



California Regulatory Notice Register

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JULY 24, 2020

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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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

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

PUBLIC COMMENTS DUE BY
SEPTEMBER 7, 2020

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4011, by email to Jenny Michel or by letter to:

Commission on POST
Attn: Rulemaking
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
jenny.michel@post.ca.gov

AUTHORITY AND REFERENCE

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

POST conducts regular analysis review of Regulation 1005, Minimum Standards of Training to ensure consistency and relevancy. During this analysis, it was discovered that the current requirement is for any peace officer promoted, appointed, or transferred to a first-line Supervisory or Management position must complete a certified Supervisory or Management course within 12 months of the initial promotion, appointment, or transfer. These proposed changes would add the requirement for POST-certification to the Supervisory and Management courses to match the intended definition of certification.

The amended regulation will ensure consistency in training for supervisors and managers completing the POST standards content.

The specific benefits anticipated by the proposed amendments to the regulations will be certified presenter responsibilities and consistency for supervisors and managers, and the continued delivery of a high standard of training. These benefits will contribute to the increased effectiveness of law enforcement standards for peace officers in preserving peace, and the protection of public health and safety, and the welfare of California residents.

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

ADOPTION OF PROPOSED REGULATIONS

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

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states.

Small Business Determination: The Commission on Peace Officer Standards and Training has found that the proposed amendment, which entails adding proposed language such as "POST" before the current language "certified Supervisory course" and "certified Management Course," will not impact small businesses. Also, adding another proposed language such as "POST-certified" before the current language "Supervisory Course" and "Management Course" will not impact small businesses. Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT**
per Government Code § 11346.3(b)

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

The proposed amendments of the regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, and the protec-

tion of public health, safety, and the welfare of California residents. There would be no impact that would affect worker safety or the state's environment.

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

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

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Questions regarding this proposed regulatory action may be directed to Jenny Michel, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630, by email or by phone at (916) 227-4567. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802 or by FAX at (916) 227-2801.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

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

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

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

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

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

PUBLIC COMMENTS DUE BY
SEPTEMBER 8, 2020

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-2801, by email to Brad.NewMyer or by letter to:

Commission on POST
Attention: Brad NewMyer
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
Brad.NewMyer@post.ca.gov

AUTHORITY AND REFERENCE

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, the POST Executive Director, or designee, does not have the ability to identify POST constructed videos of high priority or urgency, due to their impact on the law enforcement community, and provide Continuing Professional Training (CPT) credit for viewing the video. POST regulation 1005(d) identifies the purpose of CPT is to “maintain, update, expand, and/or enhance an individual’s knowledge and/or skills.” POST staff

believe these videos, produced by POST and identified as being of high priority or urgency, qualify as CPT and the Executive Director, or designee, should have the regulatory authority to grant CPT for viewing the video.

One recent example of a POST constructed video that would qualify for CPT credit is titled “AB 392: California’s New Use of Force Standards: What You Need to Know.” The video was created in response to a substantial legislative change in the use of force standards for California law enforcement. The POST Executive Director, or designee, was unable to incentivize the viewing of this video to maintain, update, expand or enhance law enforcement officers knowledge on the topic by providing CPT credit for viewing the video. This regulatory change provides the POST Executive Director, or designee, that authority.

BENEFITS ANTICIPATED

The proposed amendments to the regulation will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, and the protection of public health, safety, and the welfare of California residents. The proposed amendments will have no impact on worker safety or the State’s environment.

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

ADOPTION OF PROPOSED REGULATIONS

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

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: The Commission on Peace Officer Standards and Training has found that the proposed language will not affect small business because the amended language will provide the POST Executive Director the authority to identify POST-constructed informational videos of high priority, or urgency due to their impact on the law enforcement community and incentivize the viewing of the video by providing a minimum of one hour Continued Professional Training (CPT).

Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT**
per Gov. Code section 11346.3(b)

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

The proposed amendments to the regulations will increase the efficiency of the state of California in deliver-

ing services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, and the protection of public health, safety, and the welfare of California residents. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Brad NewMyer, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-3893. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on <https://post.ca.gov/Regulatory-Actions>.

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

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

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

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

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to

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

PUBLIC COMMENTS DUE BY
SEPTEMBER 8, 2020

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to:

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

AUTHORITY AND REFERENCE

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

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the training regulations which include minimum training standards.

The benefits anticipated by the proposed amendments to the regulations will be to update the minimum training standards for instructors which will allow instructors teaching slow speed maneuvers the ability to complete only the Driver Awareness Instructor Course. This will allow instructors the flexibility to attend one or both of the courses. This will increase the effectiveness of law enforcement standards for peace officers in

preserving peace, and the protection of public health and safety, and the welfare of California residents.

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

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter experts who provide recommended changes to the existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption.

ADOPTION OF PROPOSED REGULATIONS

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

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California small businesses.

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

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT**
per Government Code § 11346.3(b)

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

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

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

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

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSON

Questions regarding this proposed regulatory action may be directed to Cheryl Smith, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramen-

to, CA 95605-1630 at (916) 227-0544. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802, or by FAX at (916) 227-5271.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST website.

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

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

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

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

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

**PUBLIC COMMENTS DUE BY
SEPTEMBER 8, 2020**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-2801, by email to Brad NewMyer or by letter to:

Commission on POST
Attention: Brad NewMyer
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
Brad.NewMyer@post.ca.gov

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Com-

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

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

As part of an ongoing process, staff reviews regulations and procedures relating to course certification to determine if revisions are necessary. Currently, there is no POST regulation language indicating the minimum number of hours that may be certified for self-paced training courses. This regulation change clarifies the standard by setting the minimum number of hours that may be certified by adding language stating, "Certified courses may be approved in hourly increments of at least one hour or more."

BENEFITS ANTICIPATED

The proposed amendments to the regulation will increase the efficiency of the state of California in delivering services to stakeholders and clarify the minimum number of hours that may be certified for POST-approved courses. It will aid POST staff that certifies courses by clearly stating the minimum number of certified hours by regulation and is instructive to any course presenter as to the minimum number of hours that may be submitted for potential certification. Thus, the law enforcement standards are maintained and effective in preserving peace, and the protection of public health, safety, and the welfare of California residents. The proposed amendments will have no impact on worker safety or the State's environment.

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

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified lan-

guage, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

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

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

Local Mandate: None.

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

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect small businesses because the Commission sets selection and training standards for law enforcement which does not impact California small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

**RESULTS OF ECONOMIC
IMPACT ASSESSMENT
per Gov. Code section 11346.3(b)**

The proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor

result in the elimination of existing businesses or create or expand businesses in the State of California.

The proposed amendments to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, and the protection of public health, safety, and the welfare of California residents. There would be no impact that would affect worker safety or the State's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Brad NewMyer, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-3893. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on <https://post.ca.gov/Regulatory-Actions>.

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

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

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

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE REGULATION FOR REDUCING SULFUR HEXAFLUORIDE EMISSIONS FROM GAS INSULATED SWITCHGEAR

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider the proposed amendments to the Regulation for Reducing Sulfur Hexafluoride Emissions from Gas Insulated Switchgear (SF6 Regulation or Regulation).

DATE: September 24, 2020

TIME: 12:00 p.m.

Please see the Public Agenda which will be posted ten days before the September 24, 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 12:00 p.m., September 24, 2020, and may continue at 8:30 a.m., on September 25, 2020. Please consult the agenda for the hearing, which will be available at least ten days before September 24, 2020, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on July 24, 2020. Written comments not physically submitted at the hearing must be submitted on or after July 24, 2020 and received **no later than September 22, 2020**. CARB requests that when possible, written and email statements be filed at least 10 days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in ad-

vance of the hearing must be addressed to one of the following:

Postal mail:

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

Electronic submittal:

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

Please note that under the California Public Records Act (Gov. Code, § 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 38510, 38560, 38580, 39600, 39601, 41510, 41511 and 41513. This action is proposed to implement, interpret, and make specific sections 38560, 38580, 39600, 39601, 41510, 41511 and 41513.

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

Sections Affected: Proposed amendments to California Code of Regulations, title 17, sections 95350, 95351, 95352, 95353, 95354, 95355, 95356, 95357, 95358, and 95359. Proposed adoption of California Code of Regulation, title 17, sections 95354.1, 95357.1 and 95359.1.

DOCUMENTS INCORPORATED BY REFERENCE

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

United States Environmental Protection Agency. 2014. Mandatory Reporting of Greenhouse Gases; Final Rule. Title 40 Code of Federal Regulations, Part 98, Subpart A, Table A-1. December 11, 2014. <https://www.govinfo.gov/content/pkg/FR-2014-12-11/pdf/2014-28444.pdf>, Section 95351(a).

BACKGROUND AND EFFECT OF THE PROPOSED REGULATORY ACTION

CARB staff is proposing amendments to the Regulation for Reducing Sulfur Hexafluoride Emissions from Gas Insulated Switchgear (Regulation, title 17, California Code of Regulations, sections 95350 et seq.). The Regulation was originally enacted as an early action measure pursuant to the California Global Warming Solutions Act of 2006 (Assembly Bill 32 or AB 32; Chapter 488, Statutes of 2006) to reduce SF₆ emissions from the electricity sector's transmission and distribution system. AB 32 established an initial goal for California to reduce statewide greenhouse gas (GHG) emissions to 1990 levels by 2020 and to maintain and continue GHG emissions reductions beyond 2020. The current Regulation requires owners of gas-insulated switchgear (GIS) to report the following annually: SF₆ emissions, an inventory of their GIS that use SF₆ as an insulating gas, information related to containers that store SF₆ gas, and transfers of SF₆ into or out of GIS. The proposed amendments would also change the term "GIS" to "gas-insulated equipment" (GIE) to clarify that more devices beyond switchgear are covered by the Regulation. This terminology change would not affect the types of devices covered under the Regulation, and the term GIE will be used throughout this document.

SF₆ is an extremely powerful and long-lived GHG. The 100-year global warming potential (GWP) of SF₆, which indicates its heat-absorbing ability relative to that of carbon dioxide (CO₂) over a 100-year period, is 22,800, making it the most potent of the six main GHGs. Because of its extremely high GWP, small reductions in SF₆ emissions can have a large impact on reducing GHG emissions, which are the main drivers of climate change. The current Regulation requires reductions of SF₆ emissions from GIS over time, setting an annual emission rate limit that each GIE owner may not exceed. The maximum allowable emission rate started at ten percent in 2011, and has decreased one percent per year since then. In the absence of proposed changes to the Regulation, in 2020, the limit would reach one percent and would remain at that level going forward. Data reported under the Regulation show that statewide SF₆ capacity is growing by one to five percent per year, and projections provided by GIE owners indicate that this trend will continue into the future. Because, under the current Regulation, the emissions limit would remain equivalent to one percent of annual capacity, as capacity grows, so too would expected emissions.

The Legislature reaffirmed California's commitment to take further action against climate change by adopting Senate Bill (SB) 32 (Chapter 250, Statutes of 2016), which further directs the State to reduce its GHG emissions to at least 40 percent below the 1990 level by

2030. In 2019, CARB initiated a process to explore achievable paths toward carbon neutrality and is working to implement direction provided in Board Resolution 17-46 to evaluate and explore opportunities to achieve additional significant cuts in GHG emissions from all sources.

Considerable progress has been made in the past decade to develop non-SF₆ GIE; across the voltage spectrum, manufacturers now either offer market-ready non-SF₆ GIE or have development plans in the foreseeable future. Despite this progress, inventory data reported under the Regulation show that SF₆ capacity in the State has been growing, meaning that non-SF₆ technologies have not yet been widely adopted; staff projects that SF₆ capacity will continue growing well into the future. This indicates that a regulatory change is necessary to drive the transition away from the use of SF₆ in GIE.

In response to California's aggressive climate goals and the increasing availability of technology that does not use SF₆, CARB staff is proposing to amend the Regulation to clarify regulatory coverage, expand the scope to include other GHGs beyond SF₆, drive GHG emissions reductions, accelerate the transition to technologies that do not use SF₆, improve the ability of equipment owners with relatively small amounts of SF₆ to comply with the Regulation, specify reporting and accounting procedures to increase reporting accuracy and facilitate tracking of GHGs covered under the proposed Regulation, and improve CARB staff's ability to verify reported data.

Due to the expansion in the Regulation's scope to include other GHGs beyond SF₆, and the terminology change from GIS to GIE, CARB staff is proposing to change the name of the Regulation to the "Regulation for Reducing Greenhouse Gas Emissions from Gas Insulated Equipment." If enacted, the amendments will go into effect following the schedule described in the Proposed Regulation Order. Some changes will become effective the day the Regulation is finalized and will impact each GIE owner's data year¹ 2020 annual report (due June 1, 2021). Other changes that require new data to be collected will become effective January 1, 2021, or after.

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

OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

The proposed Regulation would establish a timeline for phasing out acquisition of SF₆ GIE in California that would take effect in stages between 2025 and 2033. The proposed amendments would reduce total GHG emissions from GIE, improve the ability of small GIE owners to comply, improve accuracy in reported emissions, and improve CARB staff's ability to verify reported data. The proposed Regulation has been developed with the help of a robust informal public process, which included three publicly noticed workshops and one publicly noticed working group meeting from November 2017 through August 2019. The proposed amendments would:

- Expand the scope of the Regulation to cover emissions of all insulating gases with a global warming potential (GWP) greater than one, and clarify terminology related to which GIE are covered by the Regulation;
- Establish a timeline for phasing out acquisition of SF₆ GIE in California and create an incentive to encourage GIE owners to acquire non-SF₆ GIE prior to the phase-out;
- Establish a process through which GIE owners could be granted a phase-out exemption to allow them to acquire SF₆ GIE after the phase-out, but only when certain conditions are met;
- Establish alternative emissions limits for small-capacity GIE owners to improve their ability to comply with the Regulation, assign each GIE owner an emissions limit in metric tons of CO₂ equivalent (MTCO_{2e}) (as opposed to the current SF₆-specific emission rate limit), and establish methods to minimize the growth of the emissions limit over time; and
- Revise reporting requirements to improve reporting accuracy, clarify requirements, close gaps in accounting for SF₆ and other covered insulated gases, and improve CARB staff's ability to verify reported data.

Staff analyzed the impacts of the amendments, in particular the installation of non-SF₆ GIE due to the phase-out, through 2036, the year after which all requirements in the proposed Regulation would come into effect. Absent the proposed amendments, staff estimates that SF₆ emissions in 2036 would be 364,000 MTCO_{2e}, a significant increase relative to estimated emissions of 286,000 MTCO_{2e} in 2024, the year before the phase-out begins. By contrast, the proposed Regulation will reduce the 2036 emissions level to be approximately 283,000 MTCO_{2e}. Cumulative emissions reductions for the period 2020 to 2036 will be approximately 391,000 MTCO_{2e}. Because GIE lasts approxi-

¹ "Data year" means the calendar year for which a GIE owner must submit an annual GHG emissions data report.

mately 40 years, though, emissions reductions from non-SF₆ GIE acquired between 2025 and 2036 will continue through 2075, resulting in cumulative emissions reductions of approximately 3,143,000 MTCO₂e.

Each of these proposed changes to the Regulation are explained here in further detail.

Expanding Scope and Clarifying Coverage of the Regulation

The purpose of the proposed Regulation is to further reduce emissions by phasing out SF₆ use so that GIE owners will transition to use of non-SF₆ GIE, some of which may utilize GHGs other than SF₆ that have substantially lower GWPs than SF₆. The introduction of insulating gases that contain a GHG other than SF₆ necessitates expanding the scope of the Regulation to include GHGs with a GWP greater than one. Staff proposes only to require the reporting and regulatory coverage of insulating gases with a GWP greater than one because the amount of GHGs with GWPs less than or equal to one that would be used in GIE would have a relatively small potential impact to global warming (in MTCO₂e). This is because the volume of insulating gas with a GWP less than or equal to one contained in GIE through the State is anticipated to be very low. If all SF₆ in active, non-hermetically sealed GIE in California at present were converted to CO₂, the amount of CO₂ in GIE statewide would be about 1,000 MTCO₂e. Annual CO₂ emissions in this case would be roughly ten metric tons (assuming a one-percent leak rate as required by the Regulation), which is roughly equivalent to the emissions from driving two passenger vehicles for a year.²

Throughout the proposed Regulation and this document, the term “SF₆” was in many places replaced with “insulating gas with a GWP greater than one” or “covered insulating gas,” except in cases where specific references to SF₆ are still needed. Coverage of these alternative gases in the Regulation ensures continued tracking of GHGs from the operation of GIE in the state. It also facilitates recognition of the transition from SF₆ GIE to non-SF₆ GIE.

SF₆ Phase-Out and Early Action Credit

In Table 1 and Table 2 of the proposed Regulation, CARB staff proposes a schedule for the phase-out of the acquisition of new SF₆ GIE. The phase-out dates differ according to voltage capacity, short-circuit current rating, and configuration (i.e., above or below ground). Non-SF₆ GIE either do not contain a GHG or use insulating gas with a significantly lower GWP than SF₆, so the transition from SF₆ GIE to non-SF₆ GIE will have the benefit of reducing GHG emissions. In de-

veloping the phase-out schedule, CARB staff consulted with more than ten manufacturers currently developing non-SF₆ GIE to learn when their products are expected to be commercially available. Additionally, based on stakeholder comments about the amount of time their organizations generally require to ensure that new products are safe, reliable, and deployable, CARB staff included a three-year period between expected commercial availability and proposed phase-out dates.

Because the phase-out dates would not begin until 2024, and certain types of non-SF₆ GIE are available now, the proposed regulatory amendments also include an early action credit. The early action credit would encourage GIE owners to place 72.5 kV or greater non-SF₆ circuit breakers into active service prior to the applicable phase-out date for those devices, which should lead to additional reductions in GHG emissions. The proposed credit is roughly equivalent to the amount of SF₆ in a comparable SF₆ circuit breaker.

SF₆ Phase-Out Exemption Process

As described above, CARB staff developed the phase-out schedule after discussing non-SF₆ GIE availability dates with over ten manufacturers for over a year. CARB staff, however, recognizes that, in some specific cases, GIE owners may need to install SF₆ GIE after the corresponding phase-out date.

Therefore, the proposed Regulation adds a new exemption process that allows GIE owners to acquire SF₆ GIE after the applicable phase-out date under the following conditions: when the GIE owner submits, and CARB approves, an SF₆ phase-out exemption request; when the SF₆ GIE device was present in the State for a prior data year; when the SF₆ GIE device was purchased prior to the applicable phase-out date (provided the SF₆ GIE device enters California no later than 24 months after the purchase date); or when the SF₆ GIE device is a replacement provided by the manufacturer under the terms of the manufacturer’s warranty.

To obtain a phase-out exemption, the GIE owner must submit a phase-out exemption request to CARB that would explain and justify the need for the exemption. If the request is approved, the GIE owner could acquire the SF₆ GIE described in the request and install the SF₆ GIE in the location(s) described in the exemption request.

Revisions to the Emission Rate Limit

The proposed Regulation contains revisions that would change the allowed emissions levels for GIE owners with smaller capacities of SF₆ and other covered insulating gases. As explained below, this change will enable small-capacity GIE owners to comply with the Regulation. Further, the proposed Regulation transitions the basis for evaluating emissions compliance from an emission rate limit to an emissions limit mea-

² U.S. EPA Greenhouse Gas Equivalencies Calculator: <https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator>. Last accessed November 20, 2019.

sured in MTCO_{2e}. The emissions limit will be structured to support the phase-out of SF₆, incentivize adoption of non-SF₆ GIE, and ensure continued emissions reductions despite the anticipated growth of GIE capacity in this sector.

a. Transition to an Annual Emissions Limit

The proposed Regulation includes a new method for GIE owners to calculate their emissions limit in terms of MTCO_{2e} rather than percent of average system capacity. From 2020³ through 2024, GIE owners with average system capacities of 10,000 MTCO_{2e} or greater will have an emissions limit equivalent to one percent of average system capacity (considering all insulating gases with a GWP greater than one), maintaining equivalency with the current Regulation.

The proposed Regulation increases the emissions limits for the smallest GIE owners. CARB staff’s goal for the proposed Regulation was to set emission limits such that GIE owners of all sizes would be held to stringent but reasonable limits on emissions. Given the difficulty in achieving a one-percent emission rate for GIE owners with average system capacities below 10,000 MTCO_{2e}, and the fact that these owners make up less than two percent of statewide SF₆ capacity, staff proposes a threshold of 10,000 MTCO_{2e}, below which the emissions limit would be set at the equivalent of two percent of average system capacity from 2020 to 2034, or 50 MTCO_{2e}, whichever is greater.

While allowing these GIE owners to have higher GHG emissions limits than allowed under the current Regulation may seem to run contrary to the goal of reducing GHG emissions, setting an emissions limit that is too low for these GIE owners to comply with is an ineffective way to reduce GHG emissions. Setting a realistic target could help incentivize small-capacity GIE owners to reduce their emissions, where possible, to ensure compliance, which should be achievable under the revised limits.

b. Establishing a Baseline to Incentivize Adoption of Non-SF₆ GIE and Emissions Limit Stepdown

Because smaller capacities of SF₆ and other covered insulating gases can make compliance with the emissions limit more challenging, staff was concerned that establishing an emissions limit that is equivalent to one or two percent of active, non-hermetically sealed system capacity could actually disincentivize the replacement of SF₆ GIE with non-SF₆ GIE. That is, GIE owners may keep and operate their SF₆ GIE longer to maintain a higher capacity level. To address this issue, the proposed Regulation includes a baseline approach

which would “fix” average system capacity (that is, the GIE owner’s capacity against which emissions compliance is assessed) at a point in time, after which any reduction in actual SF₆ capacity would not result in a commensurate reduction in average system capacity.

An emissions limit with a fixed baseline would incentivize a GIE owner to replace SF₆ GIE with non-SF₆ GIE after the baseline is set because the implementation of non-SF₆ GIE would decrease the actual amount of SF₆ in their system, which would reduce the risk of SF₆ emissions, without any corresponding decrease in average system capacity used to evaluate regulatory compliance. This transition from SF₆ GIE to non-SF₆ GIE should result in additional reductions in GHG emissions.

Because average system capacity will not decrease when SF₆ GIE are replaced with non-SF₆ GIE, the equivalent allowed emission rate will effectively grow over time, making it easier to comply with the Regulation. To ensure that the Regulation remains equally ambitious over time, CARB staff proposes that, in 2035, each GIE owner’s emissions limit will be reduced by five percent, and remain at that level going forward, to maintain an effective emission rate limit near one or two percent.

Changes to Required Procedures and Reported Elements

Finally, the proposed Regulation contains revisions that would change reporting requirements to improve reporting accuracy, clarify requirements, close gaps in accounting for SF₆ and other covered insulated gases, and improve CARB staff’s ability to verify reported data.

Benefits of Proposed Amendments

In total, the staff proposal achieves the following outcomes:

- Establishes an SF₆ phase-out schedule with unique dates for nine GIE categories, based on GIE voltage capacity, short-circuit current rating, and whether the GIE would be used above or below ground. The schedule is consistent with expected non-SF₆ product availability from at least two manufacturers in each of those categories and the phase-out dates are set to be three years after this availability. These factors are responsive to stakeholder feedback that non-SF₆ GIE must be available from more than one manufacturer and that GIE owners need approximately three years to familiarize themselves with the new GIE in advance of the phase-out dates. For non-SF₆ GIE that are available today, CARB staff set the earliest phase-out date to be 2025 to accommodate the

³ For data year 2020 only, the emissions limit considers SF₆ only. See the discussion in section III of this ISOR, Rationale for Section 95353(b)(1).

three- to five-year capital planning cycle that GIE owners indicated they undertake.

- Includes an SF₆ phase-out exemption request process that offers GIE owners flexibility to acquire SF₆ GIE after the phase-out when non-SF₆ GIE are unavailable from at least two suppliers, and when available non-SF₆ GIE either cannot meet the size requirements, cannot be used due to incompatibility with existing infrastructure, or are not suitable based on safety or reliability requirements. In response to stakeholder feedback, the exemption request process allows for expedited approvals in the wake of a catastrophic failure affecting the GIE owner's SF₆ or non-SF₆ GIE, shortening the review period to 14 days instead of the standard 75 days when a catastrophic failure has occurred.
- In recognition of stakeholder feedback and the fact that non-SF₆ GIE are available for some applications today, GIE owners that install qualifying non-SF₆ GIE in advance of the applicable phase-out date will receive an early action credit that can be added to the GIE owner's baseline starting in 2025. By being early adopters of non-SF₆ GIE, GIE owners will gain more experience with them, smoothing the transition to non-SF₆ GIE more broadly.
- Establishes emissions limits that all GIE owners can meet, regardless of their average system capacity. The emissions limits for GIE owners with average system capacity of less than 10,000 MTCO_{2e} will have an emissions limit equivalent to two percent of their average system capacity, rather than having to meet the one-percent limit specified in the current Regulation. GIE owners of this size have demonstrated the difficulties they face in achieving a one-percent emission rate on an annual basis, and this adjustment allows them to maintain their 2019 allowed emission rate.
- Promotes accurate accounting of GHG emissions from GIE throughout the State by expanding the current Regulation to cover additional GHGs expected to be used as insulating gases in GIE in the coming years. The GWP of some emerging insulating gases is less than one. As a result of stakeholder feedback and the relatively small potential impact to global warming (in MTCO_{2e}) of GIE equipment using GHGs with GWPs less than or equal to one, staff proposes only to require the reporting and regulatory coverage of insulating gases with a GWP greater than one. Other revisions to the reporting requirements will

improve CARB staff's ability to verify the reported values.

COMPARABLE FEDERAL REGULATIONS

In 2017, ten of the GIE owners subject to the Regulation also filed an emissions report to United States Environmental Protection Agency (U.S. EPA) under 40 CFR Part 98 (Greenhouse Gas Reporting Program or GHGRP) Subpart DD.⁴ U.S. EPA's GHGRP requires reporting of GHG emissions data and other relevant information from GIE owners whose aggregate nameplate capacity of non-hermetically sealed GIE exceed 17,820 pounds of SF₆ or perfluorinated compounds.⁵ U.S. EPA states that these data can be used by businesses and others to track and compare facilities' GHG emissions and identify opportunities to reduce pollution, minimize wasted energy, and save money.⁶ U.S. EPA's GHGRP does not require that emissions be reduced; it only requires that they be reported. This stands in contrast to CARB's Regulation, which was enacted as an early action measure under AB 32 for the purpose of achieving GHG emissions reductions. As such, more granular data are required to be reported under CARB's Regulation, which requires that all GIE owners in California report emissions and ensure that they do not exceed the applicable emissions limit.

U.S. EPA's GHGRP is not a comparable federal regulation because it has a high reporting threshold and lacks any emissions limit. CARB's Regulation is needed to support mandated GHG emissions reductions, as set by SB 32, and follow the direction provided in Board Resolution 17-46 to evaluate and explore opportunities to achieve additional significant cuts in GHG emissions from all sources.

AN EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

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

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

⁴ U.S. EPA Greenhouse Gas Reporting Program data, accessed through FLIGHT: <https://go.usa.gov/xpX98>.

⁵ Subpart DD, Greenhouse Gas Reporting Program — Electric Transmission and Distribution Equipment Use: https://www.epa.gov/sites/production/files/2018-02/documents/dd_infosheet_2018.pdf.

⁶ Greenhouse Gas Reporting Program (GHGRP): <https://www.epa.gov/ghgreporting/learn-about-greenhouse-gas-reporting-program-ghgrp>.

DISCLOSURES REGARDING THE
PROPOSED REGULATIONS

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subs. (a)(5)&(6)):

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

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create costs or mandates 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.:

The proposed regulatory action would not impose a mandate on local agencies, and the costs to local agencies would not be reimbursable by the State because the proposed Regulation does not mandate local agencies to provide a service to the public. Further, the requirements are of general applicability because they apply to all GIE owners regardless of whether the owners are local agencies or private businesses.

Because some regulatory provisions begin in 2020, all mentions of cumulative cost will cover the entire analysis period (2020–2036). However, since there are no incremental costs or cost savings between 2020 and 2024, all average costs and cost savings discussed below are averages over the 12–year period (2025–2036) with non–zero costs.

Because the phase–out requirement will not be implemented until 2025, there will be no costs to local government in the fiscal year that the proposed Regulation will be effective (2020–2021) and the two subsequent fiscal years. However, there will be costs and cost savings to 49 local agencies that are mainly publicly owned utilities across California. Local government agencies would incur the higher capital cost for non–SF6 GIE upfront but would benefit from maintenance and reporting cost savings in subsequent years. Staff estimated the cumulative cost to local government to be \$37 million over the period 2020–2036, or approximately \$3.1 million per year on average over the 12 years with non–zero costs. There is also a cumulative cost savings of \$17 million over the period of

2020–2036, or approximately \$1.4 million per year on average over the 12 years with non–zero costs. The tax revenue to local governments from 2025 through 2036 totals to \$10.5 million with an average of \$875,000 per year during the 12 years of non–zero costs.

The proposed Regulation would not impose a mandate on any school district.

Cost or Savings for State Agencies:

Because the phase–out requirement will not be implemented until 2025, there will be no cost to State government in the fiscal year that the proposed Regulation will be effective (2020–2021) and the two subsequent fiscal years. However, there will be costs and cost savings to ten State government agencies across California. All ten State government agencies considered in this analysis are public universities. Staff estimates the cumulative cost to State government to be \$2.1 million over the period 2020–2036, or approximately \$176,000 per year on average over the 12 years with non–zero costs. There is also a cumulative cost savings of \$1.7 million over the period 2020–2036, or approximately \$138,000 per year on average over the 12 years with non–zero costs. The sales tax revenue to State government from 2025 through 2036 totals to ~\$8.8 million with an average of \$737,000 per year during the 12 years of non–zero costs.

The implementation and enforcement of the proposed Regulation would not have an impact on staff resources at CARB. The workload will be absorbed by current staff using similar processes.

Other Non–Discretionary Costs or Savings on Local Agencies:

No additional costs or savings to local agencies beyond those addressed above under “Cost to any Local Agency or School District Requiring Reimbursement under section 17500 et seq.” are expected.

Cost or Savings in Federal Funding to the State:

No costs or savings in federal funding are anticipated.

HOUSING COSTS

(Gov. Code, § 11346.5, subd. (a)(12))

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

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

The Executive Officer has made an initial determination that the proposed regulatory action would not have

a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

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

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

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

The operation and maintenance requirements of alternative-gas GIE are designed to be similar to those for conventional SF₆ GIE. Technicians familiar with handling SF₆ GIE may need to receive additional training to operate and maintain non-SF₆ GIE, and they are expected to be able to perform the job as they have with SF₆ GIE. Therefore, staff does not expect there to be a significant increase or decrease in jobs due to workers' ability to perform the job. However, vacuum GIE are expected to require significantly less maintenance. Staff expects a decrease in jobs related to maintenance crews at sites that use vacuum technology, though it is anticipated that this decrease will be relatively small.

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

Because all existing GIE manufacturers are located outside of California, the proposed Regulation is not expected to result in considerable business creation or elimination in California.

Non-SF₆ GIE are generally more expensive upfront than SF₆ GIE; however, the cost savings from less maintenance and reporting are expected to compensate for the higher purchase cost and potentially lower the lifetime ownership cost. Most of the GIE owners in the State are electric power generation, transmission, and distribution and large industrial companies. CARB staff expects that these entities will be able to cover the higher upfront cost with little financial impact, especially when they can anticipate cost savings over the long term.

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

No significant impacts to the expansion of businesses due to the proposed Regulation are anticipated. While the proposed Regulation is intended to increase demand for non-SF₆ GIE, this will be in place of SF₆ GIE that would have been acquired in the absence of the proposed Regulation. The proposed Regulation is therefore not expected to drive an overall increase in demand for GIE and expansion of businesses for GIE owners. There may be some expansion of business to manufac-

turers of non-SF₆ GIE, but all currently known GIE manufacturers are located outside of California.

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

Benefits such as reduced GHG emissions and reduced operating costs could result from implementation of non-SF₆ GIE. The proposed Regulation is expected to reduce approximately 38,000 pounds of SF₆, or 391,000 MTCO_{2e} of GHG emissions during the analysis years 2020–2036. Because GIE lasts approximately 40 years, emissions reductions from non-SF₆ GIE acquired between 2025 and 2036 will continue through 2075, resulting in cumulative emissions reductions of approximately 3,143,000 MTCO_{2e}. Because GHGs are global pollutants, both California's residents and the world's population would benefit from the reduction in these emissions and the associated mitigation of global climate change. Therefore, these amendments may also directly improve the health and welfare of California residents, worker safety, and the State's environment.

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would have minimal impact on the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to reduce GHG emissions, improve the ability of small GIE owners to comply, improve accuracy in reported emissions, and improve CARB staff's ability to verify reported data.

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

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 regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

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

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. The proposed regulatory action would impose additional costs to private businesses acquiring non-SF₆ GIE instead of SF₆ GIE or filing for an SF₆ phase-out exemption. Some of these costs are expected to be offset by savings in the long run due to lower maintenance costs and exemption from reporting requirements for some non-SF₆ GIE.

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

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 regulatory action would affect small businesses. However, there are significant maintenance cost savings that will offset some of the costs to small businesses.

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

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

The Executive Officer analyzed three alternatives to the proposed amendments and determined that none were less burdensome and equally effective in achieving the purposes of the Regulation in a manner that ensures full compliance with the authorizing law.

Retain One-Percent Emission Rate Limit. This alternative would maintain the Regulation's one-percent emission rate limit rather than replacing it with an emissions limit measured in MTCO₂e. The impact of this alternative would be that SF₆ emissions from this source would continue to grow with system GIE capacity. The data reported to CARB under the Regulation demonstrate that the amount of SF₆ in active GIE — that is, the

GIE capacities used to determine emission rate limits — has grown in the last several years at an annual rate between one and five percent. In meetings with GIE owners during the public process to amend the Regulation, GIE owners have noted that the rate at which SF₆ capacity is expected to grow statewide in the coming years may be greater than the historical rate and, for certain GIE owners, the rate of growth could be significantly greater than for the sector overall. Reasons for the expected increase include replacement of old oil circuit breakers with SF₆ breakers, growth in demand for electricity due to population growth and the State's goal to increase electrification of vehicles and other infrastructure, and the changing nature of the electric grid to include the growth in renewables.

Because SF₆ capacity is expected to grow after 2020, and the maximum emissions allowed are proportional to SF₆ capacity, under the Regulation, emissions from this source category would be expected to increase after 2020. The one-percent rate limit also fails to encourage adoption of new GIE that do not contain SF₆, and would not capture GIE devices that use a GHG other than SF₆ as an insulating gas. The non-SF₆ GIE alternatives present an opportunity to reduce GHG emissions from this source category, consistent with the State's aggressive GHG emissions reduction targets described earlier in this document.

Under this alternative, the goal of accelerating the transition to non-SF₆ technologies and reducing GHG emissions would be more difficult to achieve. With an emission rate limit, any decrease in a GIE owner's capacity also decreases the amount of SF₆ the GIE owner is allowed to emit on an annual basis. This creates somewhat of a disincentive to replace SF₆ GIE with non-SF₆ GIE. Though this could mean delayed purchases of (currently more expensive) non-SF₆ GIE, or increased maintenance costs from operating older SF₆ GIE devices, these are indirect rather than direct outcomes of this option. Therefore, this alternative could increase SF₆ emissions with neither a cost increase nor decrease. For these reasons, staff has rejected the "Retain One-Percent Emission Rate Limit" alternative.

Do Not Phase out SF₆ GIE. This alternative would consist of removing the phase-out requirements and corresponding SF₆ phase-out exemption process. This alternative would not achieve the goals of accelerating the transition to non-SF₆ technologies and realizing the corresponding GHG emissions reductions. Through conversations with GIE owners and GIE manufacturers as part of the public process, it became clear that non-SF₆ GIE are being developed and these emerging technologies over time have the ability to replace SF₆ GIE in many, if not all, applications. Though some non-SF₆ alternatives are in use today, their adoption is somewhat limited and supply varies by company. As with many

emerging or alternative technologies, the cost of non-SF₆ GIE is expected to be higher than SF₆ GIE in the near-term, though over the long-term costs are expected to come down as production volumes increase. GIE owners are also extremely comfortable with their long-standing practice of using SF₆ GIE. These factors could make it difficult for the non-SF₆ to get a foothold without further incentives.

By establishing a phase-out schedule, CARB is establishing a market and driving demand for these products, particularly for the higher-voltage options that are anticipated to be developed at a later point in time. CARB has been told by manufacturers and GIE owners that the proposed SF₆ phase-out would be a key factor driving near-term development work to commercialize additional non-SF₆ GIE. If these technologies are not adopted, it is conceivable that SF₆ use and emissions will continue to grow. Also, with no phase-out of SF₆ GIE, these emerging technologies will likely become commercially available at a later point in time, if they are developed at all, due to lack of demand. This could have impacts both in California and globally, and further GHG emissions reductions from this source category beyond those mandated by the Regulation would be very difficult to achieve without use of these alternative GIE. Implementing this alternative would yield significant cost savings relative to the proposed Regulation, but it would also result in SF₆ emissions growth over time, an option that is untenable from a climate impacts and a policy perspective given California's GHG emissions reduction goals. For these reasons, staff has rejected the "Do Not Phase out SF₆ GIE" alternative.

Do Not Implement Differing Emissions Limits for Small-Capacity GIE Owners. This alternative would keep the emissions limit for small-capacity GIE owners (that is, GIE owners with capacity of less than 10,000 MTCO_{2e}) at one percent. Small-capacity GIE owners have explained to CARB staff the challenge in complying with a one-percent emission rate limit on an annual basis. GIE owners of this size may have a small number of SF₆ GIE devices. Typically, a pressurized SF₆ GIE device will notify the owner of a drop in pressure (leak) only when the pressure drops below a certain threshold. Because that threshold may be several percent of the device's capacity, by the time the GIE owner is made aware that a leak has occurred, more SF₆ may have been lost than allowable under the one-percent emission rate limit. While leaks are an issue for larger GIE owners as well, because these events occur relatively infrequently for individual GIE devices, larger GIE owners have sufficient capacity to allow for several of these events per year while maintaining an overall emission rate below one percent.

Under the proposed Regulation, CARB staff proposed increasing the allowable emission rate for these

small-capacity GIE owners. Under this alternative where the emission rate remains at one percent for all GIE owners, small-capacity GIE owners may be unable to comply on a regular basis. This could result in additional costs to the small-capacity GIE owners due to possible enforcement penalties. This could also result in significant program and enforcement staff time to address emissions exceedances, many of which may be dismissed if deemed beyond the control of the GIE owner. Because of these physical limits, small-capacity GIE owners could incur these additional costs without any corresponding GHG emissions reductions. For these reasons, staff has rejected the "Do Not Implement Differing Emissions Limits for Small-Capacity GIE Owners" alternative.

ENVIRONMENTAL ANALYSIS

When the Regulation for Reducing Sulfur Hexafluoride Emissions from Gas Insulated Switchgear ("Regulation"; Title 17, California Code of Regulations, sections 95350 et seq.) was proposed in 2010, CARB adopted a no impact environmental analysis (NIEA), which is the equivalent of a negative declaration, under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The NIEA, included as Section V. of the ISOR for that 2010 item, dated January 7, 2010, determined that, based upon available information, no significant adverse environmental impacts should occur as a result of adopting the Regulation. Staff has determined that no additional environmental review is required for the current proposed amendments to the Regulation 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 2010 NIEA. The basis for reaching this conclusion is provided in Section VI. 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 Clerk of the Board at

(916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

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

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

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

AGENCY CONTACT PERSONS

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

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Staff Report: Initial Statement of Reasons for Rulemaking — Proposed Amendments to the Regulation for Reducing Sulfur Hexafluoride Emissions from Gas Insulated Switchgear.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on July 21, 2020. Because of current travel, facility, and staffing restrictions, the Cal-

ifornia Air Resources Board's offices may have limited public access. Please contact Bradley Bechtold, Regulations Coordinator, at bradley.bechtold@arb.ca.gov or (916) 322-6533 if you need physical copies of the documents.

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

HEARING PROCEDURES

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

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

The public may request a copy of the modified regulatory text from the contact information listed above.

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/sf6>.

TITLE 18. BOARD OF EQUALIZATION

**Amendments to California Code of Regulations,
Title 18, Section 462.500, *Change in
Ownership of Real Property Acquired to Replace
Property Taken by Governmental Action or
Eminent Domain Proceedings***

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, section (Rule or Property Tax Rule) 462.500, *Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings*. This rule implements, interprets, and makes specific the change in ownership provisions, under article XIII A of the California Constitution and Revenue and Taxation Code (RTC) section 68, applicable to changes in ownership of real property acquired to replace property taken by governmental action which has resulted in a judgment of inverse condemnation, acquisition by a public entity, or eminent domain proceedings. The proposed amendments to Property Tax Rule 462.500 make the rule consistent with current law, which provides that if a taxpayer files a request for exclusion from reassessment after four years following the date the property was acquired by governmental action or eminent domain proceedings, the base year value transfer shall apply to the lien dates for the last four fiscal years with appropriate roll corrections, refunds, or cancellations. Additionally, the assessor is to adjust the base year value of the replacement property for annual inflation and any new construction.

The proposed amendments also clarify in new examples that only the person whose property was taken may receive the exclusion under this rule up to 120 percent of his or her ownership interest in the replacement property, and that property tax relief is available when a taxpayer has a parcel taken, and subsequently two additional parcels taken, and then the taxpayer may purchase one parcel to replace the three properties taken. The proposed amendments also clarify in existing examples that when property is replaced with two separate properties, pro-rata relief is applicable to both replacement properties. The proposed amendments clarify that floating homes are included in the definition of “real property” in subdivision (b)(5) of Rule 462.500, and that the terms and conditions for qualifying for property tax relief described in each subdivision of the rule are applicable to Rule 462.500 rather than any particular section, by replacing the word “section” with the word “rule.” The proposed amendments clarify that the reference to “Board” means the State Board of Equalization.

The proposed amendments make formatting and grammatical changes for clarification.

PUBLIC HEARING

The Board will conduct a meeting on September 22, 2020. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. or as soon thereafter as the matter may be heard at the Board’s September 22, 2020 hearing. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the Proposed Amendments to California Code of Regulations, title 18, section 462.500.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Article XIII A, section 2(d), California Constitution; and section 68, Revenue and Taxation Code.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Current Law

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of 1 percent of the full cash value of real property. For purposes of this limitation, section 2 of article XIII A defines *full cash value* to mean a county assessor’s valuation of real property as shown on the 1975–76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Legislature codified the definition of “change in ownership” in Revenue and Taxation Code (RTC) section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership or is excluded from the definition of “change in ownership” in RTC sections 61 through 69.5.

Under Government Code section 15606, subdivision (c), the State Board of Equalization (Board) is authorized to prescribe rules and regulations to govern local

boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board adopted California Code of Regulations, title 18, section (Property Tax Rule) 462.500, *Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings*, pursuant to Government Code section 15606, to implement, interpret, and make specific the change in ownership provisions, under article XIII A of the California Constitution and the RTC, applicable to changes in ownership of real property acquired to replace property taken by governmental action which has resulted in a judgment of inverse condemnation, acquisition by a public entity, or eminent domain proceedings.

In particular, Property Tax Rule 462.500 implements, interprets, and makes specific RTC section 68, subdivisions (a) through (c), which provide that:

- (a) For purposes of Section 2 of Article XIII A of the Constitution, the term “change in ownership” shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from property in this state by eminent domain proceedings, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation.

The adjusted base year value of the property acquired shall be the lower of the fair market value of the property acquired or the value which is the sum of the following:

- (1) The adjusted base year value of the property from which the person was displaced.
- (2) The amount, if any, by which the full cash value of the property acquired exceeds 120 percent of the amount received by the person for the property from which the person was displaced.

The provisions of this section shall apply to eminent domain proceedings, acquisitions, or judgments of inverse condemnation after March 1, 1975, and shall affect only those assessments of that property which occur after June 8, 1982.

- (b)(1) A person acquiring replacement property shall request assessment under this section. A request made after four years following the date the property was acquired by eminent domain or purchase, or the date the judgment of inverse condemnation becomes final, shall be subject to subdivision (c).
- (2) A change in the adjusted base year value of the replacement property acquired, resulting from the application of the provisions of this section, shall be deemed to be effective on the first day of the month following the month in which the property

is acquired. The change in value shall be treated as a change in ownership for the purpose of placing supplemental assessments on the supplemental roll pursuant to Chapter 3.5 (commencing with Section 75). The assessor shall, however, appraise the replacement property acquired in accordance with the provisions of this section rather than the provisions of Section 75.10. The provisions of Chapter 3.5 shall be liberally construed in order to provide the benefits of this section and Section 2 of Article XIII A of the California Constitution to affected property owners at the earliest possible date.

- (c) A request for assessment under this section that is made after four years following the date the property was acquired by eminent domain or purchase, or the date the judgment of inverse condemnation becomes final, shall apply to the lien dates for the last four fiscal years with appropriate roll corrections, refunds, or cancellations. Under an assessment granted pursuant to that request, the assessor shall adjust the base year value of the replacement property acquired in accordance with this section and make adjustments for both of the following:
 - (1) Inflation, as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.
 - (2) Any subsequent new construction occurring with respect to the subject real property.

Effect, Objective, and Benefits of the Proposed Amendments

Senate Bill 803 (Stats. 2015, ch. 454) amended Revenue and Taxation Code section 68 to specify that if a taxpayer files a request for exclusion from reassessment after four years following the date the property was acquired by eminent domain or purchase, or the date the judgment of inverse condemnation becomes final, then rather than becoming ineligible for exclusion, the base year value transfer will be applied to the lien dates for the last four fiscal years with appropriate roll corrections, refunds, or cancellations. Additionally, the assessor is to adjust the base year value of the replacement property for annual inflation and any new construction.

As a result, Board staff reviewed the current provisions of Property Tax Rule 462.500, which implement, interpret, and make specific the provisions in RTC section 68, and staff determined that the requirement by Rule 462.500 to make a timely request for the exclusion to apply to replacement property within four years or otherwise forfeit the exclusion, was not consistent with the amendments of RTC section 68 required by Senate Bill 803. Board staff therefore developed a draft of proposed amendments to the rule to add a subdivision that

reflects the newly added subdivision (c) of RTC section 68. The new subdivision of Rule 462.500, which is (g)(3), states that if a request is made after four years of the applicable date listed in subdivision (g)(2) of this rule, relief shall apply to the lien dates for the last four fiscal years with appropriate roll corrections, refunds, or cancellations. As of the fourth lien date prior to the date of the request and any subsequent lien dates, the base year value of the replacement property shall be adjusted for both of the following: (A) Inflation, as annually determined in accordance with paragraph (1) of subdivision (a) of Revenue and Taxation Code section 51; (B) Any subsequent new construction occurring with respect to the subject real property.

Related to these changes, staff determined that the subheading of subdivision (g) of Rule 462.500, "Time Limits for Qualification," was no longer consistent with RTC section 68 as amended by Senate Bill 803. Staff determined that organizing the existing language, including the newly inserted subdivision regarding the administration of claims for relief filed after four years, into two separate subheadings according to their respective topics, would be easier to understand. Therefore, to better organize subdivision (g), staff's draft amendments retained paragraphs (1) and (2) in subdivision (g), moving the last sentence of paragraph (1) to paragraph (2) so that paragraph (1) would address the fact that the provisions of Rule 462.500 apply to property acquired as a replacement property taken by eminent domain proceedings, public acquisitions, or judgments of inverse condemnation, provided that a request for such assessment is made with the assessor, and that the replacement property must be acquired before a request is made. Paragraph (2) states that reassessments and refunds shall be made retroactively to the date of acquisition of replacement property for property taken, provided a request is made within four years after one of the following dates, whichever is applicable:

- (A) The date final order of condemnation is recorded or the date the taxpayer vacates the property taken, whichever is later, for property acquired by eminent domain;
- (B) The date of conveyance or the date the taxpayer vacates the property taken, whichever is later, for property acquired by a public entity by purchase or exchange; or
- (C) The date the judgment of inverse condemnation becomes final or the date the taxpayer vacates the property taken, whichever is later, for property taken by inverse condemnation.

Finally, paragraph (3) of subdivision (g) of Rule 462.500 is the newly added paragraph that reflects the newly added subdivision (c) of RTC section 68, added by Senate Bill 803, as set forth above. Staff determined

that the rule would be easier to understand if these three subdivisions were organized under the subheading, "Request for Assessment."

The remaining provisions of subdivision (g), which were formerly numbered subdivisions (g)(3) and (g)(4), state that:

- (3) Replacement property shall be eligible for property tax relief under this section rule if it is acquired on or after the earliest of the following dates:
 - (A) The date the initial written offer is made for the property taken by the acquiring entity;
 - (B) The date the acquiring entity takes final action to approve a project which results in an offer for or the acquisition of the property taken;
 - (C) The date the "Notice of Determination," "Notice of Exemption," or similar notice, as required by the California Environmental Quality Act (CEQA), is recorded by the public entity acquiring the taxpayer's property and the public project has been approved; or
 - (D) The date, as declared by the court, that the replaced property was taken.
- (4) No property tax relief shall be granted to replacement property, however, prior to the date of displacement. The date of displacement shall be the earliest of the following dates:
 - (A) The date the conveyance of the property taken to the acquiring entity or the final order of condemnation is recorded;
 - (B) The date of actual possession by the acquiring entity of the property taken; or
 - (C) The date upon or after which the acquiring entity may take possession of the property taken as authorized by an order for possession.

Since these subdivisions are with regard to limits based on acquisition and displacement dates, Board staff determined that the rule would be easier to understand if these two subdivisions were organized under the subheading, "Limits Based on Acquisition and Displacement Dates." Therefore, staff's draft amendments include this as the new subheading for subdivision (h), and renumbers the subsequent subdivision paragraphs.

While preparing the draft amendments and through the interested parties process, staff also determined that the following amendments were reasonably necessary for the specific purposes of:

- Clarifying in new Example 9 the property tax relief available when a taxpayer has a parcel taken, and subsequently two additional parcels taken,

that the taxpayer may then purchase one parcel to replace the three properties taken.

- Clarifying that when property is replaced with two separate properties, pro-rata relief is applicable to both replacement properties in Example 4 and Example 6.
- Clarifying that floating homes are included in the definition of “real property” in subdivision (b)(5) of Rule 462.500.
- Clarifying that the terms and conditions for qualifying for property tax relief described in each subdivision of the rule are applicable to Rule 462.500 rather than any particular section, by replacing the word “section” with the word “rule”.
- Clarifying that only the person whose property was taken may receive the exclusion under this rule up to 120 percent of his or her ownership interest in the replacement property, in new Example 14.
- Clarifying that the reference to “Board” means the State Board of Equalization.
- Making formatting and grammatical changes for clarification.

The above clarifications are reasonably necessary for the efficient and fair administration of the change in ownership provisions, under article XIII A of the California Constitution and the Revenue and Taxation Code (RTC), applicable to changes in ownership of real property acquired to replace property taken by governmental action which has resulted in a judgment of inverse condemnation, acquisition by a public entity, or eminent domain proceedings.

The Board anticipates that the Proposed Amendments will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, county assessors, and the owners of property potentially subject to assessment appeals hearings.

The Board has performed an evaluation of whether the Proposed Amendments are inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Amendments are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the Proposed Amendments. In addition, there are no comparable federal regulations or statutes to the Proposed Amendments.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption the Proposed Amendments will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

ONE-TIME COST TO THE BOARD, BUT NO OTHER COST OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY, OR SCHOOL DISTRICT

The Board has determined that the adoption of the Proposed Amendments will result in an absorbable \$525 one-time cost for the Board to update its website after the amendments are completed. The Board has determined that the adoption of the Proposed Amendments will result in no other direct or indirect cost or savings to any state agency, 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 title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

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

The adoption of the Proposed Amendments may affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

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

RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT REQUIRED BY GOVERNMENT
CODE SECTION 11346.3, SUBDIVISION (b)

The Board assessed the economic impact of the Proposed Amendments on California businesses and individuals and determined that the Proposed Amendments are not major regulations, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Amendments and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Amendments will neither create nor eliminate jobs in the State of California nor create new businesses or eliminate existing businesses within the state nor expand businesses currently doing business in the State of California. Furthermore, as stated above under the INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW, Effect, Objective, and Benefits of the Proposed Amendments, the Board has determined that the adoption of the Proposed Amendments will benefit the health and welfare of California residents, worker safety, or the state's environment by safeguarding efficient and fair operation of local assessment appeals hearings.

NO SIGNIFICANT EFFECT ON
HOUSING COSTS

Adoption of the Proposed Amendments will not have a significant effect on housing costs.

DETERMINATION REGARDING
ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise 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 than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the Proposed Amendments should be directed to Henry Nanjo, Chief Counsel, by telephone at (916) 323-1094, by e-mail at henry.nanjo@boe.ca.gov, or by mail at State Board of Equalization, Attn: Henry Nanjo, MIC:121, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Lawrence Lin, Regulations Coordinator, by telephone at (916) 323-1094, by fax at (916) 324-2586, by e-mail at Lawrence.Lin@boe.ca.gov, or by mail at State Board of Equalization, Attn: Lawrence Lin, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080. Mr. Lin is the designated backup contact person to Mr. Nanjo.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on September 22, 2020, or as soon thereafter as the Board holds the public hearing regarding the Proposed Amendments during the September 22, 2020, Board meeting. Written comments received by Mr. Lawrence Lin at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Amendments. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL
STATEMENT OF REASONS AND TEXT OF
PROPOSED REGULATION

The Board has prepared an underline and strikethrough version of the Proposed Amendments illustrating the express terms of the Proposed Amendments and an initial statement of reasons for the adoption of the Proposed Amendments, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the Proposed Amendments and the initial statement of

reasons are also available on the Board's website at www.boe.ca.gov.

**SUBSTANTIALLY RELATED
CHANGES PURSUANT TO GOVERNMENT
CODE SECTION 11346.8**

The Board may adopt the Proposed Amendments with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Lin. The Board will consider written comments on the resulting regulation that are received prior to adoption.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

If the Board adopts the Proposed Amendments, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

**PROPOSED RESEARCH FOR A
FULLY PROTECTED SPECIES
Research on the Blunt-nosed Leopard Lizard
(*Gambelia sila*)**

The Department of Fish and Wildlife (Department) received a proposal on June 23, 2020, from Dr. Mike Westphal requesting authorization to take the Blunt-nosed Leopard Lizard (*Gambelia sila*) ('BNLL') for scientific research purposes consistent with conservation and recovery of the species. The BNLL is a Fully

Protected reptile and is also listed as Endangered under the California and federal Endangered Species Acts.

Dr. Westphal is an ecologist with the U.S. Bureau of Land Management (BLM) and currently possesses State and federal permits to conduct research on BNLL. The Department and the U.S. Fish and Wildlife Service (Service) have been coordinating with Dr. Westphal and his collaborators on appropriate management of a small, isolated, genetically unique BNLL population occurring on the Panoche Plateau in Fresno County. One collaborator, Dr. Rory Telemeco, Assistant Professor in Biology at Fresno State, is in the process of obtaining federal and State permits to conduct research on BNLL (CRNR 9-Z, pp. 323-324; February 18, 2020). Mark Halvorsen, the Curator of Reptiles at the Fresno Chaffee Zoo, is also collaborating on this project, primarily advising and overseeing BNLL captive husbandry.

Recent evidence from extensive surveys indicates that the Panoche Plateau population has undergone a recent and rapid decline that imminently threatens its persistence. Dr. Westphal's proposal requested emergency authorization for Dr. Telemeco and him to capture three adult male and three adult female BNLL and transfer them to the Fresno Chaffee Zoo to establish a captive assurance colony. The purpose of the colony is to ensure the preservation of the unique genetic make-up of the Panoche Plateau BNLL and to produce additional BNLL for reintroductions through captive propagation. The Fresno Chaffee Zoo has committed to establish and care for the captive assurance colony for at least five years. Fresno Chaffee Zoo has staff with the necessary husbandry expertise to care for, breed, and rear BNLL.

There is limited time available to collect the BNLL before they become inactive for the rest of the year. The Department is currently evaluating the proposal and if approved, the Department intends to issue, under specified conditions, an MOU to authorize qualified wildlife researchers, with Mark Halvorsen as the Principal Investigator, in his capacity as the Curator of Reptiles for the Fresno Chaffee Zoo, to carry out the proposed activities as quickly as possible.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected reptile species after a 30 days' notice has been provided to affected and interested parties through publication of this notice. The Department has determined that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected reptiles and intends to issue the MOU before the 30-day public comment period has concluded, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, Laura.Patterson@wildlife.ca.gov, 916-373-6633.

FISH AND GAME COMMISSION

SUMMARY OF REGULATORY ACTIONS

NOTICE OF RECEIPT OF PETITION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2073.3 of the Fish and Game Code, the California Fish and Game Commission (Commission), on June 29, 2020, received a petition from the Center for Biological Diversity and the Endangered Habitats League to list Quino checkerspot butterfly (*Euphydryas editha quino*) as endangered under the California Endangered Species Act.

The Quino checkerspot butterfly is found in grasslands, open chaparral, and coastal shrublands with sparse vegetation surrounded by bare patches up to 5,000 feet in elevation. Habitat is best defined by presence of larval host plants, nectar resources, microtopography, cryptobiotic crust, and presence of episodic disturbances. The United States Fish and Wildlife Service defined primary constituent elements of Quino habitat as: (1) Grassland and open-canopy woody plant communities, such as coastal sage scrub, open red shank chaparral, and open juniper woodland, with host plants or nectar plants; (2) Undeveloped areas containing grassland or open-canopy woody plant communities, within and between habitat patches, utilized for Quino checkerspot butterfly mating, basking, and movement; or (3) Prominent topographic features, such as hills and/or ridges, with an open woody or herbaceous canopy at the top determined relative to other local topographic features.

Pursuant to Section 2073 of Fish and Game Code, on July 8, 2020, the Commission transmitted the petition to the California Department of Fish and Wildlife (Department) for review pursuant to Section 2073.5 of said code. The Commission will receive the petition at its August 19-20, 2020, meeting via teleconference and webinar. It is anticipated that the Department's evaluation and recommendation relating to the petition will be received by the Commission at its October 14-15, 2020, meeting via teleconference and webinar.

Interested parties may contact Erin Chappell, Environmental Program Manager, at California Department of Fish and Wildlife, 1010 Riverside Parkway, West Sacramento, CA 95605 or (916) 373-6618 or Erin.Chappell@wildlife.ca.gov, for information on the petition or to submit information to the Department relating to the petitioned species.

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 Number 2020-0528-01
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Calculation of Estimated Use Tax — Use Tax Table

This action amends a component of the use tax liability factor calculation formula beginning June 1, 2020. This action is exempt from the Administrative Procedure Act pursuant to Government Code sections 11340.9(g) and 15570.40(b).

Title 18
AMEND: 1685.5
Filed 07/08/2020
Effective 07/08/2020
Agency Contact: Kim DeArte (916) 309-5227

File Number 2020-0619-06
CALIFORNIA HORSE RACING BOARD
Trainer to Maintain Treatment Records

The California Horse Racing Board adopted a regulation requiring racehorse trainers to maintain a record of all medication treatments administered to a horse under their care that are within the enclosure.

Title 4
ADOPT: 1842.5
Filed 07/13/2020
Effective 10/01/2020
Agency Contact: Robert Brodnik (916) 263-6025

File Number 2020-0619-01
DEPARTMENT OF FOOD AND AGRICULTURE
Terms Defined

These changes without regulatory effect correct cross-references to subdivisions of Food and Agriculture Code section 52452 which have become inaccurate as a result of amendments to that statute by Assembly Bill 2470 (Statutes of 2014, Chapter 294).

Title 3
AMEND: 3850
Filed 07/08/2020
Agency Contact: Rachel Avila (916) 403-6813

File Number 2020-0609-06
DEPARTMENT OF INSURANCE
CAARP Plan of Operations

This action amends the California Automobile Assigned Risk Plan (CAARP) to allow for real-time notification of assignment of an insurer to an applicant, estimation of certain assignments, temporary assignments, and rejection of misleading or incomplete applications. Pursuant to Insurance Code section 11620(c), this action is not subject to the requirements of the Administrative Procedure Act.

Title 10
AMEND: 2498.4.9
Filed 07/08/2020
Effective 07/08/2020
Agency Contact: Michael Riordan (415) 538-4226

File Number 2020-0611-02
DEPARTMENT OF VETERANS AFFAIRS
Certified Veterans Service Providers

This action adopts regulations which provide for the certification of Veteran Service Providers (VSPs) and for the awarding of grants by the Department of Veterans Affairs (CalVet) to certified VSPs to provide programs in support of the CalVet 2018-2020 Strategic Plan and the U.S. Department of Veterans Affairs Fiscal Years 2018-2024 Strategic Plan.

Title 12
ADOPT: 480, 481, 482, 483, 484, 485, 486
Filed 07/13/2020
Effective 10/01/2020
Agency Contact: Phil McAllister (916) 653-1961

File Number 2020-0518-03
FISH AND GAME COMMISSION
Public Use of Department of Fish & Wildlife Lands

This rulemaking action by the Fish and Game Commission revises the list of wildlife areas and ecological

reserves that participate in the Lands Pass Program, improves consistency with federal regulations pertaining to National Wildlife Refuges that are also designated as state wildlife areas, and incorporates recent statutory changes to the Fish and Game Code.

Title 14
AMEND: 550, 550.5, 551, 552, 630, 702
Filed 07/10/2020
Effective 07/10/2020
Agency Contact: Jon Snellstrom (916) 654-9868

File Number 2020-0603-02
FISH AND GAME COMMISSION
Central Valley Sport Fishing Regulations

This action amends bag and possession limits for the 2020 Central Valley fall-run Chinook salmon sport fishing season, repeals the exception for the take of coho salmon in Feather River impoundments, and makes minor changes.

Title 14
AMEND: 2.35, 7.00, 7.50
Filed 07/15/2020
Effective 07/15/2020
Agency Contact: Craig Castleton (916) 651-1329

**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.