



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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TITLE 2. SECRETARY OF STATE

Chapter 8.5. Business Entity Names
Amending Sections 21000, 21001, 21001.2, 21001.3, 21002, 21003, 21004, 21005, 21006
Repealing Sections 21004.5, 21005.5 and 21008
(Business Entity Names)

Notice is hereby given that the Secretary of State intends to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

Hearing Date: No hearing date is scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact person listed no later than 15 days prior to the close of the written comment period.

Written Public Comment Period: October 23, 2020, through December 7, 2020.

PROPOSED REGULATORY ACTION

The Secretary of State proposes the following regulatory action:

Amend provisions of 2 California Code of Regulations sections 21000, 21001, 21001.2, 21001.3, 21002, 21003, 21004, 21005, 21006 and repeal sections 21004.5, 21005.5 and 21008 to reflect statutory changes in anticipation of the passing of Senate Bill 522 in the California Legislature's 2019 to 2020 session, effective January 1, 2021 and further implement and interpret the requirements of Corporations Code sections 110, 201, 2601, 5008, 5122, 7122, 9122, 10010, 10013, 12214, 12302, 13409, 15901.08, and 17701.08.

AUTHORITY AND REFERENCE

Authority cited: Corporations Code sections 8, 110, 201, 2106, 2601, 5008, 5122, 7122, 9122, 10010, 10013, 12214, 12302, 13409, 15901.08, 15909.05, 17701.08 and 17708.02.

Reference cited: Corporations Code sections 8, 167, 171, 201, 2101, 2106, 2601, 5008, 5122, 6910,

7122, 8910, 9122, 12302, 13409, 15901.02, 15901.08, 15901.09, 15909.02, 15909.05, 17701.02, 17701.08, 17701.09, 17708.02 and 17708.05.

**INFORMATIVE DIGEST / POLICY
STATEMENT OVERVIEW**

The Secretary of State proposes to amend sections 21000 through 21009 of Title 2 of the California Code of Regulations, which implement, interpret or make specific sections 201, 2601, 5122, 7122, 9122, 12302, 15901.08 and 17701.08 of the Corporations Code. These sections concern the availability of business entity names for Corporations, Foreign Corporations, Limited Liability Companies, Foreign Limited Liability Companies, Limited Partnerships and Foreign Limited Partnerships. The proposed amendments are intended to reflect the new statutory standards effective January 1, 2021.

The specific benefits anticipated by the proposed amendment of these regulations includes helping persons and businesses trying to determine the availability of business entity names prior to filing their documents with the Secretary of State. The existing regulations will not reflect the statutory standards, effective January 1, 2021, that are required to be used in evaluating proposed names for corporations and limited partnerships. Leaving the existing regulations intact would result in confusion among applicants. Amending the regulations to be consistent with the California General Corporations Law, the Social Purpose Corporations Act, the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, the Nonprofit Religious Corporation Law, the Cooperative Corporation Law, Uniform Limited Partnership Act of 2008, and the California Revised Uniform Limited Liability Company Act should result in fewer documents being rejected by the Secretary of State based on unavailable business entity names, which will save those individuals and businesses time and money.

The Secretary of State has considered any other related regulations and statutes on this matter and has determined that this proposed amendment is not inconsistent or incompatible with existing regulations and statutes. The Secretary of State is the only state office responsible for administering the California General Corporations Law, the Social Purpose Corporations Act, the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, the Nonprofit Religious Corporation Law, the Cooperative Corporation Law, Uniform Limited Partnership Act of 2008, and the California Revised Uniform Limited Liability Company Act.

Specifically, through this proposed rulemaking, the Secretary of State proposes to amend California Code

of Regulations, Title 2, Division 7, Chapter 8.5 in the following respects:

- 1) The changes to Subsection 21000(a) updates the references to reflect numbering changes to other sections of the Business Entity Name Regulations. The phrase “the same, deceptively similar to, substantially the same as” is being removed to reflect the new standard of distinguishable in the record.
- 2) Changes to Subsection 21000(b) removes the same phrase “the same, deceptively similar to, substantially the same as” to apply the statutory name standard of distinguishable in the record.
- 3) Changes to Subsection 21000(c) removes the phrases “the same as, deceptively similar to,” “or whether a proposed name will require consent from an existing business entity of record for use of a proposed name,” to reflect the new standard of distinguishable in the record.
- 4) Subsection 21001(b) is deleted as the term “Deceptively similar” is no longer part of the standard and no longer needs to be defined.
- 5) Subsection 21001(c) is renumbered to Subsection 21001(b) as the existing 21001(b) is being deleted.
- 6) Subsection 21001(d) is renumbered to Subsection 21001(c) as the existing 21001(c) is being renumbered.
- 7) Subsection 21001(e) is renumbered to Subsection 21001(d) as the existing 21001(d) is being renumbered.
- 8) Subsection 21001(f) is renumbered to Subsection 21001(e) as the existing 21001(e) is being renumbered.
- 9) Subsection 21001(f) is added to define the term “punctuation.”
- 10) Subsection 21001(g) is added to define the term “symbol.”
- 11) Existing Subsection 21001(g) is renumbered to Subsection 21001(h) with the addition of Subsection 21001(f) and Subsection 21001(g).
- 12) Subsection 21001.1(b) is being deleted to apply the statutory name standard (“distinguishable in the records of the Secretary of State”) as “the same as or deceptively similar to” and “substantially similar to” is no longer part of the standard.
- 13) Subsection 21001.1(c) is renumbered to Subsection 21001.1(b) as the existing Subsection 21001.1(b) is being deleted.
- 14) Subsection 21001.3(b) is added to reflect the current standard “likely to mislead the public” to Limited Partnership names.
- 15) Section 21002 is being renamed to delete the standard of “Same or Deceptively Similar Names” and to name it “Punctuation & Symbols” to reflect the statutory standard and retain the punctuation and symbol examples.
- 16) Section 21002, first paragraph is being deleted as it is no longer the applicable standard.
- 17) Subsection 21002(a) is being deleted as it is no longer the applicable standard.
- 18) Subsection 21002(b) is being deleted as it is no longer the applicable standard.
- 19) Subsection 21002(c) is being deleted as it is no longer the applicable standard.
- 20) Subsection 21002(d) is being deleted as it is no longer the applicable standard.
- 21) Subsection 21002(e) is being deleted as it is no longer the applicable standard.
- 22) Subsection 21002(f), first sentence is being deleted to list the following examples of punctuation and symbols.
- 23) Subsection 21002(f)(1) is renumbered to Subsection 21002(a).
- 24) Subsection 21002(f)(2) is renumbered to Subsection 21002(b).
- 25) Subsection 21002(f)(2) examples are deleted to remove the deceptively similar standard examples as it is no longer the applicable standard.
- 26) Subsection 21002(f)(3) is being deleted to remove the deceptively similar standard as it is no longer the applicable standard.
- 27) Subsection 21002(g) is being deleted to remove the deceptively similar standard as it is no longer the applicable standard.
- 28) Subsection 21002(h) is being deleted to remove all examples of the deceptively similar standard as it is no longer the applicable standard.
- 29) Section 21003 is being deleted in its entirety to remove the “Substantially Similar” standard as it is no longer the applicable standard.
- 30) Section 21004 is being deleted in its entirety as it is part of the “Substantially Similar” or “Substantially the Same” standard which requires consent.
- 31) Section 21004.5 is being deleted in its entirety as the “Deceptively Similar and Substantially the Same As” standard is no longer the applicable standard.
- 32) Section 21005 is being renumbered to Section 21003 as the existing Section 21003 contents are being deleted in its entirety.
- 33) Section 21005.5 is being renumbered to Section 21004 as the existing Section 21004 contents are being deleted in its entirety.
- 34) Existing Subsection 21005.5(b)(3) which will be renumbered to Subsection 21004(b)(3), is being amended to reflect the change in reference to the

subsection regarding the definitions to punctuations and symbols.

- 35) Existing Subsection 21005.5(b)(3) which will be renumbered to Subsection 21004(b)(3), examples are being amended to reflect corporate names consistent in the change of the statutory standard to “distinguishable in the record” regarding corporate names.
- 36) Existing Subsection 21005.5(b) which will be renumbered to Subsection 21004(b), will add Subsection 21004(b)(4) to distinguish the symbol of ampersand with the word “and” to clarify any ambiguity.
- 37) Existing Subsection 21005.5(b)(4) is being renumbered to Subsection 21004(b)(5) to reflect the addition of the Subsection 21004(b)(4).
- 38) Existing Section 21006 is being renumbered to Section 21005 as the existing Section 21005 is being renumbered to Section 21003 and the name is reflected to add “Court Judgments” where the existing parts of Subsection 21004.5(b) regarding court judgments is being retained.
- 39) Existing Subsection 21006(a) which is being renumbered to Subsection 21005(a), is being amended to delete the references to the “substantially the same as” standard as it is no longer the applicable standard.
- 40) Existing Subsection 21006 which is being renumbered to Section 21005, is adding Subsection 21005(c) regarding court judgments that were originally in Subsection 21004.5(b) as it is being retained.
- 41) Existing Section 21008 is being renumbered to Section 21006 as existing Section 21006 is being renumbered to Section 21005.
- 42) Existing Section 21008, first paragraph, which is being renumbered to Section 21006, is being amended to remove the references to “same as, deceptively similar to or substantially the same as” standard which will no longer be used.

WRITTEN COMMENT PERIOD

Any interested person, or the interested person’s authorized representative, may submit written comments relevant to the proposed regulatory action to the Secretary of State. The written comment period closes on December 7, 2020. The Secretary of State will consider only comments received at the Secretary of State’s office by that time. Submit comments to:

Lauro Feliciano, Attorney
Secretary of State
1500 11th Street, Sixth Floor
Sacramento, CA 95814
Telephone: 916–695–1290

The backup contact person for comment submission is:

Janessa Huez, Supervising Attorney
Secretary of State
1500 11th Street, Third Floor
Sacramento, CA 95814
Telephone: 916–695–1242

All inquiries regarding this proposed rulemaking, including requests for obtaining the Final Statement of Reasons, should be directed to Lauro Feliciano at the address listed above.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Secretary of State has made the following initial determinations:

1. **Mandate on local agencies and school districts:** None.
2. **Costs or savings to any state agency:** None beyond those budgeted or expected to be budgeted for the Secretary of State.
3. **Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:** None.
4. **Other nondiscretionary costs or savings imposed on local agencies:** None.
5. **Costs or savings in federal funding to the state:** None.
6. **Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:** None.
7. **Cost impacts on a representative private person or businesses:** The Secretary of State anticipates negligible overall cost savings to private persons and businesses. The proposed changes to the regulations will help persons and businesses determine the availability of business entity names prior to filing their documents with the Secretary of State and will reflect statutory changes based on the California General Corporations Law, the Social Purpose Corporations Act, the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, the Nonprofit Religious Corporation Law, the Cooperative Corporation Law, Uniform Limited Partnership

Act of 2008, and the California Revised Uniform Limited Liability Company Act. This should result in fewer documents being rejected by the Secretary of State based on unavailable business entity names, which will save those individuals and businesses time and money. The net result is expected to be neutral or result in a very small savings to applicants.

8. **Adoption of these amendments will not:**
 - (A) create or eliminate jobs within California;
 - (B) create new businesses or eliminate existing businesses within California; or
 - (C) affect the expansion of businesses currently doing business within California.
9. **Significant effect on housing costs:** None.
10. **Effect on small business:** None. The proposed amendments do not impose any mandatory fees on small businesses or require any forms or reports be prepared or filed by any business.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The proposed regulatory amendments reflect the statutory changes in anticipation of the passing of Senate Bill 522 in amending the California General Corporations Law, the Social Purpose Corporations Act, the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, the Nonprofit Religious Corporation Law, the Cooperative Corporation Law, Uniform Limited Partnership Act of 2008, and the California Revised Uniform Limited Liability Company Act. Accordingly, no jobs in California will be created or eliminated, no new businesses in California will be created or existing businesses eliminated, and no existing businesses in California will be expanded or eliminated.

Amending the Business Entity Name Regulations will help persons and businesses trying to determine the availability of business entity names prior to filing their documents with the Secretary of State and will reflect statutory changes based on the California General Corporations Law, the Social Purpose Corporations Act, the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, the Nonprofit Religious Corporation Law, the Cooperative Corporation Law, Uniform Limited Partnership Act of 2008, and the California Revised Uniform Limited Liability Company Act. The existing regulations will not reflect the statutory standards, effective January 1, 2021, in evaluating limited liability company proposed names and left intact would result in confusion among applicants. Amending the regulations to be consistent with the California General Corporations Law, the Social Purpose Corporations Act, the Nonprofit Public

Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, the Nonprofit Religious Corporation Law, the Cooperative Corporation Law, Uniform Limited Partnership Act of 2008, and the California Revised Uniform Limited Liability Company Act should result in fewer documents being rejected by the Secretary of State based on unavailable business entity names, which will save those individuals and businesses time and money.

CONSIDERATION OF ALTERNATIVES

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

The Secretary of State invites persons to present statements or arguments with respect to alternatives to the proposed amendments during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Secretary of State will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, the regulations as proposed, and the Initial Statement of Reasons. The rulemaking file includes all the information upon which the proposed action is based. Copies are posted on the Secretary of State's website at <http://www.sos.ca.gov/admin/regulations/proposed/> and may also be obtained from the contact person indicated above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Secretary of State may adopt the proposed regulations substantially as described in this Notice of Proposed Rulemaking. If the Secretary of State makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Secretary

of State adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the contact person indicated above. The Secretary of State will accept written comments on the modified regulations for 15 days after the date on which the modified regulations are made available.

AVAILABILITY OF RULEMAKING
DOCUMENTS AND THE FINAL STATEMENT
OF REASONS

Copies of rulemaking documents can be accessed through the Secretary of State’s website at <http://www.sos.ca.gov/admin/regulations/proposed/>. Upon completion, the Final Statement of Reasons will be posted on the Secretary of State’s website or obtained from the contact person indicated above.

**TITLE 4. DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL**

The Department of Alcoholic Beverage Control (ABC) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action. This proposed rulemaking is a certificate of compliance action for a previously approved emergency rulemaking action that is effective through January 25, 2021.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to ABC. Comments may also be submitted by email to RPU@abc.ca.gov, please include “Emergency Administrative Decisions” in the subject line of your email. The written comment period closes at **12:00 p.m. on December 9, 2020**. ABC will consider only comments received at ABC Headquarters by that time. Submit comments to:

Law and Policy Unit
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

AUTHORITY AND REFERENCE

Government Code section 11460.20, Business and Professions Code section 23080 authorizes ABC to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Government Code sections 11460.10, 11460.20, 11460.30, 11460.40, 11460.50, 11460.60, 11460.70, and 11460.80; and Business and Professions Code sections 23080, 23090.5, 23095, 24044.5, 24045.5, 24201, 24203, 24204, 24300, and 24301.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Current law has a large bureaucratic loophole through which unscrupulous ABC licensees can continue to present an immediate danger to public health, safety, and welfare during the lengthy administrative process of holding ABC licensees accountable for their violations of the ABC Act. The Department of Alcoholic Beverage Control (the Department) aims to close the loophole with this regulatory action which will authorize the Department to issue emergency decisions to protect the public health, safety, and welfare as provided under the Administrative Procedures Act (APA) without waiting for protracted litigation. Protracted litigation has the potential to defer decisive action from the Department for months or years providing opportunity for licensees to continue to harm the public.

Summary of Existing Laws and Regulations

Business and Professions Code section 23082 requires ABC to complete its entire normal disciplinary process prior imposing administrative remedies intended to prevent or stop the illegal conduct from continuing at a licensed premises. This formal process can last months. Even when an ABC decision is final, ABC decisions are subject to an automatic stay if appealed to the Alcoholic Beverage Control Appeals Board. This allows licensees endangering the public health, safety, and welfare to continue operation for years prior to effective ABC action.

Summary of Effect

If a business is operating in a fashion egregious enough to warrant an administrative emergency decision, the likelihood of the inappropriate behavior continuing is too great to allow it to continue during ABC’s disciplinary proceedings. Bad actors are gaming the system as they see an impending loss of license for their business on the horizon. They have no reasonable incentive to correct their behavior and abide by the rules, instead they elect to continue litigating, thereby extending the appeals process and fiscally profiting for as long as they can with an absolute disregard for the law. The proposed regulatory action

will make permanent the emergency administrative decision regulations previously established under an emergency regulation in early 2020. Administrative emergency decisions allow ABC to implement limits on the ongoing harm to the public health, safety, and welfare in the form of temporary suspensions, temporary limitations on licensed privileges, and temporary license conditions while the normal accusation process is pending. The regulations will ensure ABC complies with due process in issuing administrative emergency decisions pending completion of an accusation process while also protecting the public health, safety, and welfare.

Comparable Federal Statute or Regulations

ABC has determined that this proposed regulation does not have a comparable federal statute or regulation.

Policy Statement Overview

ABC’s mission to protect the public health, safety, and welfare through licensing alcohol businesses and enforcing legislative standards is limited when its normal accusation process takes years to bring a final decision. By limiting bad actions from the licensed premises on an emergency temporary basis pending final rulings, California residents will have a higher quality of life through the benefits of better public health, safety, and welfare. The proposed regulations are consistent and compatible with existing state regulations.

Benefits Anticipated

By establishing immediate consequences for unacceptable behavior, ABC anticipates a reversal in the current trend of multiple appeals and prolonged litigation in many of ABC’s disciplinary actions which have become less of a deterrent and more of an unanticipated cost of doing business which bad actors are willing to pay for. This will also limit additional violations of the law by ABC licensees from harming the public while ABC completes its normal disciplinary process, or while the ABC Appeals Board reviews an ABC decision.

Determination of Inconsistency/Incompatibility with Existing State Regulations

ABC has determined that this proposed regulatory action is not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, ABC has concluded that these are the only regulations that concern administrative emergency decisions by ABC in California.

Effect upon Small Businesses in California

ABC has determined this proposed regulatory action does affect small businesses. However, the laws that ABC seeks to enforce via the proposed regulation are laws to which small businesses are already sub-

ject and the only change is how these laws are investigated and enforced. While some ABC licensees are small businesses, this regulation is affecting all ABC licensees who present and immediate harm to the public health, safety, and welfare through their actions. ABC is not affecting any business with this regulation without due process and the Department providing evidence that the business presents an immediate threat to the public health, safety, and welfare.

Disclosures Regarding the Proposed Action

The ABC has made the following initial determinations:

1. Mandate on local agencies or school districts: None.
2. Costs or Savings to any state agency: ABC estimates a \$10,000 per year cost to the department through a rare appeal of a temporary order at the Superior Court of the county where a licensed premises subject to an emergency decision is located. This new cost will be absorbed into ABC’s current budget, and could be offset by a similar reduction of additional violations at licensed premises occurring during the ABC normal disciplinary process.
3. Cost to any local agency or school district that is required to be reimbursed by the state: None.
4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Cost impacts on housing costs: None.

Determination of Statewide Adverse Economic Impact on Business

The ABC has made an initial determination that the adoption of this regulation will have negligible economic impact on businesses that do not violate the law. The laws that ABC seeks to enforce via the proposed regulation are laws to which businesses are already subject. The proposed action only lays out the process by which ABC will investigate and discipline licenses for potential violations and seek enforcement of these same laws. There is no foreseeable impact on businesses based on the process laid out in the proposed regulation.

Results of the Economic Impact Assessment:

ABC concludes that it is (1) unlikely that the proposal will eliminate any jobs, (2) unlikely that the proposal will create an unknown number of jobs, (3) unlikely that the proposal will create an unknown number of new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

ABC does anticipate the proposed regulations will allow increased public health, safety, and welfare from a better check upon ABC licensees that currently can continue violating the ABC Act during ABC's normal accusation process. It will provide clarity to law enforcement officers, ABC licensees, and the public of the regulatory procedure to implement administrative emergency decisions to stop the above conduct. This proposed regulation will further ABC's mission which is to protect the public health, safety, and welfare through licensing alcohol businesses and enforcing legislative standards. Additionally, the proposed regulations will promote more safety, as well as consistent enforcement of these laws throughout the state. The proposed regulations will not benefit worker safety or the state's environment.

Description of All Economic Impacts That a Representative Private Person or Business Would Necessarily Incur in Reasonable Compliance with the Proposed Action

ABC has made the determination that the adoption of this regulation will have negligible economic impact on a representative private person or business that does not violate the law. The laws that ABC seeks to enforce via the proposed regulation are laws to which persons and businesses are already subject. The proposed action lays out the process by which ABC will investigate potential violations and seek enforcement of these same laws. There is no foreseeable impact on representative private persons or businesses based on the process laid out in the proposed regulation.

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

The Need to Require Report from Businesses

The proposed regulation does not require any reports from ABC licensees or any other business.

Consideration of Alternatives

ABC has determined that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. ABC invites interested persons to present statement or arguments with respect to alternatives to the proposed regulation during the written comment period.

Agency Contact Person

Inquiries concerning the proposed regulatory action may be directed to the agency representative Robert de

Ruyter, Assistant General Counsel, (916) 419-8958 or (designated backup contact) Sonny Bains, Associate Governmental Program Analyst, Law and Policy Unit, (916) 285-0891.

Availability of Documents

ABC prepared an Initial Statement of Reasons for the proposed action. Copies of the Initial Statement of Reasons, and the full text of the proposed regulations may be accessed on ABC's website listed below or may be obtained from the Regulations and Policy Unit, Department of Alcoholic Beverage Control, 3927 Lennane Drive, Suite 100, Sacramento, CA 95834, on or after October 23, 2020.

ABC 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.

Change to the Proposed Full Text of the Regulation Action

If there is any change to the proposed full text of the regulation action in a substantial, or sufficiently related way, it will be made available for comment for at least 15 days prior to the date on which the department adopts the resulting regulation.

Final Statement of Reasons Availability

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

Internet Access

This notice, the Initial Statement of Reasons, and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on ABC's website for this rulemaking at <https://www.abc.ca.gov/law-and-policy/regulations-rulemaking/>

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING REVISIONS TO CALIFORNIA LOW COST AUTOMOBILE PLAN OF OPERATIONS

SUBJECT OF HEARING

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

**AUTHORITY TO ADOPT RULES AND
PROCEDURES AND REFERENCE**

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

HEARING DATE AND LOCATION

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

Date: December 7, 2020
Time: 1:00 p.m.

TELEPHONIC PARTICIPATION ONLY

Toll-Free Conference Call Telephone Number:
844-867-6169
Participant Access Code: 3576416

Participants will be given instructions on how to provide testimony once they have accessed the hearing. The hearing will continue on the date noted above until all testimony has been submitted or until 5:00 p.m., whichever is earlier.

Access to Telephonic Conference Call

This hearing will be open to the public. To make it possible for the Department to advise attendees of future rulemaking activity, as well as to aid the Department of Insurance in managing attendance, we request that you voluntarily RSVP as soon as possible, preferably by Wednesday December 2, 2020, by providing your name(s), the name of the organization you represent, and your contact information, including email address of each attendee to RiordanM@insurance.ca.gov. An RSVP is not required to attend the telephonic conference and all attendees are invited to participate regardless of whether there was an RSVP.

The telephonic conference to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make specific arrangements, if necessary.

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

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

Contact Person:
Michael Riordan, Attorney
California Department of Insurance
Auto Enforcement Bureau
1901 Harrison Street 4th Floor
Oakland, CA 94612
riordanm@insurance.ca.gov
Telephone: (415) 538-4226
Facsimile: (510) 238-1830

The backup agency contact person for this proceeding will be:

Emily Gallagher, Attorney
California Department of Insurance
Rate Enforcement Bureau
1901 Harrison Street 4th Floor
Oakland, CA 94612
gallaghere@insurance.ca.gov
Telephone: (415) 538-4108

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

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on, December 7, 2020**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail or facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

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

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

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

**INFORMATIVE DIGEST/POLICY
 STATEMENT OVERVIEW**

LC 20-07

The Electronic Application Submission Interface (“EASi”) Electronic Effective Date Retraction Request Form is a multi-mechanism form used by the LCA. In conjunction with the introduction of the Private Passenger Pool for CAARP, generic references to an electronic application submission process are being introduced that eliminate references to EASi throughout the LCA Plan of Operation and related applications and forms.

CAARP proposes the introduction of generic references to electronic transmittal or electronic application submission and elimination if the references to EASi.

LC 20-08

The US Department of Treasury has issued an Executive Order that prohibits transactions with persons who commit, threaten to commit, or support terrorism. This Executive Order applies to property casualty insurers and to claims paid by those insurers. Due to recent enforcement actions by the Department of the Treasury, clarification should be provided to the policyholder that no payment will be made to a third party in violation of the Executive Order.

LC 20-09

The California Low Cost Plan of Operations, applications, and Program forms must be updated to comply with Senate Bill 570 that was enacted September 6, 2019.

The California Automobile Assigned Risk Program propose amendments to the Plan of Operations to incorporate changes reflected in Senate Bill 570.

CAARP proposes expansion of eligible vehicles to include a private passenger vehicle that is not registered to the applicant, insured, or their spouse that is furnished to the applicant or insured by another individual for personal use.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

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

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

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

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

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

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

The Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

**COST IMPACT ON PRIVATE PERSONS
 OR ENTITIES**

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

IMPACT ON HOUSING COSTS

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

IMPACT ON SMALL BUSINESS

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

SPECIFIC TECHNOLOGIES OR EQUIPMENT

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

ALTERNATIVES

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

PLAIN ENGLISH

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

TEXT AND INITIAL STATEMENT OF REASONS

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

FINAL STATEMENT OF REASONS

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

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior ap-**

pointment, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

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

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO ENHANCED VAPOR RECOVERY REGULATIONS

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption the proposed amendments to Certification Procedures, Definitions, and Test Procedures for Vapor Recovery Systems at Gasoline Dispensing Facilities (Enhanced Vapor Recovery Regulations).

DATE: December 10, 2020

TIME: 9:00 a.m.

Please see the public agenda which will be posted ten days before the December 10, 2020, Board Meeting for any appropriate direction regarding a possible remote-only Board Meeting. If the meeting is to be held in person, it will be held at the California Air Resources Board, Byron Sher Auditorium, 1001 I Street, Sacramento, California 95814.

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., December 10, 2020, and may continue at 8:30 a.m., on December

11, 2020. Please consult the agenda for the hearing, which will be available at least ten days before December 10, 2020, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 23, 2020. Written comments not submitted at the hearing must be submitted on or after October 23, 2020, and received **no later than December 7, 2020**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that, when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail: Clerks' Office,
California Air Resources Board
1001 I Street, Sacramento, California 95814
Electronic submittal: <https://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, section 41954. This action is proposed to implement, interpret, and make specific section 41954.

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 94010, 94011, 94016, and 94017.

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

The following documents would be incorporated in the regulation by reference in California Code of Regulations, title 17, §§ 94010, 94011, 94016, and 94017, respectively:

- D-200 – Definitions for Vapor Recovery Procedures [insert amendment date]
- CP-201 – Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities [insert amendment date], including:
 - TP-201.1C – Leak Rate of Drop Tube/Drain Valve Assembly [insert amendment date]
 - TP-201.1D – Leak Rate of Drop Tube Overfill Protection Devices and Spill Container Drain Valves [insert amendment date]
 - TP-201.21 – Test Procedure for In-Station Diagnostic Systems [insert amendment date]
- CP-206 – Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities Using Aboveground Storage Tanks [insert amendment date]
- CP-207 – Certification Procedure for Enhanced Conventional (ECO) Nozzles and Low Permeation Conventional Hoses at Gasoline Dispensing Facilities [insert amendment date]

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

In addition, the following documents are incorporated by reference in Certification Procedures CP-201, CP-206, and CP-207:

- Society of Automotive Engineers (SAE), 2019. Surface Vehicle Recommended Practice SAE J285: Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines, as revised by SAE April 2019. Copyrighted.
- SAE, 2019. Recommended Practice SAE J1140: Filler Pipes and Openings of Motor Vehicle Fuel Tanks, as revised by SAE October 2019. Copyrighted.

Documents incorporated by reference are attached as separate appendices in the Initial Statement of Reasons (ISOR), except for SAE J285 and SAE

J1140, which are copyrighted documents and will be on file as part of the public record.

Background and Effect of the Proposed Regulatory Action:

State law requires CARB to adopt procedures to certify and test vapor recovery systems or components used at gasoline dispensing facilities (GDF). Since the first certification and test procedures were adopted in 1975, CARB has periodically updated these procedures to reflect improvements in vapor recovery technologies, to modify requirements for existing installations to achieve additional emission reductions, and to improve cost-effectiveness. CARB staff is now proposing a suite of regulatory amendments to the certification and test procedures that would improve their cost-effectiveness, preserve emission reductions, and clarify the procedures for better regulatory certainty and enforceability.

Vapor Recovery Program Background

Gasoline vapor emissions are controlled during the transfer of gasoline from storage tanks at terminals, or bulk plants, to tanker trucks (cargo tanks) that deliver fuel to a GDF, from which gasoline is then transferred into vehicles. At a typical GDF, gasoline vapor emissions are controlled during gasoline transfer from the cargo tank to GDF storage tanks (Phase I) and from the storage tank to vehicles (Phase II). Additional controls include limiting storage tank headspace pressure and the volume of liquid spillage from the nozzle during vehicle refueling.

CARB approved Enhanced Vapor Recovery (EVR) regulations for GDFs equipped with an underground storage tanks (UST) or aboveground storage tank (AST) in March 2000 and June 2007. EVR regulations established 80 new standards and test procedures for vapor recovery systems to further reduce emissions and to increase reliability. Over the last two decades, CARB has amended the regulations numerous times to refine requirements and improve cost effectiveness, practicality, and efficiency of the program.

Issues Leading to and the Effect of the Proposed Regulatory Amendments

The proposed amendments are intended to continue to refine the EVR regulations to address the following issues.

1. ISD Overpressure Alarms

The in-station diagnostic (ISD) system continuously monitors the collection and containment of gasoline vapors within the UST and issues alarms when regulatory thresholds are exceeded. The alarms provide an early indicator of equipment malfunctions so that repairs are made promptly. Once the alarm is triggered, the GDF operator will typically schedule a contractor for troubleshooting and repair service.

In September 2009, CARB staff, in cooperation with the California Air Pollution Control Officers Association (CAPCOA), issued Advisory 405, when CARB staff found some GDFs were experiencing frequent ISD overpressure alarms during the wintertime that were not effective in detecting equipment malfunctions. This advisory was envisioned as a temporary mechanism to provide GDF operators with relief from alarm response costs by self-clearing alarms and to provide CARB staff the necessary time to collect and analyze field data to evaluate potential regulatory solutions.

Investigations conducted over the last decade revealed that in an overwhelming majority of instances, overpressure alarms are mainly attributed to the high volatility and evaporation rate of winter blend gasoline, and changes in newer vehicle fill pipe designs that result in a poor seal between the nozzle and vehicle fill pipe interface.¹ Since overpressure alarms are not effective at detecting repairable equipment malfunctions, they result in response costs for GDF owners without reducing emissions. Further, eliminating overpressure alarms would have no impact on air quality.

The proposed amendments would remove the ISD overpressure alarm criteria from the regulations, which would then require ISD manufacturers to remove the alarm criteria from their software the next time they seek CARB certification. The updated ISD software would be required for new GDFs and existing GDFs undergoing major modifications, and would be voluntary at all other existing GDFs.

2. ISD Report Improvements

The ISD software generates and stores an electronic archive of monthly and daily reports that can be accessed to verify the vapor recovery system is operating within set parameter limits. Several improvements are needed to make the stored pressure information more useful and to ensure that the reports can be cor-

¹ A poor seal at the fill pipe interface increases air ingestion at the nozzle, which increases the evaporation rate of gasoline within the UST headspace and results in excess pressure driven emissions and ISD overpressure alarms. In October 2018, the Board approved amendments to the certification procedures to standardize EVR and ECO nozzle spout and bellows dimensions to improve compatibility with newer vehicle fill pipes. The amendments were designed to reduce air ingestion at the nozzle and associated ISD overpressure alarms and pressure driven emissions. However, CARB staff expects that the high volatility of winter blend gasoline and site-specific factors such as variation in monthly gasoline throughput and limited operating hours (e.g., shut down at night and on holidays, or reduced weekend hours) can cause some GDFs to continue to have ISD overpressure alarms.

rectly and easily identified. The proposed amendments would require the daily reports to identify the month and year, and reported pressure values to have a minimum of two decimal places.

3. *Alternative Communication Ports for ISD System Consoles*

CP-201 currently requires all ISD system consoles to be equipped with an antiquated RS-232 communication port. ISD manufacturers have reported both difficulty and high costs in procuring these ports. ISD manufacturers requested that CARB staff revise this requirement to allow modern technologies, such as USB, Ethernet, or Bluetooth. CARB staff agrees and proposes amendments that would remove the RS-232 requirement to allow for more flexibility.

4. *Nozzle Spillage Standard*

Nozzle spillage occurs when liquid gasoline enters the environment before, during, and after vehicle refueling. As the liquid gasoline evaporates, vapor emissions are created. The spillage performance standard for CP-201 and CP-206 is 0.24 pounds emissions per thousand gallons of gasoline dispensed (lbs/kgal) for EVR nozzles, and for CP-207 is 0.12 lbs/kgal for ECO nozzles.

CARB staff has evaluated the performance of the five currently certified nozzles and found they are all performing much better than the existing standards. Therefore, CARB staff recommends lowering the standards in all three certification procedures to 0.05 lbs/kgal. This would preserve emission reductions that are already occurring and help safeguard public health benefits by preventing manufacturers from requesting CARB to certify less efficient nozzles that would lead to emission increases. Since all currently certified nozzles meet the proposed standard, all in-use nozzles can stay in place until end of useful life.

5. *Physical Sample Requirement for Vapor Recovery Equipment*

CARB certification procedures currently do not require manufacturers to submit physical samples of certified systems and components for CARB to archive. Without archived physical samples of certified components, it has been difficult for CARB to enforce requirements, or hold manufacturers accountable, when undisclosed changes were made. Undisclosed changes made to component materials or dimensional specifications can negatively affect compliance with performance standards. Therefore, CARB staff proposes amendments to CP-201, CP-206, and CP-207 to require equipment manufacturers to provide physical samples of new systems and/or components, once they have successfully demonstrated compliance with the applicable performance standards or specifications.

6. *Amend Test Procedures for Remote Fill Phase I System Configurations*

Test procedures TP-201.1C and TP-201.1D are used to quantify the leak rate of the fuel delivery pathway within Phase I EVR systems. While conducting the tests, if the specified pressure is not reached within five minutes, the system fails the test. In 2001, when TP-201.1C and TP-201.1D were adopted, Phase I EVR systems were configured with the fuel delivery pathway located directly above the UST or the fuel pathway had an offset (remote fill) no greater than 50 feet. For remote fill configurations with offset lengths greater than 50 feet, the additional volume in the fuel delivery pathway is too great to pressurize within five minutes. Therefore, CARB staff proposes to amend both test procedures by including a table that lists the time to pressurize the system as a function of pathway length.

7. *Correct the Phase II EVR Upgrade Date in CP-206*

On July 25, 2019, the Board adopted amendments to CP-206, granting existing ASTs in ozone non-attainment areas that have an annual gasoline throughput of 480,000 gallons or less additional time before they are required to upgrade to Phase II EVR. The intent was to designate July 25, 2019, as the applicable cutoff date for existing GDFs. When drafting the regulatory text for CP-206, CARB staff accidentally listed an incorrect date of March 13, 2015. This inadvertently created a population of existing ASTs, installed between March 13, 2015, and July 25, 2019, which regardless of annual throughput, would be required to upgrade to Phase II EVR, creating a grey area for Air District enforcement for these ASTs. CARB staff proposes replacing the date, March 13, 2015, in three sections of CP-206 with the date of the Board Hearing, July 25, 2019. This action would alleviate confusion by restoring the intent of the prior rulemaking activity.

8. *Various Administrative Changes*

The proposed amendments include administrative changes that clarify intent, improve regulatory certainty, and improve cost effectiveness by reducing confusion. These administrative changes do not introduce any new requirements. Further details are available in Chapter II of the ISOR. The proposed administrative amendments would:

1. Replace placeholder language with actual dates for the effective and operative dates for ECO nozzles in CP-207;
2. Clarify language for performance standard versus performance specification in CP-207 by making it consistent with language in CP-201;
3. Amend the title of CP-201 to include "Underground Storage Tanks" to provide clarification;

4. Decrease the length of CP–201, CP–206, and CP–207 by ten pages by incorporating nozzle dimensions by reference to identical dimensions in SAE J285 and SAE J1140 documents; and
5. Replace placeholder language with the actual effective date for Phase II EVR requirements in CP–206.

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

Objectives and Benefits of the Proposed Regulatory Action:

The proposed amendments refine some parts of the EVR regulations to improve cost effectiveness, preserve the current level of air quality benefits, and clarify and improve the certification and test procedures for better regulatory certainty and enforceability. The benefits of the proposed amendments are the result of air quality goals developed by CARB based on explicit statutory authority in the Health and Safety Code §41954. State law (Health and Safety Code §41954(a)) directs CARB to adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards that are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

The following sections provide a general overview of health benefits to Californians, specific benefits provided by each of the proposed amendments, and the process CARB staff completed to make the determination of the proposed amendments.

Protection of Public Health and Safety

Gasoline vapor emissions from GDFs can lead to increased health risk through two primary mechanisms. First, gasoline vapors contain reactive organic gases (ROG) that lead to the formation of ground level ozone, which can cause adverse health effects. Second, gasoline vapors contain benzene, which is a toxic air contaminant and known carcinogen. Reducing ROG emissions benefits the health and welfare of California residents and is an integral part of California’s goals of attaining and maintaining federal and State ozone standards and reducing public exposure to benzene emissions.

The proposed amendments to the vapor recovery regulations are designed to fine-tune the regulations to further ensure no increase in existing gasoline vapor emissions occurs.

Benefits from Each Proposed Amendment

1. Replace overpressure alarm criteria in ISD software with informational reports: This proposed amendment would provide several benefits:

- *Flexibility.* The proposed amendments require new GDFs and existing GDFs that undergo major modifications to install updated ISD software, but provide flexibility for other existing GDFs. Existing GDF owners and operators would be allowed to choose whether to install the updated ISD software based on their site-specific assessments of potential cost savings and business priorities.
- *No impact on current emission reduction benefits.* Eliminating overpressure alarms would have no effect on Vapor Recovery Program emission reductions for two reasons. First, more than 95 percent of overpressure alarms are not associated with any repairable vapor recovery equipment problem. Second, other ISD alarms, routine inspections, and compliance testing can find the equipment problems that cause excess overpressure emissions.
- *Statewide cost savings.* Installation of updated ISD software would eliminate overpressure alarm response costs. CARB staff estimates that, in the absence of Advisory 405, GDF business owners would have cost savings of approximately \$780 to \$17,000 per GDF per year (avoiding 2 to 22 overpressure alarm responses per year) by installing updated software. The total statewide net cost-savings between 2024 and 2030 would be about \$31.8 million to \$97.9 million for GDF businesses.
- *Regulatory solution.* Currently, Advisory 405 provides some relief from overpressure alarm response cost and inconvenience by allowing GDF operators to clear ISD overpressure alarms during the winter fuel period but not the summer period. In addition, Advisory 405 is a temporary mechanism, not a regulation, and therefore cannot remain indefinitely. The proposed regulatory amendments provide a comprehensive solution.
- *Improved cost effectiveness.* Eliminating alarm response costs that do not reduce emissions improves the overall cost-effectiveness of implementing the EVR regulations.
- *Reduced complacency.* Eliminating ineffective ISD overpressure alarms would reduce accidental clearing of and operator complacency toward responding to the remaining ISD alarms (for example, nozzle vapor collection, processor operation, and vapor leak detection) that effectively indicate repairable vapor recovery equipment problems.

These benefits are achievable without installing new hardware; an ISD system software update is all that is required.

2. **Improve ISD reports:** The proposed amendments would benefit GDF owners and operators, service contractors, and regulators by ensuring the reports are easily identified, accurate, useful for understanding site-specific conditions, and enable more effective trouble-shooting to identify equipment problems.

3. **Allow alternative communication ports for ISD system consoles:** The proposed amendments would allow manufacturers to install modern communication ports in ISD consoles, instead of the currently required antiquated RS-232 port. The proposed amendments would result in net cost-savings for ISD manufacturers during 2021–2030, and would improve the access and quality of downloaded data.

4. **Make the nozzle spillage performance standard more stringent:** The proposed amendments would preserve emission reductions that are already occurring. This will help safeguard public health benefits by preventing manufacturers from requesting the certification of less efficient nozzles that would lead to emission increases. In addition, GDF owners would not need to replace existing nozzles, since they already comply with the proposed standard.

5. **Require physical samples of certified vapor recovery equipment:** The proposed amendments benefit CARB and equipment users (GDF owners and operators) by providing an archive of as-certified components available for comparison should undisclosed changes cause problems or complaints in the future.

6. **Amend test procedures for remote fill Phase I system configurations:** The proposed amendments benefit owners and operators of GDFs with remote fill configurations, service contractors, and Air Districts by preventing false indications of system leaks and improving the test procedures for better regulatory certainty.

7. **Correct the Phase II EVR upgrade date for GDFs with ASTs:** The incorrect date currently in CP-206 creates confusion for Air District enforcement staff and certain AST owners. The proposed amendment will alleviate that confusion and ensure that AST owners do not perform inadvertent and costly upgrades before the end of useful life of their existing systems.

8. **Make administrative changes to improve clarity and consistency:** As described earlier, the proposed amendments include several administrative changes, which would result in cost savings. Some of these were requested by industry, while others were recommended by Office of Administrative Law and CARB legal counsel. The primary benefit of the proposed administrative changes is clarifying the certification and test procedures for better regulatory certainty and enforceability.

Development of Proposed Amendments

To make the determination that the proposed regulatory amendments to ISD overpressure alarms are necessary and appropriate, CARB staff took the following collaborative approaches with external stakeholders:

1. Public Workshops
 - Held eleven public workshops statewide between 2012 and 2018 to explain and solicit comments about potential causes of ISD overpressure alarms, study designs, interpretation of results, and potential solutions.
 - Held a public workshop on May 5, 2020 where CARB staff presented the full suite of proposed regulatory amendments to CARB’s certification and test procedures and received input from stakeholders. The workshop was attended by nearly 100 participants representing various aspects of the industry.
2. Technical Support Documents
 - Collaborated with industry and CAPCOA Vapor Recovery Subcommittee to conduct a series of investigations and field studies to identify causes of alarms and characterize the magnitude of emissions. These investigations are documented in sixteen technical support documents, which are posted on CARB’s Vapor Recovery Program webpage. Supporting data compilations and spreadsheet calculations cited in these documents were made available upon request.
3. Stakeholder Consultations
 - CARB staff consulted with a variety of stakeholders throughout development of the proposed regulatory amendments in an effort to obtain additional insight, build consensus, and minimize areas of disagreement. These stakeholders include representatives of CAPCOA, State agencies that regulate GDFs, equipment manufacturers, GDF owners and operators, and representatives of industry groups, such as the California Fuels and Convenience Alliance (CFCA).²

Comparable Federal Regulations:

There are no federal regulations or programs directly comparable to California’s EVR program for GDFs, nor are there federal regulations establishing the requirements for ECO nozzles and low permeation hoses at GDFs that exclusively refuel vehicles with onboard refueling vapor recovery systems. California’s existing EVR regulations already exceed

² CFCA is the industry’s California trade association representing the needs of independent wholesale and retail marketers of gasoline, diesel, lubricating oils and other petroleum products; transporters of those products; and retail convenience store operators. The majority of CFCA’s members are small and family owned businesses.

federal requirements. Other states and countries often require the installation of vapor recovery systems certified by CARB. Thus, changes to CARB EVR certification requirements may have a national and international impact.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, §11346.5, subd. (a)(3)(D)):

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

DISCLOSURES REGARDING THE PROPOSED REGULATION

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.

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 made the following determinations with regard to costs or savings to any State agency, costs or savings in federal funding to the State, and 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.:

None. Because the regulatory requirements apply equally to all regulated entities and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution. The proposed regulatory action would not create costs to any school district reimbursable by

the state pursuant to Part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

Cost or Savings for State Agencies:

Agencies that operate GDFs are the regulated entities under the proposed amendments and could be impacted by new costs and cost-savings. The proposed amendments also could result in new costs and cost-savings for CARB and other state agencies that participate in the certification process for vapor recovery equipment. Fiscal impacts to these agencies are analyzed for the fiscal year the proposed regulatory amendments will become effective (Fiscal Year [FY] 2021/22) through December 2030, the regulatory lifetime, in the absence of Advisory 405.

There are about 496 state government-owned GDFs in California that are required to have either some type of vapor recovery system or ECO nozzles and low permeation hoses. The proposed ISD amendments would have no effect on state government-owned GDFs because an Air District survey indicates that no state agencies own or operate GDFs with ISD. Several of the other proposed amendments may indirectly affect state government-owned GDFs due to the potential to incur pass through costs from vapor recovery equipment manufacturers that are directly impacted by the amendments. If equipment manufacturers were able to pass on all costs and savings along with an estimated 60 percent mark-up, this would result in about \$1.53 in additional cost to about \$14.76 in cost-savings per impacted GDF over the 10-year lifetime of the proposed amendments, depending on the type of vapor recovery system installed. Such potential passed-through costs and cost-savings are considered to be negligible.

The proposed amendments could result in additional certification costs for CARB’s Vapor Recovery Program of about \$67,000 through 2030. These agency costs are fully recovered from the manufacturers seeking certification because CARB has legal authority to charge fees to recover the costs of certification.³ As a result, these certification costs would have no net fiscal impact on CARB. The proposed amendments also could result in regulatory lifetime costs of about \$200 that would not be recovered from manufacturers, cost-savings of about \$2,200, and net cost-savings of about \$2,000 for the Vapor Recovery Program. The net cost-savings are expected to be re-allocated to other aspects of the Vapor Recovery Program with no fiscal impact on CARB.

The proposed amendments also could result in additional certification costs of about \$200 for the Department of Forestry and Fire Protection’s Office

³ Health and Safety Code §41954(e) states that CARB may charge a reasonable fee for certification of a gasoline vapor control system or a component thereof, not to exceed the actual cost.

of the State Fire Marshall (SFM), and about \$500 for the Department of Industrial Relations' Division of Occupational Safety and Health (DOSH), to review updated ISD software and issue approval letters. Because SFM and DOSH have legal authority under State law to charge fees to recover the costs of certification, the review costs would have no net fiscal impact on SFM and DOSH.

Other Non-Discretionary Costs or Savings on Local Agencies

Local agencies and school districts that operate GDFs are the regulated entities under the proposed amendments and could be impacted by new costs and cost-savings. Air Districts and Certified Unified Program Agencies also could be affected because they issue and enforce permits for GDF activities and Air Districts participate in CARB's certification process for vapor recovery equipment. Fiscal impacts to these agencies are analyzed for the fiscal year the proposed regulatory amendments will become effective (FY 2021/22) through December 2030, the regulatory lifetime.

There are about 1,600 local government-owned GDFs in California that are required to have some type of vapor recovery system or ECO nozzles and low permeation hoses. Air District surveys indicate about four of these GDFs have ISD systems. The installation of updated ISD software under the proposed amendments could result in net cost-savings for the local agencies that operate these GDFs. Net cost-savings are expected to be re-allocated to other aspects of the agency programs and would have no fiscal impact for local agencies. Several of the other proposed amendments can indirectly affect local government-owned GDFs due to the potential to incur pass through costs from vapor recovery equipment manufacturers that are directly impacted by the amendments. If equipment manufacturers were able to pass on all costs and savings along with an estimated 60 percent mark-up, this would result in about \$1.53 in additional cost to about \$14.76 in cost-savings per impacted GDF over the 10-year lifetime of the proposed amendments, depending on the type of vapor recovery system installed. Such potential passed-through costs and cost-savings are considered to be negligible.

Air Districts participate in the certification process by issuing research and development (R&D) permits for CARB certification test sites and by providing review of CARB staff's draft certification documents (e.g., Executive Orders, Exhibits, Certification Summaries, etc.). In addition, some Air Districts require GDF owners to obtain permits to install updated ISD software. The proposed amendments for ISD software requirements could result in increased costs (statewide total) of about \$7,200 for issuing R&D permits, about \$4,000 for reviewing draft certification

documents, and up to about \$74,800 for issuing permits for ISD software updates, over regulatory lifetime. The permitting costs are fully recovered from equipment manufacturers and GDF owners because Air Districts have legal authority under State law to recover permitting related costs by imposing fees, and therefore these costs would have no net fiscal impact on Air Districts. However, Air District costs to review certification documents would not be recoverable from manufacturers nor reimbursable by the State because State law does not specify that Air Districts can impose fees or be reimbursed for these certification costs.

California's Certified Unified Program Agencies (CUPA), consisting of 81 certified local government agencies, are responsible for enforcing regulatory standards established by five different state agencies. The proposed amendments for ISD software requirements could result in increased costs of up to about \$886,000 (statewide total) through 2030 for CUPAs that require GDF owners to obtain permits to install ISD software updates. CUPAs have legal authority to recover related costs by imposing fees. As a result, these permitting costs are fully recovered from GDF owners and would have no net fiscal impact on CUPAs.

Cost or Savings in Federal Funding to the State:

None. Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the State.

Housing Costs (Gov. Code, §11346.5, subd. (a)(12)):

The Executive Officer has also made the initial determination that the proposed 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)):

A detailed assessment of the economic impacts of the proposed regulatory action can be found in Chapter VIII of the ISOR.

GDFs and vapor recovery equipment manufacturers are the regulated entities under the proposed amendments and would be directly impacted (either positively or negatively) by the amendments. The proposed amendments are estimated to have direct costs of ap-

proximately \$379,000 to \$14.1 million through 2030 for business-owned GDFs and vapor recovery equipment manufacturers, when both required and voluntary actions are considered in the absence of Advisory 405. This estimate does not include cost-savings under the proposed amendments. The proposed amendments would minimize new implementation costs and provide some savings for equipment manufacturers, and could provide substantial cost savings for business-owned GDFs. In total, direct cost-savings from the proposed amendments could range from about \$31.9 million to \$109.0 million. When compared to the costs, these savings result in net direct cost-savings of about \$31.8 million to \$97.9 million for GDF businesses.

There are about 2,721 businesses that own GDFs that could be impacted by the proposed amendments, if both required and voluntary actions are considered. The proposed amendments to eliminate overpressure alarm criteria from ISD software directly affect GDFs with USTs required to have ISD systems. Once updated software has been certified by CARB (anticipated by December 2022), the proposed amendments would require owners and operators of existing GDFs with ISD systems to install the updated ISD software if they have major modifications or replace consoles due to irreparable damage and/or normal wear and tear. The proposed amendments would require owners and operators of new GDFs to install ISD systems with the updated ISD software at the time of construction. These existing and new GDFs also would be affected by the proposed amendments that would allow ISD manufacturers to install modern communication ports instead of RS-232 ports in ISD consoles. In addition, owners of existing GDFs with ISD systems could voluntarily install updated software to eliminate ineffective ISD overpressure alarm response costs.

Several of the other proposed amendments also can indirectly affect business-owned GDFs due to the potential to incur pass through costs from vapor recovery equipment manufacturers that are directly impacted by the amendments. While most of these manufacturers are located outside of California, staff assumed the direct costs imposed on these manufacturers, as well as potential cost-savings, would be fully passed on to GDF owners and operators who purchase their equipment. If manufacturers were to pass on these costs and cost-savings to California businesses (retail and other types of GDFs), these could result in approximately \$1.53 in additional cost to approximately \$14.76 in cost-savings per impacted GDF through 2030, depending on the type of vapor recovery system installed. These potential passed-through costs and cost-savings are considered to be negligible. These costs or cost-savings do not impose any fiscal impacts

because they are not unique to government and affect private and public sectors equally.

The proposed amendments directly affect certification procedures for manufacturers of Phase I and Phase II vapor recovery systems and components, and manufacturers of ECO nozzles and low permeation hoses. There are currently 16 manufacturers that either produce equipment already certified by CARB for sale in California, have submitted applications for certification, or have discussed submitting an application. The proposed amendments are estimated to have direct costs of approximately \$325,000 to \$3.0 million through 2030 for equipment manufacturers. This estimate does not include cost-savings under the proposed amendments. The proposed amendments would minimize new implementation costs and provide about \$35,000 in cost-savings for equipment manufacturers. When compared to the costs, these savings result in net direct costs of about \$290,000 to \$3.0 million for equipment manufacturers.

**NON-MAJOR REGULATION: STATEMENT
OF THE RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT (EIA)**

The creation or elimination of jobs within the State of California:

The proposed amendments are expected to result in overall cost-savings to GDFs while reducing service contractor revenue as an increasing number of GDFs no longer require overpressure alarm responses by the contracted service technicians. This could result in creation or elimination of some jobs at GDFs and service companies. The proposed amendments may result in creation of a maximum of 26 jobs at GDFs and elimination of maximum of 122 jobs at service contractor businesses by 2030.

The creation of new business or the elimination of existing businesses within the State of California:

No businesses are expected to be created or eliminated in response to the proposed amendments.

The expansion of businesses currently doing business within the State of California:

The proposed amendments are expected to have no quantifiable effect on the expansion of businesses currently doing business within the State of California.

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

As described in the Objectives and Benefits section above, the proposed amendments will preserve the emission reductions achieved by implementation of emission controls at GDFs. Reducing ROG emissions benefits the health and welfare of California residents and worker safety by reducing ambient ground

level ozone and benzene exposure. Reducing ambient ground level ozone also helps to reduce smog, which is a benefit for the state's environment.

Effect on Jobs/Businesses:

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

Benefits of the Proposed Regulation:

The objectives of the proposed regulatory amendments are to improve the Vapor Recovery Program while safeguarding public health benefits by ensuring emission rates do not increase. The proposed amendments to the certification and test procedures improve cost-effectiveness of GDF vapor recovery systems, preserve emission reductions from equipment with superior performance, and clarify and improve the certification and test procedures for better regulatory certainty and enforceability. A summary of these benefits is provided, please refer to "Objectives and Benefits," under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion above.

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

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. CARB is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. Information provided by the Air Districts indicates no individuals, only businesses and government agencies, own GDFs directly affected by the proposed amendments.

The typical business that could be affected by the proposed amendments, not including small businesses, is a business that owns 12 or more retail GDFs. There are about 45 California-based businesses, and 12 businesses headquartered outside of California, that own from 12 to nearly 600 retail GDFs each. The most common types of business are mid-sized independent retail businesses that own an average of about 14 GDFs, and large independent retail businesses that own an average of about 79 GDFs.

The initial and ongoing cost to a typical California business for updated ISD software required under the proposed amendments depends on the number and timing of major modifications at its existing GDFs or construction of new GDFs. A mid-sized independent

retail business could have initial costs that range from \$23 to \$230, depending on how many of its GDFs have a major modification in the same year. A large independent retail business could have initial costs that range from \$23 to \$1,300. These estimates assume that vapor recovery equipment manufacturers are able to pass on their compliance costs entirely to GDFs.

The installation of updated ISD software, however, will eliminate overpressure alarm response costs. Based on average ISD overpressure alarm frequencies observed by a statewide survey, CARB staff estimates a typical mid-sized business required to install updated ISD software at ten GDFs could have cost-savings of up to about \$23,000 per year. CARB staff estimates a large business required to install updated ISD software at 58 GDFs could have cost-savings of about \$132,000 per year.

In addition, CARB staff estimates GDF owners could decide to voluntarily install updated ISD software at about 19 percent of retail GDFs not owned by small business between 2023 and 2026 based on site-specific assessment of cost-effectiveness from eliminating ISD overpressure alarm response costs. There could be a total cost per GDF of approximately \$3,600 for permit fees, ISD software, installation, and loan interest. Therefore, a mid-sized GDF business could experience initial costs that range from \$3,600 to \$10,800 while a large GDF business could experience initial costs that range from \$3,600 to \$54,000.

Based on average ISD overpressure alarm frequencies observed by a statewide survey, CARB staff estimates a typical mid-sized business that voluntarily installs updated ISD software at three GDFs could have cost-savings of about \$12,000 per year. CARB staff estimates a large business that voluntarily installs updated ISD software at 16 GDFs could have cost-savings of about \$60,000 per year.

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.

The typical small business that could be affected by the proposed amendments is a business that owns 1 to 11 retail GDFs. The proposed amendments will potentially affect 2,662 California small businesses that own GDFs, of which approximately 741 businesses are required to install updated ISD software that eliminates ISD overpressure alarms at the time of new GDF construction or major modification of an existing GDF. The updated software would be included with the purchase of the new ISD console that would already be part of the major modification or new construction. Assuming that vapor recovery equipment manufacturers are able to pass on their compliance

costs entirely to GDFs, a GDF small business could experience an additional initial cost of about \$23 for the updated software for a new GDF or a major modification of an existing GDF, as a result of the proposed amendments. Since a small GDF business can own 11 or less GDFs and most small business owned GDFs likely will not be required to install updated ISD software, the initial costs to a small GDF business can range from zero to \$46.

The installation of updated ISD software, however, may result in eliminating overpressure alarm response costs. Based on average ISD overpressure alarm frequencies observed by a statewide survey, CARB staff estimates a small GDF business required to install updated ISD software at two GDFs may experience annual ongoing cost-savings of zero to \$7,000.

In addition, CARB staff estimates small business GDF owners could decide to voluntarily install updated ISD software at about 47 percent of their GDFs between 2023 and 2026 based on site-specific assessment of cost-effectiveness from eliminating ISD overpressure alarm response costs. There could be a total cost per GDF of approximately \$3,600 for permit fees, ISD software, and installation. Therefore, the initial costs to a small GDF business that voluntarily installs ISD software can range from \$3,600 to \$18,000 (i.e., \$3,600 per GDF × 5 GDFs).

Based on average ISD overpressure alarm frequencies observed by a statewide survey, CARB staff estimates a small GDF business that voluntarily installs updated ISD software at one to five GDFs may experience annual ongoing cost-savings of \$4,600 to \$23,000.

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. CARB staff considered reasonable alternatives to the proposed amendments, as described in Chapter IX of the ISOR.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the proposed regulation and concluded that this is exempt pursuant to CEQA Guidelines § 15061(b)(3) because it can be seen with certainty that there is no possibility

that the proposed action may result in significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter VI of the ISOR.

SPECIAL ACCOMMODATION REQUEST

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

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

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

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

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo 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 necesitan este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Michelle Wood, Air Pollution Specialist, Vapor Recovery Regulatory Development Section, at (916) 445-3641 or (designated back-up contact) Donielle Jackson, Air Pollution Specialist, Vapor Recovery Regulatory Development Section, at (916) 445-9308.

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: *Proposed Amendments to Enhanced Vapor Recovery Regulations for Gasoline Dispensing Facilities*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 20, 2020. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices may have limited public access. Please contact Chris Hopkins, Regulations Coordinator, at chris.hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents.

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

HEARING PROCEDURES

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

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

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2020/evr2020>

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE PROHIBITIONS ON USE OF CERTAIN HYDROFLUOROCARBONS IN STATIONARY REFRIGERATION, CHILLERS, AEROSOLS-PROPELLANTS, AND FOAM END-USES REGULATION

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time noted below to consider approving for adoption the Proposed Amendments to the Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration, Chillers, Aerosols-Propellants and Foam End-Uses (Title 17, California Code of Regulations, section 95371 et seq.). The Proposed Amendments are part of the effort by CARB to reduce emissions of hydrofluorocarbons (HFC), a class of highly potent greenhouse gases, as required by Senate Bill 1383.¹

DATE: December 10, 2020

TIME: 9:00 a.m.

Please see the Public Agenda which will be posted ten days before the December 10, 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 may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 10, 2020, and may continue at 8:30 a.m., December 11, 2020. Please consult the agenda for the meeting, which will be available at least ten days before December 10, 2020, to determine the day on which this item will be considered.

¹ SB 1383 (Lara, Stat. 2016, Ch. 395); Health & Saf. Code §39730.5.

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 23, 2020. Written comments not physically submitted at the hearing must be submitted on or after October 23, 2020, and received **no later than** December 7, 2020. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of CARB staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:
Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814
Electronic submittal: <https://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, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730, 39730.5, 39734, and 41511. This action is proposed to implement and interpret, sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730, 39730.5, 39734, and 41511 of the Health and Safety Code.

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, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4, sections 95371, 95372, 95373, 95374, 95375, 95376, and 95377.

Background and Effect of the Proposed Regulatory Action:

Hydrofluorocarbons (HFCs) are among the most harmful greenhouse gases (GHG) emitted today. While they remain in the atmosphere for a much shorter time than carbon dioxide (CO₂), their relative climate forcing (how effectively they trap heat in the atmosphere) can be tens, hundreds or even thousands of times greater than CO₂. CARB identified the importance of HFC mitigation in the early 2000s, and proposed several early action measures as part of a comprehensive, ongoing program to reduce GHG emissions in California. CARB adopted the Refrigerant Management Program² as one of the early action measures to address HFC refrigerant use.

Further recognizing the importance of reducing HFCs, the Legislature enacted Senate Bill 1383 (SB 1383)³ in 2016, requiring a 40 percent reduction of HFC emissions below 2013 levels by 2030. California took into account existing national HFC regulations and continued working to develop additional regulatory efforts to reduce HFC emissions to meet this goal. Unfortunately, beginning in 2017 — the United States Environmental Protection Agency's (U.S. EPA) key HFC prohibitions — Rules 20⁴ and 21,⁵ under the Significant New Alternatives Policy (SNAP)

² Management of High Global Warming Potential Refrigerants for Stationary Sources, Cal. Code Regs., tit. 17, § 95380 et seq.

³ SB 1383 (Lara, Stat. 2016, Ch. 395); Health & Saf. Code § 39730.5.

⁴ 40 C.F.R. Pt. 82, Subpt. G, App. U; 80 Fed. Reg. 42870–01 (July 20, 2015); 81 Fed. Reg. 86778–01 (Dec. 1, 2016).

⁵ 40 C.F.R. Pt. 82, Subpt. G, App. V; 81 Fed. Reg. 86778–01 (Dec. 1, 2016).

Program,⁶ were partially vacated by the D.C. Circuit Court of Appeals.⁷ To prevent the harmful impacts of the litigation, in 2018, California incorporated both SNAP Rules 20 and 21 — first through adopting an HFC Regulation⁸ and then the Legislature enacted the “California Cooling Act” or Senate Bill 1013 (SB 1013).⁹ In 2019, CARB incorporated SB 1013’s statutory provisions into its HFC Regulation to provide clarity to the regulated industry.¹⁰ Despite these current rules, CARB must undertake further actions to meet its statutory mandates for HFC reduction.

Summary of the Proposed Amendments:

CARB staff proposes amending the existing California HFC Regulation (hereinafter “Proposed Amendments”). A summary of the Proposed Amendments are as follows:

- New refrigeration systems containing more than 50 pounds of refrigerant and used in newly constructed and fully remodeled facilities will be required to contain refrigerants with a global warming potential (GWP) less than 150, effective January 1, 2022. This includes the following end-uses: retail food refrigeration, industrial process refrigeration (IPR) (except chillers), cold storage, and ice rinks.
- Companies owning existing systems containing more than 50 pounds of refrigerant in retail food facilities will be required to meet a GWP-Based Company-wide standard — either through a reduction in their company-wide weighted-average GWP to less than 1,400 GWP by 2030, or, in the alternative, reduce their Greenhouse Gas Emission Potential or GHGp by 55 percent by 2030. All non-retail food facilities installing new systems must meet the GWP limit of less than 1,500 or 2,200, depending on the end use.
- New air conditioning (AC) equipment used for both residential and non-residential purposes must use refrigerants with a GWP less than 750, effective January 1, 2023.

⁶ 42 U.S.C. § 7671k; 40 C.F.R. Pt. 82, Subpt. G

⁷ *Mexichem Fluor, Inc. v. Environmental Protection Agency* (D.C. Cir. 2017) 866 F. 3d 451 (Mexichem I) and *Mexichem Fluor, Inc. v. Environmental Protection Agency* (D.C. Cir. 2019) Case No. 17–1024 (Mexichem II) (collectively the “*Mexichem decisions*”)

⁸ Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration and Foam End-Uses, Cal. Code Regs., tit. 17, §§95371, et seq.

⁹ SB 1013 (Lara, Stat. 2018, Ch. 375); Health & Saf. Code §39734.

¹⁰ Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration, Chillers, Aerosols-Propellants, and Foam End Uses, Cal. Code Regs., tit. 17, §§95371, et seq.

- A variance provision was added to address the issue of impossibility and force majeure events including the feasibility of the phase-in schedule.
- Recordkeeping, reporting, registration, and labeling requirements were added as enforcement mechanisms. The existing disclosure statement was modified to reduce regulatory burden.
- New definitions were added and existing definitions were modified to add clarity and align with U.S. EPA definitions.
- Other grammatical and typographical errors were fixed and the numbering was reorganized for clarity and flow.

Summary of Potential Additional Compliance Pathway Under Consideration

While some AC manufacturers and stakeholders have conveyed support for the 2023 compliance date, several stakeholders have requested that CARB delay the effective date for the 750 GWP limit for new AC equipment from January 1, 2023 to January 1, 2025. The reasons put forth for this request include: (1) allowing additional time for AC manufacturers to transition refrigerants, (2) the A1 alternative (R-466A) may require more time to be ready as a substitute refrigerant, and (3) the California Building Standards Code may not have the necessary updates to allow A2L refrigerants to be used in 2023. These stakeholders have provided ideas for incorporating an additional compliance pathway in addition to the 2023 compliance pathway.

AC manufacturers and other stakeholders have proposed achieving needed emissions reductions through use of refrigerant reclaim in new equipment, servicing existing equipment, refrigerant destruction, as well as potential crediting system based on type of refrigerant used to account for charge and GWP reduction. For a complete description of their proposals, please see Appendix D to the Initial Statement of Reasons (ISOR), which is incorporated herein. Any revisions may be incorporate through a 15-day notice and will be an outgrowth of these proposals.

In response to these proposals, CARB staff is considering incorporating a compliance pathway as part of subsequent proposed 15-day changes. CARB staff intends to keep the 2023 date for those that can comply with that date. An additional compliance pathway for ACs manufacturers and other regulated entities could include the allowance of a two-year delay or temporary exemption from the 750 GWP requirement for AC manufacturers if the manufacturer is able to offset the CO₂ equivalent amount of refrigerant equal to the initial refrigerant charge size through the purchase and use of reclaimed refrigerant in equipment placed on the market in California during the delay. If reclaimed refrigerant is not used in equipment during

the delay then manufacturers would need to offset the initial charge plus the anticipated additional service gas for the lifetime of the exempted equipment within five years. In addition, manufacturers would need to show the following:

- Contractual agreements to purchase reclaimed refrigerants for use or distribution with reclaimers or distributors.
- All activities related to the exemption or delay are subject to verification and reporting. CARB staff is considering this verification being done through a third-party audit, reporting on an annual basis to CARB, or annual self-certification to CARB.
- Non-compliance is subject to strict liability penalties equivalent to the California cost of carbon estimates per CO₂e offset not met.

CARB is evaluating the feasibility of these additional compliance pathways as well as a hybrid of them, from the standpoint of enforcement, implementation, and emissions benefits and may incorporate changes through a 15-day notice. CARB may consider needs for collecting research and development information for specialized systems. CARB may also consider other changes to the sections affected during the course of this rulemaking process. Any changes to the proposal would be presented to the Board for consideration during the Board Hearing scheduled for December 10–11, 2020.

Objectives and Benefits of the Proposed Amendments:

There are three main objectives of the Proposed Amendments: (1) curb the emissions of HFCs from the largest end-use sectors, namely AC and refrigeration end-uses; (2) provide additional clarity and convenience to the regulated industry; and (3) support growth in technologies that lower HFC emissions.

The primary benefits of the Proposed Amendments are emissions reductions that will help California meet its HFC reduction mandates. It is anticipated that the Proposed Amendments will reduce HFC emissions from the refrigeration and AC sectors by nearly 40 and 50 percent below baseline by 2040, respectively. Cumulatively, from 2022 through 2040, the Proposed Amendments are expected to yield 72 million metric tons of carbon dioxide equivalent (MMTCO₂e) in GHG reductions. Using 20-year GWP values, the Proposed Amendments are expected to yield cumulative GHG emissions reductions of nearly 140 MMTCO₂e by 2040. The total benefits in avoided harms range between \$1.7 billion to \$7.2 billion through 2040, depending on the discount rate. These numbers are underestimated because of the lack of official social costs of HFCs. Reducing climate change

protects the environment as well as public health and safety.

While direct health benefits cannot be quantified using present methodologies, there is mounting evidence that climate change can impact local air quality. For example, atmospheric warming can lead to an increase in the formation of ground-level ozone and photochemical smog. Thus, there are co-benefits of controlling global warming by removing GHG emissions. The direct impacts of climate change are becoming clearer and have a disproportionate impact on the sensitive age groups as well as disadvantaged communities. Wildfires are becoming more frequent and severe and in addition to the death and injury from the fires, millions are exposed to harmful smoke. The number of extreme heat days is increasing. The highest ever number of extreme heat days was recorded in 2019. Illnesses and deaths from extreme heat events will likely increase, causing heatstroke and other heat-related illnesses, particularly for vulnerable individuals such as the elderly and those who are more isolated.

Millions of residents across the state live in disadvantaged communities that experience a combination of increased vulnerability to adverse health effects from air pollution and increased exposure to pollution sources. These communities are also extremely vulnerable to the health effects of climate change. For these residents, actions to reduce GHG pollution is even more critical. Health, equity, and resiliency are integrally related. Those individuals and communities that are at a social and financial disadvantage are less able to deal with stresses caused by climate change such as food and water scarcity, high temperatures, and wildfires, and they are more likely to suffer physical and psychological harm.

In addition, some refrigerated facilities that will switch to using low-GWP alternative refrigerants are expected to experience savings related to increased energy efficiency, particularly for the cold storage and industrial process refrigeration (IPR) sectors. Additionally, supermarkets and grocery stores retrofitting to lower-GWP refrigerants are also expected to benefit from improved energy efficiency of systems undergoing the retrofits. These benefits are discussed in detail in the Initial Statement of Reasons (ISOR), Section VIII.

Comparable Federal Regulations:

Currently, there are no federal regulations that limit the global warming impacts of refrigerants used in stationary air conditioning. Some prohibitions for the stationary refrigeration sector were present in U.S. EPA’s SNAP Rules 20 (40 CFR Part 82, Subpart G, Appendix U) and 21 (40 CFR Part 82, Subpart G, Appendix V). However, these were partially vacated as discussed above. Currently there are proposed na-

tional bills that would phasedown HFCs nationwide. The proposals are S.2754 (American Innovation and Manufacturing Act of 2019); HR.5544 (American Innovation and Manufacturing Leadership Act of 2020); and more recent proposals such as H.R.4447 (Clean Economy Jobs and Innovation Act), amongst others. These proposals require a phasedown in consumption and production of HFCs. However, as of this time, these are just proposals.

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 Amendments are neither inconsistent nor incompatible with existing State regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATION

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

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

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would 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 mandate to any local agency or school district, 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.:

None. Because the regulatory requirements apply equally to all reporting categories and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution. The proposed regulatory action would not create costs to any school district reimbursable by the state pursuant to Part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

Cost or Savings for State Agencies:

Over the regulatory lifetime, the State government is estimated to incur incremental costs of about \$23 million resulting from AC and refrigeration systems used by State government facilities and \$13 million for CARB staffing and resources. The State government is also estimated to see a direct increase in sales tax revenue of \$131 million and a decrease in revenue from the Energy Resource Fee of \$1 million. On net, the total fiscal impact (revenues – costs) is estimated to be \$12 million over the first three years and \$94 million through 2040.

Other Non-Discretionary Costs or Savings on Local Agencies:

Over the regulatory lifetime, Local Governments are estimated to incur incremental costs of about \$64 million resulting from AC and refrigeration systems used by local government facilities. Local Governments are also estimated to see a direct increase in sales tax revenue of \$154 million and a decrease in revenue from the Utility User Fee of \$9.2 million. On net, the total fiscal impact (revenues – costs) is estimated to be \$15 million over the first three years and \$81 million through 2040.

Cost or Savings in Federal Funding to the State:

There are no costs or savings in federal funding to the state.

Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):

The Executive Officer has made the initial determination that the proposed regulatory action will not have a significant effect on housing costs. Individuals who purchase new AC systems will incur incremental costs beginning in 2023. The cost to own and operate AC equipment is an important part of the cost of homeownership. CARB analyzed the impact of the Proposed Amendment on housing costs as a part of the direct costs to individuals, including homeowners and landlords for single and multifamily housing units. The incremental cost for residential ACs is estimated to be \$28.50 per year, which is \$422 on average per AC for the lifetime cost. With increased market adoption, these costs are expected to decrease.

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. The Economic Impact Analysis analyzes the costs from the first compliance date out to one average equipment

lifetime for regulated refrigeration and AC equipment i.e., 2022 to 2040.

Results of The Economic Impact Analysis/ Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

CARB staff determined that the Proposed Amendments is a major regulation as the analysis shows a greater than \$50 million economic impact over a 12-month period after full implementation. The first equipment prohibitions under the Proposed Amendments will become effective January 1, 2022 and will be fully implemented the following year for new equipment and in 2030 for the existing retail food facilities.

MAJOR REGULATION: STATEMENT OF THE RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA) (GOV. CODE, § 11346.3, SUBD. (C))

In March 2020, CARB submitted a Standardized Regulatory Impact Analysis (SRIA) to the Department of Finance (DOF) for its review. CARB has updated the SRIA since the original submittal. The revisions are discussed below and in the ISOR, Section VIII.

The Creation or Elimination of Jobs within the State:

The overall jobs and output impacts of the Proposed Amendments are very small relative to the total California economy. The Proposed Amendments are estimated to result in a change in the growth of jobs, State gross domestic product (GDP), and output that is projected to not exceed 0.01 percent of the baseline.

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

Impacts to directly affected industries are also very small relative to the baseline, with only one industry exceeding 0.07 percent. The industry with the largest absolute decrease in employment and output is retail trade; this is a large and varied sector consisting of many different types of businesses. The industry with the largest absolute increase in employment and output is the construction sector; this could lead to an expansion or creation of businesses over time.

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

The AC equipment manufacturers that must comply with requirements of the Proposed Amendments are based outside of California and therefore do not present any competitiveness impacts for this industry inside California. The incremental costs are anticipated to be incurred generally across business end-users and are not anticipated to result in any competitive advantages or disadvantages within industries.

The incremental costs of compliance with the refrigeration requirements are assumed to be passed on to end-users in California, primarily in the sectors of retail and wholesale trade. The incremental costs are anticipated to be incurred generally across business end-users and are not anticipated to result in any competitive advantages or disadvantages within industries.

The Increase or Decrease of Investment in the State:

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

The relative changes to growth in private investment for the Proposed Amendments show a decrease of private investment of about \$90 million in 2030 and \$66 million in 2040, or less than 0.01 percent of baseline investment.

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

The Proposed Amendments sets performance standards for achieving the requirements across both AC and refrigeration sectors. These standards provide an incentive for manufacturers to find innovative methods to achieve them in a low-cost manner in order to mitigate compliance costs. CARB staff anticipates that these requirements will result in a growing market for new low-GWP refrigerants and technologies such as CO₂ transcritical and cascade systems, microdistributed hydrocarbon systems as well low-GWP hydrofluoroolefin (HFO) systems. Manufacturers who invest and gain experience in these technologies will benefit as the market expands. Not only is the demand for air conditioning and refrigeration increasing, but the demand for climate friendly technologies is also increasing.

Other U.S. states have committed to taking action on lowering emissions of high-GWP HFCs. In addition, both chemical manufacturers who produce refrigerants and manufacturers of refrigeration and AC equipment are global corporations. The manufacturers producing compliant refrigerants and equipment for California also participate in global markets, which include markets where existing policies are already driving adoption of next generation technologies, markets where new measures are driving near-term transformation, as well the worldwide transition that is occurring over a longer term because of the Kigali Agreement to phasedown HFCs under the global Montreal Protocol. There is an incentive to commercially deploy and gain experience with these technologies, which is bolstered by the Proposed Amendments.

The Benefits of the Regulations, Including, but not Limited to, Benefits to the Health, Safety, and Welfare of California Residents, Worker Safety, and the State’s Environment and Quality of Life, Among any Other Benefits Identified by the Agency:

As discussed previously, annual GHG reductions are estimated to be up to 4 MMTCO₂e in the year 2030, with cumulative reductions of 72 MMTCO₂e by the year 2040. Using the social cost of carbon estimates, these emission reductions are equivalent to avoiding damages caused by carbon pollution ranging between \$1.7 billion to \$7.2 billion through 2040, depending on the discount rate.

Across some refrigerated facilities, prohibiting the use of high-GWP refrigerants is expected to result in increased energy efficiency, particularly for the cold storage and IPR sectors. Additionally, supermarkets and grocery stores retrofitting to lower-GWP refrigerants are also expected to benefit from improved energy efficiency of systems undergoing the retrofits. Similarly, many of the alternative refrigerants that may be used to comply with the Proposed Amendments pertaining to AC equipment have better energy efficiency or refrigerant performance characteristics. Manufacturers may elect to use more efficient refrigerants to comply with the Proposed Amendments. It is speculative to predict the market share of these refrigerants and refrigerant choice is only one factor for how manufacturer’s choose to meet minimum efficiency requirements set by the U.S. Department of Energy. Therefore, CARB does not quantify air quality benefits from less electricity generated resulting from the Proposed Amendments.

Department of Finance Comments and Responses:

As indicated above, in March 2020, CARB submitted a SRIA to DOF for its review. CARB has updated the Proposed Amendments and the SRIA since the original submittal, and updated the economic and emissions analysis to address DOF comments. DOF generally concurs with the methodology used to estimate impacts of the Proposed Amendments but had two main comments for CARB:

DOF Comment 1:

The baseline should include a description and breakdown of affected populations by business types and by household income in order to augment the analysis of disparate impacts. The SRIA assumes that costs and benefits are the same for small businesses and typical businesses, however no justification is provided and it is unclear how many small businesses fall into each regulatory category and compliance timeline. Moreover, the SRIA does not discuss disparate impacts on individuals. An analysis of compliance costs as a proportion of business revenue and household in-

come would help support CARB’s assessment of no differential impacts on regulated entities.

Response to DOF Comment 1:

In the subsequent sections, CARB includes a description and breakdown of the affected populations by business type (for both the refrigeration and AC requirements) and also by household income (for AC). In addition, CARB includes additional information about the costs and benefits for small versus typical businesses as well as an analysis of disparate impacts on individuals. This analysis includes compliance costs as a proportion of business revenues and household income. For refrigeration, on average, the annualized cost of compliance is less than 0.1 percent of the average business revenue. Additionally, the impact on small businesses is lower than that on typical businesses. For AC, the incremental cost for a compliant AC ranges from less than 0.01 percent to less than 0.002 percent of the annual revenue from a typical small business in California.

DOF Comment 2:

Second, the SRIA should include a discussion of how impacts will change under different growth and emissions scenarios. We recognize that economic data tends to lag, however, given current circumstances and uncertainties, future impact assessments for this regulation should incorporate the most up to date forecast issued by Finance, to the extent possible, as well as sensitivity analysis to model how impacts may vary in case of deviations from the assumed baseline.

Response to DOF Comment 2:

The emissions and cost analysis in the ISOR has been updated to reflect the newly released 2020 population forecast from DOF, that CARB uses to project refrigeration and AC growth. The average population growth rate from 0.7 percent from 2022 to 2040 to an average of 0.5 percent. This change (reduces) the total cost of the regulation and the associated emissions benefits by less than approximately 5 percent. In addition, CARB staff considered the most recent recession in the late 2000s. During that time, AC sales reported by Air-Conditioning, Heating, and Refrigeration Institute (AHRI) declined an average of 10 percent from 2005 to 2010 before returning to a pre-recession growth rate. CARB conducted a sensitivity analysis in which a 10 percent decline in AC sales occurs from the period of 2020 to 2025. This would reduce the cost and the emissions benefits of the regulation by over 50 percent. This may represent a worst case scenario as in current conditions, home sales and construction has not been as affected as in the previous recession. In this worst-case scenario the cost would decrease from \$3.8 billion to \$1.6 billion. The annual emissions reductions decrease from 2.3 MMTCO₂e in 2030 to 1.2 MMTCO₂e and the cumulative reductions decrease

50 MMTCO₂e from to 24 MMTCO₂e. However, the change in sales would also have a corresponding impact on the baseline. Therefore, the relative emissions reductions compared to baseline would remain unchanged as would the cost-effectiveness.

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 cost to typical businesses for complying with the Proposed Amendments as they pertain to refrigeration and AC equipment are discussed briefly below. The cost impact methodology and full details for estimating the cost impacts are given in Section VIII of the ISOR.

Refrigeration:

The Proposed Amendments for refrigeration affect retail food facilities such as supermarkets, grocery stores, warehouse clubs, supercenters and discount department stores followed distantly by industrial process refrigeration (IPR) facilities including wineries and breweries, and refrigerated warehouses and storage facilities. A typical retail food company is expected to incur an annualized cost of compliance of \$635,000 per year. This includes the cost of opening new facilities and retrofitting existing ones. For IPR and cold storage facilities, the Proposed Amendments will require refrigerants with GWP values less than 150 for new systems in newly constructed/fully remodeled facilities. Large systems containing more than 2,000 pounds typically serve very large warehouses and processing facilities. Total costs or savings will depend on how many systems are used by a facility.

Air Conditioning:

Seven large manufacturers supply over 95 percent of the central ACs and heat pumps market in the United States, including California. While there are no AC manufacturers building systems in California, CARB estimates the cost to a typical manufacturer to be approximately \$20 million per year.

The Proposed Amendments is also expected to result in incremental costs to businesses who purchase a new commercial AC systems compliant with the Proposed Amendments. All businesses either installing an AC in new construction or replacing an AC will experience higher costs beginning in 2023. On

average, compliant AC equipment is expected to cost owners and operators of commercial systems an average of 5 to 7 percent above the baseline cost over the lifetime of the equipment. This corresponds to an average incremental cost for a typical commercial business of \$1,000 per year. As stated under “Housing Costs,” individuals who purchase new AC systems will incur incremental costs beginning in 2023. The incremental cost for residential ACs is estimated to be \$28.50 per year. As under baseline conditions, the majority of cost to own and operate an AC is the energy use.

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. The cost are identified below. The cost impact methodology and full details for estimating the cost impacts are given in Section VIII of the ISOR.

Refrigeration:

For refrigeration end-users, compliance costs for small businesses are not expected to be different from those experienced by typical businesses on a per-system basis. However, CARB took the following factors into account to help minimize the overall cost impacts to small businesses:

- The 50-pound system threshold for the Proposed Amendments for refrigeration systems automatically exempts most small businesses like convenience and corner stores which generally use smaller refrigeration systems.
- Independent grocery store owners/operators are not expected to open new facilities at the same rate as the large supermarket chains. Thus, CARB staff assumes the costs for new facilities to comply with the GWP limit of 150 will be borne by the large/typical businesses.
- For the purposes of this rule, companies with fewer than 20 retail food facilities in California are deemed as small businesses and have a more relaxed compliance period. While all businesses have to comply by 2030, the small businesses do not have an interim progress step giving them a full 8-year period to comply with the company-wide targets starting in 2022.
- In the future, California and all of the United States may be affected by the global HFC phase-down resulting from the Kigali Amendment to the Montreal Protocol. One reason to have all businesses, large and small reduce their use of high-GWP HFCs is to prepare them for a future domestic HFC phasedown and/or a virgin refrigerant sales or service ban.

Air Conditioning:

The costs per AC are not expected to be different for small businesses compared to the costs experienced by typical businesses. However, the average square foot per facility is smaller for small business than a typical business. This means lower impacts because less cooling power is needed and that translates to either fewer AC units and/or smaller ACs compared to a typical business. CARB staff estimates an incremental cost of \$140 per year on average for small businesses that install a new AC after 2023. As with residential equipment, the cost to own and operate a commercial AC is dominated by the energy use.

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.

CARB considered two alternatives to the Proposed Amendments. The first alternative would have been less stringent and the second alternative would have been more stringent. As explained in Section IX of the ISOR, no alternative proposal was found to be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing law. The Board has not identified any reasonable alternatives that would lessen any adverse impact on small business.

ENVIRONMENTAL ANALYSIS

CARB has determined that the Proposed Amendments are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, Class 2, and Class 8 exemptions. (Cal. Code Regs., tit. 14, §§ 15301, 15302, 15308). A brief explanation of the basis for reaching this conclusion is included in Section VI of the ISOR. If the Proposed Amendments are finalized, a Notice of Exemption will be filed with the Office of the Secretary for the Natural Resources Agency for public inspection.

SPECIAL ACCOMMODATION REQUEST

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

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

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

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

- 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 Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Pamela Gupta, Manager, at pamela.gupta@arb.ca.gov, or (designated back-up contact) Kathryn Kynett, Air Pollution Specialist, at kathryn.kynett@arb.ca.gov, both in the F-gas Reduction Strategy Section.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: “Staff Report: Initial Statement of Reasons — Public Hearing to Consider Amendments to The Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration, Chillers, Aerosols-Propellants, and Foam End-Uses.”

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations may be accessed on CARB’s website listed below, or may be obtained from the Public Information

Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on October 20, 2020. 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. Because of current travel, facility, and staffing restrictions, the California 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 and for all nonsubstantive inquiries concerning the proposed administrative action.

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.

Board may also direct the Executive Officer to: make any proposed modified regulatory language that is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action, and any additional supporting documents and information, available to the public for a period of at least 15 days; consider written comments submitted during this period; and make any further modifications as may be appropriate in light of the comments received available for further public comment. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.

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/hfc2020>.

GENERAL PUBLIC INTEREST

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2020-067-001-R1

Project: M-1 Road Fish Passage Improvement Project

Location: Mendocino County

Applicant: Elise Ferrarese, Trout Unlimited

Background

Project Location: The M-1 Road Fish Passage Improvement Project (Project) is located on the M-1 Road at a crossing over No Name Gulch, locally known as Chapman Creek, approximately 5.1 miles upstream of Big River State Beach. Coordinates for the Project are 39.29675° N, 123.71789° W, at property owned by California State Parks and affects No Name Gulch, tributary to Big River. No Name Gulch supports populations of Coho Salmon, Chinook Salmon, steelhead trout, and other aquatic species.

Project Description: Trout Unlimited (Applicant) proposes to enhance habitat within No Name Gulch to provide a net conservation benefit for Coho Salmon and steelhead trout. The Project follows the stream simulation approach and involves replacement of the current culvert with an embedded channel-spanning 60-foot long by 96-inch diameter corrugated steel culvert. The successful completion of the Project will provide access to 1,100 linear feet (0.21 miles) of salmonid spawning and rearing habitat in the lower Big River basin, which has been identified as high-priority, core recovery habitat for Central California Coastal Coho Salmon, North Coast DPS steelhead trout,

and California Coastal Chinook Salmon by NOAA Fisheries.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.023 acres and 90 linear feet. The Applicant has included calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 60-foot long by 96-inch diameter culvert; (2) approximately 32 cubic yards of road fill material; (3) 15 cubic yards of gravel streambed material; and (4) three cubic yards of riprap.

Project Timeframes:

Start date: October 1, 2020

Completion date: October 31, 2025

Work window: June 15 – October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B20160WNME, Electronic Content Management Identification (ECM PIN) No. CW-868451 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided supplemental documents that set forth measures to avoid and minimize impacts to Northern Spotted Owl, Marbled Murrelet, Coho Salmon, Chinook Salmon, steelhead trout and other aquatic species.

Receiving Water: No Name Gulch, within the Big River Hydrologic Unit 113.30

Filled/Excavated Area:

Permanent Area Impacted: 0.014 acres

Temporary Area Impacted: 0.009 acres

Length Permanently Impacted: 60 lineal feet

Length Temporarily Impacted: 30 lineal feet

Latitude/Longitude: 39.29675° N, -123.71789° W

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI)

complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On September 22, 2020, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on September 22, 2020, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2020-0929-02) on September 29, 2020. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

CDFW has determined that the NOA, NOI, and related species protection measures are consistent with HREA as to the Project and meets the conditions set forth in Fish and Game Code section 1653 for authorizing the Project.

Specifically, CDFW finds that: (1) The Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Proposed Methods of Fish Capture and Relocation; (2) Erosion Control Measures; (3) Measures to Minimize Disturbance from Instream Construction; (4) Measures to Minimize Degradation of Water Quality; (5) Measures to Minimize Loss or Disturbance of Riparian Vegetation; (6) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Additional Pages for the Notice of Intent to Comply with the Terms of General 401 Water Quality Certification Order for Small Habitat Restoration Projects*.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of a monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting Plan M1 Road Fish Passage Improvement Project*.

Notice of Completion

Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects requires the Applicant to submit a Notice of Completion (NOC) no later than 30 days after the project has been completed.

A complete NOC includes at a minimum:

- photographs with a descriptive title;
- date the photograph was taken;
- name of the photographic site;
- WDID number and ECM PIN number indicated above;
- success criteria for the Project.

The NOC shall demonstrate that the Applicant has carried out the Project in accordance with the Project description as provided in the Applicant’s NOI. Applicant shall include the project name, WDID number, and ECM PIN number with all future inquiries and document submittals. Pursuant to Fish and Game Code section 1653, subdivision (g), the Applicant shall submit the monitoring plan, monitoring report, and notice of completion to CDFW as required by the General Order. Applicant shall submit documents electronically to: scott.monday@wildlife.ca.gov

Project Authorization

Pursuant to Fish and Game Code section 1654, CDFW’s approval of a habitat restoration or enhancement project pursuant to section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with section 1600) and Chapter 10 (commencing with section 1900) of this Division and Chapter 1.5 (commencing with section 2050) of Division 3. Additionally, Applicant must adhere to all measures contained in the approved NOA and comply with other conditions described in the NOI.

If there are any substantive changes to the Project or if the Water Board amends or replaces the NOA, the Applicant shall be required to obtain a new consistency determination from CDFW. (See generally Fish & G. Code, § 1654, subd. (c).)

DECISION NOT TO PROCEED

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Pursuant to Government Code Section 11347, the Commission on Peace Officer Standards and Training hereby gives notice that it has decided not to proceed with Division 2 of Title 11, Section 1016, Services Provided by the Commission (Notice File No. Z–2020–0225–09). Published in the California Regulatory Notice Register (CRNR) on March 6, 2020 as Register 2020, Number 10–Z. The Commission may initiate at a later date, with notice as required by law, a new proposal to adopt/amend regulations pertaining to the same or similar subject matter.

Any interested person with questions concerning this rulemaking should contact Heidi Hernandez at (916) 227–4261 or the regulations analyst Katie Strickland at (916) 227–2802.

The Department will also publish this Notice of Decision Not to Proceed on its website.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE 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.

California Horse Racing Board
File # 2020–0518–06
Veterinarian Report

This action amends the requirement that a veterinarian who treats a horse within an inclosure complete a veterinarian report to the official veterinarian electronically online.

Title 04
Amend: 1842
Filed 10/08/2020
Effective 01/01/2021
Agency Contact: Zachary Voss (916) 263–6036

Commission on Peace Officer Standards and Training
File # 2020-0910-03
Regulation 1056 – Course Recertification

The Commission on Peace Officer Standards and Training (POST) amended a regulation that addresses recertification of POST-certified training courses. The amendments change from a paper recertification process to using the Electronic Data Interchange (EDI) for electronic course submissions and recertifications and use the EDI to automatically submit courses for POST review and update of course content instead of automatic recertification.

Title 11
Amend: 1056
Filed 10/14/2020
Effective 01/01/2021
Agency Contact: Michelle Weiler (916) 227-4870

Department of Corrections and Rehabilitation
File # 2020-0826-01
Release Funds for Exonerated Persons

This action updates inmate release requirements to conform to recent statute regarding amounts due to exonerated inmates, amends the related form for that purpose, and implements the statute by specifying the method of payment.

Title 15
Amend: 3075.2
Filed 10/08/2020
Effective 01/01/2021
Agency Contact: Sarah Pollock (916) 445-2308

Department of Food and Agriculture
File # 2020-1009-01
Peach Fruit Fly Eradication Area

This emergency rulemaking by the Department of Food and Agriculture establishes Madera County as a part of the peach fruit fly (*Bactrocera zonata*) eradication area.

Title 03
Amend: 3591.12
Filed 10/14/2020
Effective 10/14/2020
Agency Contact: Rachel Avila (916) 403-6813

**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.