Full-Day Kindergarten Facilities Grant Program (FDKFGP). The FDKFGP allows school districts that lack the facilities to provide full-day kindergarten to apply for one-time grants to construct new school facilities or retrofit existing school facilities for the sole purpose of providing full-day kindergarten classrooms. On July 1, 2019, the Governor signed Senate Bill (SB) 75, Chapter 51, Statutes of 2019, The Education Finance: Education Omnibus Trailer Bill. This bill appropriated an additional \$300,000,000 from the General Fund for the 2019/2020 fiscal year to the SAB to continue funding the program. In addition, the statute limits a portion of the program's funding to school districts that will use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. At its meeting on October 23, 2019, the SAB adopted proposed regulatory amendments on an emergency basis. The emergency regulations were approved by the Office of Administrative Law, filed with the Secretary of State and became effective on February 18, 2020.

Funds Impacted

- General Fund appropriation in the amount of \$300,000,000

Attached to this Notice is the specific regulatory language of the proposed regulations, including three associated forms. The *Grant Agreement*, will not be included because the document is very large. However, the proposed regulations, forms and the *Grant Agreement* will be accessible and can be reviewed on OPSC's website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to "Full-Day Kindergarten Facilities Grant Program, FDK Pending Regulatory Changes." Copies of the proposed regulations, associated forms and *Grant Agreement* will be mailed to any person requesting this information by using OPSC's contact information set forth below in this Notice. The proposed regulations implement the FDKFGP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.8, Regulations relating to the Full-Day Kindergarten Facilities Grant Program.

Background and Problem Being Resolved

As mentioned above, The Education Finance: Education Omnibus Trailer Bill, SB 75, Chapter 51, Statutes of 2019, was signed by the Governor on July 1, 2019. This bill appropriated to the SAB an additional \$300 million from the General Fund for the 2019/2020 fiscal year to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities.

The statute limits a portion of the program's funding to school districts that will use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. In addition, the statute changes the local matching share for these conversion projects from 50 percent for new construction projects and 40 percent for retrofit projects to 25 percent for both types of project scopes. For those districts that will not be converting, the local matching share remains at 50 percent and 40 percent, respectively.

The OPSC, on behalf of the SAB, conducted two stakeholder meetings to discuss the proposed regulatory amendments to address statutory changes to the FDKFGP. As a reminder, the projects must provide classrooms to house existing kindergarten students and not add capacity to bring new students to the school site. This remains a self-certification program.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that

SB 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments, the three forms and the grant agreement templates will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Anticipated Benefits of the Proposed Regulations

There are non-monetary benefits associated with these proposed regulatory amendments. The proposed regulations promote fairness to all school districts, especially those school districts that may not otherwise qualify for State funding under the School Facility Program. The proposed regulations also promote social equity by providing one-time general fund funding to those school districts that wish to convert part-day kindergarten facilities to full-day kindergarten facilities, and for those school districts lacking the facilities to provide full-day kindergarten instruction to construct new school facilities or retrofit existing school facilities in an effort to provide kindergarten facilities. Additionally, there are benefits to health, safety, and welfare of California residents (school children and school faculty) because kindergarten facilities will be built stronger and safer. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations do not directly impact worker's safety, existing law provides for the availability of a skilled labor force. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site. Lastly, the State will benefit because kindergarten facilities will be constructed, thereby increasing the State's inventory of school facilities.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. As stated above, OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that SB 75, Chapter 51, Education Finance: Education Omnibus Trailer Bill, was

created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments, the three forms and the grant agreement templates will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

These proposed regulations may have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities, along with the creation of an unknown amount of jobs. The proposed regulations may also provide a positive impact to the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

Summary of the Proposed Regulatory Amendments

A summary of the proposed regulations is as follows:

Existing Regulation Section 1860 states the purpose of the regulations, which is to implement the FDKFGP. The proposed regulatory amendments delete language that refers to grant funding in the amount of \$100 million dollars since there is an additional appropriation and adds the word "funding" to represent all of the funding appropriated to the FDKFGP.

Existing Regulation Section 1860.2 represents a set of defined words and terms used exclusively for these regulations. These definitions provide clarity to OPSC and school districts on program concepts and requirements. The proposed regulatory amendments add additional defined words and terms for purposes of clarifying the differences between Full-Day Kindergarten Program and Part-Day Kindergarten Program.

Existing Regulation Section 1860.3 sets forth general requirements that all school districts seeking program funding must meet. This regulation also specifies that school districts may only apply for program funding for a project that entered into a construction contract on or after the program start date of June 27, 2018. The proposed regulatory amendments make structure changes to this Section since the funding is separated between the \$100 million provided in the 2018/2019 budget and the \$300 million provided in the 2019/2020 budget; each funding source has specific requirements and timelines. In addition, the FDKFGP was revised

through Senate Bill 75 which was signed by the Governor effective July 1, 2019, not June 27, 2019.

Existing Regulation Section 1860.4 provides general funding guidelines for the program that apply to all school districts that participate in the program. This Section clarifies that any funds returned prior to June 20, 2021 will be returned to the program account, while funds returned after June 30, 2021 will be returned to the General Fund. The proposed regulatory amendments delete language and restructure the Section by delineating the funding from the 2018/2019 budget which must be encumbered by a certain date and provides specificity regarding funds from the 2019/2020 budget that must be encumbered by June 30, 2022 or the funding shall be returned to the General Fund. In order to encourage participation in the FDKFGP, consistent with the statutory change, the regulations now clarify that new facilities built with full-day kindergarten program funds will not impact a school district's School Facility Program (SFP) eligibility.

Existing Regulation Section 1860.5 sets forth several criteria that all school districts must meet in order to apply for program funding. School districts are required to provide a school board resolution providing approval to provide full-day kindergarten instruction at the project school site at completion of the project, pursuant to Education Code Section 8973. Additionally, school districts will be required to prove that they currently lack full-day kindergarten facilities. This Section also requires school districts to provide a description of the proposed project that contains certain criteria. The proposed regulatory amendments delete language and restructure the Section for improved readability due to program modifications. School districts participating in the FDKFGP must convert from a part-day to a full-day kindergarten program for the 2019/2020 and 2020/2021 fiscal years; and for the 2021/2022 fiscal year, funding will not be limited to conversion projects. School districts requesting funding from the 2019/2020 Budget Act are required to submit four years of enrollment data to determine a project's overall need for funding based on enrollment patterns. OPSC will collaborate with the California Department of Education (CDE) to determine if a project's need for funding will be limited to retrofit. This is to ensure funds are appropriately spent. In addition, Subsection (d)(1)(C), the word "Section" was added, which is considered a non-substantive change.

Existing Regulation Section 1860.6 sets forth the application submittal process, which authorizes the SAB to establish two 30-calendar day funding rounds for school districts to request apportionments of available program funds. The proposed regulatory amendments

delete the words “Full-Day Kindergarten Facilities Grant” as these are the regulations for the Program and do not require reiteration. The funding was made available in the third and fourth funding rounds to give priority to school districts converting from a part-day kindergarten program to a full-day kindergarten program. These additional funding rounds will allow the SAB to promptly expend the funds by the statute driven deadline of June 30, 2022. Any applications that do not receive an apportionment during each funding round will be returned to the school district.

Existing Regulation Section 1860.10 sets forth the process by which the amount for an additional grant for site acquisition will be determined. Education Code Section 17375(f) authorizes the SAB to allocate funding necessary to acquire property adjacent to the existing school site. The Site acquisition funding determination for FDKFGP projects is similar to what is used in the SFP Regulations. The proposed regulatory amendment deletes wording that is no longer applicable because it is more appropriate to provide an accurate appraisal within six months of purchasing a site for reimbursement projects.

Existing Regulation Section 1860.11 specifies the matching share requirement for school districts applying for a new construction grant. With the exception of school districts that receive financial hardship funding, school districts that apply for a new construction grant must provide 50 percent and the state will provide 50 percent, pursuant to Education Code 17375(b)(3). The proposed regulatory amendments delete language and restructure the Section to include new funding ratios for state/district shares based on whether a school district is converting from a part-day kindergarten program to a full-day kindergarten program. If a school district is converting, then the district share is 25 percent and the state share is 75 percent. If a school district is not converting, then the funding ratio for state/district shares remains at 50/50.

Existing Regulation Section 1860.13 specifies the matching share requirement for school districts applying for a retrofit grant. With the exception of school districts that receive financial hardship funding, school districts that apply for a retrofit grant must provide 40 percent and the state will provide 60 percent, pursuant to Education Code 17375(b)(3). The proposed regulatory amendments delete language and restructure the Section to include new funding ratios for state/district shares based on whether a school district is converting from a part-day kindergarten program to a full-day kindergarten program. If a school district is converting, then the district share is 25 percent and the state share is 75 percent. If a school district is not converting, then the funding ratio for state/district shares remains at 60/40.

Existing Regulation Section 1860.15 specifies the funding priority based on a school district’s preference points. Education Code Section 17375(b)(2) states that priority for FDKFGP grants will be given to school districts that qualify for financial hardship and/or that have a high population of pupils who are eligible for Free and Reduced-Price School Meals (FRPM). This Section creates a system of preference points in order to determine project funding order. A maximum of 80 preference points may be earned in each funding round for each school district. A school district’s preference points will be calculated into two categories. Based on a sliding scale currently used in the SFP for the Charter School Facilities Program, a sliding scale was created to determine the percentage of students a school district has eligible for FRPM. Points begin at four points for 60–65 percent of students eligible for FRPM, while 40 points will be earned if 100 percent of students within the school district qualify for FRPM. If a school district has been qualified for financial hardship by OPSC and is unable to contribute a portion or all of its matching share, the school district earns 40 points. Once OPSC has determined school districts’ approved applications, school districts will be placed in a preference order based on the preference points earned. School districts will be ordered from highest to lowest points (80 points to zero points). If sufficient funds are available in that funding round, then all approved applications will be funded. If the amount of funding requested is more than the amount allocated for that round, then OPSC will begin with the highest preference point school district and fund their first priority project as stated on the Form SAB 70–01, *Application for Funding*. If two or more school districts have the same amount of preference points, then they will be placed into a lottery to determine who will be funded first. The proposed regulatory amendments add an additional tiebreaker for school districts with the same total preference points by using a school district’s exact Low Income percentage to one decimal place identified on the most recent FRPM data on file. This tiebreaking method should reduce the likelihood of having to do a lottery and to remain in alignment with the statute to prioritize funding to lower-income school districts. However, if there is still a tie then a lottery system will take place.

Existing Regulation Section 1860.18 sets forth reporting requirements that school districts receiving program funding must meet. A school district that has received funds in accordance with the program must submit an expenditure report at the completion of the project. School districts must submit a valid Form SAB 70–03, *Expenditure Report*. A project is considered complete when either of the following occurs: 1) When the notice of completion has been filed; all outstanding

invoices, claims, and change orders have been satisfied and the facility is currently in use by the school district; or 2) One year from the final fund release. A final expenditure report shall be due one year after the first expenditure report. OPSC will use the information provided on this form to ensure that expenditures made by the school districts for their FDKFGP projects comply with statute and other applicable State requirements pertaining to construction. The proposed regulatory amendment adds an additional reference citation that relates to the new funding ratio of 75/25, state/district shares.

Existing Regulation Section 1860.19 specifies how remaining funding may be used after project completion. Project savings and unexpended funds are the different types of remaining funds from FDKFGP projects. School districts that are not financial hardship are able to expend their project savings, including interest, that are not needed for the FDKFGP project on other high priority capital facility needs of the school district. Any savings not expended within one year of project completion must be returned to the State. School districts that are financial hardship that have any unexpended funds from the FDKFGP project and that were not spent on eligible expenditures, must be returned to the State upon completion of the project. Any interest earned on State funds for financial hardship grant funding that is not expended on eligible project expenditures must be returned to the State to help reduce the financial hardship contribution for that project. A school district is only required to return unexpended funds up to the amount of the financial hardship grant provided by the SAB. The proposed regulatory amendments allow school districts receiving funding from the 2019/2020 Budget Act to expend project savings, regardless of Financial Hardship status. In addition, project savings may be expended on professional and instruction materials to build capacity for the implementation of a full-day kindergarten program.

Existing Form SAB 70-01, *Application for Funding*, (which is incorporated by reference) is used by school districts to apply for program funding. The form also serves as a certification from the district regarding compliance with requirements of the law and FDKFGP Regulations. School districts must submit this form during the funding rounds described in Regulation Section 1860.6. OPSC will use this form in order to collect the information necessary to calculate the amount of grants applicable to the project and to determine project funding order. The proposed regulatory amendments provide 1) the ability for a school district to apply for both new construction and retrofit as a dual scope type of application [pages 1 and 3]; 2) deletes language regarding the labelling of current kindergarten classrooms, including the submission of certain documenta-

tion [pages 1 and 2]; and 3) adds new language instructing school districts to label all facilities and identify their current uses as well as all classrooms constructed or previously retrofitted to house kindergarten pupils [pages 1 and 2]. All of the proposed amendments pertain to the different types of applications listed under “Specific Instructions of this Form. In addition, there are two new Certifications being added on page 4 as well as two Certifications being amended and deleted.

Existing Form SAB 70-02, *Fund Release Authorization* (which is incorporated by reference) is used by school districts to request the release of funds when projects have received an apportionment by the SAB. The applicant will certify on this form that it has already submitted the signed grant agreement, or the signed grant agreement is accompanying the Form SAB 70-02. After an FDKFGP apportionment has been made by the Board, OPSC will release the apportioned funds once the school district completes and submits this form to OPSC. School districts who receive grants without an advance release of funds must submit this form with all required approvals within 180 days of apportionment. School districts who receive grants with an advance release of funds must then submit this form with all required approvals within 12 months of apportionment. The proposed regulatory amendment reminds school districts to submit an updated Form SAB 70-01 if funding was previously received for design and/or site approvals.

Existing Form SAB 70-03, *Expenditure Report*, is used by school districts to report their project savings and unexpended funds. Expenditure reports must be submitted within one year of final fund release or at the completion of the FDKFGP project. A final savings report must be submitted within one year of the completion of the project. Financial hardship projects must submit their unexpended funds at the completion of their project. OPSC will use the information provided on this form to ensure that expenditures made by the school districts for FDKFGP projects comply with statute and other applicable State requirements pertaining to construction. The proposed regulatory amendments include the addition of professional development or instruction materials to build capacity for the implementation of the full-day kindergarten program, which is in alignment with Education Code Section 17375(a)(4)(B)(i).

Existing *Grant Agreement* template (which is incorporated by reference) includes sections relevant to the FDKFGP for new construction and retrofit funding. It is the intent that the grant agreement will be entered into for every funding application that is processed; therefore, each grant agreement will contain the relevant project information. The grant agreements serve as binding documents and key resources that define the re-

sponsibilities of the state and school districts from the determination of the amount of eligible state funding to the reporting of all project funds, including any savings achieved. This will ensure greater transparency and accountability for the program grants being awarded under FDKFGP. The proposed regulatory amendments incorporate 1) the submittal of annual expenditure reports 12 months from the date of the full fund release, and 2) the ability for financial hardship districts to retain savings and the retention of savings may be expended on professional development or instructional materials to build capacity for the implementation of a full-day kindergarten program.

There are minor changes incorporated on page 9, under F.2.: added the word “Section”; page 18, 3.f., under the heading Authority: struck out the extra “1” in 20114; page 28, 3.e. and f., under the heading Authority: added “.” after Ed Code; pages 29 & 30, 5.a-j, under the heading Authority: added “.” after Ed Code. These minor changes are considered non-substantive changes.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area (construction of and/or retrofit of existing school facilities for the sole purpose of providing kindergarten classrooms), and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations are within the SAB’s authority to enact regulations for the FDKFGP under Education Code Section 17375(g) and Government Code Section 15503.

Statutory Authority and Implementation

Education Code Section 17375(g). The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

The Education Finance: Education Omnibus Trailer Bill, SB 75, Chapter 51, Statutes of 2019, was signed by the Governor on July 1, 2019. This bill appropriated to the SAB an additional \$300 million from the General Fund for the 2019/2020 fiscal year to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities.

The statute limits a portion of the program’s funding to school districts that will use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. In addition, the statute changes the local matching share for these conversion projects from 50 percent for new construction projects and 40 percent for retrofit projects to 25 percent for both types of project scopes. For those districts that will not be converting, the local matching share remains at 50 percent and 40 percent, respectively.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that SB 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments, the three forms and the grant agreement templates, will enhance applicants’ awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Forms Incorporated by Reference

- *Application for Funding*, Form SAB 70-01, (Rev. 10/19), referenced in Regulation Section 1859.2 and is incorporated by reference.
- *Fund Release Authorization*, Form SAB 70-02 (Rev. 10/19), referenced in Regulation Section 1860.2 and is incorporated by reference.
- *Expenditure Report*, Form SAB 70-03 (Rev. 10/19), referenced in Regulation Section 1860.2 and is incorporated by reference.

- *Grant Agreement*, (Rev. 10/19), referenced in Regulation Section 1860.2 and is incorporated by reference.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulations create no costs to any local agency or school district requiring reimbursement pursuant to Sections 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulations clarify and make modifications to the existing FDKFGP, which allows school dis-

tricts that wish to convert part-day kindergarten facilities to full-day kindergarten facilities, and for those districts that lack the facilities to provide full-day kindergarten facilities to apply for one-time grants to construct new school facilities or retrofit existing school facilities for the sole purpose of providing full-day kindergarten classrooms.

Many aspects of the FDKFGP continue to be based on similarities in the Leroy F. Greene School Facilities Act of 1998 (School Facility Program), such as Financial Hardship, site acquisition guidelines, etc. just to name a few. The School Facility Program is a \$42 billion voter-approved school facilities construction program. Although the FDKFGP is not the primary school facilities construction program, it does provide funding dedicated to construction of new facilities and/or retrofit of existing facilities for kindergarten classrooms only. In making these statements, manufacturing and construction-related industries may be competing for construction jobs for both the FDKFGP and the School Facility Program because of funds apportioned to school districts from both programs. The funds will be released once the school districts submit the fund release form and associated grant agreement. It is anticipated that there will be a positive impact to the State's economy and the potential for job creation because school districts are able to utilize these funds right away for their construction projects.

Therefore, the proposed regulations will most likely have a positive effect on the State's economy, creation of jobs, creation of new businesses, and expansion of businesses, and will not eliminate jobs or eliminate existing businesses within California.

Benefits to Public Health and Welfare, Worker Safety, and the State's Environment

- The proposed regulations promote the State's general welfare, including protection of public health and safety, by assisting in increasing the State's infrastructure investment of school facilities.
- The proposed regulations also promote fairness and/or social equity by providing one-time general fund dollars to those school districts that may be able to construct new facilities or retrofit existing facilities in an effort to provide kindergarten facilities.
- There are benefits to health, safety, and welfare of California residents (school children and school faculty) because kindergarten facilities will be built stronger and safer.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction

projects, and although these proposed regulations do not directly impact worker safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.

- There is no impact to the State’s environment from the proposed regulations.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. Although the proposed regulations only apply to school districts for purposes of funding kindergarten facilities, the demand on the manufacturing and construction-related industries could potentially stimulate the creation of small businesses in these areas because of funds being released to school districts from both the FDKFGP and School Facility Program.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at OPSC no later than August 10, 2020. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, email or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address:

Office of Public School Construction
707 Third Street, 6th Floor
West Sacramento, CA 95605

E-mail Address:

Lisa.Jones@dgs.ca.gov

Fax No.:

(916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 376-1753. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376-1646.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications that are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency’s regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.

3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet Web site at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to "Full-Day Kindergarten Facilities Grant Program, FDK Pending Regulatory Changes" and click on one of the linked documents, such as the 45-day Public Notice, the Initial Statement of Reasons and the proposed regulatory text.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB 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. The proposed regulations clarify and make modifications to the existing FDKFGP based on statute. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the website listed above.

TITLE 2. STATE PERSONNEL BOARD

Notice is hereby given that the State Personnel Board (Board) proposes to adopt Section 547.60.2 to clarify that contracting state agencies must notify all organizations representing employees who perform or could perform the type of contracted work of all personal services contracts not expressly exempted from the requirements of Government Code section 19132, sub-

division (b)(1). Additionally, Section 547.60.2 specifies that it is the contracting agency's responsibility to identify and notify the appropriate employee organization or, when the contracting agency is unable to determine the appropriate employee organization, to notify all employee organizations. Contracting agencies cannot conclude that no union represented employees perform or could perform the type of work to be contracted.

PUBLIC HEARING

A public hearing regarding the proposed regulatory action will be held at State Personnel Board on August 12, 2020, at 10:00 a.m. via teleconference. In order to participate in the public hearing, you may call 1 (877) 848-7030 and dial participant code # 1223758. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Board requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The telephonic conference to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make specific arrangements, if necessary.

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below.

Lori Gillihan, Chief
Policy Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814
Email: lori.gillihan@spb.ca.gov

The written comment period closes on August 10, 2020. Only written comments received by that time shall be reviewed and considered by the Board before it adopts, amends, or repeals a regulation.

AUTHORITY AND REFERENCE

The Board proposes to adopt Section 547.60.2 of Title 2, Chapter 1 of the CCR pursuant to the authority vested in it by the California Constitution, article 7, section 3, and Government Code section 18701 and Public Contract Code section 10337, subdivision (a). The proposed regulations will implement, interpret, and make specific the provisions of Government Code sections 18661 and 19132, subdivision (b)(1).

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The Board is a constitutional body responsible for enforcing California’s civil service statutes. (Cal. Const., art. VII, §§ 1, subd. (b) & 3; Gov. Code, § 18660.) In addition, the Board, by majority vote of all its members, prescribes probationary periods and classifications, adopts other rules authorized by statute, and reviews disciplinary actions imposed against state employees. (*Ibid.*) Regarding personal services contracts entered into between state agencies and private contractors, the Board is empowered to establish such standards and controls over DGS’s approval of these contracts as are necessary to assure that the approval is consistent with merit employment principles and Article VII of the California Constitution. (Pub. Contract Code, § 10337, subd. (a).) The Board is also empowered to audit a state agency’s personal services contracts to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).)

Regulations adopted by the Board are exempt from the Administrative Procedure Act (APA), except as expressly specified. (Gov. Code, §§ 18211, 18215, & 18216.) Regulations concerning contracting out are not exempt from the APA. (Gov. Code, §18216.)

The purpose of this regulatory action is to update the Board’s regulations to clarify that, when state agencies enter into personal services contracts under Government Code section 19130, subdivision (b), they must notify all organizations representing employees who perform or could perform the type of contracted work of all personal services contracts not expressly exempted from the requirements of Government Code section 19132, subdivision (b)(1). Additionally, section 547.60.2 clarifies the contracting agency’s responsibility to identify and notify the appropriate employee organization pursuant to Government Code section 19132, subdivision (b)(1).

The benefits of this regulatory change include: (1) enabling the Board to conduct thorough and effective compliance reviews of Government Code section 19130, subdivision (b), contracts; (2) increasing openness and transparency in state government related to personal services contracting; and (3) providing organizations representing state employees the opportunity to review and evaluate the appropriateness of personal services contracts to deter potential waste in state contract spending.

In reviewing other state regulations, the Board found that the instant regulatory proposal is consistent and compatible with existing state regulations.

FISCAL IMPACT ON PUBLIC AGENCIES

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Cost or savings to any State agency: None, since State agencies are currently required to record and maintain certain documents and files related to personal services contracts.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the State: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None.

ECONOMIC IMPACT ON BUSINESS

- Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.
- Effect on small business: The proposed regulations set a standard only related to the recordkeeping and transmittal procedures state agencies must follow when entering into personal services contracts under Government Code section 19130, subdivision (b). Accordingly, it has been determined that the adoption of the proposed regulations would not affect small businesses in any way.

COST IMPACT ON A REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

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 since the regulatory change only impacts record-keeping requirement for state agencies and transmittal procedures state agencies must follow when entering into personal services contracts under Government Code section 19130, subdivision (b).

RESULTS OF ECONOMIC IMPACT
ASSESSMENT

Adoption of these regulations will not:

1. Create or eliminate jobs within California.
2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect worker safety or the state's environment.

The adoption of these regulations, however, will have a positive impact on the health and welfare of California residents in that the benefits of this regulatory action, as mentioned under the INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW, include openness and transparency in state government and improved efficiency in the Board's compliance reviews of personal services contracts.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or that is otherwise identified and brought to its attention 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 PERSONS

Inquiries concerning the proposed regulatory action, including questions regarding procedure, comments, or the substance of the proposal, may be directed to:

Lori Gillihan, Chief
Policy Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814
Phone: (916) 651-1043
Email: lori.gillihan@spb.ca.gov

The backup contact person for these inquiries is:

Carlos Gomez, Analyst
Policy Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814
Phone: (916) 651-8350
Email: carlos.gomez@spb.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or

other information upon which the rulemaking is based to Policy Division Chief, Lori Gillihan, at the above address.

AVAILABILITY OF RULEMAKING FILE

The Board is maintaining a rulemaking file for the proposed regulatory action, which as of the date of this notice contains the following:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~ and underline;
2. A copy of this notice and statement of reasons for the proposed adoption; and
3. Any factual information upon which the proposed rulemaking is based.

If written comments, data or other factual information, studies or reports are received, they will be added to the rulemaking file. The file is available for public inspection during normal working hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814. Items 1 through 3 are also available on the Board's website at www.spb.ca.gov under "What's New?" Copies may be obtained by contacting the person via the address, email, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After 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 that 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. Please send requests for copies of any modified regulations to the attention of the person at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

It is anticipated that the proposed regulations will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed on the Board’s website at www.spb.ca.gov under “What’s New?”

State of California | Government Operations Agency | State Personnel Board

Executive Office 916–653–1028 Appeals Division 916–653–0799

Compliance Review Division 916–651–0924 Policy Division 916–651–0795 Legal Office 916–653–1403

**TITLE 10. DEPARTMENT OF
BUSINESS OVERSIGHT**

The Commissioner of the Department of Business Oversight (Department) proposes to amend the regulations listed below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed as follows:

Regular Mail

Department of Business Oversight
Attn: Regulations Coordinator, Legal Division
1515 K Street, Suite 200
Sacramento, CA 95814

Electronic Mail: regulations@dbo.ca.gov

Comments may be submitted through August 10, 2020.

AUTHORITY

Financial Code sections 321, 326, 334, and 14201 authorize the Department to promulgate regulations governing credit unions.

REFERENCE

The propose regulations implement, interpret, and make specific Financial Code sections 14200, 14203, 14205, 14250, 14409, 14652, 14653, 14653.5, 14950, 14952, 14953, 14954, 14955, 14957, 14958, 15100, 16000, 16006, and 16022.

INFORMATIVE DIGEST

Policy Statement and Specific Benefits Anticipated from Regulatory Action

The objectives of the proposed regulations are several-fold. One is to modernize the regulations in order to reflect changes to the Financial Code and federal regulations. Another is to streamline the process for out-of-state credit unions that apply to operate in California. A third objective is to allow credit unions a greater choice of permissible investments

The proposed regulations accomplish these objectives in several ways. They update references to sections of the Financial Code and National Credit Union Administration’s regulations. They require out-of-state credit unions to specifically address each statutory factor regarding their eligibility to operate in California. The proposed regulations also repeal obsolete application requirements for out-of-state credit unions. The proposed regulations also repeal an exhaustive list of permissible investments and instead provide the credit union with broader discretion in making investment choices.

Anticipated Benefits of the Proposed Regulations:

The benefits anticipated by the proposed adoption of the rules include modest relief to out-of-state credit unions that apply to operate in California. The proposed amendments also afford credit unions broader investment choices and eliminate the requirement to obtain the Department’s prior approval for routine investments. The updated references to statutes and federal regulations ensure their accuracy. For further discussion of benefit analysis, see *Results of the Economic Impact Assessment* below.

Summary of Existing Laws and Regulations and Effect of Proposed Action

Credit unions are licensed and regulated under the California Credit Union Law.¹ Financial Code section

¹ Fin. Code, § 14000 *et seq.*

16009 requires out-of-state credit unions to publicly post at each location their name, type of office, and their home state. The effect of the proposed changes to Section 30.101.5. is to update the citation to the relevant section of the Financial Code.

Financial Code section 16022 requires out-of-state credit unions to apply for a license to establish a branch office in California. The effect of the proposed changes to Section 30.200 is to allow out-of-state credit unions to use the format of their choice rather than a prescribed application form. The effect is also to require the application to satisfy the factors in Financial Code section 16022. Another effect is to eliminate the requirement to submit certain information about the credit union that is already available to the Department by other means or unnecessary and thus reduce the administrative burden on the applicant.

Financial Code section 14652 permits credit unions to invest in securities and other assets described in Chapter 10 of Division 1, which governs legal investments for nonbank licensees. In addition, Financial Code section 14653.5 permits credit unions to invest in any investment authorized by regulation or in writing by the Department. The effect of the proposed changes to Section 30.300 is to reduce redundant paperwork caused by the requirement to obtain approval for routine investments. The effect is also that credit unions will have greater discretion over their choice of investments while investing no more than 10 percent of the sum of their net worth and allowance for loan and lease losses in any single person.

Financial Code section 14950 permits credit unions to loan money to their members. It also provides restrictions on loans. Currently, section 30.803 states that those credit unions which are insured by the National Credit Union Share Insurance Fund are subject to certain federal regulations. The proposed changes will update the reference to the federal regulations regarding member business lending and will remove references to two specific restrictions, which are repetitive of existing state law. The first restriction prohibits family members of a credit union official from receiving preferential treatment for loans over \$20,000. The second restriction prohibits family members from receiving fees, compensation, or commissions in connection with any loan made by the credit union.

Existing Federal Regulation or Statute

The Federal Credit Union Act² and National Credit Union Administration's regulations³ do not include a provision comparable to the signage requirement for foreign (other state) credit unions in California Code of Regulations, title 10, section 30.101.5.

The Federal Credit Union Act allows federal credit unions to invest in securities that are sold pursuant to section 4(5) of the Securities Act of 1933, are mortgage related as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, and small business related as defined in section 3(a)(53) of the Securities Exchange Act of 1934.⁴ 12 Code of Federal Regulations part 703.14 provides a detailed list of permissible investments for federal credit unions. The Financial Code contains a similar list of investments permitted to credit unions. In addition, Financial Code section 14653.5 permits credit unions to make any investment authorized by the commissioner by regulation, which is the purpose of the proposed amendments to Section 30.300.

The Federal Credit Union Act allows federally insured credit unions to engage in member business lending.⁵ The National Credit Union Administration administers the member business lending regulations in 12 Code of Federal Regulations part 723. After the adoption of Section 30.803, the federal regulations governing member business lending⁶ were renumbered as 12 Code of Federal Regulations part 723.⁷ The proposed changes to Section 30.803 update the reference to the corresponding federal regulations to reflect this change.

Existing State Regulations

The Department has conducted an evaluation of whether the proposed regulations are consistent with existing state regulations and has concluded that the proposed changes are consistent and compatible with those regulations.

² 12 U.S.C. § 1751 *et seq.*

³ 12 C.F.R. § 700 *et seq.*

⁴ 12 U.S.C. § 1757(15).

⁵ 12 U.S.C. § 1757a.

⁶ 12 C.F.R. § 723.

⁷ 64 Fed. Reg. 28721 (Sept. 9, 1998).

Forms Incorporated by Reference

12 Code of Federal Regulations part 723, as of February 5, 2019, is incorporated by reference in Section 30.803, subdivision (a).

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Department 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 or impacts on a representative private person or business: The Department 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, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: none. Although the proposed action will directly affect credit unions in California, the Department concludes that any adverse economic impact, including the ability of California credit unions to compete with credit unions in other states, will not be significant.

Significant effect on housing costs: none.

Results of the Economic Impact Analysis/Assessment:

The Department has determined that:

- The proposed action will not create or eliminate jobs within California;
- The proposed action will not create new businesses or eliminate existing businesses within this state;
- The proposed action will not have a negative impact on the expansion of businesses currently doing business within California, but it is possible that credit unions will choose to invest in businesses within California, which could indirectly allow businesses to grow; and
- No benefits or adverse impacts to worker safety are anticipated from this regulatory action.
- The proposed action will indirectly benefit the health and welfare of California residents by streamlining the application process for out-of-state credit unions, which may provide more financial service options for Californian

residents. This regulatory action will also indirectly benefit the environment by accepting electronic filings and using existing databases to gather information that was previously required to be submitted on paper.

Business Reporting Requirement

This regulatory action does not require businesses to file a report with the Department.

Effect on Small Business

The proposed regulations will not affect small business because credit unions are not a small business within the meaning of Government Code section 11342.610. Subdivision (b)(1) of Government Code section 11342.610 provides that “small business” does not include a credit union.

CONSIDERATION OF ALTERNATIVES

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

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at the address listed in this notice. As of the date this notice is published, the rulemaking file consists of this notice, the initial statement of reasons, the proposed text of the regulation, and any factual information upon which the proposed rulemaking is based. Copies may be obtained by contacting the contact person at the address or phone number listed in this notice.

AVAILABILITY OF THE
DOCUMENTS ON THE INTERNET

The notice, initial statement of reasons and proposed text are also available on the Department’s website at www.dbo.ca.gov. To access the documents from the Department’s website, click on the “Laws and Regulations” tab at the top of the home page, click on the

“Rulemaking” link, and then click on the “Credit Union Law” link.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. A request for a copy of any modified regulation(s) should be addressed to the contact person named in this notice. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action including requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, or the modified text of the regulation, or questions regarding the timelines or rulemaking status, may be directed to:

Department of Business Oversight
Attn: Julie Jacob, Senior Counsel
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-6927
e-mail: Julie.Jacob@dbo.ca.gov

The backup contact person for these inquiries is:

Department of Business Oversight
Attn: Sandra Sandoval, Legal Assistant
300 S. Spring Street, Suite 15513
Los Angeles, California 90013
Telephone: (213) 897-3432
e-mail: Sandra.Sandoval@dbo.ca.gov

**TITLES 13 AND 17. AIR RESOURCES
BOARD**

EDITOR’S NOTE: The following Air Resources Board Notice contained many tables, which, as formatted, would not have met the ADA Website Compliance requirements. The tables were removed for purposes of publication in the Notice Register. The Notice with all the tables is available from the contact persons listed in the Notice under “AGENCY CONTACT PERSONS” or “AVAILABILITY OF DOCUMENTS.” The full Notice is also available on the Board’s website (url address listed below under “INTERNET ACCESS”) at: <https://ww2.arb.ca.gov/rulemaking/2020/hdomnibus-lownox>

**PROPOSED AMENDMENTS TO THE
EXHAUST EMISSIONS STANDARDS AND
TEST PROCEDURES FOR 2024 AND
SUBSEQUENT MODEL YEAR HEAVY-DUTY
ENGINES AND VEHICLES, HEAVY-DUTY
ON-BOARD DIAGNOSTIC SYSTEM
REQUIREMENTS, HEAVY-DUTY IN-USE
TESTING PROGRAM, EMISSIONS
WARRANTY PERIOD AND USEFUL LIFE
REQUIREMENTS, EMISSIONS WARRANTY
INFORMATION AND REPORTING
REQUIREMENTS, AND CORRECTIVE
ACTION PROCEDURES IN-USE EMISSIONS
DATA REPORTING REQUIREMENTS, AND
PHASE 2 HEAVY-DUTY GREENHOUSE GAS
REGULATIONS, AND POWERTRAIN
TEST PROCEDURES**

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption the proposed Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments (HD Omnibus Regulation).

DATE:

August 27, 2020

TIME:

9:00 a.m.

Please see the Public Agenda which will be posted ten days before the August 27, 2020, Board Meeting for any appropriate direction regarding a possible remote-only Board Meeting. If the meeting is to be held in person, it will be held at the 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., August 27, 2020, and may continue at 8:30 a.m., on August 28, 2020. Please consult the agenda for the hearing, which

will be available at least ten days before August 27, 2020, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on June 26, 2020. Written comments not submitted at the hearing must be submitted on or after June 26, 2020, and received **no later than August 25, 2020**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

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

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

Please note that under the California Public Records Act (Gov. Code, § 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, 38505, 38510, 38560, 38580, 39500, 39600, 39601, 40000, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205.5, and 43806; and California Vehicle Code section 28114. This action is proposed to implement, interpret, and make specific California Health and Safety Code sections 38501, 38505, 38510,

38560, 38580, 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43205.5, 43210.5, and 43806; and California Vehicle Code section 28114.

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

Sections Affected: Proposed amendments to sections: 1900, 1956.8, 1961.2, 1965, 1968.2, 1971.1, 2035, 2036, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2121, 2123, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2133, 2137, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2166, 2166.1, 2167, 2168, 2169, 2170, 2423, and 2485 to California Code of Regulations, title 13, and sections 95662 and 95663 to California Code of Regulations, title 17. Proposed adoption of sections: 2139.5, 2169.1, 2169.2, 2169.3, 2169.4, 2169.5, 2169.6, 2169.7, and 2169.8, California Code of Regulations, title 13.

DOCUMENTS INCORPORATED
BY REFERENCE
(Cal. Code Regs., tit. 1, § 20, subd. (c)(3))

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

- “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” adopted December 12, 2002, as last amended on [Insert Date of Amendment], incorporated by reference in 13 CCR 1956.8 and 2139.
- “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines,” adopted December 27, 2000, as last amended on [Insert Date of Amendment], incorporated by reference in 13 CCR 1956.8 and 2139.
- “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 on [Insert Date of Amendment], incorporated by reference in 13 CCR 1961.2.
- “California Environmental Performance Label Specifications for 2021 and Subsequent Model Year Medium-Duty Vehicles, Except Medium-Duty Passenger Vehicles,” adopted December 19, 2018, as last amended on [Insert

Date of Amendment], incorporated by reference in 13 CCR 1965.

- “California Exhaust Emission Standards and Test Procedures for New 2011 and Later Tier 4 Off-Road Compression-Ignition Engines, Part I-D,” adopted October 20, 2005, as last amended on [Insert Date of Amendment], incorporated by reference in 13 CCR 2423.
- “California Greenhouse Gas Exhaust Emission Standards and Test Procedures for 2014 and Subsequent Model Heavy-Duty Vehicles,” adopted October 21, 2014, as last amended on [Insert Date of Amendment], incorporated by reference in 17 CCR 95663.

The above listed documents are being amended by this regulation and thus the amendment date would be the date that the regulation is adopted by CARB.

Background and Effect of the Proposed HD Omnibus Regulation:

Existing Regulatory Requirements

On-road heavy-duty vehicles¹ operate throughout California and are an essential part of the state’s economy; they include long-haul trucks, drayage trucks, transit buses, refuse trucks, and other commercial work vehicles. According to California’s emissions inventory model, almost a million heavy-duty vehicles operate on California roads each year. These vehicles are significant sources of oxides of nitrogen (NOx), particulate matter (PM), and greenhouse gas (GHG) emissions. In fact, heavy-duty vehicles comprise the largest NOx emission source category in the state, contributing to 31 percent of all statewide NOx emissions as well as 26 percent of total statewide diesel PM emissions.

Since 2010, in California and the rest of the United States, heavy-duty engines have been subject to a PM emission standard of 0.01 grams per brake horsepower hour (g/bhp-hr) and a NOx standard of 0.20 g/bhp-hr. As discussed in more detail below, one element of the proposed rulemaking action establishes an approximately 90 percent lower NOx standard for on-road heavy-duty engines, and constitutes the largest measure in CARB’s entire 2016 State Strategy for the State Implementation Plan (SIP), the State of California’s official and legally binding plan to meet federal air quality standards. This measure is responsible for nearly half of the NOx emission reduction commitment in the entire

¹ Under California regulations, heavy-duty vehicles are those vehicles with a gross vehicle weight rating (GVWR) greater than 8,500 pounds, while medium-duty vehicles are a subcategory of heavy-duty vehicles with a GVWR between 8,501 and 14,000 pounds. Manufacturers have the option to certify medium-duty engines used in vehicles from 10,001 to 14,000 pounds GVWR to the engine standards specified for engines in vehicles over 14,000 pounds.

plan, 52 tons per day (tpd) out of 111 total tpd NOx in 2031.

To legally sell new engines, manufacturers must demonstrate that their engines comply with applicable emission standards throughout a period called the regulatory useful life (which for the heaviest diesel engines is currently 10 years, 435,000 miles, or 22,000 hours, whichever comes first). To simulate aging out to useful life and to demonstrate that emission-related components are durable throughout the full useful life of the engine, manufacturers follow procedures as specified in a durability demonstration program (DDP). Manufacturers must demonstrate that the deteriorated emissions test results obtained at the end of useful life either meet or are below all applicable emission standards before a certification Executive Order is issued. To demonstrate compliance, California and the U.S. Environmental Protection Agency (U.S. EPA) require heavy-duty engine manufacturers to test their engines over two test cycles, the heavy-duty transient Federal Test Procedure² (FTP) and the Supplemental Emission Test Ramped Modal Cycle³ (RMC-SET). The FTP test cycle represents a transient medium load duty cycle. The RMC-SET simulates steady-state engine operation during suburban and highway truck speeds.

Manufacturers also must provide warranties of emission-related parts for a certain time-period, currently 100,000 miles or 10 years, whichever first occurs. For parts that fail under warranty, manufacturers are required to report certain data to CARB, as specified in CARB’s Emission Warranty Information Reporting (EWIR) program. If failure rates meet or exceed established thresholds, manufacturers are required to conduct corrective actions such as providing extended warranties and/or recalling faulty components.

Manufacturers are also required to conduct testing of their products while actually on the road using portable emissions measurement systems. All heavy-duty engine manufacturers are required to conduct heavy-duty in-use testing (HDIUT) on a fraction of their engine families, with the specific engine families specified by U.S. EPA and CARB. The in-use test data are evaluated via the not-to-exceed (NTE) method and submitted to CARB and U.S. EPA. CARB also has the ability to independently test any engine family through CARB’s in-house Heavy-Duty In-Use Compliance (HDIUC) Program. Engine families that fail HDIUT or HDIUC requirements are subject to potential recall.

² “FTP” is the heavy-duty transient Federal Test Procedure duty cycle specified in 40 CFR 86.007-11(a)(2), as amended October 25, 2016.

³ “RMC-SET” is the supplemental emission test procedure with the steady-state duty cycle specified in 40 CFR 86.1360, as amended October 25, 2016.

Manufacturers of heavy-duty diesel engines have been able to meet the current PM emission standard through the use of diesel particulate filters (DPF), and the NOx emission standard through the use of selective catalytic reduction (SCR) systems. SCR systems typically use a solution made up of urea and water called Diesel Exhaust Fluid (DEF) to supply the ammonia that converts NOx to harmless nitrogen gas and water.

Changes to these programs are warranted because (1) some elements of the programs discussed above are falling short of program expectations, (2) it is cost-effective and technically feasible to reduce the standards significantly below today's levels to achieve needed NOx reductions, and (3) some provisions would benefit from clarification.

Recent Regulatory Revisions and Actions

Since 1990, NOx emission standards for on-road new heavy-duty engines have become more stringent, decreasing from 6.0 grams per brake horsepower hour (g/bhp-hr) in 1990 to the current 0.20 g/bhp-hr standard in 2010. In addition to the increasingly stringent new engine standards, California has also adopted programs that substantially reduce in-use emissions from heavy-duty vehicles, such as vehicle idling restrictions, and in-use fleet rules such as the Drayage Truck Regulation and the Truck and Bus Regulation. These fleet rules require the upgrade of older trucks and buses to newer and cleaner engines that meet 2010 engine standards by 2023. To comply with these in-use regulations fleets have made substantial investments to purchase lower-emitting vehicles. However, despite all of these efforts, on-road heavy-duty vehicles are still a significant source of NOx emissions in the state, and are responsible, as previously mentioned, for about 31 percent of total statewide NOx emissions, a precursor to ambient ozone and secondary PM formation. In order to meet California's air quality goals, further reductions of heavy-duty NOx emissions are necessary.

In 2013, California established optional low-NOx standards⁴ for heavy-duty diesel engines, with the most aggressive standard being 0.02 g/bhp-hr, which is 90 percent below the current standard. The optional low-NOx standards were developed to pave the way for more stringent mandatory standards by encouraging manufacturers to develop and certify low-NOx engines, and incentivizing potential customers to purchase these low-NOx engines. In 2019, a total of fifteen

⁴ Optional Reduced NOx Emission Standards for On-Road Heavy-Duty Engines, adopted 12/12/2013, (<https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards>) (last accessed 3/5/2020).

engines families,⁵ some using natural gas and others using liquefied petroleum gas, have been certified to the optional NOx standards.

In March 2017, CARB approved the 2016 State Strategy for the State Implementation Plan (2016 SIP).⁶ One of the key measures in the 2016 SIP is the establishment of on-road heavy-duty engine low-NOx emission requirements that provide a 90 percent reduction in NOx emissions compared to today's engines. To complement this measure, the 2016 SIP also included a "Lower In-Use Emission Performance Level" measure that would ensure that heavy-duty vehicles remain as "clean" in-use, as they were originally certified when new. These two measures are critical for attaining federal health-based air quality standards for ozone in 2031 in the South Coast and San Joaquin Valley air basins, as well as PM2.5 standards in the next decade.

On October 25, 2016, U.S. EPA and the National Highway Traffic Safety Administration jointly adopted the federal Phase 2 GHG standards for tractors, vocational vehicles, and pick-up truck and vans, engines used in tractors and vocational vehicles, and trailers hauled by heavy-duty tractors. The progressively more stringent federal Phase 2 standards are phased-in from 2021 to 2027 for tractors, vocational vehicles, and large pick-up trucks and vans. In 2018, California aligned with the federal Phase 2 standards in structure, timing, and stringency, but with some minor California differences.

Because heavy-duty vehicles that are newly purchased outside of California contribute significantly to the total heavy-duty vehicle miles traveled in California (i.e., approximately 60 percent of total heavy-duty vehicle miles traveled in the South Coast Air Basin on any given day are by such vehicles), it is critical that U.S. EPA take action to establish a new national low-NOx standard for heavy-duty vehicles. In response to petitions for a low-NOx rulemaking from over 20 organizations,⁷ including state and local air agencies from across the country, on November 13, 2018, U.S. EPA announced the "Cleaner Trucks Initiative" to develop regulations to further reduce NOx emissions from new on-road heavy-duty vehicles and engines. U.S. EPA in-

⁵ Optional Low NOx Certified Heavy-Duty Engines, (<https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards>) (last accessed 3/5/2020)

⁶ Proposed 2016 State Strategy for the State Implementation Plan, May 17, 2016, (<https://ww3.arb.ca.gov/planning/sip/2016sip/2016sip.htm>) (last accessed 3/5/2020)

⁷ Brakora, Jessica. "Petitions to EPA for Revised NOx Standards for Heavy-Duty Engines" Memorandum to Docket EPA-HQ-OAR-2019-0055, December 4, 2019.

tends to publish a proposed rule in 2020.⁸ Accordingly, to the extent possible, CARB plans on coordinating its regulatory efforts with U.S. EPA.

To support the development of more stringent NOx emission standards for heavy-duty engines and vehicles, CARB, in partnership with the South Coast Air Quality Management District, the Manufacturers of Emission Controls Association, U.S. EPA, Clean High-Efficiency Diesel Engine VII (CHEDE-VII) Consortium (managed by Southwest Research Institute), Volvo, Cummins, and Eaton are currently funding \$5 million research programs with Southwest Research Institute to demonstrate the feasibility of lower NOx emissions for on-road heavy-duty engines.

In addition to a new lower NOx standard on current certification test cycles, CARB staff also plan to propose a new certification low-load cycle, and the associated NOx emission standard, and further propose provisions to strengthen engine and emission control system durability requirements, to increase useful life requirements and lengthen emissions warranty periods, to improve reporting and corrective actions of emission warranted parts that are covered under warranty, and to enhance the in-use compliance testing program.

Summary of Proposal

[Because of ADA Website Compliance Requirements, OAL is unable to publish the various tables referred to below in the Notice Register. The tables in the Notice are contained in Air Resources Board’s Initial Statement of Reasons (ISOR). The tables in the Notice Attachment can be found on the agency’s website (<http://ww2.arb.ca.gov/rulemaking/2020/hdomnibuslownox>). Please refer to the Contact Persons listed below or to the agency’s website for their ISOR information, including the Tables. In addition, a cross-reference listing “Proposed Heavy-Duty Omnibus Regulation Tables in Notice vs Tables in ISOR” is being included right after this Notice and the Attachment to Public Notice indicating where the tables can be found in the Board’s ISOR.]

CARB’s proposed HD Omnibus Regulation, or Proposed Amendments, would comprehensively overhaul how NOx emissions from new heavy-duty engines are regulated in California, and comprises the following primary elements.

1. Proposed NOx and PM Exhaust Emission Standards

The proposed NOx and PM exhaust emission standards would apply to new California-certified heavy-duty Otto-cycle (HDO) and heavy-duty diesel engines

intended for use in vehicle service classes with gross vehicle weight ratings (GVWR) greater than 10,000 pounds. As shown in Tables 1 and 2, the proposed NOx emission standards would be implemented in two steps, with the first step for 2024–2026 model year engines and the second step for 2027 and subsequent model year engines.

CARB staff is also proposing to provide manufacturers the option to certify 2024 through 2026 model year engines to a less stringent NOx standard, if they meet that standard on a nationwide basis. This proposed optional 50-state-directed engine emission standards, shown within parentheses in Table 1, would provide air quality benefits to California since federally certified trucks that travel to California would be lower-emitting than they would have been absent this option.

CARB staff is also proposing a PM standard of 0.005 g/bhp-hr for 2024 and subsequent model year engines HDO and heavy-duty diesel engines.

Table 1. Proposed Heavy-Duty Diesel- and Otto-Cycle Engine NOx Standards (Model Year 2024 to 2026)

[Table — Removed]

Table 2. Proposed Heavy-Duty Diesel- and Otto-Cycle Engine NOx Standards (Model Year 2027 and Subsequent)

[Table — Removed]

2. Proposed Amendments to the Heavy-Duty In-Use Testing (HDIUT) Program

CARB staff is proposing amendments to the HDIUT program that revise procedures to better represent heavy-duty vehicle operations in real world conditions, that establish clearer criteria for engine family pass/fail determination, and that require on-board diagnostic (OBD) data during testing to verify the condition of the test vehicle and sensors. These amendments would apply to 2024 and subsequent model year engines, and would replace the current NTE-based methodology with a new three-bin moving average windows based methodology. The three bins cover idle, low-load, and medium to high load operation. Compliance would be determined by comparing the average NOx emissions for each bin to the in-use threshold, defined as one and a half times the applicable standard for the model year.

3. Proposed Amendments to Warranty and Useful Life Periods

To help ensure emission controls are well-maintained and repaired when needed, and to help ensure more durable emission control systems, CARB

⁸ EPA Acting Administrator Wheeler Launches Cleaner Trucks Initiative, November 13, 2018, (<https://archive.epa.gov/epa/newsreleases/epa-acting-administrator-wheeler-launches-cleaner-trucks-initiative.html>) (last accessed 3/5/2020).

staff is proposing to extend the criteria pollutant emissions warranty and useful life period requirements for heavy-duty vehicles and engines. The proposed revisions would be phased-in beginning with the 2027 model year engines with the final phase-in occurring in 2031. The current and proposed useful life and warranty periods are shown in Tables 3 and 4, respectively.

Table 3. Current and Proposed Useful Life Periods

[Table — Removed]

Table 4. Current and Proposed Warranty Periods

[Table — Removed]

4. Proposed Amendments to Heavy-Duty Durability Demonstration Program

For heavy-duty diesel engines, the Proposed Amendments would establish a new standardized methodology for demonstrating durability. The standardized methodology would increase the default break-in period from the current 125 hours to 300 hours for on-road heavy-duty diesel engines, and require standardized certification cycles for engine and aftertreatment system aging in order to validate component durability and determine exhaust emissions deterioration factors. The Proposed Amendments would also require additional engine aging (i.e., increased durability hours) compared to what existing certification requirements.

The Proposed Amendments would also allow manufacturers to use of accelerated aging cycles for a portion of the useful life demonstration for aftertreatment systems, provided that those manufacturers periodically submit in-use emissions data generated from their on-road heavy-duty diesel engines.

5. Proposed Amendments to the Emissions Averaging, Banking, and Trading Program

The Proposed Amendments would establish a separate California-only averaging, banking, and trading (CA-ABT) program starting with 2022 model year engines. This element of the rulemaking action is needed to reflect the difference in heavy-duty emission standards between the proposed California heavy-duty engine standards and the existing federal heavy-duty engine standards. The Proposed Amendments would allow manufacturers to transfer credits from their existing federal ABT accounts for 2010 to 2021 model years, as adjusted based on the fraction of California to 50-state sales volumes for 2019–2021 model years. The Proposed Amendments would also allow heavy-duty zero-emission vehicles (ZEV) to generate NOx credits in order to incentivize the sales of heavy-duty ZEVs earlier

than would be required by CARB’s proposed Advanced Clean Trucks (ACT) Regulation.

6. Proposed Amendments to Powertrain Certification Test Procedures for Heavy-Duty Hybrid Vehicles

The Proposed Amendments would provide manufacturers a voluntary option to certify hybrid powertrains to criteria pollutant emission standards, using specified powertrain testing procedures. The proposed powertrain testing procedures would align with federal procedures for powertrain testing and would be based on the U.S. EPA Phase 2 GHG technical amendments for powertrain testing.

7. Proposed Amendments to Emissions Warranty Information and Reporting (EWIR), and Corrective Action Procedures

The Proposed Amendments would amend the existing EWIR program and specify corrective actions to improve the effectiveness of the existing program and to ensure that corrective action is taken in a timely manner if failure rates exceed specified corrective action thresholds.

8. Proposed Amendments to Clean-up Items, and Provide Clarifications, and Corrections

The Proposed Amendments would make some minor but needed clarifications and corrections related to the Phase 2 GHG standards, diesel auxiliary power unit requirements, OBD system requirements, and medium-duty engine and medium-duty vehicle requirements. These amendments are needed to better align with federal requirements, to clarify existing requirements, to conform with proposed emission standards, and to correct inadvertent ambiguities.

9. Proposed Amendments to Existing Phase 2 GHG Regulations

In addition to the minor clarifications and corrections needed for the California Phase 2 GHG Regulation mentioned above, the Proposed Amendments would update the environmental performance label specifications to clarify and improve the implementation of the original label specifications requirements. The proposed revisions would also modify certain trailer requirements of the California Phase 2 GHG regulation, including providing compliance flexibility to exempt specific trailer configurations if it is determined that technology is not available for trailers subject to the Phase 2 requirements.

U.S. EPA has recently proposed technical amendments to the Phase 2 GHG test procedures for heavy-duty engines that are largely intended to provide manufacturers compliance flexibility and to reduce variability in test results. CARB staff is currently not proposing any amendments to the California Phase 2 GHG regulation or to the test procedures in response to that U.S.

EPA notice of proposed rulemaking on Improvements for Heavy-Duty Engine and Vehicle Test Procedures, and Other Technical Amendments,⁹ but may propose specific amendments as this rulemaking action proceeds.

CARB may also consider other changes to the sections affected, as listed on page 2 of this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

Objectives

The Proposed Amendments are designed to reduce NOx emissions from the engines in heavy-duty vehicles with GVWR greater than 14,000 pounds (Class 4 and above), and engines used in medium-duty vehicles with GVWR 10,001 to 14,000 pounds (Class 3 vehicles). The proposed NOx certification emission standards and in-use standards would significantly reduce tailpipe NOx emissions during most vehicle operating modes such as high-speed steady-state, transient, low-load urban driving, and idling modes of operation. The proposed revisions to the emissions warranty, useful life, emissions warranty and reporting information and corrective action procedures, and durability demonstration procedures would also provide emission benefits by encouraging more timely repairs to emission-related malfunctions and encouraging manufacturers to produce more durable emission control components, thereby reducing the rate at which emissions deteriorate.

Environmental and Health Benefits

Table 5 below shows the projected NOx reductions attributable to the Proposed Amendments. In 2031, the target SIP date to meet the 2008 ozone ambient air quality standards, NOx emission benefits relative to the legal baseline¹⁰ are estimated to be approximately 23.2 tpd statewide and 7.0 tpd in the South Coast Air Basin.

Table 5. Projected NOx Emission Benefits from the Proposed Amendments (tpd)

[Table — Removed]

The proposed PM standard of 0.005 g/bhp-hr is intended to prevent “backsliding” by encouraging manufacturers to continue using current robust DPFs capable of reducing PM emissions down to 0.001 g/bhp-hr level.

⁹ “Improvements for Heavy-Duty Engine and Vehicle Test Procedures, and Other Technical Amendments,” Proposed Rule, Federal Register, Vol. 85, No. 92, page 28140–28361, May 12, 2020, (<https://www.govinfo.gov/content/pkg/FR-2020-05-12/pdf/2020-05963.pdf>) (last accessed May 13, 2020)

¹⁰ The legal baseline reflects implementation of currently existing state and federal laws and regulations.

els. Manufacturers would likely continue to use the same DPFs that they are currently using and thus no additional PM benefits are expected from this requirement. However, since NOx is also a precursor to secondary PM2.5 formation, NOx emission reductions would also provide ambient PM2.5 emission benefits resulting in significant health benefits. The emission reductions from the Proposed Amendments are expected to prevent nearly 3,900 deaths, as well as more than 1,300 hospitalizations and 1,800 emergency room visits.

Other proposed associated amendments related to the Phase 2 GHG regulation are not expected to have additional GHG emission benefits beyond those claimed in that regulation. However, they would improve implementation as well as effectiveness of the Phase 2 GHG regulations, and help realize the expected GHG emission benefits of the regulation.

Economic Impacts

The Proposed Amendments would require engine manufacturers to produce lower-emitting heavy-duty engines, which would increase upfront production and operational costs. Elements contributing to increased costs include reduction of emission standards over existing regulatory cycles, amendments to in-use test procedures, modifications to the durability demonstration for certification, lengthened warranty periods, lengthened useful life periods, amendments to EWIR reporting, and emissions data collection and reporting. Table 6 presents the total statewide incremental costs of the Proposed Amendments on manufacturers. All costs were evaluated relative to the baseline scenario in 2018 dollars. As Table 6 shows, the Proposed Amendments’ costs on manufacturers are expected to total \$4.07 billion from calendar year 2022 through 2050.

Table 6. Projected Cost Impact of the Proposed Amendments to Manufacturers

[Table — Removed]

Medium- and heavy-duty engine/vehicle manufacturers would likely pass their costs on to their customers, i.e., to the California vehicle fleets who purchase vehicles with California-certified engines. Vehicle owners would also face increased costs for DEF usage, because the Proposed Amendments would require SCR systems to operate for a greater proportion of the time and hence consume more DEF. At the same time, the Proposed Amendments would provide savings to vehicle owners via repair cost savings resulting from longer emission warranties. Table 7 below shows the net cost impact upon full implementation of the regulation for various affected vehicle classes with 2031 or later engine model year. As Table 7 shows, on average,

the net impact of the Proposed Amendments would be equivalent to an approximately 5.8 percent increase in the baseline purchase price of vehicles.

Table 7. Net Cost Impact of a Vehicle with Engine Model Year 2031 or Later Under the Proposed Amendments (2018\$)

[Table — Removed]

As the requirements of the Proposed Amendments would go into effect, they would have a small negative impact on the rate of growth of the state’s economy. Affected sectors such as retail and wholesale trade, truck transportation, construction, and manufacturing sectors and upstream industries would experience increases in production costs and decreases in employment growth. Overall, CARB staff expects the Proposed Amendments would cause very small slowing in the rate of growth of California employment, gross state product, output, and investment; the Proposed Amendments would cause no more than a 0.02 percent decrease in any of these quantifies in any year from 2022 to 2050. Overall, because the impact is projected to be so small compared to the scale of the California economy, CARB staff estimates the Proposed Amendments would be unlikely to have a significant impact on the California economy.

Comparable Federal Regulations:

Both California and U.S. EPA have the authority and responsibility to set emission standards for new heavy-duty engines and vehicles. For the past several decades, California’s and U.S. EPA’s heavy-duty engine emissions standards and other emission-related requirements have largely been harmonized. Thus, for many years the regulated industry has been able to design and produce a single product line of engines and vehicles that comply with both U.S. EPA and CARB emission standards and sold in all 50 states. So-called “50-state” standards enable technology suppliers and manufacturers to efficiently produce a single set of reliable and compliant products.

Staff is now proposing California emission standards and other emission-related requirements for new heavy-duty engines that are more stringent than corresponding federal emission standards and emission-related requirements for heavy-duty engines and vehicles, because California needs those standards to meet the State’s SIP commitments to attain federal ambient air quality standards and to protect the health and welfare of its citizens.

Heavy-duty vehicles comprise the largest NOx emission source category in California, and further emission reductions from them are urgently needed to meet the

State’s SIP commitments and protect public health. Due to the contribution of heavy-duty trucks to the NOx inventory nationwide, and as mentioned earlier, in response to a petition from over 20 organizations, U.S. EPA announced on November 13, 2018 the “Cleaner Trucks Initiative” to develop regulations to reduce NOx emissions from on-road heavy-duty vehicles and engines.¹¹ Due to the federal lead time requirements described above and because U.S. EPA began their effort after CARB began work on the proposed HD Omnibus Regulation, the Cleaner Trucks Initiative would take effect a few years later than the proposed HD Omnibus Regulation, most likely beginning with the 2027 model year.

CARB has been developing its proposed HD Omnibus Regulation for many years because it has long recognized that it needs to significantly reduce emissions from new heavy-duty engines and vehicles as soon as possible. However, to maintain a future harmonized national heavy-duty program, CARB staff has encouraged U.S. EPA to align with the Proposed Amendments contained in the HD Omnibus Regulation as much as possible in the Cleaner Trucks Initiative. In addition, to encourage manufacturers to make one set of 50-state clean vehicles, CARB staff has proposed that the amendments include an option allowing manufacturers to voluntarily certify their engines to a proposed standard on a national basis, beginning in model year 2024.

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 HD Omnibus Regulation, CARB staff conducted a search of any similar regulations on this topic and concluded these regulations 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 HD Omnibus Regulation are presented below.

¹¹ Refer to footnote 8.

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 create costs or savings to any State agency, would create costs or savings in federal funding to the State, would create 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.

Cost to any Local Agency or School District 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 HD Omnibus Regulation is a mandate that would create costs and cost-savings to local agencies and school districts. However, these costs to local agencies are not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500). The mandate is not reimbursable because costs associated with the proposed HD Omnibus Regulation apply generally to all entities that purchase affected vehicles, including local agencies. Therefore, the regulation does not constitute a “Program” imposing any unique requirements on local agencies as set forth in section 17514 of the California Government Code.

Cost or Savings for State Agencies:

The proposed HD Omnibus Regulation implementation would create additional workload on CARB staff that would be impossible to absorb with existing staff resources. Staff estimates an addition of ten positions (two Air Pollution Specialists and eight Air Resources Engineers) would be needed to implement the proposed HD Omnibus Regulation:

- Two Air Resources Engineers would be required starting in 2024 to review certification applications using new strategies and technologies, and to manage and review the new standardized extended durability testing.
- Two additional Air Resources Engineers would be required starting in 2024 to coordinate test plans with manufacturers, implement new procedures, and verify submitted test data with the amended HDIUT program.
- Two additional Air Resources Engineers would be required starting in 2024 to review the NOx sensor data submissions and certify the additional OBD certification requirements associated with the newer technologies expected in low NOx engines.
- Two Air Resources Engineers would be required starting 2024 for increased enforcement at

dealerships due to the difference in emission standards compared to the federal program.

- Two Air Pollution Specialists would be required starting in 2027 to process anticipated increased EWIR claims and corrective actions.

Sales taxes are levied in California to fund a variety of programs at the state and local level. The proposed HD Omnibus Regulation would result in the sale of more expensive (higher upfront cost) vehicles as well as increased DEF consumption in those vehicles in California, which would result in higher sales taxes collected by the state government. The entire population of new California-sold vehicles and DEF consumption over the entire state was used for this analysis. State government collects about 46 percent of the total sales tax revenue (i.e., approximately 3.9 percent out of 8.6 percent of the sales tax rate) based on data from the REMI (Regional Economic Models, Inc.) model.

The Proposed Amendments could encourage California fleets to hold onto their existing vehicles slightly longer, to purchase used vehicles in lieu of new vehicles in California, or to purchase more out-of-state vehicles. Staff did not attempt to quantify any such changes in fleet purchase behavior and hence any state sales tax impacts of such changes in fleet purchase behavior are also not included.

The fiscal impacts to the state government due to the proposed HD Omnibus Regulation were estimated relative to baseline conditions. The net fiscal impact on state government in 2022 and 2023 would be \$1,000 and \$55,000 in revenue, respectively. Starting in 2024, state government would have an annual fiscal cost impact ranging from \$561,000 to \$1,496,000 within the considered regulations’ period of analysis.

Other Non-Discretionary Costs or Savings on Local Agencies:

Sales taxes are levied in California to fund a variety of programs at the state and local level. The Proposed Amendments would increase the upfront cost of each heavy-duty vehicle and engine sold in the state in 2024 and subsequent model years by about 0.5 to 10.4 percent. The Proposed Amendments would also require additional DEF fluid consumption in California, which would result in a direct increase in sales tax revenue collected by local governments. The average local tax rate in California is 0.853 percent. Overall, local sales tax revenue may increase less than the direct increase from vehicle sales if overall business spending does not increase.

Local government fleets are estimated to own 10.7 percent of California’s total heavy-duty vehicles. So, for example, in year 2025, local government fleets would face approximately \$6.09 million of the total statewide cost of \$56.9 million due to the Proposed

Amendments. Similarly, in year 2028, local government fleets would expect approximately \$16.1 million of the total statewide \$150 million in cost expected due to the Proposed Amendments.

The net fiscal impact on local government in 2022 would be a cost of \$11,000 and the ongoing fiscal impact on local government would range from \$165,000 to \$10.5 million in cost within the proposed HD Omnibus Regulation’s lifetime of 29 years.

Cost or Savings in Federal Funding to the State:

The proposed HD Omnibus Regulation is not expected to impose any costs or savings 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 HD Omnibus Regulation will not have a significant effect on 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 HD Omnibus Regulation 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))

MAJOR REGULATION: Statement of the Results of the Standardized Regulatory Impact Assessment (SRIA) (Gov. Code, § 11346.3, subd. (c)):

In February 2020, CARB submitted a Standardized Regulatory Impact Assessment (SRIA) to the Department of Finance (DOF) for its review. CARB has updated the proposed HD Omnibus Regulation since the original SRIA submittal, to reflect new information and address DOF comments. The revisions are discussed in the Initial Statement of Reasons (ISOR), Chapter IX.

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

The Proposed Amendments would result in a slightly negative employment impact from about 2022 to 2050. CARB staff expects the change in employment growth due to the Proposed Amendments would represent no

more than 0.01 percent of baseline California employment. CARB staff’s analysis predicts that as the requirements of the Proposed Amendments would go into effect, affected sectors would experience increases in production costs and hence decreases in employment growth. This includes the truck transportation, construction, and manufacturing sectors and upstream industries. The largest decrease in employment growth would manifest in the retail and wholesale trade sector, which is estimated to realize an increase in production costs due to the increased heavy-duty truck prices driven by the Proposed Amendments.

(B) The creation of new businesses or the elimination of existing businesses within the state.

The trend of increasing production costs for the truck transportation industry has the potential to result in a contraction or decrease in business in this industry if sustained over time. On the other hand, the projected increase in demand for automotive repair and services, motor vehicle parts manufacturing, and vehicle manufacturing resulting from the proposed HD Omnibus Regulation has the potential to result in an increase in growth for businesses in those industries if maintained for a long duration.

(C) The competitive advantages or disadvantages for businesses currently doing business within the state.

The proposed HD Omnibus Regulation would impose new emissions requirements on heavy-duty engine manufacturers. These manufacturers are headquartered and produce engines entirely outside of California for a national and international market. The costs for meeting the proposed HD Omnibus Regulation would increase costs to California fleets through an increase in new heavy-duty vehicle prices to truck buyers. The expected percent increases in vehicle’s up-front cost range between 0.5 and 10.4 percent and would be partially offset by savings starting in 2032.

Because U.S. EPA is concurrently working on a proposal to lower federal emission standards for the same engines affected by the proposed HD Omnibus Regulation, U.S. EPA’s Cleaner Trucks Initiative, it is not certain how much stricter the California standards will likely be compared to the federal standards. It is also not clear how the model year applicability would line up between the two programs. However, due to federal lead time requirements, it seems certain that California standards would be stricter than the federal standards for the model years 2024 through 2026. That means that at least for some model years, California would have slightly higher truck prices (potentially 0.5 to 3.0 percent higher) than in other states. This difference in California truck prices could affect heavy-duty truck fleets and heavy-duty truck dealers.

For heavy-duty truck fleets, in years when California emission standards are stricter than federal emission standards, fleets that buy trucks predominantly in California could be at a small competitive disadvantage versus fleets that buy trucks elsewhere. California fleets may react by trying to minimize the competitive disadvantage by holding onto old trucks slightly longer, purchasing used trucks, or purchasing out-of-state trucks. However, staff believes the impact of the proposed HD Omnibus Regulation would be mitigated by several factors. First, used trucks and engines must comply with CARB's Truck and Bus Regulation to legally operate and be registered with the California Department of Motor Vehicles (DMV). The Truck and Bus regulatory requirements, which are designed to reduce NOx and PM emissions, will mean it is illegal to register many older used trucks in California.

Second, purchases of new out-of-state trucks are forbidden as well. Vehicles with less than 7,500 miles on the odometer are considered new and may not legally be purchased by California fleets for operation in California or registered with California DMV. Any new vehicle submitted for California registration will be required to comply with California emissions regulations.

Under the proposed HD Omnibus Regulation, it is likely that there would be some financial incentive for fleets to purchase new vehicles outside of California and bring them in for registration when they no longer qualify as a "new vehicle" (i.e., after they have over 7,500 miles on the odometer). How strong the financial incentive is for the fleets depends on the location of the fleet's headquarters, shipping fees, the inconvenience of accumulating the necessary 7,500 miles for a vehicle to no longer be considered "new," and whether the prices of heavy-duty vehicles and engines in neighboring states significantly differ in response to the change of vehicle and engine prices in California.

Finally, some companies that operate trucking fleets may choose to relocate outside of California in order to avoid the regulatory costs, in instances that would be logistically and financially feasible for them.

In addition to fleets, the proposed HD Omnibus Regulation would impact California truck dealers as well. Because of the impact on fleets described above, overall new heavy-duty vehicle sales in California may decrease slightly versus what they would have been without the proposed HD Omnibus Regulation and sales outside California may increase slightly. Hence, California truck dealers could be at a small competitive disadvantage versus out-of-state dealers. However, as noted above, out-of-state sales by California fleets would be somewhat limited both by CARB's Truck and Bus Regulation and by the ban on bringing new vehicles in from out-of-state. In addition, any competitive disadvantage for California dealers would only exist to the

extent California emission standards are stricter than federal emission standards. It is not certain how much stricter the California standards would be compared to the federal standards, nor for precisely which model years California standards would be different.

Staff has thus concluded it is not possible to precisely quantify impacts on California competitiveness. CARB staff was unable to obtain complete information on business level responses to regulatory costs due to the highly competitive nature of the Truck Transportation Industry. In addition, CARB staff searched the literature and concluded that empirical research focusing on the impact of regulatory costs on heavy-duty vehicle and engine prices does not exist. A number of studies have explored the relationship between general cost increases and the likelihood of out-of-state or used truck and engine purchases. These studies found that there is a very wide range of estimates for how increased costs may impact purchasing behavior that the estimates are highly uncertain, and that these responses may change markedly in the span of only several years due to the dynamics of industry, and modern global economics.

(D) The increase or decrease of investment in the state.

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

The relative changes to growth in private investment due to the proposed HD Omnibus Regulation are estimated to result in a decrease of private investment of about \$38 million in 2028 and by \$48 million in 2050. Decreases in private investment are expected to be no more than 0.02 percent of baseline investment in any year.

(E) The incentives for innovation in products, materials, or processes.

The proposed HD Omnibus Regulation contains several elements that encourage innovation. The warranty, useful life, and EWIR amendments would incentivize production of more durable engine add-ons, parts, and systems. Engines operating with more durable parts would need less scheduled replacements and potentially could result in overall lower maintenance requirements with resulting savings. Manufacturing engines with more durable parts (or parts replaced less frequently) would result in generally more reliable operation, which would represent a positive externality resulting from the proposed HD Omnibus Regulation.

The proposed low-load cycle and more rigorous durability testing, and the option to transmit "real-time" data via telematics in lieu of some durability testing would provide CARB staff additional assurances

that the engine’s emission control technologies are effective and durable throughout the useful life of the engine. At the same time, they would help manufacturers better identify problems and take more immediate corrective action to improve their emission control systems. These more thorough testing techniques would help accelerate innovation and allow manufacturers to better optimize emission control systems, which could also eventually help reduce manufacturer costs associated with corrective action and recalls. All in all, the Proposed Amendments would support improved emission control technology performance while at the same time encourage innovation by manufacturers to meet the more stringent standards.

(F) 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 HD Omnibus Regulation is expected to achieve a reduction of 23.2 tpd of NOx by 2031, which is a key year in meeting the commitments called for in California’s SIP. The proposed HD Omnibus Regulation is expected to reduce NOx emissions by approximately 353,000 tons statewide between the years 2022 through 2050, and is expected to prevent nearly 3,900 deaths, as well as more than 1,300 hospitalizations and 1,800 emergency room visits. These health benefits equate to \$36.8 billion in expected monetized benefits from the Proposed Amendments, largely stemming from avoided premature mortality.

The proposed HD Omnibus Regulation would also result in benefits to businesses and the State of California as a whole, as summarized here and discussed in detail in the ISOR, Chapter V.

(G) Department of Finance SRIA Comments and Responses.

DOF Comments: Finance generally concurs with the methodology used to estimate impacts of the proposed regulations, with two exceptions.

1. While we appreciate the discussion on the interactions of the proposed regulations with other proposed regulations, the main impact analysis must be done relative to the legal baseline, which only accounts for existing regulations. The SRIA must incorporate a comprehensive discussion of impacts relative to the legal baseline, done in level of details similar to the current analysis which includes the proposed clean truck regulations as part of the baseline.
2. The SRIA must discuss the disparate impacts of the regulations on businesses and individuals. This should be done by clearly describing the number

and concentration of affected entities by region, business and fleet size, and industry, and by expanding the cost analysis from the up to \$9,000 cost per truck to cost per affected entity. In addition, given the existence of concurrent heavy-duty truck regulations, the additional effect of these proposed regulations might be particularly burdensome for small businesses and select industries. On the benefits side, health effects from improved air quality will vary based on differences in initial air quality across regions and among different socioeconomic groups.

Responses:

1. CARB staff’s original SRIA analysis submitted to DOF included the proposed ACT Regulation in the baseline calculations because both the proposed ACT Regulation and the Proposed Amendments affect the same manufacturers and vehicle categories in approximately the same timeframe. This was done to provide results that are more informative and likely to reflect the real impacts of the Proposed Amendments. However, to address DOF’s Comment 1, CARB staff has reanalyzed the impacts relative to the legal baseline which includes all existing laws and regulations. This revised analysis to compare with the original SRIA analysis is provided in the attachment to this Notice.
2. CARB staff has added information to respond to DOF’s Comment 2 that discusses the impacts of the Proposed Amendments by air basin and California fleets. All of the affected manufacturers are located outside of California so staff assumed that the direct cost impact on these manufacturers would be passed on to California fleets that purchase California-certified vehicles. The highest proportion of affected fleets would be registered in the South Coast, San Joaquin Valley, and San Francisco Bay Area air basins. More detailed information is included in the attachment to this Notice.

BUSINESS REPORT

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

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

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

In developing this proposed HD Omnibus Regulation, 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 Amendments.

There are no direct costs on individuals as a result of the Proposed Amendments. Individuals may see health benefits as described in the ISOR, Chapter V, Section E due to the statewide, regional, and local emission benefits of the Proposed Amendments. CARB staff estimates that manufacturers and fleets will see increased costs as a result of this rule and will likely pass the costs through to businesses that buy vehicles with affected engines in the state. Individuals may see macroeconomic indirect and induced benefits and costs; these costs are discussed in the ISOR, Chapter IX, Section E.

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

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed HD Omnibus Regulation would affect small businesses.

Based on California DMV 2017 registration data, small businesses, defined here as fleets of three or fewer medium- and heavy-duty vehicles (GVWR >10,000 pounds), represent 52 percent of the affected vehicle population due to the proposed HD Omnibus Regulation.

Similar to typical fleets, the actual cost impact on small fleets would depend on the number of new California-certified vehicles that fleets would purchase during the lifetime of this cost analysis. For a small fleet that would buy one new medium heavy-duty diesel vehicle with a 2024, 2027, or 2031 engine model year, the increase in net lifetime costs of ownership is estimated to be \$2,839, \$5,317, or \$5,814, respectively.

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

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

effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The analysis of such alternatives can be found in Chapter X of the ISOR for the proposed alternatives. Staff has discussed two alternative concepts in the ISOR, including accelerated timeline and voluntary national program. 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 HD Omnibus Regulation to U.S. EPA for approval as a revision to the SIP required by the federal Clean Air Act (CAA). The adopted HD Omnibus Regulation would be submitted as a SIP revision because it adopts regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to CAA.

ENVIRONMENTAL ANALYSIS

CARB's regulatory program, which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans for the protection and enhancement of the state's ambient air quality, has been certified by the California Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA) (14 CCR 15251(d)). Public agencies with certified regulatory programs are exempt from certain CEQA requirements, including but not limited to, preparing environmental impact reports, negative declarations, and initial studies. Instead, CARB, as a lead agency, prepares a substitute environmental document (referred to as an "Environmental Analysis" or "EA") as part of the Staff Report to comply with CEQA (17 CCR 60000-60008).

Because the Proposed Amendments implement two measures within CARB's Revised Proposed 2016 State Strategy for the SIP, "Low-NOx Engine Standard" and "Lower In-Use Emission Performance Level," the environmental impact of the Proposed Amendments were already examined as part of the EA for that Plan. The report is entitled: Final Environmental Analysis for the Revised Proposed 2016 State Strategy for the State Implementation Plan, or Final EA. The Final EA conclud-

ed that implementation of the SIP measures could result in short-term and long-term beneficial impacts to air quality, energy demand, and greenhouse gases. It further concluded that the proposed measures would result in less-than-significant impacts to: energy demand, hazards and hazardous materials, land use and planning, mineral resources, population and housing, public services, and recreational services. The Final EA also concluded that there could be potentially significant and unavoidable adverse impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, transportation/traffic, and utilities and service systems.

Staff has determined that no additional environmental review is required for the current Proposed Amendments because there are no changes proposed to the originally approved project that involve new significant environmental effects or a substantial increase in severity of previously identified significant effects than previously identified in the prior Final EA for the 2016 SIP. The basis for reaching this conclusion is provided in Chapter VII of the ISOR report.

SPECIAL ACCOMMODATION REQUEST

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

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

To request these special accommodations or language needs, please contact the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 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 Daniel Hawelti, Staff Air Pollution Specialist, On-Road Heavy Duty Diesel Section, at (626) 450-6149 or (designated back-up contact) Paul Adnani, Staff Air Pollution Specialist, at (626) 459-4476.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report (the Initial Statement of Reasons, or 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 Heavy-Duty Engine and Vehicle Omnibus Regulation and Associated Amendments.

Copies of the ISOR and the full text of the proposed regulatory language, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on June 23, 2020. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices may have limited public access. Please contact Chris Hopkins, Regulations Coordinator, at chris.hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents.

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

HEARING PROCEDURES

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

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for

adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before final adoption.

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2020/hdomnibus-lowNOx>

Attachment to Public Notice

[Because of ADA Website Compliance Requirements, OAL is unable to publish the various tables referred to below in the Notice Register. Please refer to the note below entitled "Proposed Heavy-Duty Omnibus Regulation Tables in Attachment" for the location of the tables referenced in this "Attachment to Public Notice."]

Responses to DOF's Comments on SRIA

DOF Comment 1: While we appreciate the discussion on the interactions of the proposed regulations with other proposed regulations, the main impact analysis must be done relative to the legal baseline, which only accounts for existing regulations. The SRIA must incorporate a comprehensive discussion of impacts relative to the legal baseline, done in level of details similar to the current analysis which includes the proposed clean truck regulations as part of the baseline.

The response to DOF's Comment 1 is provided below in Section I, SRIA Analysis based on Legal Baseline, which provides a cost and benefit impact analysis based on the legal baseline and done in a level of detail similar to that in the SRIA. In Section II, Impact of the Regulation on Affected Businesses, further relevant information concerning the lifetime cost and savings impact versus the legal baseline on vehicles of various model years is presented as well.

DOF Comment 2: The SRIA must discuss the disparate impacts of the regulations on businesses and individuals. This should be done by clearly describing the number and concentration of affected entities by region, business and fleet size, and industry, and by expanding the cost analysis from the up to \$9,000 cost per truck to cost per affected entity.

The response to DOF's Comment 2 is provided below in Section II, Impact of the Regulation on Affected Businesses.

I. SRIA Analysis based on Legal Baseline

In the SRIA, cost and benefit impacts were evaluated against the baseline scenario for the analysis period from 2022 through 2032. The baseline vehicle inventory includes the vehicle sales and population growth assumptions currently reflected in CARB's EMFAC emissions inventory model for combustion engines that are certified and intended for use in vehicles greater than 10,000 pounds GVWR and is the "legal baseline" for the Proposed Amendments. The current EMFAC model reflects implementation of currently existing state and federal laws and regulations including the Truck and Bus Regulation, Drayage Truck Regulation, idling restrictions and the Certified Clean Idle Regulation, Phases 1 and 2 GHG Regulation, ICT Regulation, and the Optional Low NOx Program. However, staff modified the legal baseline to reflect the proposed ACT Regulation, which would affect the same manufacturers and vehicle categories as the Proposed Amendments, and which would be implemented in approximately the same timeframe as the Proposed Amendments. The modified legal baseline was referred to as the "modeled baseline." CARB staff included the proposed ACT Regulation in the "modeled baseline" to allow for a more realistic analysis, as excluding it would have increased the apparent benefits and costs and decrease cost-effectiveness assigned to the Proposed Amendments. Including the proposed ACT Regulation in the modeled baseline provides results that are more informative and likely to reflect the real impacts of the Proposed Amendments. To address DOF's comment that "the SRIA must incorporate a comprehensive discussion of impacts relative to the legal baseline"; discussed below is a cost and benefit impact analysis based

on the legal baseline and done in a level of detail similar to that in the SRIA. (Note: The Proposed Amendments for which the cost and benefit impact analysis are presented below are for the Proposed Amendments as described in Tables A-2 to A-4 in the originally submitted SRIA. The stringency levels and other requirements differ in some ways compared to the Proposed Amendments discussed in the Staff Report. The differences between the Proposed Amendments in the originally submitted SRIA and the Proposed Amendments in the Staff Report are described in the Staff Report, Chapter IX. All cost and benefit impact analyses' methodologies remain the same as in the originally submitted SRIA.)

1. Benefits

a. Emission Benefits

The Proposed Amendments are designed to reduce NOx emissions from medium- and heavy-duty engines in vehicles with GVWR greater than 10,000 pounds by establishing more stringent emission standards and updating durability testing procedures, in-use testing procedures, warranty and useful life periods, as well as emission warranty information reporting. Table 1 shows the projected statewide NOx emission benefits for each calendar year 2022 through 2032. In 2031, NOx emission benefits are estimated to be approximately 25.7 tons per day statewide relative to the legal baseline. This table can be compared to Table B-1 in the SRIA, which by comparison, shows a 21.9 tons per day NOx benefit in 2031 relative to the modeled baseline.

Table 1: Projected Statewide NOx Emission Benefits from the Proposed Amendments for 2022 through 2032 Relative to the Legal Baseline

[Table — Removed]

b. Health Benefits

The Proposed Amendments would result in health benefits for individuals in California through reducing NOx emissions. The value of these health benefits is due to fewer instances of premature mortality, fewer hospital and emergency room visits, and fewer lost days of work. Table 2 shows the estimated avoided premature mortality, hospitalizations, and emergency room visits as a result of the Proposed Amendments for 2022 through 2032 by California air basin, relative to the legal baseline. Table 3 shows the annually estimated statewide-avoided premature mortality, hospitalization, and emergency room visits relative to the legal baseline. Table 4 shows statewide valuation of health benefits for 2022 through 2032 relative to the legal baseline.

Table 2: Regional and Statewide Avoided Mortality and Morbidity Incidents from 2022 through 2032 under the Proposed Amendments Relative to the Legal Baseline

[Table — Removed]

Table 3: Annual Statewide Avoided Mortality and Morbidity Incidents under the Proposed Amendments Relative to the Legal Baseline

[Table — Removed]

Table 4: Statewide Valuation from Avoided Health Outcomes under the Proposed Amendments Relative to the Legal Baseline

[Table — Removed]

c. Cost Savings

Although overall the Proposed Amendments would increase vehicle prices and DEF consumption and thereby impose costs on vehicle owners, the Proposed Amendments would provide savings to the vehicle owners as well through the proposed lengthened warranty periods, lengthened useful life periods, and EWIR. Table 5 shows estimates of the average lifetime savings per vehicle due to the Proposed Amendments for vehicle purchases made between 2022 and 2032. Vehicles purchased in 2022-2026 would only incur EWIR savings as the proposed warranty amendment would not be in effect until the 2027 engine model year. Vehicles purchased in 2027 and later would incur both EWIR and warranty savings. Lifetime savings estimates include savings from warranty and the EWIR amendments. The longer useful life would encourage development of more durable components; however, it is not possible to determine how many fewer repairs would result from the improved durability; hence, staff did not quantify savings from longer useful life.

Table 5: Lifetime Savings to Vehicle Owners from a Vehicle Purchased in 2022-2032 (2018\$ Per Vehicle) Relative to the Legal Baseline

[Table — Removed]

2. Costs

The Proposed Amendments would require engine manufacturers to produce lower-emitting medium- and heavy-duty combustion engines, which would increase upfront production and operational costs, compared to preexisting engines. These costs would likely

be passed on to the engine/vehicle operators (i.e., medium- and heavy-duty fleets).

a. Direct Cost

Table 6 summarizes the total statewide cost on California businesses due to the Proposed Amendments by each proposed amendment from 2022 to 2032. All costs are evaluated relative to the legal baseline scenario in 2018 dollars. As shown, the total cost impact from 2022 to 2032 was estimated at approximately \$1.15 billion. The estimated incremental cost per truck by truck class for the 2025 and 2028 model years is shown in Table 7.

Table 6: Projected Statewide Costs under the Proposed Amendments from 2022 through 2032 Relative to the Legal Baseline (2018\$)

[Table — Removed]

Table 7: Estimated Incremental Cost Per Truck by Truck Class for 2025 and 2028 for the Proposed Amendments Relative to the Legal Baseline (2018\$)

[Table — Removed]

b. Macroeconomic

For the legal baseline scenario, the Macroeconomic analysis utilized the updated cost and benefit figures provided in Table 4, 5, and 6. This Macroeconomic analysis utilized the same methodology and REMI version as described in the original SRIA. The results of this analysis show similar positive output and employment gains for Motor Vehicle Parts Manufacturing (3363) and Vehicle Repair and Maintenance (8111). However, across other industries and sectors, the results of this analysis show negative trends and growth as a result of the Proposed Amendments (see Table 8). Many sectors such as Gross State Product (GSP), output, and employment show a reduction of negative impacts to neutral impacts in year 2032, which is due to the increased savings for industry generated at this year of the implementation of the Proposed Amendments and employment gains in the Vehicle Repair and Maintenance Industry (8111).

Table 8: Summary of Macroeconomic Impact of the Proposed Amendments from 2022 through 2032 Relative to the Legal Baseline

[Table — Removed]

3. Fiscal Impact

a. Local Government

The Proposed Amendments are expected to have a fiscal impact on local government fleets who would purchase California-certified vehicles. Local government would also have increased sales tax revenue through the increased cost of the new vehicles. Table 9 shows the estimated fiscal impact to local government due to the Proposed Amendments relative to the legal baseline.

Table 9: Fiscal Impact on Local Government under the Proposed Amendments Relative to the Legal Baseline (2018\$)

[Table — Removed]

b. State Government

The Proposed Amendments are expected to have a fiscal impact on state government agencies from purchasing the California-certified vehicles, increased sales tax revenue, and CARB staffing required to coordinate and enforce the Proposed Amendments with engine manufacturers. Table 10 shows the estimated fiscal impact to state government due to the Proposed Amendments relative to the legal baseline.

Table 10: Fiscal Impact on State Government under the Proposed Amendments Relative to the Legal Baseline (2018\$)

[Table — Removed]

4. Alternatives

a. Alternative 1:

Alternative 1 would have the same elements contained in staff’s Proposed Amendments but would be implemented on an earlier timeline than the schedule outlined in staff’s proposal.

Table 11 summarizes the total statewide cost on California businesses due to Alternative 1 by each proposed amendment from 2022 through 2032. All costs are evaluated relative to the legal baseline scenario in 2018 dollars. As shown, the total cost impact from 2022 to 2032 was estimated at approximately \$1.28 billion.

Table 11: Projected Statewide Costs under Alternative 1 from 2022 through 2032 Relative to the Legal Baseline (2018\$)

[Table — Removed]

Table 12 presents emission benefits for Alternative 1. The accelerated implementation schedule would provide additional NOx benefits as compared to the Proposed Amendments. Table 13 presents valuation of the health benefits resulting from Alternative 1. Table 14 presents the change in growth of economic indicators for Alternative 1.

Table 12: NOx Benefits with Alternative 1 Relative to the Legal Baseline

[Table — Removed]

Table 13: Valuation of Statewide Health Benefits for Alternative 1 Relative to the Legal Baseline

[Table — Removed]

Table 14: Change in Growth of Economic Indicators for Alternative 1 Relative to the Legal Baseline

[Table — Removed]

Although Alternative 1 would achieve greater NOx reductions sooner, the accelerated schedule of Alternative 1 would not provide enough lead time for the development of the interim engines in 2022 and the low NOx engines in 2024. Without sufficient time for engine manufacturers to conduct research, development, and durability testing, products will not be able to meet the stringent criteria. Manufacturers have identified that five to six years of lead time would be required for full product development, from proof of concept to production product. The Proposed Amendments provide manufacturers with necessary lead time for engineering development for the changes required in 2024 and the more significant changes needed in 2027 (i.e., cylinder deactivation and light-off SCR). Because Alternative 1 did not provide the necessary lead time for engineering development, it was rejected.

b. Alternative 2:

Under Alternative 2, engine manufacturers would volunteer to nationally certify to a NOx standard that would be less stringent than the standard in the Proposed Amendments.

Table 15 summarizes the total statewide cost on California businesses due to Alternative 2 by each proposed amendment from 2022 through 2032. All costs are evaluated relative to the legal baseline scenario in 2018 dollars. As shown, the total cost impact from 2022 to 2032 was estimated at approximately \$0.20 billion.

Table 15: Projected Statewide Costs under Alternative 2 from 2022 through 2032 Relative to the Legal Baseline (2018\$)

[Table — Removed]

Table 16 presents emission benefits for Alternative 2. Table 17 presents valuation of the health benefits resulting from Alternative 2. Table 18 presents the change in growth of economic indicators for Alternative 2.

Table 16: NOx Benefits with Alternative 2 Relative to the Legal Baseline

[Table — Removed]

Table 17: Valuation of Statewide Health Benefits for Alternative 2 Relative to the Legal Baseline

[Table — Removed]

Table 18: Change in Growth of Economic Indicators for Alternative 2 Relative to the Legal Baseline

[Table — Removed]

Although Alternative 2 would be more cost-effective than the Proposed Amendments, it was rejected for not achieving the NOx emission reductions needed to achieve California’s air quality goals. Alternative 2 provides less health benefits for Californians, and EMA’s proposal to include reductions from a voluntary national standard for out-of-state trucks operating in California could not be enforced since California does not have the authority over engines sold outside of California. To ensure engines outside of California meet the proposed Alternative 2 standards, the engine manufacturers would need to develop a legally binding agreement. The enforceability of such an agreement is unclear. It is also unclear if U.S. EPA could enforce a voluntary national program agreement without a new rulemaking. For all the reasons described above, and most importantly because it is not clear how EMA’s proposal for a voluntary national standard could be enforced in California, Alternative 2 was rejected.

II. Impact of the Regulation on Affected Businesses

CARB staff has added information in response to DOF’s request that, “the SRIA must discuss the disparate impacts of the regulations on businesses and individuals. This should be done by clearly describing the number and concentration of affected entities by region, business and fleet size, and industry, and by expanding the cost analysis from the up to \$9,000 cost per truck to cost per affected entity.” Detailed information on impacted businesses is discussed further below.

Medium- and heavy-duty engine/vehicle manufacturers (NAICS 3363 and 3361) would be the regulated entities under the Proposed Amendments. Staff estimated the number of impacted engine/vehicle manufacturers based on CARB’s certification data, which indicated that there are 31 medium- and heavy-duty engine and vehicle manufacturers certifying their new engines and vehicles with CARB, among which there are 10 small businesses (or 32 percent).

Since all of these manufacturers are located outside of California,¹ staff assumes the direct cost impact on these manufacturers would be passed on to California fleets (Truck Transportation — NAICS 484) that purchase California-certified vehicles. Staff estimated the number of impacted California fleets using 2017 DMV registration data, which indicated that there are 290,775 fleets (GVWR >10,000 pounds, including owner operators) registered in California, among which there are 267,718 small businesses (or 92 percent). Table 19 shows the number of affected fleets and fleet distribution by California air basin.² As Table 19 shows, the highest proportion of affected fleets would be registered in the South Coast air basin, with the next highest portion in San Joaquin Valley and San Francisco Bay Area.

Table 19: Number of Medium- and Heavy-Duty California Fleets Impacted by the Proposed Amendments by Air Basin

[Table — Removed]

The actual cost impact on fleets would depend on the number of new California-certified vehicles that fleets would purchase during the lifetime of the analysis. However, there is insufficient data to estimate the actual number of new vehicles each fleet would purchase per

¹ All the affected engine manufacturers are located outside California. However, a number of heavy-duty ZEV manufacturers who could generate credits under the Proposed Amendments are located in California.

² A map of California air basins is available on CARB’s website at <https://ww3.arb.ca.gov/ei/maps/2017statemap/abmap.htm>.

year, given that purchasing habits of each particular fleet is difficult to predict. Due to this data limitation, the average annual cost per impacted business was estimated by dividing the annual statewide costs by the number of impacted California fleets regardless of fleet size. Table 20 and 21 (which correspond to Table C-46 and C-47 in the SRIA) show examples of lifetime cost and savings impacts on fleets per each vehicle purchase in 2025 and 2028. Table 22 summarizes the estimated average annual cost per impacted fleet from 2022 to 2032. The average annual cost for an impacted business (small or typical business) would range from \$60 to \$592 within the considered regulation’s lifetime of 11 years, with the highest cost in 2032.

Table 20: Lifetime Cost and Savings Impact on a 2025 MY Vehicle Purchased under the Proposed Amendments (Relative to Legal Baseline) (2018\$)

[Table — Removed]

Table 21: Lifetime Cost and Savings Impact on a 2028 MY Vehicle Purchased under the Proposed Amendments (Relative to Legal Baseline) (2018\$)

[Table — Removed]

Table 22: Average Annual Incremental Cost per Impacted California Fleet from 2022 to 2032 under the Proposed Amendments (Relative to Legal Baseline) (2018\$)

[Table — Removed]

Proposed Heavy-Duty Omnibus Regulation Tables in Notice vs Tables in ISOR

Note: This document explains the location of where the tables in the Notice can be found in the ISOR. The Notice table’s location and title is followed by the ISOR table’s location and title directly below. Please note that the Notice Page numbers refer to the Board’s 8 1/2 x 11 issued Notice, not the pages in the Notice Register.

Notice page 8: Table 1. Proposed Heavy-Duty Diesel- and Otto-Cycle Engine NOx Standards (Model Year 2024 to 2026).

ISOR page ES-8: Table ES-1. Proposed Heavy-Duty Diesel- and Otto-Cycle Engine NOx Standards (MY 2024 to 2026)

Notice page 8: Table 2. Proposed Heavy-Duty Diesel- and Otto-Cycle Engine NOx Standards (Model Year 2027 and Subsequent)

ISOR page III-8: Table III 3. Proposed Heavy-Duty Diesel- and Otto-Cycle Engine NOx Standards for 2027 and Subsequent

Notice page 9: Table 3. Current and Proposed Useful Life Periods

ISOR page III-57: Table III-14. Current and Proposed Heavy-Duty Useful Life Periods

Notice page 10: Table 4. Current and Proposed Warranty Periods

ISOR page III-44: Table III-10. Current and Proposed Heavy-Duty Diesel Warranty Periods

Notice page 13: Table 5. Projected NOx Emission Benefits from the Proposed Amendments (tpd)

ISOR page V-3: Table V-1. Projected NOx Emission Benefits from the Proposed Amendments Statewide and for the South Coast and San Joaquin Valley Air Basins

Notice page 14: Table 6. Projected Cost Impact of the Proposed Amendments to Manufacturers

ISOR page ES-14: Table ES-5. Projected Cost Impact of the Proposed Amendments to Manufacturers (2018\$)

Notice page 14: Table 7. Net Cost Impact of a Vehicle with Engine Model Year 2031 or Later Under the Proposed Amendments (2018\$)

ISOR page ES-16: Table ES 8. Net Cost Impact of a Vehicle with Engine MY 2031 and Subsequent Under the Proposed Amendments (2018\$)

Proposed Heavy-Duty Omnibus Regulation

Tables in Notice Attachment

Please note that the tables in the Attachment to the Notice do not correspond to the tables in the ISOR nor any other tables in the appendices. The Attachment to the Notice is CARB's response to DOF's comments on our Standardized Regulatory Impact Assessment, (SRIA), which is posted on DOF's website at http://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_Regulations_Table/documents/CARB%20SRIA%20Heavy%20Duty%20Engine%20Standards.pdf. CARB is required to respond in the Public Notice to DOF's comments on the SRIA; DOF's comments are at http://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_Regulations_Table/documents/ARB-Low-NOx-SRIA-Finance-Comments-2020.pdf.

The SRIA presented an earlier, different proposal than that contained in the ISOR. Hence, the tables in the response to the SRIA comments differ from those in the ISOR and its appendices. Therefore, the tables in the Attachment to the Notice do not match any other tables. We suggest that, instead of referring to tables in the ISOR, OAL instead refer to the tables in the Notice and the Attachment that will be posted on the CARB website.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

"CAMPING FEE AMENDMENTS, 2020"

Title 14 of the California Code of Regulations (CCR) Division 1.5, Chapter 9, Subchapter 1, Article 2, Section 1401.1

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.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. All written comments must be received by the Board office via mail, facsimile, e-mail, or hand delivery no later than **August 10, 2020**.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Program 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.

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Any request should be made to the contact person information provided above.

AUTHORITY AND REFERENCE
(pursuant to GOV § 11346.5(a)(2) and
1 CCR § 14 and 14 CCR § 1122)

Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4652 and 4656.1, Public Resources Code.

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

Public Resources Code (PRC) 4656.1 provides the Board of Forestry and Fire Protection (Board) authority to “. . . establish rules and regulations . . . for the preservation, protection, and use of state forests . . .” and PRC § 4652 allows the Department of Forestry and Fire Protection (CAL FIRE) to “collect recreational user fees for overnight camping and reserved group activities in a demonstration state forest”, provided that those fees do not exceed the costs of maintenance of and improvements to the campgrounds and associated facilities, environment, and access.

Demonstration state forests are forest lands which are owned by the state and managed and administrated by CAL FIRE. Currently, there are eight demonstration state forests throughout California, totaling over 69,000 acres. These public lands are managed to focus on demonstration of commercial timber management, plantation management, ecosystem restoration, fire prevention, recreation, and monitoring. Though the extent by which recreational opportunities are available varies among the state forests, many of the forests offer extensively developed camping, hiking, hunting, and fishing opportunities to the public.

Though all management activities require some form of initial cost, the administration and management of recreational opportunities within the state forests present significant and ongoing capital requirements. CAL FIRE spends roughly \$391,600 annually on the maintenance and development of recreational facilities on the state forests for the enjoyment of the public.

The problem is that increasing demand and use of recreational facilities on some of the state forests has resulted in growing costs of maintenance and development of these resources. When the Board initially

adopted fees for the Demonstration State Forests in 2018, it was understood that the fees which were established were insufficient to cover the full costs of maintaining and improving campgrounds. Since that time, however, the Department has had a desire to increase funding in order to cover more of the costs of maintaining and improving the campgrounds.

Additionally, the existing schedule of fees requires a fee for overnight camping and an additional fee for an additional vehicle at designated camping areas, with a maximum of two vehicles. The Department has indicated that implementation and enforcement of this provision has been difficult and that simplified regulations which allow for two vehicles under the standard camping fee would make enforcement of these provisions more efficient.

The effect of this proposed action is to revise and simplify the fees for overnight camping at specific demonstration state forests.

The primary benefit of the proposed action is to provide funds for the ongoing maintenance and improvement of campgrounds and associated facilities on Jackson, Mountain Home, and Boggs Mountain Demonstration State Forests. These funds will allow CAL FIRE to provide continued recreational opportunities to the regulated public and allow for improvements to existing camping and bathroom facilities, thereby ensuring maintained environmental quality in those areas.

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 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 camping fees on the Demonstration State Forests 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.

Statute to which the proposed action was compared: Public Resources Code Section 4652.

**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 the administration of state forests. 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 represents a continuation of existing regulations related to existing camping fees on the Demonstration State Forests.

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 or directly affect business. There will be no impact on the ability of California businesses to compete with businesses in other states as these regulations will not make 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 state forest policy and regulation 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:

- Will not create jobs within California (GOV § 11346.1(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.1(b)(1)(A));
- Will not create new businesses within California (GOV § 11346.1(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.1(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.1(b)(1)(C)); and
- Will yield nonmonetary benefits (GOV § 11346.1(b)(1)(D)). For additional information on the benefits of the proposed regulation, please see anticipated benefits found under the “Introduction Including Public Problem, Administrative Requirement, or Other Condition

or Circumstance the Regulation is Intended to Address”.

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

The Board is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This initial determination is based on the same record facts, evidence, documents, testimony, or other evidence as listed as the basis for the Significant Statewide Adverse Economic Impact.

The average expected use of designated camping areas is approximately 5,600 uses per year.

The total impact from average use is expected to be approximately \$61,780 annually. A representative individual is likely to utilize a campsite for a weekend (two nights) with one vehicle. The representative individual will be subjected to an economic impact of between \$10 and \$30, which is representative of the maximum differences in camping fee change (\$5/day versus \$15/day).

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 not incur a detriment from the enforcement of the regulation if they do not comply with the regulation.

Pursuant to 1 CCR § 4(b), the reason(s) the regulation affects 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: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Hedge 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 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 submitted comments during the public comment period, 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 website at: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

**“Tethered Operation Amendments, 2020”
Title 14 of the California Code of Regulations
Division 1.5, Chapter 4,
Subchapters 4, 5, & 6, Article 4
Subchapter 7, Articles 2, 6.5, 6.8, and 6.95**

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 August 19, 2020, at its regularly scheduled meeting commencing at 9:00 a.m., at the Natural Resources Building Auditorium, 1416 9th Street, Sacramento, 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 at the conclusion of the public hearing on August 19, 2020.

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: Eric Hedge
Regulations Program 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.

AUTHORITY AND REFERENCE (pursuant to GOV § 11346.5(a)(2) and 1 CCR § 14 and 14 CCR § 1122)

Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4514.3,

4527, 4551.5, 4562.5, 4562.7, 4582, 4584, 4584.2, 4592, 4593.3, 4594, 4597.2 and 4597.11 Public Resources Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

(pursuant to GOV 11346.5(a)(3)(A)–(D))

Pursuant to the Z’berg–Nejedly Forest Practice Act of 1973, PRC § 4511, et seq. (FPA) the State Board of Forestry and Fire Protection (Board) is authorized to construct a system of forest practice regulations applicable to timber management on state and private timberlands.

PRC § 4551 requires the Board to “. . . adopt district forest practice rules . . . to ensure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources . . .” and PRC § 4553 requires the Board to continuously review the rules in consultation with other interests and make appropriate revisions.

Furthermore, PRC § 4551.5 requires that these regulations adopted by the Board “. . . apply to the conduct of timber operations and shall include, but shall not be limited to, measures for fire prevention and control, for soil erosion control, for site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities, for water quality and watershed control, for flood control, for stocking, for protection against timber operations that unnecessarily destroy young timber growth or timber productivity of the soil, for prevention and control of damage by forest insects, pests, and disease . . .”.

The regulations related to harvesting practices and erosion control for tractor operations and cable operations in the Forest Practice Rules (Rules) within the Coast, Northern, and Southern Forest Districts within 14 CCR §§ 914.2 & 914.3, 934.2 & 934.3, and 954.2 & 954.3, respectively, were initially adopted, in their modern incarnation, in 1989 and, aside from some minor amendments, remain largely as they were initially adopted. Since this time, however, both logging practices, and other regulations which govern their operations have grown and changed in the 31 years following initial adoption.

One of the recent developments in logging practices is the use of cable–winch systems to assist ground–based equipment with timber harvesting on steep slopes, a practice which is often referred to as “tethered logging”. Traditionally, logging operations on steep slopes utilize cable yarding, or cable operations, which involves manual tree falling and cable rigging in difficult terrain, a process which is labor–intensive, costly, and extremely hazardous. Due to these issues surround-

ing traditional cable operations, available timber operators with the equipment to engage in such operations are becoming more and more scarce, which creates an issue for those property owners or managers who seek to actively manage forested landscapes which are steep.

Tethered logging operations combine the use of ground–based equipment with a cable–tension system in order to increase the machine’s traction to prevent slippage. The increase in traction allows the machine to work on steeper slopes than would otherwise be possible while reducing the ground disturbance of the machine. These systems have been used to increase the operating range of ground–based equipment and reduce the need for hand–fallers and/or cable yarding systems.

The improved traction provided by the cable–winch assistance in Tethered Operations may provide for improvements in forest health related to soil health and erosion control. One of the key components of forest management is the maintenance of soil productivity and the minimization of soil compaction plays a critical role in the maintenance of such productivity. Soil compaction can contribute to erosion, and may negatively affect environmental quality of aquatic ecosystems and downstream resources. The use of cable–winch systems with heavy ground–based machines can provide for much more evenly distributed, or reduced, ground pressures in certain instances, resulting in potentially reduced soil compaction and reduced degradation of soil productivity.

The **problems** that this proposed action seeks to address are that the existing Rules do not accommodate, or provide any certainty in use of, these Tethered Operations. To be clear, the current Rules do not exclude the use or implementation of Tethered Operations, instead they are treated as an alternative practice within the rules and additional explanation and justification is generally necessary to implement their use. Furthermore, given the ground–cable hybrid nature and general novelty of these systems, some confusion may exist related to how current regulations apply to these systems.

Additionally, many of the existing provisions of the Coast, Northern, and Southern Tractor and Cable Operation regulations within 14 CCR §§ 914.2 & 914.3, 934.2 & 934.3, and 954.2 & 954.3, respectively, are unclear or otherwise redundant, inconsistent, or simply outdated in light of other existing modern forest practice regulations related to ground–based and cable timber operations.

The **purpose** of the proposed action is to: 1) provide for the implementation of specific tethered logging systems for use in timber operations within the Rules and clarify what manner of system is intended for such use in Tethered Operations; 2) improve the clarity and consistency of certain existing regulations related to har-

vesting practices and erosion control by using modern and defined terminology and regulations; 3) eliminate redundancy within existing regulations; 4) provide for appropriate disclosure in order to support the enforcement of those purposes described above.

The **effect** of the proposed action is to: 1) provide regulatory certainty around the role and application of tethered logging operations within the Rules; 2) create more straightforward and streamlined requirements for the regulated public surrounding the application of rules related to tractor and cable Timber Operations; 3) provide clarity for the implementation and enforcement of Tractor and Cable Operation regulations.

The **benefit** of the proposed action is a regulatory scheme with improved clarity related to the use of Tethered Operations. Such an improvement in the clarity of use of tethered equipment is likely to lead to an increase in purchasing and utilization of such equipment, which is likely to improve worker health and safety over traditional Cable Operations, as mechanized Timber Operations (such as those used in Tethered Operations) have injury rates almost seven times lower for mechanized systems as compared to hand-falling and non-mechanized systems.

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 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 the conduct of timber operations and mechanized timber operations within 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.

Statutes to which the proposed action was compared: 4512, 4513, 4527, 4551, 4551.5 and 4554, Public Resources Code.

Regulations to which the proposed action was compared: Subchapter 13, Chapter 4, Division 1, Title 8 of the California Code of Regulations; Article 4, Subchapters 4, 5, & 6, Chapter 4, Division 1.5, Title 14, California Code of Regulations.

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 management plans for the non-industrial harvesting of timber. 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 represents a continuation of existing forest practice regulations related to the conduct of timber operations and will result in any direct or indirect costs or savings to any state agency.

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 forest practice 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:

- Will not create jobs within California (GOV § 11346.3(b)(1)(A));
- Will not eliminate jobs within California (GOV § 11346.3(b)(1)(A));
- Will not create new businesses (GOV § 11346.3(b)(1)(B));
- Will not eliminate existing businesses within California (GOV § 11346.3(b)(1)(B));
- Will not affect the expansion or contraction of businesses currently doing business within California (GOV § 11346.3(b)(1)(C));
- Will yield nonmonetary benefits (GOV § 11346.3(b)(1)(D)). 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.

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: Eric Hedge
 Regulations Program Manager
 P.O. Box 944246
 Sacramento, CA 94244-2460
 Telephone: (916) 653-8007

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.

The designated backup person in the event Mr. Hedge 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.

INTERNET ACCESS

All of the material referenced in the Availability Statements is also available on the Board website at: <https://bof.fire.ca.gov/regulations/proposed-rule-packages/>.

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.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to repeal Sections 3650 and 3654 of Title 15, Division 3, Chapter 1, regarding Registration Notification.

PUBLIC COMMENT PERIOD

The public comment period begins **June 26, 2020** and closes on **August 14, 2020**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

No public hearing is scheduled for these proposed regulations; however, pursuant to Government Code Section 11346.8, any interested person or their duly authorized representative may request a public hearing, no later than 15 days prior to the close of the written comment period.

CONTACT PERSONS

Primary Contact

R. Rodriguez
 Telephone: (916) 445-2217
 Regulation and Policy Management Branch
 P.O. Box 942883
 Sacramento, CA 94283-0001

Back-Up

Y. Sun
 Telephone: (916) 445-2269
 Regulation and Policy Management Branch
 P.O. Box 942883
 Sacramento, CA 94283-0001

Program Contact

Ayla Williams
Telephone: (916) 323-0474
Division of Adult Parole

AUTHORITY AND REFERENCE

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

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR. **PC Section 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the Department require adoption, amendment, or repeal of a regulation on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

The passage of Assembly Bill 1261 (2019) removed the requirement that individuals convicted of specified controlled substance offenses register with local law enforcement for the narcotics registry. These proposed regulations are necessary to comply with the statutory changes to Health and Safety Code sections 11590, 11591, 11591.5, and 11594 as well as the repeal of sec-

tions 11592, 11593, and 11595 concerning the narcotics registry.

This action will:

Repeal Sections 3650 and 3654, Registration, removing all mentions of the requirement for an inmate/parolee to register with local law enforcement for controlled substance offenses with the narcotics registry.

DOCUMENTS INCORPORATED
BY REFERENCE

Not applicable.

SPECIFIC BENEFITS ANTICIPATED BY THE
PROPOSED REGULATIONS

The proposed benefits of the regulation change will update the California Code of Regulations to comply with the new Health and Safety Code requirements, and remove the existing law requirements for local law enforcement to forward a statement, finger prints and photographs to the Department of Justice within 3 days after the individual registered.

EVALUATION OF
INCONSISTENCY/INCOMPATIBILITY WITH
EXISTING LAWS AND REGULATIONS

The Department evaluated whether or not there were any other regulations in this area and determined that these are the only regulations concerning registration notification. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed regulations 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, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by helping to provide greater financial assistance to exonerated persons, which will assist them with reintegration back into their communities.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

**TITLE 16. PHYSICAL THERAPY
BOARD OF CALIFORNIA**

Substantial Relationship Criteria §1399.20
Rehabilitation Criteria for Denial and
Reinstatement of Licensure §1399.21
Rehabilitation Criteria for Suspensions or
Revocations §1399.22 of the
California Code of Regulations

The Physical Therapy Board of California (Board) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing, from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request, in writing, addressed to the individuals listed under “Contact Person” in this Notice.

WRITTEN COMMENT PERIOD

Any interested person, or his/her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at 916 263–2560 or by e-mail to brooke.arneson@dca.ca.gov. The written comment period closes at **11:59 p.m. on August 11, 2020**. The Board will consider only comments received at the Board’s office by that time. Submit comments to:

Brooke Arneson, Administrative Analyst
Physical Therapy Board of California
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815

Or:
Via email to: brooke.arneson@dca.ca.gov
Or:
By facsimile (FAX) at: 916 263–2560

AUTHORITY AND REFERENCE

Business and Professions Code (BPC) sections 141, 480, 481, 482, 490, 493, and 2615 authorize the Board to adopt this proposed regulation. The proposed regula-

tion implements, interprets, and makes specific sections 141, 480, 481, 482, 488, 490, 493, 2660 and 2661 of the BPC.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The Board licenses physical therapists (PT), who are licensed health care practitioners that provide physical therapy services, and physical therapy assistants (PTA), who are licensed health care practitioners that provide physical therapy services under the supervision of a licensed physical therapist (BPC section 2630.3). Existing law (BPC sections 480 and 490) authorizes the Board to deny an application for licensure or discipline a PT or PTA based on a conviction for a crime or act substantially related to the licensed business or profession. BPC section 481 authorizes the Board to develop criteria for determining whether a crime or act is substantially related to the qualifications, functions, or duties of the physical therapy profession. BPC section 482 requires the Board to develop criteria to evaluate an applicant’s or licensee’s rehabilitation when considering the denial or discipline of a PT or PTA license. Consistent with that authority, the Board has adopted regulations that set forth its substantial relationship criteria and rehabilitation criteria for crimes or acts considered substantially related to qualifications, functions, or duties of a PT or PTA licensee.

Effective July 1, 2020, under the provisions of Assembly Bill (AB) 2138 (Statutes 2018, Chapter 995), the Board’s existing authority to deny an applicant a license, based upon a substantially related criminal conviction, will significantly change. This proposal seeks to update the Board’s current regulations, consistent with this legislation, and to more accurately reflect the Board’s authority to consider denials, discipline or petitions for reinstatement or modification of penalty.

Effective July 1, 2020, BPC section 481, subsection (b), will require the Board’s existing substantial relationship criteria regulations to include all the following:

- the nature and gravity of the offense;
- the number of years elapsed since the date of the offense; and
- the nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

Further amendments to the Board’s regulations are needed to address other changes to law enacted by AB 2138. These amendments include the addition of references to “professional misconduct,” as this will be considered a legal basis for denial under BPC section 480. The proposed language will also add references to discipline under BPC section 141 because substantially related acts that are the basis for discipline in another ju-

risdiction may be used to discipline a licensee under that section. Also, the Board proposes adding new rehabilitation criteria to help the Board consider whether an applicant or licensee made a “showing of rehabilitation,” as required by AB 2138 (BPC §§ 480 and 482, as added by AB 2138, §§ 4 and 9.) This proposal also implements changes to how the board considers rehabilitation evidence when considering denials, discipline or a petition for reinstatement of a license or modification of a disciplinary penalty (e.g., petition for early termination of probation).

Anticipated Benefits of the Proposed Regulation:

The proposed amendments will place applicants and licensees on notice that the Board is statutorily authorized to deny, suspend, or revoke a license because of professional misconduct and discipline taken by another licensing board or jurisdiction. The proposal also makes relevant parties (e.g., Deputy Attorneys General, Administrative Law Judges, respondents, and respondents’ legal counsel) aware that, when considering denial or discipline of applicants or licensees, the Board uses the listed criteria to determine whether the crime, act, or professional misconduct is substantially related to the practice of physical therapy.

AB 2138 was enacted to reduce licensing and employment barriers for people who are rehabilitated. These proposed amendments further that goal by adopting criteria that emphasize an applicant’s or licensee’s rehabilitative efforts and what is needed to make a showing of rehabilitation. This may lead to fewer denials and an increase in the number of licensed PTs and PTAs in the marketplace, thereby allowing more health care providers to treat the increasing numbers of California medical consumers.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

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

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.
 Cost or savings to any state agency: The Board anticipates minor and absorbable costs to the state as a result of amending the regulations. By defining the substantial relationship and rehabilitation criteria, Board staff may see an increased workload in researching convic-

tions and to substantiate that rehabilitation was achieved.

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: 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.

Statewide adverse economic impact directly affecting businesses and individuals: None.

Significant effect on housing costs: None.

Business Impact:

This regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

The Board currently has 40,499 licensees, including those licensees who are either inactive, retired or delinquent. During the 2016/2017 fiscal year, the Board issued 2180 licenses and denied 4, in 2017/2018, the Board issued 2454 licenses and denied 11, and in 2018/2019, the Board issued 2437 licenses and denied 2. Therefore, the Board has denied less than 1% of all applicants.

Overall, the Board has denied less than 1% of all applicants since 2016; therefore, this proposal will not have an adverse economic impact. AB 2138 was enacted to reduce licensing and employment barriers for people who have been convicted of a crime, or due to acts underlying the conviction, who have a certificate of rehabilitation, were granted clemency, made a showing of rehabilitation, or the conviction was dismissed or expunged. These amendments will further assist that effort through the adoption of standards designed to implement new substantial relationship and rehabilitation criteria. As a result, it is anticipated that there may be fewer denials or disciplinary actions, based upon criminal convictions, and, therefore, no significant or statewide adverse economic impacts are anticipated.

Effect on Small Business:

The Board has determined that the proposed regulation will not affect small businesses because the proposal is not large enough to affect businesses. Historically, similar regulations adopted by the Board resulted in less than 1 percent (1%) of all applicants being denied. Even assuming the number of denials or discipline will decrease, as a result of these amendments, the Board believes that this data demonstrates that it will not be sig-

nificant enough to expand businesses who hire PTs or PTAs.

Business Reporting Requirements:

The regulatory action does not require businesses to file a report with the Board.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

The proposed amendments will not create new business or eliminate existing businesses and will not affect the expansion of businesses currently doing business within the State of California nor eliminate jobs because the proposal is not of sufficient magnitude to create or eliminate businesses. The Board has made this initial determination because few physical therapy practitioners will be impacted by these amendments. Moreover, the Board currently reviews evidence of rehabilitation in a manner consistent with the proposed regulations. Historically, similar regulations, adopted by the Board, have resulted in less than 1 percent (1%) of all applicants being denied. Even assuming the number of denials or discipline will decrease, because of these amendments, the Board believes that this data demonstrates that these amendments will not be significant enough to create or eliminate businesses who hire PTs or PTAs or eliminate jobs.

This regulatory proposal will benefit the health and welfare of California residents because by implementing criteria that emphasize rehabilitative efforts, it will create an opportunity for employment for people who have been convicted of a crime and are able to make a showing of rehabilitation. This may create new jobs. This may lead to an increase in PTs and PTAs in the marketplace, thereby allowing more health care providers to treat an increasing number of California medical consumers.

This regulatory proposal will not affect worker safety because the proposal does not involve worker safety. The proposal will amend regulations to add substantial relationship criteria and rehabilitation criteria that emphasize an applicant's or licensee's rehabilitative efforts, which may result in having fewer license denials or disciplinary actions based on substantially related crimes, acts or professional misconduct.

This regulatory proposal will not affect the State's environment because it does not involve environmental issues. The proposal will amend regulations to add substantial relationship criteria and rehabilitation criteria that emphasize an applicant's or licensee's rehabilitative efforts, which may result in having fewer license denials or disciplinary actions based on substantially related crimes, acts, or professional misconduct.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to its attention, will be more effective in carrying out the purpose for which the regulation is proposed, will be as effective and less burdensome to affected private persons than the adopted regulation, or will 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 during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Brooke Arneson
2005 Evergreen Street, Suite 1350
Sacramento, California 95815
Telephone: (916) 561-8260
Fax: (916) 263-2560
Email Address: Brooke.Arneson@dca.ca.gov

The backup contact person is:

Elsa Ybarra
2005 Evergreen Street, Suite 1350
Sacramento, California 95815
Telephone: (916) 561-8262
Fax: (916) 263-2560
Email Address: Elsa.Ybarra@dca.ca.gov

Website Access: Materials regarding this proposal can be found at https://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to

this proposal or who have requested notification of any changes to the proposal.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons (ISOR), and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this Notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Brooke Arneson at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough can be accessed through our website at: https://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

TITLE 28. DEPARTMENT OF MANAGED HEALTH CARE

ACTION:

Notice of Amendment to Department of Managed Health Care Conflict-of-Interest Code

SUBJECT:

Conflict-of-Interest Code, section 1000 in Title 28, California Code of Regulation

NOTICE IS HEREBY GIVEN that the Department of Managed Health Care (DMHC), pursuant to the au-

thority vested in it by Section 87306 of the Government Code, proposes amendments to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The DMHC proposes to amend its Conflict-of-Interest code to include employee positions that are involved in the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. This amendment also proposes technical changes to reflect the current organizational structure of the department and removes obsolete classifications.

Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendment by submitting them in writing **no later than 5 p.m. on August 10, 2020**, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendment. If any interested person or the person's representative requests a public hearing, he or she must do so no later than 15 days before the close of the written comment period, by contacting the Contact Person set forth below.

The DMHC has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The DMHC has determined that the proposed amendment:

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

In making this proposed amendment, the DMHC must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendment is proposed or would be

as effective as and less burdensome on the affected persons than the proposed amendments.

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

Mary Peterson, Attorney
Department of Managed Health Care
980 Ninth Street, 5th Floor
Sacramento, CA 95814
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**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# 2020-0303-03
BOARD OF PHARMACY
Abandonment of Applications

The California State Board of Pharmacy in this action is consolidating all board license types into two broad categories of premises license and individual license.

Title 16
AMEND: 1706.2
Filed 06/15/2020
Effective 10/01/2020
Agency Contact: Lori Martinez (916) 574-7917

File# 2020-0505-02
CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING
AUTHORITY
Affordable Multifamily Energy Efficiency Financing
Program

The California Alternative Energy and Advanced Transportation Financing Authority submitted this timely certificate of compliance action to make emergency-adopted regulations permanent that established the Affordable Multifamily Energy Efficiency Financ-

ing Program. The program provides affordable financing for owners of multifamily dwellings of five or more units to retrofit specified energy savings measures by providing credit enhancements to private finance and service entities.

Title 4
ADOPT: 10093.1, 10093.2, 10093.3, 10093.4,
10093.5, 10093.6, 10093.7, 10093.8, 10093.9,
10093.10, 10093.11
Filed 06/17/2020
Effective 06/17/2020
Agency Contact: Susan Mills (916) 651-3760

File# 2020-0429-01
CALIFORNIA TAX CREDIT ALLOCATION
COMMITTEE
CTCAC Regulations implementing federal and state
LIHTC laws

The California Tax Credit Allocation Committee submitted this action to add single room occupancy housing to the type of housing projects eligible for federal and state tax credits under federal and state low-income housing tax credit programs. This action is exempt from Office of Administrative Law review and partially exempt from Administrative Procedure Act procedural requirements, as specified in Health and Safety Code section 50199.17.

Title 4
AMEND: 10315, 10325
Filed 06/11/2020
Effective 04/14/2020
Agency Contact: Gina Ferguson (916) 651-7707

File# 2020-0505-03
COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING
Training and Testing Specifications

This proposed rulemaking action by the Commission on Peace Officer Standards and Training updates the document incorporated by reference entitled "Training and Testing Specifications for Peace Officer Basic Courses" to modify the training and testing specifications in Learning Domain 19.

Title 11
AMEND: 1005, 1007, 1008
Filed 06/15/2020
Effective 10/01/2020
Agency Contact: Steve Harding (916) 227-5426

File# 2020-0505-04
COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING
Requirements for Course Certification

This proposed action will replace the incorporated “POST Guidelines for Student Safety in Certified Courses 2007” with “POST Guidelines for Student Safety in Certified Courses 2020.” These documents provide presenters of POST–certified courses involving manipulative skills training with requirements and guidance in drafting their formal, written safety policies.

Title 11
 AMEND: 1052
 Filed 06/16/2020
 Effective 10/01/2020
 Agency Contact: Larry Ellsworth (916) 227–2820

File# 2020–0528–02
 DENTAL BOARD OF CALIFORNIA
 Criminal Conviction History

In this rulemaking, the California Dental Board amended Title 16, California Code of Regulations, Section 1028 to remove the requirement that applicants for licensure disclose their criminal history. This amendment complies with Business and Professions Code section 480 (Chiu, Chapter 995, Statutes of 2018 (AB 2138) with an effective date of July 1, 2020.

Title 16
 AMEND: 1028
 Filed 06/10/2020
 Agency Contact: Gabriel Nevin (916) 263–2027

File# 2020–0306–04
 DEPARTMENT OF MOTOR VEHICLES
 Electronic Lien and Title

Vehicle Code section 4450.5 directs the Department of Motor Vehicles (“DMV”) to develop an Electronic Lien and Title Program (the “Program”), in consultation with stakeholders, that would require lienholders’ title information to be stored electronically if DMV determines that such a program is cost–effective compared to its paper system. In this regular rulemaking, DMV is adopting the forms a service–provider applicant and lienholder applicant must submit to DMV to apply to become a Program participant. DMV is also adopting Program definitions, application review criteria, withdrawal requirements, and other Program procedures.

Title 13
 ADOPT: 153.00, 153.02, 153.04, 153.06, 153.08, 153.10, 153.12, 153.14, 153.16, 153.18, 153.20, 153.22, 153.24, 153.26, 153.28
 Filed 06/10/2020
 Effective 10/01/2020
 Agency Contact: Tracy Brazil (916) 657–8919

File# 2020–0430–01
 DEPARTMENT OF PUBLIC HEALTH
 2003 Clinical Lab Improvement Amendment Part II

This rulemaking establishes that clinical laboratories in California must follow more stringent California law instead of the less stringent federal law for record retention of medical and laboratory records.

Title 17
 ADOPT: 1053
 Filed 06/11/2020
 Effective 10/01/2020
 Agency Contact: Michael Boutros (916) 440–7822

File# 2020–0303–04
 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA
 Postgraduate Training License Fee

This action adopts a fee for physician and surgeon’s training license application and processing pursuant to Business and Professions Code section 2064.5.

Title 16
 AMEND: 1690
 Filed 06/16/2020
 Effective 06/16/2020
 Agency Contact: Mark Ito (916) 928–7639

File# 2020–0526–03
 SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
 San Francisco Bay Plan, update of Bay Plan Maps 2 and 3

This Government Code section 11354.1(d) rulemaking action amends Maps 2 and 3 of the San Francisco Bay Plan to remove the “water–related industry” priority use area designation for 172 acres along the southern shoreline of Suisun Bay in between Pacheco Marsh and the mouth of Pacheco Creek. The amendment enables the Contra Costa County Flood Control and Water Conservation District, which has purchased the land, to proceed with the Lower Walnut Creek Restoration Project which will, among other things, restore tidal marsh,

muted tidal wetlands, tidal channels, tidal marsh ponds, fringing marsh, and lowland terrestrial habitats on the site.

Title 14
AMEND: 11900(b)
Filed 06/16/2020
Effective 06/16/2020
Agency Contact: Steve Goldbeck (415) 352-3611

File# 2020-0501-01
STATE ALLOCATION BOARD
Leroy F. Greene School Facilities Act of 1998; CTEFP
— Town

In this rulemaking action, the Board amends its definitions. The term “Suburban Area” is modified to move locale codes 31, 32, and 33, to the definition of “Rural Area.”

Title 2
AMEND: 1859.2
Filed 06/11/2020
Effective 06/11/2020
Agency Contact: Lisa Jones (916) 376-1753

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

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