GAVIN NEWSOM, GOVERNOR

OFFICE OF ADMINISTRATIVE LAW

California Regulatory Notice Register

REGISTER 2021, NUMBER 39-Z PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW SEPTEMBER 24, 2021

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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.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for $205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328−4880. The Register can also be accessed at **http://www.oal.ca.gov**.

PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict–of–interest codes, will review the proposed/amended conflict–of–interest codes of the following:

CONFLICT–OF–INTEREST CODES

AMENDMENT

Multi–County: Livermore Valley Joint Unified School District
Sierra Joint Community College District
State Agency: Alcoholic Beverage Control Appeals Board
Ocean Protection Council

A written comment period has been established commencing on September 24, 2021 and closing on November 8, 2021. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45–day comment period, the proposed conflict–of–interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above–referenced conflict–of–interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re–submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict–of–interest code(s). Any written comments must be received no later than November 8, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

Any inquiries concerning the proposed conflict–of–interest code(s) should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322–5660.

AVAILABILITY OF PROPOSED CONFLICT–OF–INTEREST CODES

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

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture (Department) proposes to amend sections 4940, 4944 and 4946 Title 3 of the California Code of Regulations (CCR) pertaining to Sampling Timeframe and Pre–Harvest Notification for Industrial Hemp, Notification of Laboratory Test Report, and Final Disposition for Registered Industrial Hemp Crops.

PUBLIC HEARING

A public hearing is not scheduled. However, 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 Department no later than 15 days prior to 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 regulation to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes on November 8, 2021. The Department will consider only comments received at the Department offices by that time or postmarked no later than November 8, 2021. Submit comments to:

Dean Kelch, Environmental Program Manager
Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Dr, Suite #200
Sacramento, CA 95833
dean.kelch@cdfa.ca.gov
916.403.6650
916.651.2900 (FAX)

In Mr. Kelch's absence, you may contact Erin Lovig at (916) 654–1017 or erin.lovig@cdfa.ca.gov.

Unless there are substantial changes to the proposed regulation prior to amendment, the Department may amend the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department of, at its own motion, or at the suggestion of any interested person, may amend the proposal substantially as set forth without further notice.

AUTHORITY

The Department proposes to amend Sections 4940, 4944 and 4946 pursuant to the authority under Sections 407 and 81006 of the Food and Agricultural Code (FAC) of California.

REFERENCE

The Department proposes this action to implement, interpret and make specific section 81006 of the FAC.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

The specific purpose of the amendments to Title 3 CCR Sections 4940, 4944, and 4946 is to change the harvest period from within 15 days after sampling to within 30 days, as allowed by recent amendments to the United States Department of Agriculture's industrial hemp production regulations, and increase related timeframes for registered hemp growers to request sampling and for laboratories to test samples for THC concentrations.

The Department considered any other possible related regulations in this area and finds that these are the only regulations dealing in this subject area, and the Department is the only State agency that can implement this proposed regulation. As required by Government Code (Gov. Code) Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this proposed regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

EXISTING LAWS AND REGULATIONS

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC 81006, requires the Department to adopt sampling procedures and approve laboratories and laboratory testing methods.

Existing Title 3 CCR Section 4900 establishes the conditions for registration and the registration fees for industrial hemp growers. This amendment provides the necessary regulatory mechanism to allow the laboratory testing of industrial hemp.

FAC Section 401.5 states: "The department shall seek to protect the general welfare and economy of the state and seek to maintain the economic well–being of agriculturally dependent rural communities in this state." The amendment of Title 3 CCR Sections 4940 and 4946 allows industrial hemp to be legally harvested.

ANTICIPATED BENEFITS FROM THIS REGULATORY ACTION

There is a potential savings to the growers of industrial hemp as the extended period to harvest industrial hemp after sampling will allow for more time to harvest, resulting in less frequent retesting and allowing for fewer crops to be destroyed due to an inability to meet the regulatory deadlines. With this regulation, the State of California will be able to continue to regulate a growing industry, with high quality industrial hemp production.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

As required by Gov. Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of sections 4940, 4944, and 4946 and has determined that they are not inconsistent or incompatible with existing state regulations.

AMENDED TEXT

Section 4940 Sampling Timeframe and Pre–Harvest Notification for Industrial Hemp

This section establishes that sampling for THC concentration shall take place no later than 11 calendar days before the anticipated harvest start date listed on the pre–harvest report instead of six days. Additional sampling and testing will be required for any changes to the harvest date that results in harvest activities to occur more than 30 calendar days after the sample collection date. The requirement in CCR Section 4940(a)(1), as amended, will allow the sample to be collected earlier to accommodate the timeframe for sample delivery and laboratory testing for THC concentration.

Furthermore, CCR Section 4940(a)(2), as amended, will change the harvest timeframe from 15 to 30 days. This is necessary because the current timeframe prescribed by state regulation is the minimum needed under ideal conditions and leaves no margin of time for common or uncommon contingencies.

The THC sampling process begins when the registrant submits a signed pre–harvest report to their commissioner at least 30 calendar days prior to the anticipated harvest start date. This will allow enough time for the commissioner to schedule a staff member to oversee the sampling to ensure the accuracy and sanitation of samples and fields (FAC 81006(e)(3)(D)). The requirement in CCR Section 4940(b)(1), as amended, will provide commissioners additional notice of any sampling needs ahead of the anticipated harvest start date.

Section 4944 Notification of Laboratory Test Report

This section establishes the notification requirements for laboratory testing reports. The laboratory shall concurrently provide registrants and the commissioner an electronic copy of the laboratory test report within 10 calendar days from the sample collection date instead of 5 days. The requirement in CCR Section 4944(c), as amended, will provide 10 calendar days for laboratories to prepare and test the samples for THC concentration. This is necessary, as the current time frame prescribed by state regulation is the minimum needed under ideal conditions and leaves no margin of time for common or uncommon contingencies.

Section 4946 Final Disposition for Registered Industrial Hemp Crops

This section establishes that the registrant may harvest a crop for which a passing laboratory test report has been received (FAC 81006(e)(1)). The requirement in Section 4946(a)(3) is being amended from within 15 days to harvest after sampling to within 30 days to mirror current federal regulations. This is necessary, as the current time frame prescribed by state regulation is the minimum needed under ideal conditions and leaves no margin of time for common or uncommon contingencies.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None and no nondiscretionary costs or savings to local agencies or school districts.

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: Based upon the Economic Impact Analysis, the Department has made an assessment that the proposed regulation would not eliminate

jobs or existing businesses within California. The Department has made an assessment that the proposed amendment would likely lead to the creation of, and would positively affect the expansion of businesses currently doing business within California. The Department makes the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

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

Significant effect on housing costs: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Department has concluded that the amendment of CCR Sections 4940, 4944 and 4946:

(1) will not eliminate jobs within California
(2) will likely lead to the creation of new jobs within California;
(3) will have no impact on the creation or elimination of businesses within the State of California;
(4) will positively affect the expansion of businesses currently doing business within California; and
(5) is not expected to have a direct effect on the health and welfare of California;

The Benefits of the Proposed Action: The Department has determined the amendment of this regulation would benefit:

- Growers of industrial hemp
- County agricultural commissioners

There are no known specific benefits to worker safety or the health of California residents.

Small Business Determination: The amendment will positively affect the expansion of small hemp growing businesses currently doing business within California.

CONSIDERATION OF ALTERNATIVES

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

The Department invites interested persons to present alternatives during the written comment period.

CONTACT PERSONS

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed is:

Dean Kelch, Environmental Program Manager
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Drive, Suite #200
Sacramento, CA 95833
dean.kelch@cdfa.ca.gov
916.403.6650
916.651.2900 (FAX)

The backup contact person for these inquiries is:

Erin Lovig, Senior Environmental Scientist
California Department of Food and Agriculture
Plant Health and Pest Prevention Services
2800 Gateway Oaks Drive, Suite #200
Sacramento, CA 95833
erin.lovig@cdfa.ca.gov
916.654.1017
916.651.2900 (FAX)

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

The Department has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the comment period and considering all timely and relevant comments received, the Department may amend the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department amends the regulations as revised. Any person interested may obtain a copy of said regulations prior

to the date of amendment by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting the agency officer named herein.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its website (https://www.cdfa.ca.gov/plant/Regulations.html).

TITLES 13 AND 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE COMMERCIAL HARBOR CRAFT REGULATION

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date, time, and location noted below to consider the proposed amendments to the Commercial Harbor Craft Regulation.

Date: November 19, 2021
Time: 9:00 a.m.

Please consult the public agenda, which will be posted ten days before the November 19, 2021, Board Meeting, for important details, including, but not limited to, the order in which this item will be considered and any appropriate direction regarding a remote–only Board Meeting. If the meeting is to be held in person — in addition to remote access — it will be held at the California Air Resources Board, Haagen-Smit Auditorium, 4001 Iowa Avenue, Riverside, California 92507

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 during 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 September 24, 2021. Written comments not submitted during the hearing must be submitted on or after September 24, 2021, and received **no later than November 8, 2021**. 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. 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 REFERENCES

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 38505, 38510, 38560, 38566, 38580, 39600, 39601, 39650, 39658, 39659, 39666, 39730, 39730.5, 41511, 43013, 43018, and 43019.1. This action is proposed to implement, interpret, and make specific Health and Safety Code, sections 38505, 38510, 38560, 38566, 38580, 39000, 39001, 39515, 39516, 39600, 39601, 39730, 39730.5, 41510, 41511, 43013, 43016, 43018, and 43019.1.; and Western Oil and Gas Ass'n v. Orange County Air Pollution Control District, 14 Cal.3rd 411, 121 Cal.Rptr. 249 (1975).

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW
(Gov. Code, § 11346.5, subdivision (a)(3))

Sections Affected: Proposed amendments to section 2299.5, California Code of Regulations, title 13, and section 93118.5, California Code of Regulations, title 17.

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

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

- 46 Code of Federal Regulations (CFR) Subchapter U, as it existed on April 27, 2010, incorporated in subsection (d) Definitions, (e) Fuel Use and Engine Emission Requirements, and (q) Methods to Demonstrate Compliance with Engine and Fuel Standards.
- International Organization for Standardization (ISO) 22241, as it existed in February 2019, incorporated in subsection (d) Definitions.
- Society of Automotive Engineers (SAE) J1667 Recommended Practice, as it existed in February 1996, incorporated in subsection (k) Opacity Testing and Emission Control Repair Requirements.

BACKGROUND AND EFFECT OF THE PROPOSED REGULATORY ACTION

Commercial Harbor Craft ("CHC" or "harbor craft") are a vital part of California's economy, and are essential for moving cargo and providing services to Ocean–Going Vessels (OGV) and various seaports, harbors, and marinas throughout California. While these vessels are reliable and operationally efficient, many of them are powered by and utilize diesel engines that emit significant amounts of air pollutants, including diesel particulate matter (DPM), fine particulate matter (PM2.5), oxides of nitrogen (NOx), oxides of sulfur (SOx), reactive organic gases (ROG), and greenhouse gases (GHG). Communities located near California's seaports, marinas, harbors, coastal waters, and internal waters throughout the State continue to be impacted by emissions generated from approximately 3,159 CHC operating near California seaports and marine terminals.

In 2008, the Board adopted the initial Airborne Toxic Control Measure for Diesel Engines on Commercial Harbor Craft ("Original Regulation") to reduce emissions of DPM, NOx, and ROG from diesel engines used in CHC. The Board subsequently amended the Original Regulation in 2010 to expand the applicability of the Original Regulation to additional categories of CHC, including crew and supply, barge, and dredge vessels. Both the Original Regulation and its subsequent amendment have resulted in substantial reductions of the air pollutants emitted by CHC, but the current regulation will be fully implemented by the end of 2022 and California needs to ensure additional emissions reductions are achieved by CHC.

Communities located near California's seaport complexes bear a disproportionate health burden due to their proximity to the emissions generated from freight activity associated with the seaports, including CHC operating in and around seaports and harbors. The DPM emitted by CHC continues to impact nearby communities, including communities located in regions of the State that are in nonattainment with national ambient air quality standards (NAAQS) for ozone and PM2.5. DPM is a toxic air contaminant that can substantially increase the risk of developing cancer and other health problems such as increased respiratory illnesses, risk of heart disease, and premature death. DPM emissions from CHC engines are projected to become even more significant due to the continued operation of CHC while emissions from other mobile sources are decreasing due to more stringent regulations and cleaner technologies. The emissions from CHC impose uncompensated health and environmental costs to the nearby communities and must be reduced to the greatest possible extent.

In addition, as mentioned above, California is facing challenges in attaining compliance with NAAQS for ozone and PM2.5 throughout many regions of the State. Two areas of the State in particular face the most critical air quality challenges – the South Coast Air Basin and the San Joaquin Valley Air Basin. The South Coast Air Basin has the highest ozone levels in the nation, while the San Joaquin Valley Air Basin has the greatest PM2.5 challenge. To meet the 2023 and 2031 NAAQS for ozone, the South Coast Air Basin will require an approximate 70 percent NOx reduction from current levels by 2023 and an overall 80 percent NOx reduction by 2031. Because NOx is a precursor to both ozone and to secondary PM2.5 formation, reductions in NOx emissions will also provide benefits for meeting the PM2.5 standards. CHC emit both NOx and PM2.5, and such emissions affect five air basins or counties in California that have not attained compliance with the NAAQS for ozone and PM2.5. CHC also constitute one of the largest sources of NOx emissions in the South Coast Basin in 2023, so achieving reductions in NOx and PM emissions from CHC will assist California in attaining ambient air quality standards.

CHCs also emit greenhouse gases (GHGs), that contribute to anthropogenic climate change and black carbon (BC), or soot, which is classified as a short–lived climate pollutant (SLCP). SLCPs are powerful climate forcers that can have an immediate and significant impact on climate change, compared to longer–lived GHGs such as CO2. California Health and Safety Code section 39730 authorizes and directs CARB to develop a comprehensive strategy to reduce emissions of SLCPs, and Health and Safety Code

section 39730.5 directs CARB to approve and to implement that strategy.

In response to Assembly Bill (AB) 617 (Garcia, Chapter 136, Statutes of 2017), CARB created the Community Air Protection Program (CAPP) to address the environmental and health inequities from air pollution experienced by certain disadvantaged communities (DAC) in the State. The CAPP Blueprint contains a list of statewide actions that should be undertaken to achieve reductions in these disproportionally burdened communities.[1] Many CHC operate in or adjacent to DACs, and emission reductions from these vessels will directly benefit these communities experiencing cumulative exposure burden.

Additionally, Governor Newsom's Executive Order N–79–20 directed CARB and other State agencies to transition off–road vehicles and equipment to 100 percent zero–emission by 2035 where feasible. To address this, staff proposes provisions to accelerate deployment of Zero–Emission and Advanced Technologies (ZEAT) to CHC, which includes requiring all short–run ferries to switch to zero–emissions propulsion and auxiliary power systems, and for new excursion vessels to be equipped with zero–emission capable hybrid systems. There are other use cases of CHC operations that can be transitioned to zero–emission over the coming decade. Therefore, in response to Executive Order N–79–20, CARB staff has proposed amendments that creates compliance flexibility for introducing zero–emission technology into the marine market.

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

OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

The Proposed Amendments would establish more stringent requirements for in–use and new CHC, expand the regulatory requirements to vessel categories that were previously exempt from in–use vessel requirements, and apply reporting, infrastructure, and other requirements to facilities, such as seaports, terminals, marinas, and harbors that conduct business with CHC. The Proposed Amendments would further reduce emissions from CHC by establishing requirements that specified categories of CHC must deploy zero emitting technologies. The Proposed Amendments are expected to reduce emissions of PM2.5, DPM, NOx, ROG, and greenhouse gases.

Staff estimated that from 2023 through 2038, the Proposed Amendments would reduce cumulative statewide emissions by approximately 1,610 tons of PM2.5, 1,680 tons of DPM, 34,340 tons of NOx, 2,460 tons of ROG, and 462,330 metric tons (MT) of GHG, relative to baseline conditions.

The Proposed Amendments are expected to improve California residents' health benefits, especially those in communities located near California's seaports and marine terminals. Many of these communities are disadvantaged and bear a disproportionate health burden due to their close proximity to emissions from CHC (at dock, and in transit) and other emission sources including trucks, locomotives, and terminal equipment serving the seaports. These improvements in health benefits are anticipated to include reductions of 531 premature deaths reduced, 73 hospital admissions for cardiovascular illness, 88 hospital admissions for respiratory illness and 236 emergency room visits. The total statewide valuation due to avoided health outcomes between 2023 and 2038 totaled $5.25 billion.

Additionally, potential cancer risks are expected to decrease as exposure to DPM is reduced. In addition to regional and local air quality benefits, passengers onboard vessels would have the potential for substantially less exposure to air pollutants, such as DPM and NOx.

In 2038 without the Proposed amendments, in the San Francisco Bay Area Air Basin, about 7 million people, including 0.5 million people who live in DACs, are estimated to be exposed to a potential cancer risk of greater than 1 chance per million from exposure to DPM. Under the Proposed Amendments compared to a baseline of the Current Regulation in 2038:

- the population weighted–average cancer risk would be reduced from 12 chances per million to 1 chance per million;
- the population exposure to a potential cancer risk level of greater than 50 chances per million would be eliminated; and,
- the population that would be exposed to a potential cancer risk greater than 1 chance per million would reduce to 2 million.

In 2038 without the Proposed Amendments, in the South Coast Air Basin, about 15 million people, including 6 million people who live in DACs, are estimated to be exposed to a potential cancer risk of greater than 1 chance per million from exposure to DPM. Under the Proposed Amendments compared to a baseline of the Current Regulation in 2038:

[1] CARB, Community Air Protection Blueprint, October 2018, last accessed July 6, 2021, https://ww2.arb.ca.gov/sites/default/files/2020–03/final_community_air_protection_blueprint_october_2018_acc.pdf.

- the population weighted–average cancer risk would be reduced from 10 chances per million to 1 chance per million;
- the population exposure to a potential cancer risk level of greater than 100 chances per million would be eliminated; and,
- the population that would be exposed to a potential cancer risk greater than 1 chance per million would reduce to 5 million.

In addition, the Proposed Amendments will assist California in attaining the NAAQS set by the U.S. Environmental Protection Agency (U.S. EPA) for ozone and PM2.5. Most of the emission reductions expected from the adoption of the Proposed Amendments will occur in areas with significant challenges with air quality, and reductions will assist the State to attain the NAAQS.

The following is a summary of the key provisions introduced in the Proposed Amendments.

1. In–Use and New–Build Vessel Emissions Performance Standards

Staff proposes more stringent engine emissions performance standards for NOx and particulate matter (PM). Vessel owners and operators would need to meet performance standards between 2023 and 2032 according to a schedule based on vessel category and engine model year. To meet the required emissions performance standards, vessel owners and operators could choose to repower and retrofit engines on in–use vessels or obtain a new–build vessel. For engines rated less than or equal to 600 kilowatts (kW), the Proposed Amendments would require a performance standard equivalent to Tier 3 marine engine plus a diesel particulate filter (DPF), or Tier 4 marine or off–road engine plus a DPF if there is an available engine model certified to the Tier 4 marine or off–road engine standards by the compliance date of the engine. Engines rated greater than 600 kW would need to meet a performance standard equivalent to a Tier 4 marine or off–road engine plus a DPF. Staff is proposing a performance standard that is more stringent than the U.S. EPA standards for marine Tier 3 and marine Tier 4 engines. It is important to note that in the Proposed Amendments to the CHC Regulation, CARB is not proposing new emission standards for marine engine manufacturers selling engines in California.

2. Expanded Vessel Categories

Subjecting additional CHC vessel categories to in–use requirements would achieve additional emission reductions that are needed in the areas where CHC operate. Staff is proposing to add the following vessel categories to the in–use requirements of the Proposed Amendments: commercial passenger fishing vessels (CPFV), commercial fishing vessels, all tank barges, pilot vessels, and workboats. Including these categories will regulate 2,095 more vessels out of the approximately 3,159 CHC that are estimated to operate in Regulated California Waters (RCW) in 2023.

3. Mandates for Zero–Emission and Advanced Technologies (ZEAT)

The Proposed Amendments include ZEAT mandates where technology is more feasible: new excursion vessels would need to be zero–emission capable by 2025, and new and in–use short–run ferries to be zero–emission by 2026. In addition, CARB staff is proposing a regulatory incentive framework that would encourage adoption as ZEAT technology advancements are made in the marine sector. If a vessel owner or operator adopts ZEAT early or where not otherwise required, additional compliance time could be granted to other engines or vessels within the fleet.

4. Renewable Diesel

The Proposed Amendments would require vessels to use renewable diesel when operating in California beginning on January 1, 2023. Renewable diesel is a drop–in fuel that is already being used widely in diesel engines across the State, including those in the marine sector. The use of renewable diesel will achieve immediate NOx and PM emission reductions, resulting in health benefits for workers and residents. Additionally, substituting fossil diesel with renewable diesel will reduce the State's GHG emissions and help California achieve its climate targets.

5. Low–Use Compliance Pathway

The Current Regulation provides a low–use compliance pathway that exempts engines from in–use requirements if engine hours do not exceed an annual threshold of 80 hours for dredges and barges, and 300 hours for all other regulated in–use vessel categories. The Proposed Amendments would change this pathway to reflect the distinctions between engine tiers, in order to provide flexibility to stakeholders who have already upgraded to cleaner engines, while continuing to remove engines with the lowest emissions performance standards. Pre–Tier 1, Tier 1, Tier 2 and Tier 3 or 4 engines will be exempted from in–use requirements if they operate below a threshold of 80, 300, 400, and 700 hours, respectively. If vessels operate in Disadvantaged Communities, the annual threshold is halved (to 40, 150, 200, and 350 hours, respectively) to ensure that emission reductions are prioritized in these areas.

6. Proposed Compliance Extensions

Staff is proposing several compliance extensions in the Proposed Amendments to allow for more time for compliance in cases of scheduling, feasibility, or infrastructure challenges. Because some in–use vessels will need to be replaced to accommodate Tier 4 engines and/or DPF aftertreatment, there is

an extension that would allow operators to receive additional compliance time if they cannot not afford a replacement by compliance dates. In the pre–rulemaking releases of draft regulatory text (dated September 21, 2020, and April 1, 2021), the extension for lack of technical and financial feasibility was limited to 6 years and must not be extended beyond December 31, 2034.

In the Proposed Amendments, staff has lengthened the extension for lack of technical and financial feasibility from 6 years to 8 years for passenger carrying vessels, including ferries, CPFVs, and excursion vessels that have engines with a first compliance deadline on or before December 31, 2024. This extension is in response to staff review and analysis of the impacts of the global situation that began in 2020 that may continue to impact these three categories of passenger vessels.

7. Alternative Control of Emissions

Staff is also proposing to modify the preexisting Alternative Control of Emissions (ACE) provision. The ACE currently allows and would continue to allow vessel owners and operators to comply with the Proposed Amendments through an alternative means other than directly complying with the calendar year schedule for engine or vessel compliance. Under an ACE, an applicant would be able to comply by receiving approval from the Executive Officer (EO) to pursue an alternative that includes, but is not limited to, any combination of engine modifications, exhaust treatment control, engine repowers, use of alternative fuels or additives, fleet averaging, or any other measures that, when implemented, will sufficiently reduce emissions equivalent to the emissions performance standards identified in the Proposed Amendments.

8. Facility Owner and Operator Responsibilities

Staff also proposes adding new requirements on facility owners and operators that conduct business with CHC. Facilities would be required to report information about vessels that use those facilities, which will improve data quality and compliance. Facilities owners and operators would be required to install and maintain infrastructure to support shore power that enables harbor craft auxiliary engines to operate using electricity while at dock. Facility owners and operators would be jointly responsible for assuring infrastructure is available to support ZEAT vessels, and would be required to assist vessel owners and operators as needed for the permitting, construction, installation, and maintenance of such infrastructure.

9. Administrative changes

CARB staff is proposing additional administrative changes to the program, including the addition of opacity testing, addition of vessel labeling requirements, and collection of new compliance fees.

CARB staff is proposing that all main propulsion diesel engines operating on harbor craft be required to perform opacity testing and meet applicable opacity limits whenever the test procedure is administered. If a main engine fails an opacity test, the owner or operator has 30 calendar days to repair the engine, retest, and retain records of the passed opacity test, or the engine must be taken out of service. If an auxiliary engine fails an opacity test, the owner or operator has 30 calendar days to repair the engine and notify CARB.

To increase reporting compliance, CARB Unique Vessel Identifiers (UVI) would be issued under the Proposed Amendments. All CHC would need to have their identifier affixed to the vessel by January 1, 2024.

CARB staff developed a draft fee schedule based on costs of personnel, equipment, and administration for implementation and enforcement equaling $2.1 million per year (includes currently budgeted and future personnel costs). Fees are assessed based on the number of main engines and number of vessels. Fees are not assessed for auxiliary engines operating on harbor craft.

COMPARABLE FEDERAL REGULATIONS

The U.S. EPA has promulgated Tier 3 and Tier 4 standards for new marine and off–road (nonroad) engines, but has not promulgated federal standards for addressing emission reductions from in–use commercial harbor craft engines. Under federal Clean Air Act (CAA) section 213, U.S. EPA is without authority to adopt in–use standards for off–road (nonroad) engines, including off–road engines used in CHC. Consequently, the Proposed Amendments do not conflict with or duplicate any federal regulations.

California is the only governmental entity in the United States authorized by the CAA, in the first instance, to adopt emission requirements for in–use off–road engines. (See Engine Manufacturers Association v. U.S. EPA 88 F3d. 1075 (D.C. Cir. 1996). Section 209(e)(1) of the CAA preempts states, including California, from adopting requirements for new off–road engines less than 175 horsepower that are used in farm or construction equipment, and new engines used in new locomotives and locomotive engines. However, the proposed amendments address off–road engines used in marine vessels, rather than those used in farm or construction equipment, or locomotives.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subdivision (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.

DISCLOSURE REGARDING THE PROPOSED AMENDMENTS

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 create costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Cost to any Local Agency or School District Requiring Reimbursement under section 17500 et seq.

Pursuant to Government Code section 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the proposed Amendments constitute a mandate that would create costs and cost–savings to local agencies and school districts. However, such costs are not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500). The mandate is not reimbursable because this action neither compels local agencies to provide new governmental functions (i.e, it does not require such agencies to provide new or additional governmental services to the public), nor imposes requirements that apply only on local agencies or school districts. Rather, the requirements apply generally to all entities that that own or operate regulated vessels and facilities. Therefore, the regulation does not constitute a "Program" imposing any unique requirements on local agencies as set forth in section 17514 of the California Government Code.

Cost or Savings for State Agencies:

The Proposed Amendments would have a small fiscal impact on State government agencies that own/operate fleet or vessel facilities, relative to the total estimated cost of the Proposed Amendments. State government is estimated to incur direct costs to comply with this regulation including: costs to repower and/or retrofit vessel, costs to replace vessels, facility shore power infrastructure costs, zero–emissions infrastructure costs and a variety of administrative costs. The estimated direct costs to State government equipment and facility owners are $14.3 million in the period between 2023–2038.

Indirect costs the State agencies might face include: changes in sales taxes due to reduced use of diesel and increased sales of equipment and vessels, increased energy resource fees from increased use of electricity, increased costs to CARB due to increased staff and other expenses to implement and enforce the proposed regulatory actions, and increased collected compliance fees. Collectively, these will increase the State's revenue by $30.0 million in the period between 2023–2038.

In summary, the fiscal impact on State government is expected to increased net revenues by $14.8 million over the regulatory implementation period.

Other Non–Discretionary Costs or Savings on Local Agencies:

The Proposed Amendments would have a small fiscal impact on local government agencies that own/operate fleet or vessel facilities, relative to the total estimated cost of the Proposed Amendments. Local governments are estimated to incur direct costs to comply with this regulation including: costs to repower and/or retrofit vessel, costs to replace vessels, facility shore power infrastructure costs, zero–emissions infrastructure costs and a variety of administrative costs. The estimated direct costs to local government equipment and facility owners are $40.6 million in the period between 2023–2038.

Indirect costs the local government agencies might face include: changes in sales taxes due to reduced use of diesel and increased sales of equipment and vessels, and increased utility sales taxes due to increased use of electricity. Collectively, these will increase revenues of local governments by $25.0 million in the period between 2023–2038.

In summary, the fiscal impact on local government is expected to increased net costs by $15.6 million over the regulatory implementation period.

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

The Executive Office 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, subdivision (a), 11346.5, subdivision (a)(7), 11346.5, subdivision (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, subdivision (a)(10)):

MAJOR REGULATION: STATEMENT OF THE RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA)
(Gov. Code, § 11346.3, subdivision (c))

In July 2021, CARB submitted a SRIA to the Department of Finance (DOF) for their review. To determine the economic impacts of the proposed regulatory action, CARB modeled the economic impacts of the Proposed Amendments to the CHC on the California economy. The economics impacts have minor negative impacts on economic indicators. Overall, the change in the growth of jobs, gross State product (GSP), and output is projected to not exceed 0.01 percent of the baseline. Certain sectors are expected to experience significant costs or gains.

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

The Proposed Amendments are anticipated to have a slightly positive impact on employment growth in 2023 through 2030, corresponding with demand for cleaner technology and ZEAT engines and demand for labor and installation of new engines that would likely occur at California–based shipyards. From 2031 through 2038, the Proposed Amendments are estimated to result in slightly slower employment growth as the overall costs of the Proposed Amendments offset the positive impacts of additional in–state demand.

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

The Proposed Amendments do not guarantee business creation or elimination of businesses. However, the Proposed Amendments increase the demand for shipyard services, construction, engine manufacturers, which may translate to increase demand of related ancillary services. However, the Proposed Amendments do not guarantee the creation of in–State jobs.

Industries that operate CHC would face costs and see net decreases in output growth and employment. Some of these businesses are large and would not be anticipated to face business elimination. However, many are small businesses and potentially would face significant compliance costs. If these businesses are unable to pass on the costs of the Proposed Amendments to customers or if there is a significant change in demand for services, it is possible that some businesses would be eliminated.

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

The Proposed Amendments would impose requirements on nearly all CHC owners and operators. Regardless of whether vessels are homeported in or outside of California, vessel operators still need to comply with the same requirements when operated in RCW. Therefore, the Proposed Amendments would not create a competitive advantage or disadvantage for in–state versus out–of–state vessels or fleets in these vessel categories for operations in RCW.

The Proposed Amendments would increase costs for many commercial fishing vessels operating in RCW, and in some cases, could potentially make them less competitive against out of state or international fleets. CARB staff expects that commercial fishing vessel operators that harvest fish species that can only be caught in California would not face a competitive advantage or disadvantage relative to fishing operations outside of California. Conversely, fishing operations that harvest species that can also be harvested outside of California may face a slight competitive disadvantage compared with out–of–state and international fleets.

Vessels that operate within RCW near the Oregon or Mexico borders may face a competitive disadvantage compared with similar vessel operations in Oregon or Mexico because tourism–related activities, such as commercial passenger fishing, could potentially shift to those operations conducted exclusively outside of RCW.

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

The Proposed Amendments will likely have a small impact on private investment growth in the State. Private investment growth is expected to increase slightly in the early years after the onset of the new requirements. In later years, private investment growth is expected to growth slightly less quickly. In any given year these impacts represent changes of less than 0.01 percent of baseline investment.

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

The Proposed Amendments would provide a strong signal for the development of zero–emission technologies in the off–road sector and help in building a robust market for advanced technologies. Growth in the industries that manufacture ZEAT will also strengthen the supply chain and promote technology improvements that may not have happened otherwise. The Proposed Amendments would result in deploying ZEAT into the marine sector in California, which responds to Governor Newsom's EO N–79–20 by establishing a strategy to achieve zero–emission off–

road equipment operations, where feasible and cost effective, by 2035.

(F) The benefits of the regulation, 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.

CARB anticipates the Proposed Amendments will have the following general benefits to Californians:

- Reductions in air pollutants and toxic contaminants including reduction in PM2.5, NOx, DPM, ROG, and GHG emissions. Reducing these emissions would benefit individuals by reducing incidents of premature death, hospital admissions, and emergency room visits, as well as reduce criteria pollutants and GHGs. Staff estimates that the total number of cases statewide that would be reduced (from 2023 to 2038) from the implementation of the Proposed Amendments are as follows: 531 premature deaths reduced, 73 hospital admissions for cardiovascular illness reduced, 88 hospital admissions for respiratory illness reduced, and 236 emergency room visits reduced. The total statewide valuation due to avoided health outcomes between 2023 and 2038 totaled $5.25 billion.
- There are several benefits to terminal and vessel owners and operators and facility owners and operators: fuel savings from reduced use of diesel, Low Carbon Fuel Standard (LCFS) credits from increased use of low carbon fuels, and health benefits. Fuel cost savings depend on fuel and electricity costs. Facility owners and operators might benefit from generating LCFS credits if they opt–in to the LCFS program and provide shore power or hydrogen refueling to ZEAT vessels.
- The Proposed Amendments may result in financial benefits to many different industries whose products will be needed to comply with the Proposed Amendments. These businesses include CHC engine original equipment manufacturers (OEMs), battery systems manufacturers, hydrogen fueling system manufacturers, diesel engine repair shops and boatyards, opacity testing equipment manufacturers, companies offering opacity testing services, manufacturers of emission control technologies, including but not limited to DPFs, DPF installation, repair, and maintenance centers, electrical suppliers and design, engineering, and construction firms. Some of the businesses that will benefit may be small businesses.

(G) Department of Finance Comments and Responses

1. **DOF comment #1:** Given that the timing of costs and benefits depends on the compliance scenario assumptions, underlying fitment factors, and uptake of extensions, the SRIA should disclose the feasible range of these parameters and discuss the sensitivity of the cost and benefit estimates to these parameters. For example, the compliance scenarios are based on the assumption that technological growth increases the feasibility of repowering over time, but it is not clear what that rate of technological advancement is, how it influences compliance timing, or how many businesses would fail to come into compliance if repower feasibility does not grow at the assumed rate. The SRIA should also clarify whether the same compliance scenario assumptions were used in the estimation of avoided adverse health outcomes as in the cost estimates.

Response: Staff prepared cost estimates for high and low technology feasibility growth scenarios, which are described further below. However, staff would like to clarify that if repower and retrofit feasibility does not grow at the assumed rate, the Proposed Amendments provide a pathway for entities to apply for and receive compliance extensions rather than "fail to come into compliance" as DOF's comment states. Failure to come into compliance and receiving a compliance extension do not represent the same circumstances because receiving a compliance extension would allow an entity to remain in compliance with the regulation even if repower and retrofit technology does not advance at the rate expected.

As DOF has pointed out, the presentation of costs and benefits (including health benefits) in the SRIA are based on compliance assumption scenarios including fitment factors for repowers and retrofits, vessel replacement, and the usage of low–use extensions or low–use exceptions. To address DOF's comment on the feasible range of these parameters and the sensitivity of the cost and benefits associated with these assumptions, staff analyzed two alternative compliance assumption scenarios, which are discussed in detail in Appendix C–2 of the Staff Report: Initial Statement of Reason (ISOR).

The first compliance assumption scenario considered a more advanced technology scenario whereby the majority of vessels would be able to repower and retrofit to meet the initial compliance deadline and the use of extensions would be non–existent. For the second compliance assumption scenario, staff analyzed a less advanced technology scenario whereby fewer vessels would be able to repower and retrofit by their initial

compliance date due to limitations on meeting the required technology requirements.

Under the first compliance assumption scenario, staff assumed that fewer vessels would need to be replaced, and instead would be repowered, which has a lower unit cost ($/hp) than vessel replacement. Therefore, the costs associated with this scenario would decrease compared with the original scenario analyzed in the SRIA. The non–amortized costs would decrease from $2.11 billion to $1.67 billion and the amortized costs would decrease from $1.82 billion to $1.71 billion.

Under the second compliance assumptions scenario, staff assumes that only half of the original vessel repowers and retrofits assumed in the SRIA would be able to occur by the initial compliance date due to decreased marine engine technological advancement. Under this scenario, fewer vessels would be able to repower or retrofit by the initial compliance date due to insufficient marine engine technological advancements. Therefore, vessel owners would need to seek extensions to remain in compliance until the required technology was made available, or replace their vessels. Both the amortized and nonamortized costs to vessel owners associated with this scenario would increase due to the higher rate of vessel replacements that would be required if extensions were not applied for and granted. The non–amortized costs would increase from $2.11 billion to $3.02 billion and the amortized costs would increase from $1.82 billion to $2.30 billion.

2. **DOF Comment #2:** The SRIA should report costs and benefits separately from any offsetting benefits or costs, and annual fiscal impacts should be disclosed clearly. While the SRIA reports a lot of detailed information that helps communicate the nuances of the proposed regulations, the SRIA can gain transparency by adding a summary table that indicates the total costs (without netting savings), total benefits, and fiscal impacts in an aggregated annual table.

Response: Aggregated summary tables are provided in Appendix C–2 of the ISOR.

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

In accordance with Government Code section 11346.5, subdivision (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which applies 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, subdivision (a)(9)):

The Proposed Amendments would not result in any direct costs to individuals. However, staff anticipates the Proposed Amendments would result in indirect costs to individuals to the extent that compliance costs are passed through ultimately to consumers of services and cargo. These costs are discussed in Appendix C of the SRIA.

Effects on Small Businesses (Cal. Code Regs., title 1, § 4, subdivisions (a) and (b)):

The Executive Officer has determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses.

Seventy percent of vessel fleets that need to comply with these Proposed Amendments are considered small businesses. Similar to the case of typical businesses, the compliance costs for a small business will vary depending on the compliance option and the number of vessels owned/operated. Staff analyzed scenarios for two typical small businesses in detail in Chapter C of Appendix C of the ISOR.

Small businesses that sell products or services that are needed to comply with the Proposed Amendments may experience financial benefits as their products and services will face increased demand.

Consideration of Alternatives (Gov. Code, § 11346.5, subdivision (a)(13)):

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

The Executive Officer analyzed several alternatives to the proposed regulations and summarized the findings of this analysis in Chapter XI of the ISOR, and the rationale behind rejecting them in favor for the proposed amendments. The following is a brief summary of the alternatives proposed and the rationale for rejecting them:

1. Alternative 1 would amend the Current Regulation. For this alternative, there would be no low –use exception and no extension for vessels with Tier 4 engines and limited operating hours. All vessels would need to comply with the Proposed Amendments, even if they only operate for a limited number of hours. Alternative 1

was rejected because it would cost more, be less cost –effective to implement than the Proposed Amendments, and provides less flexibility. It would increase the overall cost of the Proposed Amendments by 16 percent while achieving 2 percent more reductions for NOx, and 2 percent more reductions for DPM and PM2.5 between 2023 to 2038, a relatively small amount of emission reductions.

2. Alternative 2 differs from the Proposed Amendments because it does not include emission control requirements for commercial fishing vessels. The Proposed Amendments currently require commercial fishing vessels to begin using engines certified to Tier 2 or newer levels between 2030 and 2032. Alternative 2 was rejected because excluding commercial fishing vessels would forgo feasible emission reductions and result in fewer health benefits to the local communities, compared to the Proposed Amendments. Alternative 2 would fail to provide significant additional public health and air quality benefits for California's residents, especially communities adjacent to seaports and terminals.

STATE IMPLEMENTATION PLAN REVISION

The Proposed Amendments are an action in addition to existing commitments or measures in the State Implementation Plan (SIP) required by the federal Clean Air Act. (CAA). If the Proposed Amendments are adopted, CARB may include the new requirements for CHC as part of future SIP revisions. Requirements of the Proposed Amendments would reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the federal CAA.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the Proposed Amendments, has prepared a draft environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21100 et seq.). The draft EA assesses the potential for significant adverse and beneficial environmental impacts associated with the proposed actions and provides a programmatic environmental analysis of the reasonably foreseeable compliance responses that could result from implementation of the Proposed Amendments.

The draft EA concluded implementation of the Proposed Regulation could result in: less than significant impacts, or no impacts, to energy demand, land use, mineral resources, air quality, greenhouse gases, population, employment and housing, public services, recreation, and wildfire; and potentially significant adverse impacts to aesthetics, agriculture and forest resources, biological resources, cultural resources, tribal cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise and vibration, transportation and traffic, and utilities and service systems.

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

The draft EA, included as Appendix D–1 to the ISOR, is entitled *Draft Environmental Analysis Prepared for the Proposed Amendments to the Airborne Toxic Control Measure for Commercial Harbor Craft*. Written comments on the draft EA will be accepted during a 45–day public review period starting on September 24, 2021 and ending on November 8, 2021.

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 cotb@arb.ca.gov or (916) 322–5594 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 cotb@arb.ca.gov o (916) 322–5594 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 David Quiros, Manager, Freight Technology Section, at (916) 327–7213 or Firas Abu–Sneneh, Staff Air Pollution Specialist, Freight Technology Section, at (916) 323–1009.

AVAILABILITY OF DOCUMENTS

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

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, on September 21, 2021. Please contact Chris Hopkins, Regulations Coordinator, at Chris.Hopkins@arb.ca.gov or (916) 445–9564 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

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

HEARING PROCEDURES

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

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at https://ww2.arb.ca.gov/rulemaking/2021/chc2021.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 713, 1022, 1050, 7071, 7078, 7701, 7708, 8026, 8425, 8429.5, 8491, 8500, 8591, 8841 and 8842 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 713, 1022, 1050, 7070, 7071, 7075, 7078, 7083, 7700, 7701, 7702, 7702.1, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710.1, 7710.5, 8026, 8425, 8429.5, 8429.7, 8490, 8491, 8500, 8591, 8841, 8842, 9000, 9000.5, 9001, 9001.6, 9001.7, 9001.8, 9002, 9002.5, 9003, 9004, 9005, 9006, 9007, 9008, 9010, 9011, 9015, 12159 and 12160 of said Code, proposes to amend sections 90, 120.1, 149, 180 and 704, add Section 91 and repeal Section 149.3, Title 14, California Code of Regulations (CCR), relating to implementation of Experimental Fishing Permit (EFP) Program (Phase

II) and repeal of nonoperational experimental market squid vessel permits.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Unless otherwise specified, all section references in this document are to Title 14, CCR.

The California Department of Fish and Wildlife (Department) is recommending that Commission add new Section 91, which will establish a state Experimental Fishing Permit (EFP) Program for marine fisheries. This regulatory proposal will also amend current regulations in sections 90, 120.1, 180, and 704 for consistency with recent changes in the Fish and Game Code (FGC) pertaining experimental marine fishing activities and amend Section 149 and repeal Section 149.3 to remove nonoperational experimental market squid vessel permit provisions to harmonize the regulations associated with experimental fishing activities and avoid confusion with the use of the term "experimental" in reference to other permits outside the scope of the EFP Program.

The proposed regulations will implement Assembly Bill (AB) 1573, also known as the California Fisheries Innovation Act of 2018, which became effective on January 1, 2019. This legislative action repealed the experimental gear permit (EGP) provisions in FGC Section 8606 and added new FGC Section 1022, providing for an EFP program to facilitate fishery–related exploration and experimentation to inform state management of commercial and recreational fisheries.

Under current regulations (Section 90), EFPs may be issued only to those applicants previously approved by the Commission in 2018 to receive an experimental gear permit to participate in a collaborative research program evaluating the potential of a brown box crab fishery in California (box crab program). Section 90 regulations (EFP Program Phase I) implement, in part, AB 1573, ensuring that the current experimental box crab fishery research program can continue while a larger programmatic rulemaking (EFP Program Phase II) can be developed to build out an EFP program pursuant to FGC Section 1022. Requests for new EFPs cannot be accommodated until EFP Program Phase II regulations (this rulemaking) are in place.

The proposed regulations will add new Section 91, "Marine Fisheries: Experimental Fishing Permit Program," which will establish the procedures for application submittal, Department review, public notice and comment, Commission approval, and Department issuance and administration of new EFPs. Specifically, Section 91 will:

- describe the purposes and scope of the EFP Program (subsection 91(a));
- define terms and phrases used within the proposed regulations (subsection 91(b));
- establish the application procedures and fees, including pre–application consultation and application requirements (subsection 91(c));
- establish the process for reviewing and accepting EFP applications by the Department (subsection 91(d));
- establish the process for public notice of and comment on an EFP application (subsection 91(e));
- establish the process for Commission action on an EFP application, including the requirement for grounds for permit denial (subsection 91(f));
- establish the process for Department issuance of an EFP (subsection (91(g));
- establish the permit standard terms are set forth on form DFW 1103 (subsections 91(h));
- establish that permit special conditions may be placed on an EFP for research purposes and the conservation of marine resources and the environment and are specified on form DFW 1103 (subsection 91(i));
- establish that it is unlawful to operate an EFP in violation of the permit standard terms and special conditions (subsection 91(j));
- describe the types of updates and amendments that may be made to an approved EFP (subsection 91(k));
- describe the annual and final reporting requirements for EFPs (subsection 91(l));
- establish the permit tiers and annual permit fees, including a permit fee reduction option (subsection 91(m));
- describe the term of the EFP and the permit renewal process (subsection 91(n));
- describe the causes and procedures for permit suspension, revocation, cancellation, or non–renewal (subsection 91(o)); and
- establish the process for reconsideration (subsection 91(p)).

In addition, Section 90 is proposed to be amended to add a sunset provision (subsection 90(f)) specifying that this section shall expire on April 1, 2023, which is the project end date of the Box Crab EFPs. Additionally, the title of Section 90 will be amended to read "Issuance of Box Crab Experimental Fishing Permits" and a new provision will be added (subsection 90(g)) to make clear that Section 90 applies only to the EFPs issued for the box crab program, and that the requirements of proposed Section 91 will not affect the Box Crab EFPs.

Section 704 will be amended to add fee items to the EFP fee schedule pertaining to Phase II, which includes an application fee, initial permit issuance fee, annual permit fees for Tiers 1–4 EFPs, and minor and major amendment fees. In addition, new form DFW 1103 (NEW 04/06/21), Marine Fisheries: Experimental Fishing Permit Terms and Conditions, is proposed to be incorporated by reference in Section 704 as it would be unduly expensive and impractical to publish in Title 14, CCR. This form, containing the EFP number, a description of the authorized activity, a list of all persons and vessels conducting activities under the EFP, and a list of the permit standard terms and special conditions, is required for all EFPs and is necessary for compliance with Section 91 and FGC Section 1022.

Amendments to regulations in sections 120.1, and 180 are necessary to reflect changes in the FGC pursuant to AB 1573 and ensure consistency with the proposed regulations.

Amendments to regulations in Section 149 would eliminate cross reference to Section 149.3 for experimental market squid vessel permits and nonoperational provisions of Section 149.3 would be repealed. Future experimental fishing for market squid will be subject to the Phase II aspect of the EFP Program.

Other minor, non–substantive editorial changes (subsection renumbering) to Section 704 are proposed to improve clarity and consistency of the regulations. Non–substantive updates are proposed to the authority and reference citations for Section 180 to list sections individually.

Benefit of the Regulations

The Legislature has declared that well–supervised, strategic experimentation that tests hypotheses and/or new management approaches and that aligns with overarching state management goals and research priorities would likely accelerate the development of innovative scientific and technology tools for improving state fisheries management. It is the policy of the state to establish an EFP Program that fosters collaborative and cooperative marine fisheries research that renders critical information for designing policies and management strategies to better protect California's ocean ecosystems and the fisheries and coastal communities they support. The proposed regulations would establish a state process for integrating innovation, science, management, and leveraging collaboration with the fishing industry and research entities to fill data gaps and address priority research questions necessary to manage the long–term sustainability of state fisheries and other marine living resources. This rulemaking would provide a path for innovation and research in the existing management system by permitting limited exemptions from state fishing law and regulations for experimental fishing activities.

The benefits of the proposed regulations include valuable and productive fisheries research for state managed fisheries to meet the challenges of rapid changes in ocean conditions and the climate; promotion of collaboration with stakeholders to develop information available for management and, in some cases, inform the development of fisheries management plans; and consistency with the goals of the Marine Life Management Act (FGC Section 7050 et seq.). The proposed regulations will provide benefits by reducing the regulatory burden for stakeholders to pursue on–the–water experimentation and exploration that will improve or provide for new opportunities for fishing, provide stronger protections for marine habitats, and ensure long–term sustainable fisheries in California.

Consistency and Compatibility with Existing Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the review, approval, and issuance of experimental fishing permits that authorize commercial or recreational marine fishing activity that is otherwise prohibited by law (FGC Section 1022). No other state agency has the authority to promulgate experimental fishing permit regulations. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the review, approval, and issuance of experimental fishing permits and has found no such regulation; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

PUBLIC PARTICIPATION

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Thursday, October 14, 2021, at 8:30 a.m. or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916–653–4899.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference

hearing to be held on Thursday, December 16, 2021, at 8:30 a.m. or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916–653–4899.

It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on December 2, 2021 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on December 10, 2021. All comments must be received no later than December 16, 2021, during the webinar/teleconference hearing. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244–2090.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller–Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or Jenn Greaves at FGC@fgc.ca.gov or at the preceding address or phone number. **Marina Som, Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Som can be reached at (858) 467–4229 or Marina.som@wildlife.ca.gov.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION/ RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

No businesses are expected to be negatively impacted by the proposed regulations because the regulations are voluntary to those who will seek an EFP. The actual number of businesses that may be impacted by the proposed regulations is unknown, but based on estimates and interest from stakeholders may range around 100 businesses amongst commercial fisheries, commercial passenger fishing vessels (CPFVs), or partnerships of these types of business with research organizations. The proposed regulations implement a process for the Commission to authorize and the Department to issue EFPs. The economic impact to the state is anticipated to be unchanged with no adverse impacts to California businesses or their ability to compete with other businesses in other states.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulations would establish a framework for permitting marine fishing activities that are otherwise prohibited under the FGC or state regulations that can improve the management of state fisheries, including but not limited to improving the sustainability of state marine fisheries, efficiency of fishing effort, and reducing capture/discard of non–target species. Any future management

action stemming from the outcome of the EFP research will need to be addressed in a separate rulemaking process.

The Commission anticipates indirect benefits to the health and welfare of California residents. Providing opportunities for experimental fishing activities promotes the development of information available for the conservation and sustainable use of California's marine resources which provide valuable economic, aesthetic, recreational, educational, scientific, nutritional, social, and historic benefits to the people of the state.

The Commission does not anticipate any benefits to worker safety because the proposed regulations would not have any impact on working conditions.

The Commission anticipates benefits to the state's environment in the sustainable management of natural resources.

(c) Cost Impacts on a Representative Private Person or Business:

The proposed regulations are necessary to fully implement a state EFP Program in accordance with FGC Section 1022. California businesses may elect to participate in the EFP program and will likely do so if they perceive that the cost of the EFP fees will yield an economically beneficial result from the authorized experimental marine fishing activities. Applicants and EFP holders will incur costs related to application review, EFP issuance, and oversight on EFP implementation by the Department. The proposed EFP fee items include application fee ($153.25), initial permit issuance fee ($880.50), permit fee based on the specific permit tier (Tier 1 $450.50, Tier 2 $1,063.50, Tier 3 $4,471.00, Tier 4 $9,786.50), and amendment fees (minor $191.50, major $455.75). The proposed fees are necessary to recovery a portion of the implementation and administrative costs of the Department relating to the EFP, as provided under FGC subdivision 1022(g).

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

There will be ongoing costs for the Department to implement the EFP Program. A portion of these costs would be offset by the proposed EFP Program fees which were determined using a "minimum" cost recovery approach. The Department conducted a Cost Recovery Analysis (Attachment 1 to the Initial Statement of Reasons) to evaluate the full range of cost recovery for Department and Commission staff time. The analysis includes a "minimum," "mid," and "high" cost recovery for permit fees. Recognizing the potential benefit of the EFP Program to the state, the Department opted for "minimum" cost recovery of permanent staff time and enforcement (i.e., recovery of only certain aspects of costs at the lowest level of functioning service) and not to pursue full cost recovery as provided by Fish and Game Code subdivision 1022(g).

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

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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.

TITLE 15. DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or Department), proposes to adopt new Section 3270.3 into Title 15, Division 3, Chapter 1, regarding Body Worn Cameras.

PUBLIC COMMENT PERIOD

The public comment period begins **September 24, 2021** and closes on **November 12, 2021.** Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

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

CONTACT PERSONS

Primary Contact
Renee Rodriguez
Telephone: 916–445–2217
Regulation and Policy
Management Branch
P.O. Box 942883
Sacramento, CA 94283–0001

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

Program Contact
Melanie Bruns
Telephone: 916–324–2758
Division of Adult Institutions

AUTHORITY AND REFERENCE

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

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

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulations establish the Department's authorization to utilize body–worn cameras (BWCs) within California Institution for Women (CIW), California State Prison, Corcoran (COR), Kern Valley State Prison (KVSP), California State Prison, Los Angeles County (LAC), Richard J. Donovan Correctional Facility (RJD), and Substance Abuse and Treatment Facility and State Prison, Corcoran (SATF), bring the Department in compliance with the Five Prisons Remedial Plan Order.

This action will:

- Establish the department's authorization to utilize BWCs within CIW, COR, KVSP, LAC, RJD, and SATF.
- Establish regulations regarding the use of BWCs and recording. BWCs will provide the ability for real–time monitoring and recording events that may be utilized as evidence. This will assist staff in completing use of force reviews, and help to identify inmate and staff misconduct.
- Establish and define when BWCs will be deactivated, specifically during confidential assessments, appointments, consultations, or health care.

DOCUMENTS INCORPORATED BY REFERENCE

None.

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The Department has determined the proposed regulations may improve investigations of staff misconduct and reduce violations of *Armstrong* class members' rights under the *Armstrong* Remedial Plan.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the regulatory provisions addressed by this rulemaking action.

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency:
  - *Additional expenditures in the current State Fiscal Year: $2,822,454.*
  - *Additional costs for specific BWCs hardware, contractor installation, cabling and PY associated specifically with the BWCs: $2,958,756.*
- Cost to any local agency or school district that is required to be reimbursed: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed regulations place no obligations or requirements on any business.

EFFECT ON SMALL BUSINESSES

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

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department has determined that the proposed regulation will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulation will have no effect the state's environment. Through the use of BWCs these regulations may help to make CDCR institutions safer for inmates, staff, and visitors.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

TITLE 16. BUREAU OF AUTOMOTIVE REPAIR

SMOG CHECK EQUIPMENT SECURITY AND FRAUD PREVENTION

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs, Bureau of Automotive Repair (hereinafter "Bureau" or "BAR") is proposing to take the actions described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e–mail to the addresses listed under Contact Person in this Notice, to be considered by the Bureau, must be received by the Bureau at its office no later than **Monday, November 8, 2021**, or must be received by the Bureau at any requested hearing, if one is held.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 9882, and 9884.9(b) of the Business and Professions Code (BPC) and sections 44002, 44016, and 44030 of the Health and Safety Code (HSC), to implement, interpret, or make specific HSC sections 44002, 44003, 44005, 44010, 44010.5, 44011, 44011.3, 44012, 44012.1, 44013, 44014, 44014.2, 44014.5, 44014.7, 44015, 44016, 44030, 44032, 44033, 44035, 44036, 44037, 44045.5, 44050, and 44052, the Bureau is considering amending sections 3340.15, 3340.41, and 3340.45 of article 5.5 and section 3394.26 of article 11.1 of chapter 1 of division 33 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The primary purpose of this proposal is to add biometric security and remote access (e.g., web camera) solutions to a licensed Smog Check inspector's use of the BAR–97 Emissions Inspection System (EIS) and On–Board Diagnostic Inspection System (OIS). The biometric portion will prevent the unauthorized use of the Smog Check inspection equipment and positively connect the inspector to the inspection. The remote access portion will allow the Bureau to perform a virtual hands–on inspection for purposes of observing the inspection process. The Bureau is proposing the following changes:

Amend section 3340.15, Article 5.5, Chapter 1, Division 33 of Title 16 of the CCR: The proposed regulation would require that stations allow BAR

personnel access to the station whenever Smog Check inspections are being performed, even if the inspections occur outside of normal business hours and when the business is otherwise not open to the public.

Amend section 3340.41, Article 5.5, Chapter 1, Division 33 of Title 16 of the CCR: The proposed regulation would require that Smog Check inspectors allow BAR personnel or BAR designated staff access to intervene during the inspection process remotely, via the internet, when prompted by BAR–OIS software (currently, not capable with the BAR–97 EIS). This will give BAR the ability to communicate directly with the inspector, see what the inspector sees, and ensure the inspection is performed properly.

The proposal also requires use of a biometric device when using either the BAR–97 EIS or BAR–OIS. The biometric device will prevent password sharing and unauthorized use of the BAR–97 EIS or BAR–OIS and verify the identity of the person performing the inspection. In addition, the proposal adds text to make it illegal to possess or use, at a Smog Check station, an electronic device or data source that can be used to falsify or manipulate inspection data. Electronic data sources are used to generate on-board diagnostic (OBD) inspection or other data in lieu of using an actual vehicle.

The proposal will also add two new forms incorporated by reference for use by BAR in conjunction with the broader biometric device implementation plan. These forms — the Notice on Collection of Personal Biometric Information and Its Use (New 1/2021), and the Biometric Data Collection Consent Statement (New 1/2021) will inform participants of the required information under the Information Practices Act and will provide participants with information on how their biometric data may be used.

Amend section 3340.45, Article 5.5, Chapter 1, Division 33 of Title 16 of the CCR: The proposed regulation incorporates the revised Smog Check Manual to reflect the most current version.

Amend section 3394.26, Article 11.1, Chapter 1, Division 33 of Title 16 of the CCR: The proposal adds administrative fines that BAR may apply when inspectors do not permit BAR remote access to inspection equipment and/or possess an electronic data source.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

This proposal seeks to better protect public health and safety and protect consumers by further preventing fraudulent Smog Check activity. As a result of these regulations, more vehicles with faulty emission controls will be repaired or retired from on–road use. Fewer polluting vehicles directly improves air quality. These proposed regulations will also protect against financial losses resulting from consumers purchasing used cars that have falsely passed a Smog Check inspection only to later find out that the vehicle needs thousands of dollars of repairs in order to pass inspection.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

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

DOCUMENTS INCORPORATED BY REFERENCE

1) Smog Check Manual, dated January 2021;
2) Notice on Collection of Personal Biometric Information and Its Use (New 1/2021);
3) Biometric Data Collection Consent Statement (New 1/2021).

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandated by Federal Law or Regulations:

None.

Local Mandate:

None.

FISCAL IMPACT ESTIMATES

Costs to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies and Costs/Savings in Federal Funding to the State:

The Bureau anticipates that the proposed regulatory action will be cost–neutral and that implementation, administration, and enforcement of the proposed changes will be fully absorbed by existing BAR personnel working within existing resources. It is difficult, however, to estimate the impact on the Bureau's enforcement–related activities. As such, the Bureau's future enforcement–related costs are unknown at this time.

This proposal will result in no costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Effect on Housing Costs:

None.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability To Compete:

None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Bureau has determined that this regulatory proposal will have a minimal impact, if any, on the creation of jobs or new businesses or the elimination of jobs or existing businesses in the State of California.

In addition, the proposed action is not expected to expand or reduce existing business.

For more on benefits of the regulatory proposal, see above in this notice.

Cost Impact on Representative Private Person or Business:

A representative private person or business may incur costs in reasonable compliance with the proposed action as more fully discussed under the 'Effect on Small Business' section below in this Notice.

BUSINESS REPORTING REQUIREMENTS

None.

EFFECT ON SMALL BUSINESS

BAR has determined that the proposed regulatory action will not have a significant effect on small businesses. This determination is based on BAR research that indicates an average cost of approximately $550 for each EIS– and OIS–compatible device ($400 per palm vein scanner and $150 per external web camera). This one–time equipment cost should be absorbable by California businesses, or passed on to consumers via a negligible increase to the station's Smog Check inspection fee.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may present statements orally or in writing relevant to the above determinations at any requested hearing.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Holly O'Connor
Bureau of Automotive Repair
10949 North Mather Boulevard
Rancho Cordova, CA 95670
Telephone: (916) 403–8627
E–mail: Holly.OConnor@dca.ca.gov

The backup contact person is:

Lusine Sarkisyan
Bureau of Automotive Repair
10949 North Mather Boulevard
Rancho Cordova, CA 95670
Telephone: (916) 403–8560
E–mail: Lusine.Sarkisyan@dca.ca.gov

INITIAL STATEMENT OF REASONS AND INFORMATION

BAR has prepared an Initial Statement of Reasons of the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any requested hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Holly O'Connor at the address indicated above. The

Bureau will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named above.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named above, or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR's website at https://www.bar.ca.gov/About_BAR/Regulatory_Actions.aspx.

TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA

UNPROFESSIONAL CONDUCT, SECTION 1138.1

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e–mail to the addresses listed under Contact Person in this Notice must be received by the Board at its office **by 5:00 p.m. on Tuesday, November 9, 2021**.

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

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1905, 1906, and 1950.5, and to implement, interpret or make specific BPC sections 1905 and 1950.5, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC sections 1905 and 1906 authorize the Board to adopt, amend, and revoke regulations to implement the statutory requirements of Article 9 of Chapter 4, BPC sections 1900 through 1967.4, regarding dental hygienists. The Board, a constituent agency within the Department of Consumer Affairs (DCA), regulates registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions (collectively RDHs). The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The Board's core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH educational programs, and monitoring licensees placed on disciplinary probation by the Board.

BPC section 1950.5 sets forth a non–exclusive list of acts constituting unprofessional conduct by licensees. This proposal would add language to expand the categories of conduct the Board considers to be unprofessional that are not included in BPC section 1950.5 and 1955.

- **Add Section 1138.1 to Title 16 of the California Code of Regulations.**

Existing law sets forth the categories of conduct that constitute unprofessional conduct and the conduct that will result in the imposition of civil or administrative penalties or fines. Currently, there is no regulation setting forth additional conduct the Board considers to be unprofessional.

The Board proposes to add section 1138.1 to add the following categories of unprofessional conduct: (1) providing false statements to the Board; (2) failure to provide requested documentation to the Board; (3) failure to cooperate with Board investigations; and (4) failure to report convictions and disciplinary actions against the licensee.

Anticipated Benefits of the Proposed Amended Regulation:

Proposed section 1138.1 will identify additional conduct the Board considers unprofessional that are not included in BPC section 1950.5 and 1955. As protection of the public is paramount to the Board's mission (Business & Professions Code, § 1902.1), the Board has developed additional categories of unprofessional conduct to ensure safety of the public.

First, the Board proposes to include providing false statements to the Board because such conduct could lead to compromised care for the patient. This proscription encourages licensees to be truthful and forthright in their care of patients.

Second, the Board proposes to include failure to provide requested documentation to the Board because a licensee's provision of requested documentation furthers timely investigations and promotes protection of the public.

Third, the Board proposes to include failure to cooperate with Board investigations because evidence a licensee provides to the Board is especially probative of the appropriateness or lack of care provided to a patient. A licensee's cooperation furthers an accurate investigation by the Board to determine the merits of complaints against licensees.

Fourth, the Board proposes to include failure to report convictions and disciplinary actions against the licensee. Licensees are viewed as professionals guided by a "Code of Ethics" which states: "The Code establishes concise standards of behavior to guide the public's expectations of our profession and supports dental hygiene practice, laws and regulations. By holding ourselves accountable to meeting the standards stated in the Code, we enhance the public's trust on which our professional privilege and status are founded." (Code of Ethics for Dental Hygienists, American Dental Hygienists' Association, June 2020.) Depending on the nature and circumstances of the offense, which the Board would examine, a conviction could undermine public trust.

Determination of Inconsistency and Incompatibility with Existing State Regulations:

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposed regulations do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency. The amendments expand the list of conduct considered as unprofessional conduct consistent with current law. As a result, the Board does not anticipate a fiscal impact to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

The proposed amendments only set forth additional conduct the Board considers unprofessional that is not included in BPC section 1950.5 and 1955.

Cost Impacts on a Representative Private Person or Businesses:

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

Significant Effect on Housing Costs: None.

Business Reporting Requirement: None.

Results of the Economic Impact Analysis/ Assessment

Impact on Jobs/Businesses: The Board has determined that this regulatory action will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California because the proposed regulation only sets forth additional conduct the Board considers unprofessional that is not included in BPC section 1950.5 and 1955.

Benefits of the Proposed Action: This regulatory proposal benefits the health and welfare of California residents because it would set forth additional conduct the Board considers unprofessional that is not included in BPC section 1950.5 and 1955, thereby holding RDHs accountable to adhere to acceptable standards of care when working with the public.

The Board anticipates that this regulatory action will not have any monetary effect because the proposed regulation clarifies additional areas considered by the Board to be unprofessional conduct, thereby holding

RDHs accountable to adhere to acceptable standards of care when working with the public.

This regulatory proposal does not benefit worker safety or the state's environment because it does not affect worker safety or the environment.

Effect on Small Business: The Board has determined that this regulatory action would not affect small businesses because the proposed regulation clarifies additional areas considered by the Board to be unprofessional conduct, thereby holding RDHs accountable to adhere to acceptable standards of care when working with the public.

CONSIDERATION OF ALTERNATIVES

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

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non–substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Dr. Pineschi–Petty at the address above.

AVAILABILITY OF FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting Dr. Pineschi–Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi–Petty at the address above or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California
Attn: Adina A. Pineschi–Petty DDS
2005 Evergreen Street, Suite1350
Sacramento, CA 95815
Phone: (916) 576–5002
Email: adina.petty@dca.ca.gov

Backup Contact Person:
Attn: Anthony Lum
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: (916) 263–1978
Email: anthony.lum@dca.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Dr. Pineschi–Petty at the above address. In her absence, please contact the designated back–up contact person.

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the ISOR, and all of the information on which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815, or by accessing the Board's website at https://www.dhbc.ca.gov/lawsregs/index.shtml.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at https://www.dhbc.ca.gov/lawsregs/index.shtml.

TITLE 18. DEPARTMENT OF TAX AND FEE ADMINISTRATION

SECTIONS 4022, INVENTORIES OF CIGARETTES, 4027, MANUFACTURER'S MONTHLY REPORT, 4061, UNUSED STAMPS AND UNUSED METER SETTINGS, 4065, UNSALABLE CIGARETTES, 4066, STOLEN INDICIA, AND 4091, PAYMENT BY CONSUMER

NOTICE IS HEREBY GIVEN that the California Department of Tax and Fee Administration (Department), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 30451, proposes to amend California Code of Regulations, title 18, sections (Regulations):

- Regulation 4022, *Inventories of Cigarettes*
- Regulation 4027, *Manufacturer's Monthly Reports*
- Regulation 4061, *Unused Stamps and Unused Meter Settings*
- Regulation 4065, *Unsalable Cigarettes*
- Regulation 4066, *Stolen Indicia*
- Regulation 4091, *Payment by Consumer*

The proposed amendments to the Cigarette and Tobacco Products Tax Law (CTPTL) regulations correct outdated information and make these regulations consistent with current reporting practices.

AUTHORITY

RTC section 30451.

REFERENCE

RTC section, 30005, 30005.5, 30106, 30107, 30108, 30162, 30166, 30176, 30177, 30182, 30187, 30188, 30453, and 30454.

AVAILABILITY OF
STATEMENT OF REASONS AND
TEXT OF PROPOSED AMENDMENTS

The Department has prepared copies of the text of proposed amendments to CTPTL Regulations 4022, 4027, 4061, 4065, 4066, and 4091 as well as a statement of reasons for the proposed amendments to these regulations. These documents and all the information on which the proposed regulatory action is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The statement of reasons and the text of the proposed amendments to Regulations 4022, 4027, 4061, 4065, 4066, and 4091 are also available on the Department's website at https://www.cdtfa.ca.gov/taxes–and–fees/regscont.htm.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Robert Prasad, by telephone at (916) 309–5296, by e–mail at Robert.Prasad@cdtfa.ca.gov, or by mail at California Department of Tax and Fee Administration, Attn: Robert Prasad, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050.

Written comments for the Department's consideration, written requests to hold a public hearing, notices of intent to present testimony or witnesses at the public hearing, and other inquiries concerning the proposed regulatory action should be directed to Kim DeArte, Regulations Coordinator, by telephone at (916) 309–5227, by fax at (916) 322–2958, by e–mail at CDTFARegulations@cdtfa.ca.gov, or by mail to: California Department of Tax and Fee Administration, Attn: Kim DeArte, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050. Kim DeArte is the designated backup contact person to Robert Prasad.

WRITTEN COMMENT PERIOD

The written comment period ends at 11:59 pm (PDT) on November 8, 2021. The Department will consider the statements, arguments, and/or contentions contained in written comments received by Kim DeArte at the postal address, email address, or fax number provided above, prior to the close of the written comment period, before the Department decides whether to adopt the proposed regulatory action. The Department will only consider written comments received by that time.

However, if a public hearing is held, written comments may also be submitted at the public hearing and the Department will consider the statements, arguments, and/or contentions contained in written comments submitted at the public hearing before the Department decides whether to adopt the proposed regulatory action.

PUBLIC HEARING

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

CHANGES TO THE TEXT OF THE ORIGINAL PROPOSED AMENDMENTS

The Department may adopt the proposed amendments to Regulations 4022, 4027, 4061, 4065, 4066, and 4091 with changes that are non–substantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Department will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be distributed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Kim DeArte. The Department will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF UPDATED STATEMENT OF REASONS

If the Department adopts the proposed regulatory action, the Department will prepare an updated statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Department's website at https://www.cdtfa.ca.gov/taxes–and–fees/regscont.htm.

TITLE 18. DEPARTMENT OF TAX AND FEE ADMINISTRATION

SECTION 1435,
TAX PAID TWICE ON DIESEL FUEL

NOTICE IS HEREBY GIVEN that the California Department of Tax and Fee Administration (Department), pursuant to its authority under Revenue and Taxation Code (RTC) section 60601, proposes amendments to the California Code of Regulations, title 18, section (Regulation) 1435, *Tax Paid Twice on Diesel Fuel.* The proposed amendments to the regulation will clarify when a supplier removes diesel fuel at the rack from an approved terminal and reports it as a taxable transaction and whether they can file a claim for refund with the Department or take a credit on its tax return. The proposed amendments to Regulation 1435 will make it more consistent with statute and provide clarity for an emerging sector of the fuel industry. Proposed amendments to Regulation 1435 include real–world examples that were developed with interested parties and definitions of industry terminology to be additional educational resources for suppliers.

AUTHORITY

RTC section 60601.

REFERENCE

RTC sections 60006, 60051, 60052, 60501, 60507, 60508, and 60521.5.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENTS TO THE REGULATION

The Department has prepared copies of the text of proposed amendments to Regulation 1435, as well as a statement of reasons for the proposed amendments to the regulation. These documents and all the information on which the proposed regulatory action is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The Statement of Reasons and the text of the proposed amendments to Regulation 1435 are also available on the Department's website at *www.cdtfa.ca.gov/taxes–and–fees/regscont.htm*.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments to the regulation should be directed to Michael Patno, by telephone at (916) 309–5303, by e–mail at Michael.Patno@cdtfa.ca.gov, or by mail at California Department of Tax and Fee Administration, Attn: Michael Patno, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050.

Written comments for the Department's consideration, written requests to hold a public hearing, notices of intent to present testimony or witnesses at the public hearing, and other inquiries concerning the proposed regulatory action should be directed to Kim DeArte, Regulations Coordinator, by telephone at (916) 309–5227, by fax at (916) 322–2958, by e–mail at CDTFARegulations@cdtfa.ca.gov,

or by mail to: California Department of Tax and Fee Administration, Attn: Kim DeArte, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050. Kim DeArte is the designated backup contact person to Michael Patno.

WRITTEN COMMENT PERIOD

The written comment period ends at 11:59 pm (PDT) on November 8, 2021. The Department will consider the statements, arguments, and/or contentions contained in written comments received by Kim DeArte at the postal address, email address, or fax number provided above, prior to the close of the written comment period, before the Department decides whether to adopt the proposed regulatory action. The Department will only consider written comments received by that time.

However, if a public hearing is held, written comments may also be submitted at the public hearing and the Department will consider the statements, arguments, and/or contentions contained in written comments submitted at the public hearing before the Department decides whether to adopt the proposed regulatory action.

PUBLIC HEARING

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

CHANGES TO THE TEXT OF THE ORIGINAL PROPOSED AMENDMENTS

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

AVAILABILITY OF UPDATED STATEMENT OF REASONS

If the Department adopts the proposed regulatory action, the Department will prepare an updated statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Department's website at *https://www.cdtfa.ca.gov/taxes–and–fees/regscont.htm*.

TITLE 18. DEPARTMENT OF TAX AND FEE ADMINISTRATION

SECTION 1525.4, MANUFACTURING AND RESEARCH AND DEVELOPMENT EQUIPMENT

NOTICE IS HEREBY GIVEN that the California Department of Tax and Fee Administration (Department), pursuant to the authority vested in it by Revenue and Taxation Code (RTC) section 7051, proposes to amend California Code of Regulations, title 18, section (Regulation) 1525.4, *Manufacturing and Research and Development Equipment.* AB 398 and AB 131, both chaptered into law in 2017, amend RTC section 6377.1 to expand the definitions of a qualified person and qualified tangible personal property; expand the partial exemption to qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production or storage and distribution of electric power; extend the sunset date for the law; and amend the useful life definition. The proposed amendments clarify Regulation 1525.4 and make it consistent with the changes to RTC section 6377.1 made by AB 398 and AB 131.

AUTHORITY

RTC section 7051.

REFERENCE

RTC section 6377.1.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENTS

The Department has prepared copies of the text of proposed amendments to Regulation 1525.4, as well as a statement of reasons for the proposed amendments

to Regulation 1525.4. These documents and all the information on which the proposed regulatory action is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The statement of reasons and text of the proposed amendments to Regulation 1525.4 are also available on the Department's website at https://www.cdtfa.ca.gov/taxes–and–fees/regscont.htm.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Robert Prasad, by telephone at (916) 309–5296, by e–mail at Robert.Prasad@cdtfa.ca.gov, or by mail at California Department of Tax and Fee Administration, Attn: Robert Prasad, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050.

Written comments for the Department's consideration, written requests to hold a public hearing, notices of intent to present testimony or witnesses at the public hearing, and other inquiries concerning the proposed regulatory action should be directed to Kim DeArte, Regulations Coordinator, by telephone at (916) 309–5227, by fax at (916) 322–2958, by e–mail at CDTFARegulations@cdtfa.ca.gov, or by mail to: California Department of Tax and Fee Administration, Attn: Kim DeArte, MIC:50, 450 N Street, P.O. Box 942879, Sacramento, CA 94279–0050. Ms. DeArte is the designated backup contact person to Robert Prasad.

WRITTEN COMMENT PERIOD

The written comment period ends at 11:59 pm (PDT) on November 8, 2021. The Department will consider the statements, arguments, and/or contentions contained in written comments received by Ms. DeArte at the postal address, email address, or fax number provided above, prior to the close of the written comment period, before the Department decides whether to adopt the proposed regulatory action. The Department will only consider written comments received by that time.

However, if a public hearing is held, written comments may also be submitted at the public hearing and the Department will consider the statements, arguments, and/or contentions contained in written comments submitted at the public hearing before the Department decides whether to adopt the proposed regulatory action.

PUBLIC HEARING

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

CHANGES TO THE TEXT OF THE ORIGINAL PROPOSED AMENDMENTS

The Department may adopt the proposed amendments to Regulation 1525.4 with changes that are non–substantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Department will make the full text of the proposed regulation, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting regulation will be distributed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Ms. DeArte. The Department will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF UPDATED STATEMENT OF REASONS

If the Department adopts the proposed regulatory action, the Department will prepare an updated statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Department's website at https://www.cdtfa.ca.gov/taxes–and–fees/regscont.htm.

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

SAFER CONSUMER PRODUCTS REGULATIONS — LISTING TREATMENTS CONTAINING PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES FOR USE ON CONVERTED TEXTILES OR LEATHERS AS A PRIORITY PRODUCT

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
REFERENCE NUMBER: R–2020–04

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to

amend the California Code of Regulations, title 22, division 4.5, chapter 55, section 69511, and adopt section 69511.5. This proposed amendment pertains to identification of a Priority Product under the Safer Consumer Products (SCP) regulations, approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013 (effective date: 10/01/2013; OAL Regulatory Action Number: 2013–0718–03).

WRITTEN COMMENT PERIOD

Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard–copy formats. Written comments may be submitted electronically through the SCP Information Management System, CalSAFER at: https://calsafer.dtsc.ca.gov/. Please direct questions or concerns about CalSAFER to Simona Balan at 510–540–3888 or simona.balan@dtsc.ca.gov. While DTSC prefers that comments be submitted through the CalSAFER system, interested persons may also submit their comments in an email to: SaferConsumerProducts@dtsc.ca.gov.

Written comments may also be submitted electronically through the DTSC regulations email address at regs@dtsc.ca.gov or please direct hard–copy written comments to staff in the Office of Legislation and Regulatory Review, as specified below.

The written comment period will close on November 8, 2021. Only comments received at the DTSC office by that date will be considered. Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard copy formats. DTSC will only consider comments received on or before this date.

PUBLIC HEARING

A public hearing has not been scheduled for this rulemaking. However, DTSC will conduct a hearing if a written request for a public hearing is received from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

Notice Pertaining to Accessibility and Reasonable Accommodation

All documents related to these regulations can be made available in alternate format (i.e., Braille, large print, etc.) or in another language, as requested, in accordance with State and Federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability–related reasonable accommodations and/or translator/interpreter needs, upon request. For assistance, please contact:

Office of Legislation and Regulatory Review
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812–0806
regs@dtsc.ca.gov
Fax Number: (916) 324–1808
TTY/TDD/Speech–to–Speech users may dial 7–1–1 for the California Relay Service.

AUTHORITY AND REFERENCE

Authority

This regulation is being adopted under the following authorities:

- Health and Safety Code (HSC) section 25252 authorizes and requires DTSC to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered a Chemical of Concern. This section also directs DTSC to reference and use available information from various sources but does not limit DTSC to use only this information.
- HSC section 25253 authorizes and requires DTSC to adopt regulations that establish a process for evaluating Chemicals of Concern in consumer products, and their potential alternatives, to determine how best to limit exposure to or to reduce the level of hazard posed by a Chemical of Concern.
- HSC section 58012 (added by Gov. Reorg. Plan No. 1, § 146, eff. July 17, 1991) grants DTSC authority to adopt regulations to execute its duties.

Reference

This regulation implements, interprets, or makes specific the following statutes:

- HSC sections 25252 and 25253.

INFORMATIVE DIGEST

Policy Statement Overview:

Background and Effect of the Proposed Regulatory Action:

The SCP regulations were adopted in October 2013 to meet the statutory requirements outlined in HSC sections 25252 and 25253. The regulations outline a science–based process for evaluating Chemicals of Concern in consumer products and safer alternatives by:

- Establishing a list of Candidate Chemicals and specifying criteria by which these may be designated Chemicals of Concern;
- Establishing a process to identify and prioritize product and Candidate Chemical combinations that may be listed as Priority Products;
- Requiring manufacturers to notify DTSC when their product is listed as a Priority Product;
- Requiring manufacturers of a Priority Product to perform an Alternatives Analysis (AA) to determine how best to reduce exposures to, or the level of adverse public health or environmental impacts posed by, the Chemical(s) of Concern in the product;
- Requiring DTSC to identify and require implementation of Regulatory Responses following completion of an AA; and
- Creating a process for persons to petition DTSC to add chemicals to the Candidate Chemicals list, add or remove Candidate Chemicals lists in their entirety, or to add or remove a product–chemical combination from the Priority Products List.

DTSC proposes to amend section 69511 and add section 69511.5 to Article 11 of the SCP regulations. The proposed action will add treatments containing any perfluoroalkyl or polyfluoroalkyl substances (PFASs) for use on converted textiles or leathers as a Priority Product on the Priority Products List.

This listing applies to any product containing PFASs placed into commerce in California that may be marketed or sold for the purpose of:

- Eliminating dirt or stains from carpets, rugs, clothing, shoes, upholstery, or other converted textiles and leathers; or
- Repelling stains, dirt, oil, or water from carpets, rugs, clothing, shoes, upholstery, or other converted textiles and leathers.

These products are sometimes also referred to as aftermarket treatments or impregnating agents.

Products covered under this definition include:

- Cleaner: a product marketed or sold for the purpose of eliminating dirt or stains;
- Protectant: a product marketed or sold to protect a surface from soiling when in contact with dirt or other impurities, or to reduce liquid absorption;
- Spot remover: a product marketed or sold to clean localized areas, or to remove localized spots or stains; and
- Water proofer or water repellant: a product marketed or sold to repel water

Treatments containing any perfluoroalkyl and polyfluoroalkyl substances (PFASs) for use on converted textiles or leathers does not include products marketed or sold exclusively for use during the manufacturing of carpets, rugs, clothing, shoes, furniture, or other textiles or leathers.

Following extensive review of the scientific literature and analysis of the known hazard traits of PFASs, DTSC determined there is potential for the vast majority of California consumers including infants, school children, and pregnant women and their developing fetuses to be exposed to PFASs while in their homes, offices, buildings, stores, and classrooms for prolonged periods of time daily. These exposures have the potential to contribute to or cause significant adverse health impacts including carcinogenicity, cardiovascular toxicity, developmental toxicity, endocrine toxicity, hepatotoxicity, immunotoxicity, nephrotoxicity, ocular toxicity, and reproductive toxicity. In addition, PFASs are known to be environmentally persistent, bioaccumulative, highly mobile in the environment, can be transported long distances, and undergo lactational and transplacental transfer in humans and animals. DTSC based this determination on an evaluation of an abundance of publicly available, reliable scientific information pertinent to the regulatory criteria.

Benefits of the Proposed Regulatory Action:

A primary goal of the SCP regulations is to mitigate widespread adverse health and environmental impacts of PFASs in commerce, as well as the overall costs of these impacts to the State of California. By listing treatments containing any PFASs for use on converted textiles or leathers as a Priority Product, DTSC encourages manufacturers to evaluate whether PFASs are necessary in treatments for use on converted textiles or leathers or whether there are functionally safer alternatives that would reduce human exposure to PFASs during manufacturing, use, and post–consumer recycling or disposal of PFAS–containing treatments, their containers, and the treated converted textiles or leathers. Reduction in PFASs in consumer products and the environment means healthier ecosystems, safer homes, offices, schools, workplaces, and a more sustainable environment, with cleaner drinking water and air. Reducing exposure to PFASs could reduce the prevalence of elevated serum concentrations of PFASs in the general population of California, and its associated potential for adverse health effects. Expanded use and development of new, safer alternatives benefits California's entire population and environment.

Another primary goal of the SCP regulations is to protect public health by reducing exposures to potentially harmful chemicals. By listing treatments containing any PFASs for use on converted textiles or leathers as a Priority Product, DTSC sets in motion a strategy to reduce human exposure to PFASs from the manufacturing, use, and end–of–life of this product category. A reduction in exposure to PFASs

could benefit the health of California's residents and wildlife. The development of safer alternatives benefits California workers, consumers, employers, and environment.

DTSC cannot pre–determine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC will maximize the use of alternatives of least concern and give preference to those that provide the greatest level of inherent protection. In general, economic benefits to California workers and business owners may include expanded employment opportunities in the fields of consulting, worker and consumer education, and marketing. Additional benefits may accrue because of increased research and product development collaboration between manufacturers and California–based research entities. Institutional and corporate financial support of chemical and material science programs focused on developing safer alternatives to PFASs could advance the field. These research initiatives could provide manufacturers with employees that are highly skilled in the research and design of products for newly emerging global markets.

Existing Laws and Regulations:

The SCP regulations established a unique approach to regulating Chemicals of Concern in consumer products that grants DTSC authority to take actions to protect people and the environment when such actions are outside the scope of other regulatory programs. There are no equivalent federal or state regulations that require product manufacturers to determine if the chemical in their product is necessary and whether there is a safer alternative, with the goal of protecting consumers and the environment from adverse effects associated with a product throughout its lifetime.

DTSC has assessed all applicable state and federal laws and regulations and international treaties or agreements with the force of domestic law related to the product or the Candidate Chemical in the product. DTSC has determined that these programs do not overlap or conflict with this proposal to list treatments containing members of the class of PFASs for use on converted textiles or leathers, nor with any subsequent regulation that may result from such listing.

As a class, PFASs are not currently regulated by the Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), or the Occupational Safety and Health Administration (OSHA), nor by any other state agencies. The United States Environmental Protection Agency (U.S. EPA) took some limited regulatory actions on a small number of PFASs (see below), but the proposed regulation does not duplicate or conflict with any of these regulations, which are discussed below.

U.S. EPA's Limited Regulatory Actions on PFASs:

Section 5 of Toxic Substances Control Act (TSCA) authorizes U.S. EPA to issue Significant New Use Rules (SNURs) for new or existing chemicals used in a significant new way. A SNUR requires companies to notify U.S. EPA at least 90 days prior to manufacturing, importing, or processing substances for a significant new use, and submit a notification including information about the chemical's identity, physical characteristics, processing and use, and available toxicity data. U.S. EPA has 90 days to evaluate the new use and can request more data, prohibit or limit the manufacture, or allow the use. The following SNURs are related to PFASs:

- December 9, 2002 — SNUR regarding any future manufacture (including imports) of 75 PFASs specifically included in the 2000–2002 voluntary phaseout of PFOS by 3M;
- March 11, 2002 — SNUR regarding any future manufacture (including imports) of 13 PFASs specifically included in the 2000–2002 voluntary phaseout of PFOS by 3M;
- October 9, 2007 — SNUR for 183 PFASs believed to no longer be manufactured, imported, or used in the U.S.;
- October 22, 2013 — SNUR requiring companies to report their intent to manufacture certain PFOA–related chemicals to treat carpets, as well as their intent to import carpets containing these PFASs;
- (Proposed) January 21, 2015 — proposed SNUR affecting manufacturers (including importers) of perfluoroPFOA and PFOA–related chemicals, including as part of articles, and processors of these chemicals;
- (Proposed) February 20, 2020 — supplemental to a SNUR issued on certain PFASs in 2015; amendment includes regulation on imported products that contain certain PFASs used as part of surface coatings; and
- June 22, 2020 — final SNUR requiring notice before anyone can resume the use of long–chain PFASs that have been phased out in the U.S. or import products containing certain long–chain PFASs as surface coatings or carpets containing perfluoroalkyl sulfonates.

Since 2000, U.S. EPA has reviewed hundreds of substitutes for PFOA, PFOS, and other longer–chain PFASs, particularly regarding their toxicity, fate, and bioaccumulation under the New Chemicals Program. For many PFASs, U.S. EPA has worked with individual submitters pursuant to TSCA section 5(e) to develop Consent Orders, which typically contain certain requirements such as testing, while allowing production and use.

On January 27, 2010, U.S. EPA amended the Polymer Exemption Rule for new chemicals under TSCA to exclude certain side–chain fluorinated polymers due to potential risk to human health or the environment.

The National Defense Authorization Act for Fiscal Year 2020 (NDAA), signed into law on December 20, 2019, contains multiple PFAS–related amendments, including a ban on the use of PFASs in food packaging for military ready–to–eat meals and the phaseout of PFAS–containing firefighting foam. Additionally, section 7321 of the NDAA added several PFASs to the Toxics Release Inventory (TRI) under section 313 of the Emergency Planning and Community Right–to–Know Act of 1986 (EPCRA), effective January 1, 2020.

Related State Laws and Regulations:

No California state laws or regulations currently address the use of PFASs in treatments for converted textiles or leathers.

Therefore, these proposed regulations will not be inconsistent or incompatible with existing state laws or regulations.

Comparable Federal Regulation or Statute:

This regulation is not based on, identical to, or in conflict with any federal regulations.

OTHER APPLICABLE REQUIREMENTS PRESCRIBED BY STATUTE

California Environmental Quality Act (CEQA) Compliance

DTSC has determined that this rulemaking would be exempt from CEQA (Public Resources Code Section 21000, et seq.) under the "feasibility or planning study" and "data collection" exemptions outlined in California Code of Regulations, title 14, section 15262 and 15306, respectively. A draft Notice of Exemption (NOE) is available for review during the public comment period upon request and will be filed with the State Clearinghouse if the regulation is finalized.

California Environmental Policy Council Review

Under the provisions of HSC section 25252.5, the California Environmental Policy Council (CEPC) reviewed the framework SCP regulations prior to their adoption in October 2013 (the CEPC Resolution may be viewed at: http://www.calepa.ca.gov/cepc/). Under HSC Section 25252.5(f), the CEPC determined that the proposed regulations would not have any significant adverse impact on public health or the environment and could be adopted by DTSC without undergoing a multimedia life cycle evaluation.

DTSC determined that further review by the CEPC is not warranted for this rulemaking because the requirements of HSC section 25252.5 apply only to the creation of the SCP program and not regulations that may be required to implement this program.

Peer Review

DTSC requested an external scientific peer review of the scientific basis of the proposed regulation pursuant to Health and Safety Code section 57004. The result of the external scientific peer review is posted to DTSC's rulemaking website at: https://dtsc.ca.gov/regs/.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DTSC has determined that adoption of this regulation will not impose a local mandate or result in costs subject to state reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE OR LOCAL AGENCIES, OR SCHOOL DISTRICTS SUBJECT TO REIMBURSEMENT

DTSC determined that adoption of this regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

Costs or Savings to Any State Agency:

DTSC will absorb additional costs associated with reviewing Notifications, Abridged AA Reports, or two–stage AA Reports submitted by manufacturers of treatments for converted textiles or leathers containing any PFASs by reallocating staff to this new task. DTSC estimates that the total fiscal costs to state government for reviewing all Notifications, Abridged AA Reports, and two–stage AA reports submitted by manufacturers will range from $1,363,344 to $4,941,360.

Local Agencies:

DTSC determined that adoption of this regulation will not impose a local mandate or result in costs or savings for any local agency subject to reimbursement pursuant to Part 7 of Division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

School Districts:

DTSC determined that adoption of this regulation would not result in costs or savings for any school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code.

Federal Funding to the State:

DTSC determined that adoption of this regulation will not result in cost or savings in federal funding to the state. DTSC determined that no fiscal impact to federal funding or state programs exists.

DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT

DTSC determined the proposed regulatory action has no significant statewide adverse economic impact directly affecting business. Following a review of available market data on treatments for use on converted textiles and leathers and surveys of affected manufacturers and industry organizations, DTSC determined the proposed regulation is not a major regulation and is unlikely to have a significant adverse impact on business.

Types of Businesses Affected: Manufacturers of treatments for use on converted textiles or leathers containing any PFASs have the principal duty to comply with the notification and reporting requirements.

Projected Reporting, Recordkeeping, or other Compliance Requirements: In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), DTSC found that the reporting requirements of the proposed regulatory action, which apply to businesses, are necessary for the health, safety, and welfare of the people of the State of California. The specific reporting requirements and forms are:

- Priority Product Notification [section 69503.7]
- Removal/Replacement Notifications:
  - Chemical of Concern Removal Intent Notification [section 69505.2]
  - Chemical of Concern Removal Confirmation Notification [section 69505.2]
  - Product Removal Intent Notification [section 69505.2]
  - Product Removal Confirmation Notification [section 69505.2]
  - Product–Chemical Replacement Intent Notification [section 69505.2]
  - Product–Chemical Replacement Confirmation Notification [section 69505.2]
  - Product Cease Ordering Notification [section 69501.2(b)(2)(B)]
- AA Notifications and Reports:
  - AA Threshold Notification [section 69505.3]
  - AA Extension [section 69505.1(c)]
  - Preliminary AA Report [section 69505.4(a)(2), section 69505.5, section 69505.1(b)(2)(A), section 69505.7]
  - Final AA Report [section 69505.4(a)(3), section 69505.6, section 69505.1(b)(2)(B), section 69505.7]
  - Abridged AA Report [section 69505.4(b)]
  - Alternate AA Work Plan [section 69505.4(c)]
  - Previously completed AA [section 69505.4(d)]

The reports and forms that will be submitted by a manufacturer depend on several factors including the Priority Products produced, the availability of viable alternatives, and business decisions made by the manufacturer.

The reporting requirements applicable to manufacturers may be fulfilled by a consortium, trade association, public–private partnership, or other entity acting on behalf of, or in lieu of, one or more manufacturer. This does not apply to the Priority Product Notification or AA Threshold Exemption Notification requirements [section 69501.2(a)(2)].

DTSC has made an initial determination that the adoption of this regulation will not exert a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DTSC has considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

i. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
ii. Consolidation or simplification of compliance and reporting requirements for businesses.
iii. The use of performance standards rather than prescriptive standards.
iv. Exemption or partial exemption from the regulatory requirements for businesses.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DTSC estimates the cumulative cost for all California–based manufacturers of treatments containing any PFASs for use on converted textiles or leathers to submit Priority Product Notifications and AA Reports and to respond to DTSC's reviews of these submittals to be from $2,598,080 to $7,014,080.

DTSC relied on a variety of sources, such as U.S. Census Bureau County Business Patterns and D&B Hoovers databases, to estimate the number of manufacturers potentially impacted by this proposed regulation. From these data sources, DTSC estimates there are 23 manufacturers of converted textile or

leather treatments containing PFASs in California that would be impacted by this proposed regulation.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation of New Businesses or Elimination of Existing Businesses:

DTSC determined that it is:

- Unlikely that this proposal will eliminate or create businesses or jobs in manufacturing of treatments for converted textiles or leathers;
- Possible that this proposal could create an unknown number of businesses to assist manufacturers of converted textile or leather treatments containing PFASs in meeting regulatory obligations including consulting services, chemical and material science research services, and product development support;
- Possible that this proposal could create an unknown number of public or private sector jobs in consulting services, product research and design, chemical and material science research and support and marketing.

Expansion of Businesses Currently doing Business:

DTSC determined that it is possible that this proposal could result in the expansion of businesses currently doing business within the state, particularly those engaged in regulatory consulting services, chemical and material science research and support, product research and design and marketing.

Effect on Housing Costs:

DTSC has made a determination that the proposed regulation will have no significant effect on housing costs.

Effect on Small Businesses:

DTSC made an initial determination that the adoption of this regulation may affect small businesses. DTSC estimates that 16 of the 23 potentially impacted manufacturers are small businesses. Costs to submit Priority Product Notifications and AA Reports are expected to be the same for all impacted businesses. Moreover, DTSC estimates that it will take each manufacturer a maximum of 16 hours at $60/hour to complete a Priority Product Notification, or a total of $960. DTSC estimates that the cost to each manufacturer for the Priority Product Notification, AA report, and responding to DTSC's AA report review will be $112,960 to $182,960 for an Abridged AA (Table 1a), and $139,960 to $304,960 for a two–stage AA (Table 1b). DTSC expects costs to individual manufacturers to be lower if they form a consortium and submit a combined AA. These are one–time notification and reporting requirements that manufacturers are expected to complete within one year of adoption of the proposed regulation; therefore, there are no ongoing costs.

Benefits of the Regulation on the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

DTSC made an initial determination that the adoption of this regulation may positively affect the health and welfare of California residents, worker safety, and the State's environment. A reduction in exposure to PFASs could benefit the health of California's residents and wildlife. The development of safer alternatives benefits California workers, consumers, employers, and the environment. DTSC cannot predetermine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC will maximize the use of alternatives of least concern and give preference to those that provide the greatest level of inherent protection. In general, economic benefits to California workers and business owners may include expanded employment opportunities in the fields of consulting and marketing. Additional benefits may accrue because of increased research and product development collaboration between manufacturers and California–based research facilities. Institutional and corporate financial support of chemical and material science programs focused on developing safer treatments for use on converted textiles and leathers could advance the field. These research initiatives could provide manufacturers with employees that are highly skilled in the research and design of products for newly emerging global markets.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulation or CEQA documents may be directed to Simona Balan of DTSC at 510–540–3888 or, if unavailable, Nancy Ostrom of DTSC at 916–445–3077. However, such oral inquiries are not part of the rulemaking record.

A public comment period for the rulemaking has been established commencing on September 24, 2021 and closing on November 8, 2021. Statements, arguments, or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or presented orally or in writing at a public hearing, if a hearing is requested, in order for them to be considered by DTSC before it adopts, amends, or repeals these regulations.

DTSC will accept statements, arguments or contentions, and/or supporting documents regarding this rulemaking submitted in writing either through CalSAFER or by mail, or they may be presented orally or in writing at a public hearing, if a hearing is requested.

AVAILABILITY OF TEXT OF PROPOSED REGULATIONS, INITIAL STATEMENT OF REASONS, AND OTHER RULEMAKING DOCUMENTS

Copies of the Notice of Proposed Action, Initial Statement of Reasons, all the information upon which this proposal is based, and the express terms of the proposed regulation (also known as the proposed regulatory text) are posted to DTSC's Internet website at https://dtsc.ca.gov/regs/.

After the close of the comment period, DTSC may adopt the proposed regulation. If substantial, sufficiently related changes are made to the regulatory text, the modified full text (with the changes clearly indicated) will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulation, attend a public hearing, if a hearing is requested, or provide written or oral comments on this specific regulation will be sent a copy of the modified text if substantial, sufficiently related changes are made.

Once DTSC finalizes the regulatory text, DTSC will prepare a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments, and includes other materials. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at https://dtsc.ca.gov/regs/, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulation.

ALL OTHER QUESTIONS/COMMENTS/ INQUIRIES/UPDATES

Please direct all written comments, procedural inquiries, and requests for documents by mail, e–mail, or fax to the Office of Legislation and Regulatory Review, as specified above. To be included in this regulation package's mailing list and to receive updates of this rulemaking, please visit https://dtsc.ca.gov/dtsc–e–lists/ and subscribe to the applicable E–List or e–mail: regs@dtsc.ca.gov.

TITLE 24. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT/BUILDING STANDARDS COMMISSION

BUILDING STANDARDS OF THE OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT REGARDING THE 2022 CALIFORNIA BUILDING CODE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2, VOLUME 1

(OSHPD 04/21)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2, Volume 1. OSHPD is proposing building standards related to the construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **September 24, 2021** until midnight on **November 8, 2021**.

Comments may be submitted to CBSC via:

e–Comment form: dgs.ca.gov/BSC/e–comments

US Mail postmarked no later than **November 8, 2021**:

California Building Standards Commission
Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Note: Only comments received in an accessible format will be viewable via CBSC's website. Use the e–Comment form to ensure accessibility.

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time, and location of the public meeting.

POST–HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15–day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Section 129850.

OSHPD is proposing this regulatory action based on Health and Safety Code, Sections 1275, 18928, 129790, and 129850.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code, Section 1275, authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers.

Health and Safety Code, Section 18928, requires OSHPD to adopt and reference the most recent edition of a model code. The model code, with amendments or proposed changes, shall be adopted within one year after the publication date.

Health and Safety Code, Section 18949.3, transfers the responsibilities of OSHPD to adopt regulations relating to building standards, including but not limited to, responsibilities specified under the Alfred E. Alquist Hospital Facilities Seismic Safety Act to the California Building Standards Commission.

Health and Safety Code, Section 129790, authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of Youth Authority.

Health and Safety Code, Section 129850, authorizes OSHPD to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. OSHPD is also authorized and responsible to submit building standards related to the seismic safety of hospital buildings to the California Building Standards Commission.

Summary of Existing Regulations

Title 24, Part 2, Volume 1, California Building Code (CBC) contains regulations pertaining to the design and construction of hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Part 2, Volumes 1 and 2 of the 2019 California Building Code.

Summary of Effect

The proposed action is to carry forward existing California building regulations related to the enforcement of building standards for the safety of hospitals, skilled nursing facililties, licensed clinics and correctional treatment centers.

The proposal makes minor editorial and technical modifications for clarification; provides consistency within Title 24; provides coordination with Title 22, Licensing and Certification requirements; and provides modified and reorganized regulations that are consistent with the national standards of 2014 FGI Guidelines for Design and Construction of Health Care Facilities.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations related to this proposed action.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing and intermediate care facilities, licensed clinics, and correctional treatment centers. The proposal provides editorial and minor technical modifications to administrative regulations for clarification and consistency.

Evaluation of Consistency

The proposed regulation is consistent and compatible with existing state regulations.

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

Reference: Government Code Section 11346.5(a)(4).

There are no other matters to identify.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

OSHPD has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

A. Cost or Savings to any state agency: **Yes.**

B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**

C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**

D. Other nondiscretionary cost or savings imposed on local agencies: **No.**

E. Cost or savings in federal funding to the state: **No.**

Estimate: Savings in the current State Fiscal Year will be approximately $1,174,000

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

OSHPD has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

OSHPD has not relied on any other facts, evidence, documents, testimony, or other evidence to make its final determination of no statewide adverse economic impact. The scope of the proposed action is to make editorial and technical modifications to the existing code that are in alignment with health facility licensing requirements and national referenced standards.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

OSHPD has made an assessment and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

OSHPD would expect to see a one–time initial cost of approximately $2,000,000 if all options are accepted and implemented into a project.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

OSHPD has assessed whether or not and to what extent this proposal will affect the following:

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

The proposed regulations will not create or eliminate jobs within the State of California.

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

The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.

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

The proposed regulations will not cause expansion of businesses currently doing business with the State of California.

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

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state's environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

These proposed regulations will not result in any cost of compliance that would impact housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

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

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263–0916

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Richard Tannahill, Health Facilities Review, Supervisor
Office of Statewide Health Planning and Development
Facilities Development Division
(916) 440–8300
regsunit@oshpd.ca.gov

Back up Contact:

Lori Campbell, Building Standards Unit
Office of Statewide Health Planning and Development
Facilities Development Division
(916) 440–8300
regsunit@oshpd.ca.gov

California Building Standards Commission
Michael Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Note: Only comments received in an accessible format will be viewable via CBSC's website: dgs.ca.gov/BSC. Use the e–Comment form to ensure accessibility.

TITLE 24. STATE HISTORICAL BUILDING SAFETY BOARD/BUILDING STANDARDS COMMISSION

BUILDING STANDARDS OF THE STATE HISTORICAL BUILDING SAFETY BOARD (SHBSB) REGARDING THE 2022 CALIFORNIA HISTORICAL BUILDING CODE (CHBC) CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 8

(SHBSB 01/21)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of State Historical Building Safety Board proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 8. The SHBSB is proposing building standards related to the 2022 California Historical Building Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **September 24, 2021**, until midnight on **November 8, 2021**.

Comments may be submitted to CBSC via:

e–Comment form: dgs.ca.gov/BSC/e–comments

U.S. Mail postmarked no later than **November 8, 2021**:

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST–HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15–day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

SHBSB proposes to adopt these building standards under the authority granted by Health and Safety Code sections 18958 and 18959.5.

The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code sections 18950–18961.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Health and Safety Code sections 18950–18961 authorize the SHBSB to develop alternative regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction), or relocation of qualified historical buildings or structures. These alternative standards and regulations are intended to facilitate the rehabilitation, restoration, or change of occupancy to preserve their original or restored architectural elements and features, to encourage energy conservation and cost–effective approach to preservation, and to provide for the safety of the building occupants.

The SHBSB is composed of qualified experts in their respective fields who represent various state and local public agencies, design professionals, and building and preservation–oriented organizations. The SHBSB acts as a consultant to the State Architect and to other applicable state agencies for purposes of the California Historical Building Code. The SHBSB also acts as a review body to state and local agencies with respect to interpretations of the California Historical Building Code, as well as on matters of administration and enforcement of the California Historical Building Code.

All state agencies that enforce and administer approvals, variances, or appeals procedures or decisions affecting the preservation or safety of the historical aspects of qualified historical buildings or structures shall use the alternative provisions of the California Historical Building Code. These state agencies must consult with the SHBSB to obtain its review prior to undertaking action or making decisions on variances or appeals that affect qualified historical buildings or structures.

Summary of Existing Regulations

Existing regulations promulgated by the SHBSB are contained in the California Historical Building Code (Title 24, Part 8). These regulations provide means for the preservation of the historical value of qualified historical buildings or structures and, concurrently, provide reasonable safety from fire, seismic forces or other hazards for occupants of these buildings or structures, and provide reasonable availability to and usability by, persons with disabilities. These regulations require enforcing agencies to accept reasonably equivalent alternatives to the regular code when dealing with qualified historical buildings or structures. A qualified historical building or structure is any structure or property, collection of structures, and their related sites deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction.

Summary of Effect

The proposed action would update the California Code of Regulations, Title 24, Part 8, California Historical Building Code by adopting existing California provisions carried forward from the 2019 California Historical Building Code (CHBC) and incorporated into the 2022 CHBC.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or alternative building regulations applicable to qualified historical buildings or structures.

Policy Statement Overview

The California Historical Building Code contains alternative regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction), or relocation of qualified historical buildings or structures. These alternative standards and regulations are intended to facilitate the rehabilitation, restoration, or change of occupancy to preserve their original or restored architectural elements and features, to encourage energy conservation and cost–effective approach to preservation, and to provide for the safety of the building occupants.

Evaluation of Consistency

There are no inconsistent or incompatible regulations proposed.

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

Reference: Government Code Section 11346.5(a)(4).

There are no other matters prescribed by statute applicable to the SHBSB, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

The SHBSB has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts. The California Historical Building Code contains alternative building regulations that may be used by local agencies or school districts when work is being done at qualified historical buildings or structures.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of

cost or savings to any state agency, local agency, or school district.

A. Cost or Savings to any state agency: **No.**

B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**

C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **No.**

D. Other nondiscretionary cost or savings imposed on local agencies: **No.**

E. Cost or savings in federal funding to the state: **No.**

Estimate: Potential savings to state agencies is unknown.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

The SHBSB has made an initial determination that the ADOPTION of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

The alternative regulations of the California Historical Building Code may be applied by private property and business owners when work is being done at qualified historical buildings or structures. Applying the alternative regulations may result in a cost savings.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

N/A

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

The SHBSB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The alternative regulations of the California Historical Building Code may be applied by private property and business owners when work is being done at qualified historical buildings or structures. Applying the alternative regulations may result in a cost savings.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The State Historical Building Safety Board (SHBSB) has assessed whether or not and to what extent this proposal will affect the following:

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

The SHBSB has determined that the proposed action has no effect.

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

The SHBSB has determined that the proposed action has no effect.

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

The SHBSB has determined that the proposed action has no effect.

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

The SHBSB has determined that the proposal establishes minimum requirements to safeguard the public health, safety and general welfare through access to persons with disabilities.

ESTIMATED COST OF
COMPLIANCE OF STANDARDS
THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

The SHBSB has determined that the proposal establishes minimum requirements to safeguard the public health, safety and general welfare through access to housing in qualified historical buildings for persons with disabilities.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

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

AVAILABILITY OF
RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: dgs.ca.gov/BSC.

Reference: Government Code Section 11346.5(a)(21).

The SHBSB shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL
AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael L. Nearman
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
(916) 263–0916
Michael.Nearman@dgs.ca.gov

PROPOSING STATE AGENCY
CONTACT PERSON FOR SUBSTANTIVE
AND/OR TECHNICAL QUESTIONS ON THE
PROPOSED CHANGES TO
BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Primary Contact:

Derek M. Shaw, Executive Director
State Historical Building Safety Board
Division of the State Architect — Headquarters
(916) 324–7178
Derek.Shaw@dgs.ca.gov

Back up Contact:

Debbie Wong, Senior Architect
Division of the State Architect — Headquarters
(916) 327–5410
Debbie.Wong@dgs.ca.gov

TITLE 27. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
PROPOSITION 65

PROPOSED AMENDMENT TO
ARTICLE 6 CLEAR AND REASONABLE
WARNINGS WARNING CONTENT FOR
ACRYLAMIDE EXPOSURE FROM FOOD
NEW SUBSECTION 25607.2(b)

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA)

proposes to add a new subsection to Article 6 of Title 27 of the California Code of Regulations.[1]

This rulemaking proposes to add the following new subsection to Section 25607.2:

(b) A warning for food exposures to acrylamide meets the requirements of this subarticle if it is provided: (i) in accordance with subsection (a), or, (ii) via one or more of the methods specified in Section 25607.1 and includes both elements (1) and (2) below.

(1) The words "**CALIFORNIA WARNING:**" in all capital letters and bold print.

(2) The words, "Consuming this product can expose you to acrylamide, a probable human carcinogen formed in some foods during cooking or processing at high temperatures. Many factors affect your cancer risk, including the frequency and amount of the chemical consumed. For more information including ways to reduce your exposure, see www.P65Warnings.ca.gov/acrylamide."

PUBLIC COMMENTS

To be considered, **OEHHA must receive comments by November 8, 2021**, the designated close of the written comment period. All written comments will be posted on the OEHHA website at the close of the public comment period.

OEHHA strongly recommends that the public submit written information electronically, rather than in paper form. Comments may be submitted electronically through our website at https://www.oehha.ca.gov/comments. In the alternative, comments can be mailed to the address below.

Monet Vela
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
P.O. Box 4010
Sacramento, California 95812–4010
Telephone: 916–323–2517

OEHHA encourages all commenters to submit their comments in a format compliant with the accessibility requirements of the Americans with Disabilities Act, so that they can be read using screen reader technology and those with visual impairments are able to listen to them.

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and e–mail may be available to third parties.

[1] All further references are to sections of Title 27, Cal. Code of Regs., unless indicated otherwise.

PUBLIC HEARING

A public hearing on these proposed regulatory amendments will only be scheduled upon request. The hearing would be web–based due to the COVID–19 emergency[2]. To request a hearing, send an e–mail to Monet Vela at monet.vela@oehha.ca.gov or to the address listed above by no later than **October 25, 2021**. If one is scheduled, OEHHA will mail a notice of the hearing to the requester and interested parties on the Proposition 65 mailing list for regulatory public hearings. The notice will also be posted on the OEHHA web site at least ten days before the public hearing date. The notice will provide the date, time, and instructions for participating in the hearing.

CONTACT

Please direct inquiries concerning the proposed regulatory action described in this notice to Monet Vela at (916) 323–2517, or by e–mail to monet.vela@oehha.ca.gov. Kristi Morioka is a back–up contact person for inquiries concerning processing of this action and is available at (916) 322–5624 or kristi.morioka@oehha.ca.gov.

AUTHORITY

Health and Safety Code section 25249.12.

REFERENCE

Health and Safety Code sections 25249.6 and 25249.11.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BACKGROUND

OEHHA is the lead agency that implements Proposition 65[3] and has the authority to promulgate and amend regulations to further the purposes of the Act. The Act requires businesses to provide a clear and reasonable warning before they cause an exposure to a chemical listed as known to the state to cause cancer or reproductive toxicity.[4] The Act also prohibits the discharge of listed chemicals to sources

[2] Executive Orders N–25–20 and N–29–20.

[3] Health and Safety Code section 25249.5 et seq., The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as "Proposition 65." Hereafter referred to as "Proposition 65" or "the Act."

[4] Health and Safety Code section 25249.6.

of drinking water.[5] The proposed amendment would adopt new safe harbor warning content for exposure to acrylamide from food.

SUMMARY OF THE EFFECT OF THE PROPOSED REGULATION

The Article 6 regulations include tailored safe harbor warning methods and content for several specific types of exposure scenarios. In adopting the existing warning regulations, OEHHA determined tailored warnings for certain product, chemical and environmental exposure scenarios would help provide certainty to those businesses subject to the warning requirements of the Act and ensure that the public receives consistent warnings about the exposures that can occur from products or facilities. OEHHA has determined tailored safe harbor warnings for acrylamide exposures from food would assist affected businesses and consumers of those products.

SPECIFIC BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulatory action will facilitate businesses' compliance with the Act by providing guidance concerning the provision of safe harbor warnings under Proposition 65. The health and welfare of California residents will likely benefit by increasing the public's ability to understand the warnings they receive for certain food products they may choose to purchase.

NO INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING REGULATIONS

OEHHA has conducted an evaluation and has determined that Article 6 is the only regulation concerning Proposition 65 warnings. Therefore, the proposed regulatory action is neither inconsistent nor incompatible with any other existing state regulations. The action does not change the existing mandatory requirements on businesses subject to Proposition 65, state or local agencies and does not address compliance with any other law or regulation.

LOCAL MANDATE/FISCAL IMPACT

Because Proposition 65 by its terms[6] does not apply to local agencies or school districts, OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action, nor will there be any costs or savings to the state or in federal funding to the state because of the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has initially determined that the proposed regulatory action will have no effect on housing costs because it does not impose any new mandatory requirements on any business.

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

The proposed regulatory action provides compliance assistance to businesses subject to the Act by providing optional safe harbor warning content for acrylamide exposures from food. OEHHA has therefore made an initial determination that the adoption of this action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF ECONOMIC IMPACT ANALYSIS (Gov. Code section 11346.3(b))

Creation or Elimination of Jobs Within the State of California

The proposed regulatory action will not impact the creation or elimination of jobs within California. The action provides more specific guidance by adding optional content for safe harbor warnings for acrylamide exposures from food.

Creation of New Businesses or Elimination of Existing Businesses Within the State of California

The proposed regulatory action will not impact the creation of new businesses or the elimination of existing businesses within California. The action provides more specific guidance by adding optional content for safe harbor warnings for acrylamide exposures from food.

The Expansion of Businesses Currently Doing Business Within the State

OEHHA does not anticipate any major impact on the expansion of businesses currently doing business within the state. The action provides more specific

[5] Health and Safety Code section 25249.5.

[6] See Health and Safety Code section 25249.11(b).

guidance by adding optional content for safe harbor warnings for acrylamide exposures from food.

Effect on Worker Safety and the State's Environment

The proposed regulation will not have an effect on worker safety or the state's environment.

Benefits of the Proposed Regulation

Affected businesses will likely benefit from the proposed regulatory action because the amendments provide more specific guidance concerning the safe harbor warnings for acrylamide exposures from food. The health and welfare of California residents will likely benefit by increasing the public's understanding of the risks posed by consumption of certain consumer food products they may choose to purchase.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action. The action does not impose any new mandatory requirements upon private persons or businesses.

EFFECT ON SMALL BUSINESSES

The proposed regulatory action will not adversely impact very small businesses because Proposition 65 is limited by its terms to businesses with 10 or more employees.[7]

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

Pursuant to Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA, would be more effective in carrying out the purpose for which Proposition 65 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.

[7] Health and Safety Code section 25249.11(b).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the proposed regulation, all the information upon which the regulation is based, and the text of the proposed regulation. These documents are available on OEHHA's website at www.oehha.ca.gov/Proposition–65.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any proposed regulation that is changed or modified from the express terms of this proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the revised proposed regulation and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and anyone who requests notification from OEHHA of the availability of such change. Copies of the notice and the changed regulation will also be available on the OEHHA website at www.oehha.ca.gov/Proposition–65.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from Monet Vela at the e–mail or telephone number indicated above. The Final Statement of Reasons will also be available on OEHHA's website at www.oehha.ca.gov/Proposition–65.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

FISH AND GAME CODE SECTION 1653 CONSISTENCY DETERMINATION REQUEST FOR
Aldergrove Marsh Restoration Project Phase 1
(Tracking Number: 1653–2021–081–001–R1)
Humboldt County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on September 9, 2021,

that the City of Arcata proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves the removal of non–native vegetation from deep water in Aldergrove Marsh. The proposed project will be carried out on Aldergrove Marsh, adjacent to the intersection of Aldergrove Road and Ericson Way in Arcata, Humboldt, California.

On June 6, 2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) to comply with the terms of, and obtain coverage under, the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order) for the Lost River Road Upgrade Project. The Regional Water Board determined that the Project, as described in the NOI, was categorically exempt from California Environmental Quality Act (CEQA) review (section 15333 — Small Habitat Restoration Projects) and met the eligibility requirements for coverage under the General 401 Order. The Regional Water Board issued a Notice of Applicability (WDID No. 1B21153WNHU; ECM PIN No. CW–875162) for coverage under the General 401 Order on July 27, 2021.

The City of Arcata is requesting a determination that the project and associated documents are complete pursuant to Fish and Game Code section 1653 subdivision (d). If CDFW determines the project is complete, the City will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) or a Lake or Streambed Alteration Agreement under Fish and Game Code section 1605 for the proposed project.

In accordance with Fish and Game Code section 1653 subdivision (e), if CDFW determines during the review, based on substantial evidence, that the request is not complete, the City of Arcata will have the opportunity to submit under Fish and Game Code section 1652.

DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA ENDANGERED SPECIES ACT CONSISTENCY DETERMINATION NO. 2080–2021–012–01

Project: Three Bridges Project
Location: Humboldt
Applicant: California Department of Transportation

Background

California Department of Transportation (Applicant) proposes the Three Bridges Project (Project) along State Route 36 in Humboldt County. The Project would replace the Hely Creek Bridge at post mile (PM) 11.46; widen the bridge and upgrade rails at Little Larabee Creek Bridge at PM 25.27; and replace Butte Creek Bridge at PM 34.52. This Project would replace and/or widen the existing bridges and bridge approaches to meet current safety design standards. The Project requires construction of temporary access roads and temporary stream diversions and dewatering at all three bridge locations.

The Project activities described above are expected to incidentally take[1] coho salmon (*Oncorhynchus kisutch*) of the Southern Oregon–Northern California Coast evolutionary significant unit (SONCC coho salmon) where those activities take place within the bed, bank, and channel of Hely Creek. The Project activities described above are also expected to incidentally take Northern California summer steelhead (*O. mykiss*) where those activities take place within the bed, bank, and channel of Little Larabee Creek and Butte Creek. In particular, SONCC coho salmon and Northern California summer steelhead could be incidentally taken as a result of the temporary stream diversion and dewatering process. SONCC coho salmon is designated as a threatened species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.). (See Cal. Code Regs., title 14, § 670.5, subdivision (b)(2)(D).). Northern California summer steelhead is designated as a threatened species pursuant to the ESA and a subset of that population, Northern California summer steelhead, is a candidate for listing as an endangered species pursuant to CESA.[2]

SONCC coho salmon individuals are documented as present at Hely Creek. Northern California summer steelhead individuals are documented as present at Little Larabee Creek and Butte Creek. Because of possible occurrences of all life stages of SONCC coho salmon and Northern California summer steelhead at the Project site, the known dispersal patterns of SONCC coho salmon and Northern California summer steelhead, and the presence of suitable SONCC coho salmon and Northern California summer steelhead

[1] Pursuant to Fish and Game Code section 86, "'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take'… means to catch, capture or kill").

[2] The Fish and Game Commission voted to make Northern California summer steelhead an endangered species pursuant to CESA on June 18, 2021. Because the Commission has not completed its findings and this species has not yet been added to the list of endangered species in Title 14, Section 670.5 of the California Code of Regulations, at the time of execution of this Consistency Determination it remains a candidate species.

habitat within the Project site during the Project's work period, the National Marine Fisheries Service (Service) has determined that SONCC coho salmon and Northern California summer steelhead are reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of SONCC coho salmon and Northern California summer steelhead.

According to the Service, the Project will result in the temporary loss of 457 linear feet of instream rearing habitat for SONCC coho salmon and Northern California summer steelhead. The Project will not result in permanent habitat loss for either species.

Because the Project is expected to result in take of species designated as threatened under the federal ESA, Applicant, as a Federal Highway Administration (FHWA) agent, consulted with the Service as required by the ESA. On July 8, 2021, the Service issued a biological opinion (Service file No. WCRO–2021–01053) (BO) to Applicant. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

On August 13, 2021, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITS and its accompanying BO are consistent with CESA for purposes of the Project and SONCC coho salmon and Northern California summer steelhead (Cal. Reg. Notice Register 2021, No. 35–Z, p. 1091.)

Determination

CDFW has determined that the ITS, along with its accompanying BO, is consistent with CESA as to the Project and SONCC coho salmon and Northern California summer steelhead because the mitigation measures contained in the BO and ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA–listed species. Specifically, CDFW finds that: (1) take of SONCC coho salmon and Northern California summer steelhead will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITS and BO will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of SONCC coho salmon and Northern California summer steelhead. The mitigation measures in the ITS and BO include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

1) Qualified biologists with expertise in the areas of anadromous salmonid biology shall conduct fish relocation activities associated with construction. Applicant will ensure that all biologists working on the Project are qualified to conduct fish relocation in a manner which minimizes all potential risks to salmonids.
2) All captured fish must be kept in cool, shaded, and aerated water protected from excessive noise, jostling, or overcrowding or potential predators any time they are not in the stream, and fish will not be removed from this water except when released. Captured salmonids will be relocated as soon as possible to an instream location in which suitable habitat conditions are present to allow for adequate survival for transported fish and fish already present. Fish will be distributed between multiple areas if biologists determine that overcrowding may occur in a single area.
3) The Project will create and enhance habitat for salmonids by placing large woody debris (LWD) in Hely Creek and Butte Creek. LWD installation would occur during the dry season work window while the channel is dewatered. At the Hely Creek Bridge, rootwad revetment would be installed at the northeast quadrant of the bridge to help maintain the new alignment of the channel and provide habitat and bank protection. The structure would be constructed with two large conifer rootwads. The habitat provided by the large wood placement is intended to fully mitigate for take of juvenile SONCC coho salmon at this location. At the Butte Creek Bridge location, habitat creation and enhancement would be implemented to fully mitigate for take of Northern California summer steelhead by installing LWD within the channel. The installations will be designed by a licensed hydraulic engineer and plans will be provided to the Service and CDFW for review prior to construction. This mitigation measure will be incorporated into the final construction plans, and sufficient funds will be in the contract to implement these measures.

Monitoring and Reporting Measures

1) Applicant shall provide a written report to the Service by January 15 of the year following construction of the Project. The report shall contain, at a minimum, the following information:
   a. The dates construction began and was completed;
   b. A discussion of any unanticipated effects or unanticipated levels of effects on salmonids, a description of any and all measures taken to minimize those unanticipated effects,

and a statement as to whether or not any unanticipated effects had any effect on ESA–listed fish; the number of salmonids (by ESU and DPS) killed or injured during Project construction; and photographs taken before, during, and after the activity from photo reference points.

c. A description of the location from which fish were removed and the release site(s) including photographs; the date and time of the relocation effort; a description of the equipment and methods used to collect, hold, and transport salmonids; the number of fish relocated by species; the number of fish injured or killed by species and a brief narrative of the circumstances surrounding salmonid injuries or mortalities; and a description of any problems which may have arisen during the relocation activities and a statement as to whether or not the activities had any unforeseen effects.

The ITS and BO require the Applicant to submit monitoring reports to the Service by January 15 of the year following construction of the Project. Although not a condition of the ITS or BO, CDFW requests a copy of the monitoring reports as well. The reports should include dates construction occurred and the success of revegetation and restoration.

Financial Assurances

1) Prior to beginning construction, Applicant will submit to CDFW proof that Applicant has contracted and provided funding to the contractor for the explicit purpose of implementing the approved LWD structures required by Avoidance, Minimization, and Mitigation Measure 3 above.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of SONCC coho salmon provided the Applicant implements the Project as described in the ITS and its accompanying BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITS and BO. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the ITS and BO, the Applicant shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from CDFW. (See generally Fish & Game Code, §§ 2080.1, 2081, subdivisions (b) and (c)).

CDFW's determination that the Service BO and ITS are consistent with CESA is limited to SONCC coho salmon and Northern California summer steelhead.

FISH AND GAME COMMISSION

NOTICE OF FINAL CONSIDERATION OF PETITION

NOTICE IS HEREBY GIVEN pursuant to the provisions of Fish and Game Code Section 2078, that the California Fish and Game Commission (Commission) has scheduled final consideration of the petition to list Pacific leatherback sea turtle (*Dermochelys coriacea*) as an endangered species for its October 13–14, 2021 meeting. Consideration of the petition will be heard October 14, 2021 via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916–653–4899.

The agenda of the October 13–14, 2021 meeting, and the agendas and video archive of previous meetings where actions were taken on Pacific leatherback sea turtle are available online at http://www.fgc.ca.gov/meetings/.

Pursuant to the provisions of Fish and Game Code, sections 2075 and 2075.5, the Commission will consider the petition and all other information in the record before the Commission to determine whether listing Pacific leatherback sea turtle as an endangered species is warranted.

The petition, the California Department of Fish and Wildlife's evaluation report, and other information in the records before the Commission are posted on the Commission website at https://fgc.ca.gov/CESA#plst.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

PUBLIC NOTICE REQUIREMENT FOR ISSUANCE OF TREATED WOOD WASTE VARIANCES

For the month of July 2021, the Department of Toxic Substances Control (DTSC) issued variances for the management of treated wood waste. The variances were issued pursuant to Health and Safety Code section 25143(b)(1) and California Code of Regulations, title 22, section 66260.210.

The variances authorized the recipients to manage treated wood waste, that is a California hazardous waste, in accordance with a set of alternative management standards. The variances were effective through until August 31, 2021.

The variance recipients are listed by variance type, and the information provided includes the variance

identification number, recipient name, and recipient location.

Recipients of Handler–Transporter Facility Variances

- TWW–2021–HT–00621, California Lumber Company, 2336 Bates AvenueConcord, CA 94520
- TWW–2021–HT–00628, Sharp & Fellows, Inc., 1324 West 166th Street, Gardena, CA 90247; 14000 San Bernardino Avenue, Fontana, CA 92335

Recipients of Large Quantity Generator/Self–Transporter Variances

- TWW–2021–LG–00552, The Roman Catholic Welfare Corporation of Oakland, dba Bishop O'Dowd High School, 9500 Stearns Avenue., Oakland, CA 94605
- TWW–2021–LG–00611, Port of Long Beach, Port of Long Beach, CA
- TWW–2021–LG–00616, Caltrans, 10551 West Stockton Blvd, Elk Grove, CA 95757 near Elk Grove on State Route 99 From 0.3 Mile South of Dillard Road Overcrossing to 0.6 Mile South of Grant Line Road, between Post Mile 7.1 and Post Mile 9.4
- TWW–2021–LG–00618, Regional Connector Constructors, 380 South Flower Street, Los Angeles, CA 90071; 235 South Hope Street, Los Angeles, CA 90012; 232 West 2nd Street, Los Angeles, CA 90012; 105 South Alameda Street, Los Angeles, CA 90012; 416 East Temple Street, Los Angeles, CA 90012; 622 North Mission Road, Los Angeles, CA 90033
- TWW–2021–LG–00632, Daggett Solar Power 3 LLC, Site 8 GPS Point 34.866296, –116.794219; Site 6 GPS Point 34.869738, –116.812154; Site 5 GPS Point 34.874101, –116.807330; Site 3 GPS Point 34.879897, –116.810477; Site 2 GPS Point 34.876369, –116.811679; Site 1 GPS Point 34.872815, –116.818220
- TWW–2021–LG–00640, Peninsula Corridor Joint Powers Board, 2544 South Delaware Street, San Mateo, CA 94403
- TWW–2021–LG–00650, Clow Valve Company, 1375 Magnolia Avenue, Corona, CA 91719
- TWW–2021–LG–00657, State of California — Dept. of Transportation, 8530 W Roosevelt Avenue, Visalia, CA 93291

Recipients of Small Quantity Generator/Self–Transporter Variances

- TWW–2021–SG–00435, Lake County Contractors, Inc., 12010 Baylis Cover, Kelseyville, CA 95451
- TWW–2021–SG–00620, Granite Rock Company, 11711 Berryessa Road, San Jose, CA 95136
- TWW–2021–SG–00626, Jim Link Landscapes, 68 Euclid Avenue, Atherton, CA 94027
- TWW–2021–SG–00645, County of Sacramento, Interstate I–5 East of SMF, GPS (38.67134 –121.5675)
- TWW–2021–SG–00651, Whiskeytown National Recreation Area NPS, Whiskeytown National Recreation Area
- TWW–2021–SG–00655, Balboa Park Housing Partners, L.P., 2340 San Jose Avenue, San Francisco, CA 94112
- TWW–2021–SG–00660, Granite Rock Company, 120 Granite Rock Way, San Jose, CA 95136
- TWW–2021–SG–00661, Granite Rock Company, 1321 Lowrie Avenue, South San Francisco, CA 94080
- TWW–2021–SG–00662, Granite Rock Company, 365 Blomquist Road, Redwood City, CA 94063
- TWW–2021–SG–00663, Monterey Bay Boatworks, 32 Cannery Row, Monterey, CA 93940
- TWW–2021–SG–00671, Inland Pacific Resource Recovery, LLC, 12415 Slaughter House Canyon Road, Lakeside, CA 92040

Recipients of Transporter Variances

- TWW–2021–TR–00583, James Deasy, DBA James Deasy Contractors, 730 39th Avenue, San Francisco, CA 94121
- TWW–2021–TR–00604, Nevada Barricade and Sign Company Inc., 9530 North Virginia Street, Reno, NV 89506
- TWW–2021–TR–00630, 635 East Haley Street, Santa Barbara, CA 93101
- TWW–2021–TR–00631, BRW Construction, 638 University Avenue, Los Gatos, CA 95032
- TWW–2021–TR–00633, RTI Environmental, LLC, 1485 Bayshore Boulevard #191, San Francisco, CA 94124
- TWW–2021–TR–00635, B & D Construction Co., Inc., 145 North 10th Avenue, Upland, CA 91786
- TWW–2021–TR–00644, Monterey Environmental Solutions & Services, 8 Harris Court, Suite E–6, Monterey, CA 93940
- TWW–2021–TR–00646, G. Hedgecock, Inc., 2737 Nathan Avenue, Suite A, Modesto, CA 95354
- TWW–2021–TR–00649, E.J. Harrison & Sons, Inc., 5275 Colt Street, Ventura, CA 93003
- TWW–2021–TR–00656, Griffith Company, 12200 Bloomfield Avenue, Santa Fe Springs, CA 90670

- TWW–2021–TR–00665, Baird Trucking, Inc., Pier 96, San Francisco, CA 94124

For additional information, contact Ryan Batty of the Department of Toxic Substances Control at (916) 823–7617 or by e–mail at Ryan.Batty@dtsc.ca.gov

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

PUBLIC NOTICE REQUIREMENT FOR ISSUANCE OF TREATED WOOD WASTE VARIANCES

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The variances authorized the recipients to manage treated wood waste, that is a California hazardous waste, in accordance with a set of alternative management standards. The variances were effective through until August 31, 2021.

The variance recipients are listed by variance type, and the information provided includes the variance identification number, recipient name, and recipient location.

Recipients of Handler–Transporter Facility Variances

- TWW–2021–HT–00702, Del Norte Solid Waste Management Authority, P.O. Box 1924, Crescent City, CA 95531
- TWW–2021–HT–00716, WM Tehachapi Transfer Station and MRF, 416 North Dennison Road, Tehachapi, CA 93561

Recipients of Large Quantity Generator/Self–transporter Variances

- TWW–2021–LG–00641, Peninsula Corridor Joint Powers Board, 2300 Middlefield Road, Redwood City, CA 94063
- TWW–2021–LG–00658, Metro Goldline Foothill Extension Construction Authority, 2100 East Route 66, Glendora, CA 91740
- TWW–2021–LG–00670, Treasure Island Community Development, LLC, Avenue N and 3rd Street, Treasures Island, San Francisco, CA 94130
- TWW–2021–LG–00687, Wonderful Orchards, 17831. Zerker Road, Shafter, CA 93263
- TWW–2021–LG–00688, C&H Sugar Company, Inc., 830 Loring Avenue, Crockett, CA 94525
- TWW–2021–LG–00690, Lennar Homes of California, Inc., Horizon Parkway and Marble Street, Dublin, CA 94568
- TWW–2021–LG–00691, Bay Area Rapid Transit District, 699 B Street, Hayward, CA 94541
- TWW–2021–LG–00711, Cemex Pacific Materials, LLC, 333 23rd Avenue, Oakland, CA 94606
- TWW–2021–LG–00722, U.S. Coast Guard Station Humboldt Bay, 200 New Navy Base Road, Samoa, CA 95564

Recipients of Small Quantity Generator/Self–Transporter Variances

- TWW–2021–SG–00668, City of Torrance, 3758 Pacific Coast Highway, Torrance, CA 90505
- TWW–2021–SG–00669, Cakebread Cellars, 8300 Saint Helena Highway, Rutherford, CA 94573
- TWW–2021–SG–00672, The Herrick Corporation, 3003 East Hammer Lane, Stockton, CA 95212
- TWW–2021–SG–00674, G 4 Enterprises LTD, 3740 South East AvenueFresno, CA 93725
- TWW–2021–SG–00678, JSD Construction, Inc., 145 Bear Gulch, Portola Valley, CA 94028
- TWW–2021–SG–00684, Napa Valley Wine Train, 800 8th Street, Napa, CA 94559
- TWW–2021–SG–00685, Terramark General Engineering Contractors Inc., 272 Curie Drive, San Jose, CA 95120
- TWW–2021–SG–00692, Stockton Delta Resort, LLC, 14900 W Hwy 12, Lodi, CA 95242
- TWW–2021–SG–00696, Kaiser Permanente, 450 Main Street, Redwood City, CA 94063
- TWW–2021–SG–00707, Conner Construction, Inc., 470 Emily Rose Circle, Windsor, CA 95492
- TWW–2021–SG–00713, Hometek, 2066 Sunset Drive, Pacific Grove, CA 93950

Recipients of Transporter Variances

- TWW–2021–TR–00647, Titan Industrial Metal Corporation, 10017 Live Oak Avenue, Fontana, CA 92335
- TWW–2021–TR–00648, Hartline Construction MC, P.O. Box 7152, Tahoe City, CA 96145
- TWW–2021–TR–00667, Golden Apple Express, Inc., 900 Innes Avenue, San Francisco, CA 94124
- TWW–2021–TR–00677, Coral Construction Company, 10780 South West Clutter Road, Sherwood, OR 97140
- TWW–2021–TR–00682, Remedial Transportation Services, Inc., P.O. Box 81856, Bakersfield, CA 93380

- TWW–2021–TR–00697, JUNK180, LLC, 836 Southampton Road, Suite B #240, Benecia, CA 94510
- TWW–2021–TR–00698, Bettendorf Enterprises Inc., P.O. Box 4689, Arcata, CA 95518
- TWW–2021–TR–00700, Hare Construction, Inc., 229 Lower Walden Road, Carmel, CA 93923

For additional information, contact Ryan Batty of the Department of Toxic Substances Control at (916) 823–7617 or by e–mail at Ryan.Batty@dtsc.ca.gov

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 PROPOSITION 65

ANNOUNCEMENT OF THE CARCINOGEN IDENTIFICATION COMMITTEE MEETING SCHEDULED FOR DECEMBER 6, 2021; NOTICE OF AVAILABILITY OF HAZARD IDENTIFICATION MATERIALS FOR PERFLUOROOCTANE SULFONIC ACID (PFOS) AND ITS SALTS AND TRANSFORMATION AND DEGRADATION PRECURSORS

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) will convene a meeting of the Carcinogen Identification Committee (CIC) for possible listing of perfluorooctane sulfonic acid (PFOS) and its salts and transformation and degradation precursors under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65)[1]. OEHHA is also opening a 45–day public comment period on the hazard identification document for these chemicals. **The public comment period will end on Monday, November 8, 2021.** A copy of the document is available on OEHHA's website at https://oehha.ca.gov/proposition–65. The document may also be requested from OEHHA's Proposition 65 Implementation Office by calling (916) 445–6900.

[1] Health and Safety Code section 25249.5 et seq.

Background

OEHHA is the lead agency for implementation of Proposition 65. The CIC advises and assists OEHHA in compiling the list of chemicals known to the state to cause cancer as required by Proposition 65 [2]. The CIC serves as the state's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer.

A request for relevant information on the potential carcinogenicity of these chemicals opened on March 26, 2021 and closed on May 10, 2021. One submission was received from the 3M Company. It is posted on the OEHHA website[3]. OEHHA considered this submission in preparing the hazard identification document.

Public Meeting and Public Comment Period

PFOS and its salts and transformation and degradation precursors will be considered for possible listing under Proposition 65 at a public meeting scheduled for **Monday, December 6, 2021**. The meeting, which will be held virtually, will begin at 10:00 a.m. and last until all business is conducted or until 5:00 p.m. The agenda for the meeting and instructions on how to participate will be provided in a future public notice published in advance of the meeting.

The public may provide oral comments at the meeting on December 6, 2021. These comments will be limited to five minutes per commenter, except for those commenters who make a request by November 8, 2021, and receive approval from the Chair of the CIC for longer comments. Please submit a request for additional time, with an estimate of the time you will need and the reason you are requesting additional time, to P65Public.Comments@oehha.ca.gov or call the Proposition 65 Implementation Office at (916) 445–6900 by November 8, 2021.

OEHHA must receive written comments no later than **November 8, 2021**, the designated close of the written comment period, and strongly recommends that information be submitted electronically, rather than in paper form. **Comments may be submitted electronically through our website at https://oehha.ca.gov/comments**. All timely filed public comments will be provided to CIC members in advance of the meeting and will be posted on the OEHHA website at the close of the comment period. Comments submitted in paper form can be mailed or delivered in person to the address below.

All non–electronic submissions should be directed to:

[2] Health and Safety Code section 25249.8.

[3] See https://oehha.ca.gov/proposition–65/comments/comment–submissions–chemical–selected–consideration–listing–carcinogen.

Tyler Saechao
Office of Environmental Health Hazard Assessment
1001 I Street
P.O. Box 4010, MS–12B
Sacramento, California 95812–4010
Telephone: 916–445–6900
Fax: 916–323–2265

OEHHA is subject to the California Public Records Act and other laws that require the release of certain information upon request. If you provide comments, please be aware that your name, address, and e–mail may be available to third parties.

If you have any questions, please contact Tyler Saechao at Tyler.Saechao@OEHHA.ca.gov or (916) 445–6900.

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.

Office of Energy Infrastructure and Safety
File # 2021–0903–01
Process And Procedure, Document Management, Enforcement

This emergency action establishes processes and procedures enabling the Office of Energy Infrastructure Safety to ensure that electrical utilities take effective actions to reduce utility–related wildfire risks.

Title 14
Adopt: 29000, 29001, 29100, 29101, 29102, 29103, 29200, 29201, 29300, 29301, 29302
Filed 09/13/2021
Effective 09/13/2021
Agency Contact: Nathan Poon (415) 660–8120

California Complete Count — Census 2020
File # 2021–0902–03
Conflict–of–Interest Code

This is a Conflict–of–Interest Code that has been approved by the Fair Political Commissions and is being submitted for filing with the Secretary of State and Printing.

Title 02
Repeal: 59840
Filed 09/14/2021
Effective 10/14/2021
Agency Contact:
Maria Almaraz–Mirazo (916) 852–2020

Department of Justice
File # 2021–0823–01
Other Category Assault Weapons

The Office of Administrative Law (OAL) grants the request of the Department of Justice (Department) for the filing and printing of this action, which adds and defines the term “other category assault weapons” and establishes registration requirements. This action is exempt from OAL review pursuant to Penal Code section 30900(c)(5).

Title 11
Adopt: 5485, 5486, 5487, 5488, 5489, 5490, 5491, 5492
Filed 09/15/2021
Effective 09/15/2021
Agency Contact: Julia Zuffelato (916) 210–6040

Board of Chiropractic Examiners
File # 2021–0401–04
Expedited Licensure and Application Requirements

This change without regulatory effect filing by the Board of Chiropractic Examiners revises the “Application for a License to Practice Chiropractic” to adopt language regarding expedited licensure, update the license application fee, and repeal the disclosures regarding an applicant’s criminal history.

Title 16
Amend: 321
Filed 09/10/2021
Agency Contact:
Andreia McMillen (916) 263–5655

Department of Social Services
File # 2021–0420–01
Transitional Housing Placement Program

This action without regulatory effect by the Department of Social Services relocates all requirements pertaining to Transitional Housing Placement Programs (THPP) to Chapter 7, Division 6 of Title 22 and amend existing THPP requirements to align with statutory changes made by Senate Bills 1013 and 612 (Stats. 2012, chapter 35; Stats. 2017, chapter 731).

Title 22, MPP
Adopt: 86006, 86008, 86011, 86012, 86017, 86019, 86019.1, 86019.2, 86021, 86024, 86025, 86027, 86029, 86031, 86034, 86035, 86040, 86042, 86046, 86052, 86053, 86054, 86055, 86055.1, 86056, 86058, 86059, 86062, 86063, 86069, 86071, 86086, 86100, 86126, 86168, 86176, 86200
Amend: 80000, 80001, 86000, 86001, 86005, 86010, 86018, 86020, 86022, 86028, 86036, 86044, 86045, 86064, 86065, 86066, 86068.3, 86088, 86161, 86068.1, 86068.2, 86068.4, 86070, 86072, 86073, 86074, 86075, 86078, 86087, 86024
Filed 09/14/2021
Agency Contact:
Trevor Morris–Seekins (916) 657–1808

State Personnel Board
File # 2021–0730–01
Promotional Exam Eligibility, SB 1472 & 99

This action without regulatory effect (1) repeals a provisional regulatory section based upon the sunset of related statutes; and (2) amends promotional examination eligibility standards to align with amended statutes.

Title 02
Amend: 234
Repeal: 234
Filed 09/13/2021
Agency Contact: Lori Gillihan (916) 651–1043

California Energy Commission
File # 2021–0727–02
Portable Electric Spas

This rulemaking action by the California Energy Commission updates the test procedure for portable electric spas to ANSI/APSP/ICC–14 2019, American National Standard for Portable Electric Spa Energy Efficiency, and updates existing labeling requirements.

Title 20
Amend: 1602, 1604, 1605.3, 1606, 1607
Filed 09/08/2021
Effective 01/01/2022
Agency Contact: Corrine Fishman (916) 654–4976

Department of Financial Protection and Innovation
File # 2021–0802–02
Public Banks

This action by the Department of Financial Protection and Innovation implements regulations necessary to administer legislation authorizing public banks pursuant to Assembly Bill Number 857 (2019–2020 Regular Session). This action defines or clarifies terms related to public banking. It also further clarifies factors the Commissioner of Financial Protection and Innovation is to evaluate when processing applications for a public bank charter.

Title 10
Adopt: 10.131.7, 10.135.1, 10.140.1, 10.140.6, 10.141.1, 10.166.1, and 10.3301.1
Amend: 10.112, 10.141, 10.151, 10.3000, 10.3100, and 10.3402
Filed 09/14/2021
Effective 01/01/2022
Agency Contact: Sandra Sandoval (213) 897–3432

State Water Resources Control Board
File # 2021–0729–01
TMDL for Phosphorus to Address Cyanobacteria Blooms in Pinto Lake

This action amends the Water Quality Control Plan for the Central Coast Region. On July 16, 2020, the Central Coast Water Quality Control Board adopted Resolution No. R3–2020–0034 to establish a total maximum daily load (TMDL) for total phosphorus and an associated implementation strategy for improving water quality in Pinto Lake, located in Santa Cruz County. The State Water Resources Control Board approved the amendments under Resolution No. 2021–0014 on April 20, 2021.

Title 23
Adopt: 3929.18
Filed 09/09/2021
Effective 09/09/2021
Agency Contact:
Peter Osmolovsky (805) 549–3699

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.