



California Regulatory Notice Register

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

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**PROPOSED ACTION ON
REGULATIONS**

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TITLE 2. DEPARTMENT OF GENERAL SERVICES

PROCUREMENT DIVISION
OFFICE OF SMALL BUSINESS &
DISABLED VETERAN BUSINESS
ENTERPRISE SERVICES (OSDS)

NOTICE IS HEREBY GIVEN that the director of the Department of General Services (DGS) proposes to take the rulemaking action described below after considering all comments, objections, and recommendations to the proposed action.

PUBLIC HEARING

In support of social distancing, the public hearing will not be held in person at this time. DGS will hold a public hearing from 9:30 a.m. to 11:30 a.m. on **October 17, 2022**, online via Zoom. To attend the Public Hearing please register at this link: https://us06web.zoom.us/webinar/register/WN_07wN11xLRRW_W2Sokly7z6A Once registered, a link to the Public Hearing we be sent to the email address entered on the registration page. At the hearing, any person attending may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest/Policy Statement Overview section below. DGS requests but does not require that persons who offer oral comments at the hearing also submit a written copy of their testimony at the hearing.

PUBLIC COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DGS. Comments may also be submitted by facsimile at (916) 375-4950 or by email to SBDVBERegulations@dgs.ca.gov. The written comment period is September 2, 2022, through October 17, 2022. The comment period closes on **October 17, 2022**. DGS will consider only comments received by that time or comments received at the public hearing.

Written comments may also be submitted to the following address:

Anda Draghici, Branch Chief
Department of General Services, Procurement
Division
Office of Small Business and DVBE Services
Attention: SBDVBE Rule Changes
707 Third Street, 1st Floor, Room 400
West Sacramento, CA 95605

AUTHORITY AND REFERENCE

Rulemaking authority is granted to DGS by Government Code (Gov. Code) Sections 14600, 14615, 14837(d), 14839, 14839.1 and 14843, about the Small Business Procurement and Contract Act (Act), effecting regulations found in California Code of Regulations (CCR), Title 2, Division 2, Chapter 3, Subchapter 8, Sections 1896-1896.22. Additional authority granted by Military and Veterans Code (MVC) Section 999.5, about California Disabled Veteran Business Enterprise Program, Article 6 of Chapter 6, Division 4, Military and Veterans Code, commencing with Section 999, effecting regulations for the Disabled Veteran Business Enterprise (DVBE) Program found in California Code of Regulations (CCR), Title 2, Division 2, Chapter 3, Subchapters 10.5 and 10.6, Sections 1896.60-1896.97 and 1896.99.100-1896.99.120.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed amendments and additions effectuate improvements to the Small Business (SB) program and include notable changes in the adoption of California Code of Regulations, Title 2, Sections 1896.5, to allow state departments to set contract-specific SB participation goals pursuant to Government Code Sections 14836 and 14838. In addition, amendments were made to California Code of Regulations, Title 2, Section 1896.14 with the Request for Small Business, Small Business for the Purpose of Public Works, and/or Disabled Veteran Business Enterprise Certification (Application) (Revised 09-2019), which is incorporated by reference, and California Code of Regulations, Title 2, Sections 1896.15 regarding commercially useful function and 1896.18 on enforcement, all in accordance with Administrative Procedure Act (APA) necessity, clarity, consistency and nonduplication principles.

The purpose of this action is to amend the existing Disabled Veteran Business Enterprises (DVBE) regulations to incorporate the following chaptered legislation in Assembly Bills 230 (Stats. 2019, Chapter 676), 1365 (Stats. 2019, Chapter 689) and 1574 (Stats. 2021,

Chapter 756), and Senate Bill 588 (Stats. 2020, Chapter 80). These laws necessitated adjustments in the existing DVBE rules, specifically in California Code of Regulations, Title 2, Sections 1896.73, 1896.71, 1896.77 and 1896.78. The Prime Contractor’s Certification — DVBE Subcontractor Report (STD 817) (Rev. 10/2021 incorporated by reference in Section 1896.78.).

The aforementioned legislation enacted new laws and amended existing ones to strengthen DVBE participation requirements for prime contractors and awarding departments. The notable changes in statute include: (1) adding a new law, Public Contract Code Section 10230, prescribing that every contract with DVBE participation include a provision requiring the prime contractor to comply with all rules, regulations, statutes and ordinances that apply to the DVBE program; (2) amending Military and Veterans Code Section 999.5(c), to require awarding departments to verify that a DVBE is certified at the time of award; (3) amending Military and Veterans Code Section 999.5(d), to require prime contractors to certify to the actual percentage of work committed and all payments made to DVBE subcontractors, and, upon request, to provide proof of payment(s) made; (4) amending Military and Veterans Code Section 999.5(f), to require written requests and approvals of DVBE substitutions prior to commencement of work; (5) adding a new law, Military and Veterans Code Section 999.55, requiring awarding departments to maintain all DVBE subcontractor information and to establish record review procedures for awarded amounts and payments made; (6) adding a new law, Military and Veterans Code Section 999.7, requiring awarding departments to withhold and permanently deduct \$10,000 from the final payment on contracts with DVBE subcontractor participation when prime contractors refuse to comply with DVBE certification requirements of Military Veterans Code Section 999.5(d) after ample notice from awarding departments; (7) amending Military and Veterans Code Section 999.9, to allow any city attorney, county attorney or county counsel, or district attorney to bring a civil action for the alleged violations against Military and Veterans Code Section 999.9(a)(6) and, in the event that both DGS and the Attorney General (or a local prosecutor) take enforcement action for the same violation, the new law provides that the civil penalty is applied only once; (8) amending Military and Veterans Code Section 999.10, requiring that, as a general conditions of bids, the bidder submit the California DVBE certification number, contact information, and a certification signed under penalty of perjury that the work performed by each DVBE subcontractor serves a commercially useful function; (9) amending Government Code Section 14838(f), to require state departments and agencies to make continuous efforts to expand the number of small businesses and microbusinesses in

state contracting by seeking out and identifying those businesses that have not previously done business with the state or are not regularly used in state contracting, and this includes those businesses in state solicitations; and lastly, (10) amending Government Code Section 14842.5 to require awarding departments to report all alleged violations of Government Code Section 14842.5 to DGS, and in the event that both DGS and the attorney general (or a local prosecutor) take enforcement action for the same violation, the civil penalty be applied only once.

With the exception of the four DVBE-related bills mentioned above, all other changes are non-substantial. They withdraw previous rules, ensure the SB and DVBE rules remain current and consistent with each other, repeal provisions that are inconsistent with statute, reflect new program expectations recently set forth in law, adjust authority and reference citations, and correct syntax, cross-references, grammar, and punctuation to improve clarity. Rule additions, in this instance, are as specifically allowed by program officials, so long as they “implement, interpret or make specific” the provisions according to the APA. In some instances, the amended regulations duplicate California statute where the statute is cited as “authority” or “reference” for the proposed regulation and where the duplication or overlap is necessary to satisfy the “clarity” standard.

Anticipated Benefits and Objectives of the Proposed Regulation:

The general nonmonetary benefits anticipated by the proposed adoption include:

- A promotion of the requirements of the small business program to a wider audience, in accordance with legislative intent.
- A reduction in ambiguity of stakeholder interpretations of existing rules, through improvements in clarification of existing language and strengthened rule content.

This proposed regulation is necessary and essential for the continued administrative success of the SB and DVBE programs, as legislatively mandated. Revisions incorporate chaptered legislation and make necessary amendments in order to clarify SB and DVBE requirements and afford stakeholders and the affected public regulatory consistency and transparency in business and government.

Determination of Inconsistency/Incompatibility with Existing Regulations: As these are the only regulations included in Title 2 of the California Code of Regulations (CCR) governing the Small Business and Disabled Veteran Business Enterprise program, inconsistencies or incompatibilities with regulations adopted by other state agencies are not likely to exist. As federal rules affecting veter-

ans and small business in Titles 13 and 38 of the Code of Federal Regulations (CFR) and in the Federal Acquisition Regulations (FAR) apply exclusively to the federal government, and inasmuch the Small Business and Disabled Veteran Business Enterprise regulations are applicable only to California-specific programs, unsupported by federal funding, CFR/FAR and CCR inconsistencies or incompatibilities do not exist.

Documents Incorporated by Reference

1. Request for Small Business, Small Business for the Purpose of Public Works, and/or Disabled Veteran Business Enterprise Certification (Application) (Rev. 09-2019)
2. Prime Contractor’s Certification — DVBE Subcontractor Report (STD 817) (Rev. 10/2021)

RESULTS OF THE ECONOMIC IMPACT ANALYSIS ASSESSMENT

- ***The Creation or Elimination of Jobs within the State of California:*** There will be no creation or elimination of jobs.
- ***The Creation of New Businesses or the Elimination of Existing Businesses within the State of California:*** There will be no creation of new businesses or elimination of existing businesses.
- ***The Expansion of Businesses Currently Doing Business within the State of California:*** A wide variety of jobs and occupations integral to the services and products that may be secured or acquired under public sector contracts stand to benefit from the continuation and strengthening of these programs.
- ***Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:*** While it may promote transparency and reduce legal interpretations, these changes will have no apparent benefit on the health and welfare of California residents, worker safety and the state’s environment.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The department finds 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 (Gov. Code § 11346.5(a)(8)).

EFFECT ON SMALL BUSINESS

For the purposes of conducting the economic impact assessment during the rulemaking process, the defi-

nition of small businesses is set forth in Government Code Section 11346.3(b)(4)(B). In general, the SB program regulations are applicable only to certified small businesses with average gross annual receipts up to \$15 million, as defined in the Small Business Procurement and Contract Act (Gov. Code, §§ 14835-14837).

Specifically, the proposed changes to the regulations may affect only the certified small businesses contracting with the state that commit to use DVBE certified subcontractors but do not comply with the new laws. Only DVBEs that employ fewer than 100 employees can be small businesses under the law. The statutes impact only those DVBEs that are also certified as SBs.

While changes will have a statewide applicability, they are not “major regulations with significant statewide economic impact” as they do not cross the threshold of \$50 million in a single year. Overall, the changes will bring positive improvement in the welfare of all those small businesses seeking contracting opportunities with the state and other local governmental entities. The department has initially determined, subject to further public comment, that the proposed rule changes will not have a significant adverse economic impact on small businesses.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS

The range of direct or ongoing costs that a representative private person or business will necessarily incur in reasonable compliance with this proposed action will only be incurred by Prime contractors that contract with the state and are not compliant with the new DVBE related rules, based on newly adopted Military and Veterans Code section 999.7, will not receive the total contract amount of \$10,000 or less from the final payment on state contracts. The SB and DVBE certification programs in question are free and voluntary in nature.

MISCELLANEOUS DISCLOSURES REGARDING THE PROPOSED ACTION

Cost to any local agency or school district that must be reimbursed in accordance with Gov. Code Sections 17500-17630: None.

Nondiscretionary cost or savings imposed upon local agencies: None.

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

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Inquiries concerning the subject matter of the proposed SB and DVBE rulemaking revision may be directed to the following staff member with regulation adoption expertise and responsibility for coordinating this action:

Demeshia Swanson, SB/DVBE Regulations
Adoption Coordinator
Department of General Services, Procurement
Division
Office of Small Business and DVBE Services
(OSDS)
707 Third Street, 1st Floor, Room 400
West Sacramento, CA 95605
Direct line: (279) 946-7992
Email: Demeshia.Swanson@dgs.ca.gov

The alternate contact person for inquiries is:

Norma Curiel, SB/DVBE Certification Manager
Department of General Services, Procurement
Division
Office of Small Business and DVBE Services
707 Third Street, 1st Floor, Room 400
West Sacramento, CA 95605
Direct line: (279) 946-8267
Email: Norma.Curiel@dgs.ca.gov

Please direct requests for copies of the Notice of Rulemaking, the Initial Statement of Reasons, and the proposed text of the DVBE regulations, or other information upon which the rulemaking is based, to SBDVBERegulations@dgs.ca.gov.

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

The Department of General Services has prepared an Initial Statement of Reasons (ISOR) 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, with additions in underline and deletions in strikeout format (text of proposed regulations). DGS will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published, the current rulemaking initiative consists of the items listed below, and copies may be obtained by contacting the OSDS Regulations Adoption Coordinator at the address, email or telephone number(s) listed under “Contact Persons”:

- Notice of Proposed Rulemaking
- Proposed Text of SB and DVBE Regulations
- Initial Statement of Reasons

AVAILABILITY OF THE CHANGED OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments received, DGS may adopt the proposed regulations substantially as described in this notice. If DGS makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DGS takes action to adopt the regulations as revised. Please send requests for copies of any modified regulations to the address or email indicated under “Contact Persons” (attention: RE SBDVBE Rule Changes).

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting any of the individuals identified under “Contact Persons.” It shall also be posted on the internet at the site listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

DGS is making available copies of the Notice of Proposed Rulemaking, the Initial Statement of Rea-

sons, and the text of the regulations in underline and strikeout by visiting: <https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Notice-of-Rulemaking-Regulations-for-SB-DVBE?search=notice%20of%20rulemaking>.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED ADVANCED CLEAN FLEETS REGULATION

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider the proposed Advanced Clean Fleets regulation.

Date: October 27, 2022
 Time: 9:00 a.m.
 In-Person Location:
 California Air Resources Board
 Byron Sher Auditorium
 1001 I Street, Sacramento
 California 95814
 Remote Option:
 Zoom

This public meeting may continue at 8:30 a.m., on October 28, 2022. Please consult the public agenda, which will be posted ten days before October 27, 2022, for important details, including, but not limited to, the day in which this item will be considered and how the public can participate via Zoom.

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 2, 2022. Written comments not submitted during the hearing must be submitted on or after September 2, 2022 and received **no later than October 17, 2022**. 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 proposed regulation in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 38505, 38510, 38560, 38566, 39010, 39500, 39600, 39601, 39602.5, 39650, 39658, 39659, 39666, 39667, 43013, 43018, 43100, 43101, 43102, and 43104. This action is proposed to implement, interpret, and make specific sections 38501, 38505, 38510, 38560, 38566, 38580, 39000, 39003, 39010, 39500, 39600, 39601, 39602.5, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 43000, 43000.5, 42400, 42400.1, 42400.2, 42402.2, 42410, 43013, 43016, 43018, 43023, 43100, 43101, 43102, 43104, 43105, 43106, 43153, 43154, 43211, 43212, and 43214 of the Health and Safety Code.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

(Gov. Code, § 11346.5, subdivision (a)(3))

Sections Affected:

Proposed adoption of sections 2013, 2013.1, 2013.2, 2013.3, and 2013.4, 2014, 2015, 2015.1, 2015.2, 2015.3, 2015.4, 2015.5, and 2015.6, and 2016, California Code of Regulations, title 13.

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

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

- “California Greenhouse Gas Exhaust Emission Standards and Test Procedures for 2014 and Subsequent Model Heavy-Duty Vehicles,” as last amended September 9, 2021, incorporated by reference in title 13, California Code of Regulations sections 2013(b) and 2015(b).

- Code of Federal Regulations 49, Chapter V, Parts 565, 566, and 571, as they existed on [August 1, 2022], incorporated by reference in title 13, CCR sections 2013(b), 2014(b), and 2015(b).

Background and Effect of the Proposed Regulatory Action:

The proposed Advanced Clean Fleets (ACF) regulation, or “proposed regulation,” is critical to meeting California’s public health and climate goals and meeting State and federal air quality standards. Mobile sources are the greatest contributor to emissions of criteria pollutants and greenhouse gases (GHG) in California, accounting for about 80–percent of ozone precursor emissions and approximately 50–percent of statewide GHG emissions, when accounting for transportation fuel production and delivery.¹ Medium– and heavy–duty vehicles make up a quarter of transportation GHG emissions and a third of transportation oxides of nitrogen (NOx) emissions, a disproportionately high share considering these vehicles represent only about 1.8 million trucks among the 30 million registered vehicles in the state. The emission reductions from this proposed regulation are critical to achieving multiple State programs and policies for reducing emissions and stabilizing the climate. The reductions are necessary to reach carbon neutrality by 2045 according to the draft 2022 Scoping Plan Update.² The 2022 State Strategy for the State Implementation Plan (SIP) Strategy also relies on reducing criteria pollutant emissions to attain the federal ambient ozone standards, including NOx from vehicles necessary to attain the smog standard for ozone by 2037 in the South Coast air basin.³

CARB may also consider other changes to the sections affected, as listed above, or other sections within the scope of this notice, during the course of this proposed regulatory process.

Objectives and Benefits of the Proposed Regulatory Action:

The proposed regulation would build on the progress already being made to accelerate the deployment of lower emitting medium– and heavy–duty vehicles, and especially of medium– and heavy–duty zero–emission vehicles (ZEVs), would support existing policies and regulations through a phased–in fleet

transition of medium, heavy, and light–duty package delivery vehicles to ZEVs from 2024 through 2042, and would set a clear end date for combustion–powered new vehicle sales in California by requiring all new medium– and heavy–duty vehicle sales to be ZEVs starting in 2040. The primary objectives of this proposal include the following:

- Achieve criteria and GHG emissions reductions consistent with the goals identified in the SIP Strategy and Scoping Plan, including supporting compliance with state and federal ambient air quality standards.
- Provide criteria pollutant and toxic air contaminant emissions reductions in disadvantaged communities (DAC), which is consistent with CARB’s statewide strategy to reduce these emissions in communities affected by a high cumulative exposure burdens under Assembly Bill (AB) 617 (C. Garcia, Stats. 2017, chapter 136) (AB 617).
- Support the 100 percent zero–emission (ZE) targets set by the Board in Resolution 20–19, which calls for the following ZE targets:
 - Drayage trucks, last mile delivery, and government fleets by 2035.
 - Refuse trucks, local buses, and utility fleets by 2040.
 - All trucks and buses where feasible by 2045.
- Support the goals of Executive Order N–79–20, which calls for accelerated ZEV deployment with these targets:
 - 100 percent ZE drayage by 2035.
 - 100 percent ZE trucks and buses where feasible by 2045.
- Ensure requirements, such as ZEV deployment schedules and related infrastructure build–out, are technologically feasible, cost–effective, and support market conditions.
- Lead the transition away from petroleum fuels and towards electric drivetrains.
- Contribute towards achieving carbon neutrality in California pursuant to Senate Bill 100,⁴ and in accordance with Executive Order B–55–18.
- Complement the Advanced Clean Trucks (ACT) regulation⁵ to enhance widespread ZEV deployment.
- Mindfully set requirements to allow time for public ZE infrastructure buildout for smaller fleets or for regional haul applications who would be reliant on a regional network of public chargers.

¹CARB 2021. California Air Resources Board. 2021. “2020 Mobile Source Strategy.” Released September 28, 2021. Accessed May 31, 2022. https://ww2.arb.ca.gov/sites/default/files/2021-09/Proposed_2020_Mobile_Source_Strategy.pdf.

² For more information, see CARB Scoping Plan Website: <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan>.

³ CARB 2022. California Air Resources Board. 2022. “Draft 2022 State Strategy for the State Implementation Plan.” Released January 31, 2022. Accessed May 31, 2022. https://ww2.arb.ca.gov/sites/default/files/2022-01/Draft_2022_State_SIP_Strategy.pdf.

⁴ Senate Bill 100 (De León, Stats. 2018 chapter 312); Public Utilities Code §§ 399.11, 399.15, 399.30, and 454.53.

⁵ Cal. Code Regs., title 13, § 1963 through 1963.5 and 2012 through 2012.2.

- Ensure manufacturers and fleets work together to place ZEVs in service suitably and successfully as the market expands.
- Complement current and existing programs to achieve emissions reductions that are real, permanent, quantifiable, verifiable, and enforceable.
- Establish a fair and level playing field among fleet owners.
- Craft requirements in a way that ensures institutional capacity for CARB to manage, implement, and enforce requirements.

The estimated cumulative statewide benefits for emissions, cost-savings, and avoided premature deaths expected from full implementation of the proposed regulation through calendar year 2050 include the following:

- 418,943 tons in NOx reductions.
- 8,638 tons in PM2.5 reductions.
- 307 MMT CO₂ in GHG reductions.
- 5,519 avoided cardiopulmonary mortalities.
- \$57.8 billion in health benefit savings.
- \$9 billion to \$36.4 billion in social cost of carbon savings.
- \$22.2 billion in net fleet cost savings.

The proposed regulation is projected to significantly increase the number of medium- and heavy-duty ZEVs in California beyond the ZEV sales expected from the ACT regulation. The estimated number of ZEVs would increase from about 320,000 to about 510,000 in 2035, from about 780,000 to about 1,230,000 ZEVs by 2045, and from about 950,000 to about 1,590,000 ZEVs by 2050.

SUMMARY OF PROPOSED REGULATION

The proposed regulation would require State and local government fleets, drayage trucks, high priority fleets, and federal fleets to phase in medium- and heavy-duty ZEVs, and light-duty package delivery ZEVs over time. As a backstop, the proposed regulation sets a clear end date for combustion-powered new medium- and heavy-duty vehicle sales in California. The proposed regulation includes four components: three sets of fleet requirements for State and local government fleets, drayage trucks, and high priority and federal fleets, and a ZEV sales requirement for medium- and heavy-duty truck manufacturers. The following provides information on each of the proposed components.

1. State and Local Government Fleets

- Applies to California cities, counties, public utilities, special districts, and State government agencies that own Class 2b–8 vehicles.

- Excludes federal agencies, which are regulated under the high priority and federal fleet requirements.
- When adding vehicles to their California fleet, affected fleet owners must only add ZEVs per the following schedule:
 - Fleets outside designated low-population counties: 50 percent of the total number of vehicle additions must be ZEVs beginning January 1, 2024, increasing to 100 percent beginning January 1, 2027.
 - Fleets in designated low-population counties: 100 percent of the total number of vehicle additions must be ZEVs beginning January 1, 2027.
- Compliance exemptions for backup vehicles, daily usage, infrastructure construction delays, ZEV unavailability, and mutual aid assistance.
- Annual reporting, starting April 1, 2024, with recordkeeping requirements.

2. Drayage Trucks

- Applies to Class 7–8 heavy-duty trucks transporting containerized, bulk, or break-bulk goods, empty containers or chassis to and from California’s intermodal seaports and railyards.
- All drayage trucks added to CARB’s Online System must be a ZEV beginning January 1, 2024.
 - All drayage trucks must visit a regulated seaport or intermodal railyard at least once each calendar year to remain in CARB’s Online System.
 - Existing internal combustion engine (ICE) drayage trucks that exceed their minimum useful life will not remain in the CARB’s Online System.
 - All drayage trucks entering seaports and intermodal railyards would be required to be ZE by 2035.
- Compliance exemptions for dedicated use uni-body vehicles (e.g., auto transports), infrastructure construction delays, and ZEV vehicle delivery delays.
- Annual reporting starting January 1, 2024, with reporting or recordkeeping requirements for truck owners, seaports, railyards, and marine terminals.

3. High Priority and Federal Fleets

- Applies to fleets that meet the following criteria:
 - Any fleet owner who owns, operates, or directs 50 or more Class 2b–8 vehicles, including vehicles under common ownership and control and that operates at least 1 Class

- 2b–8 vehicle or off–road yard tractor in California.
 - Any entity with \$50 million or more in annual revenue and operates at least 1 affected vehicle in California.
 - Federal government agencies that own, operate, or direct one or more affected vehicle in California.
 - Affected vehicles include all Class 2b–8 on–road vehicles, off–road yard tractors, and light–duty package delivery vehicles in the fleet.
 - High priority and federal fleets must meet the Model Year Schedule, or opt–in to the ZEV Milestones Option:
 - Model Year Schedule: Beginning January 1, 2024, all additions to the fleet must be ZEVs, and all ICE vehicles must be removed from the California fleet at the end of their useful lives.
 - ZEV Milestones Option: ZEV phase–in requirement where a portion of the fleet must be ZE–based. This option is separated into three distinct schedules as follows:
 - Group 1: Box trucks, vans, two–axle buses, yard trucks, light–duty delivery vehicles:
 - 10 percent by 2025, increasing to 100 percent by 2035.
 - Group 2: Work trucks, day cab tractors, three–axle buses:
 - 10 percent by 2027, increasing to 100 percent by 2039.
 - Group 3: Sleeper cab tractors and specialty vehicles:
 - 10 percent by 2030, increasing to 100 percent by 2042.
 - Compliance exemptions for backup vehicles, daily usage, infrastructure construction delays, vehicle delivery delays, ZEV unavailability, declared emergency events, and mutual aid assistance.
 - Annual reporting due starting February 1, 2024, with recordkeeping requirements.
- 4. 100 Percent ZEV Sales Requirement**
- Beginning 2040 Model Year, all medium– and heavy–duty vehicles sold in California must be ZEV.

From 2024 to 2050, the proposed regulation is estimated to result in 418,943 tons reduction in NOx, 8,638 tons reduction in PM2.5, and 307 million metric tons (MMT) reduction of carbon dioxide (CO₂), relative to the Legal Baseline. The Legal Baseline includes emission reductions modeled for already adopted medium– and heavy–duty vehicle regulations including

the Advanced Clean Trucks, Innovative Clean Transit, Zero–Emission Airport Shuttle Bus, and Heavy–Duty Omnibus regulations. The total CO₂ emissions are derived using a tank–to–wheel (TTW) emissions accounting methodology that is focused on the vehicle emissions and does not account for upstream emissions associated with producing and delivering the fuel or energy source to the vehicle that are addressed by other measures and policies to reduce those emissions. However, the proposed regulation would show greater PM, NOx, and GHG reductions if upstream emissions were accounted for since production and delivery of electricity and hydrogen as fuel and energy sources have much lower upstream emissions when compared to conventional combustion fuels like gasoline, diesel, and natural gas.⁶

The proposed regulation would result in a net direct cost savings to fleets of \$22.2 billion between 2020 and 2050 when compared to the Legal Baseline scenario. These cost savings do not include indirect health cost–savings or avoided costs associated with reduced GHG emissions. The proposed regulation will lead to an estimated 5,519 fewer cardiopulmonary deaths; 873 fewer hospital admissions for cardiovascular illness; 1,042 fewer hospital admissions for respiratory illness; and 2,537 fewer emergency room visits for asthma. These health outcomes result in a total cost savings of \$57.8 billion which can be attributed to the reduced PM2.5 and NOx emissions from 2024 through 2050. The avoided social cost of carbon (SC–CO₂) is the sum of the annual TTW CO₂ emissions reductions multiplied by the SC–CO₂ in each year. These benefits range from about \$9.4 billion to \$36.4 billion from 2024 through 2050, depending on the chosen discount rate of 2.5 to 5 percent.⁷

Comparable Federal Regulations:

There are currently no federal requirements for fleets to purchase or use ZE technologies for vehicles greater than 8,500 lb. Gross Vehicle Weight Rating (GVWR), or ZE light duty package delivery vehicles. There are also no federal requirements for manufacturers to sell ZEVs greater than 8,500 lb. GVWR.

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

⁶ California Air Resources Board, *Advanced Clean Cars II SRIA*, 2022 (web link: <https://dof.ca.gov/wp-content/uploads/Forecasting/Economics/Documents/ACCII-SRIA.pdf>, last accessed May 2022).

⁷ Interagency Working Group on the Social Cost of Carbon, *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 13990*, 2021 (web link: https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf, last accessed January 2022).

similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATIONS

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subdivisions (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 and savings to any State agency, would not create costs or savings in federal funding to the State, and would create costs and savings to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

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

Pursuant to Government Code sections 11346.5, subdivision (a)(5) and 11346.5, this regulatory action will result in a mandate that would create costs and cost-savings to local agencies and school districts. However, these costs are not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), because this action neither compels local agencies to provide new governmental functions (i.e., it does not require such agencies to provide additional services to the public), nor imposes requirements that apply only on local agencies or school districts.⁸ Instead, this regulatory action establishes requirements that apply to all individuals and entities that own or operate regulated vehicles. This action also does not compel local agencies to increase the actual level or quality of services that they already provide the public.⁹ For the foregoing reasons, any costs incurred by local agencies to comply with this regulatory action are not reimbursable.¹⁰

⁸ County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 56.

⁹ San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859, 877.

¹⁰ County of Los Angeles v. State of California, 43 Cal.3d. 46, 58.

Background on Cost or Savings for State and Local Agencies

The State, counties, and cities could see some changes to revenue due to the proposed regulation. Many cities and counties in California levy a Utility Users Tax on electricity. By increasing the amount of electricity used, there will be an increase in the amount of utility user tax revenue collected. Fuel taxes are collected on gasoline and diesel fuel and fund transportation improvements at the State, county, and local levels. Displacing gasoline and diesel fuels with electricity will result in a reduction in fuel tax revenue since less fuel will be purchased. The decrease in diesel tax revenue corresponding with reduced consumption would reduce government spending without any offsetting revenues. Sales taxes are levied in California to fund a variety of programs at the state and local level. The proposed regulation will require the sale and purchase of ZEVs and installation of associated infrastructure with higher upfront costs than purchasing internal combustion engine (ICE) vehicles, which will result in direct increase in sales tax revenue collected by local governments. Overall, local sales tax revenue may increase less than the direct increase from vehicle sales if overall business spending does not increase. The state collects registration fees to fund transportation improvements at the state, county, and local levels. The fee structure for ZEVs is different from diesel vehicles with some fees such as the Vehicle License Fee being higher and others such as weight fees being lower. These differences result in lower registration fees for the ZEVs. These lower fees result in reduced revenue collected by the state for use in transportation services.

The proposed regulation will set ZE requirements for fleets and focus on strategies to ensure that the cleanest vehicles are deployed by government, business, and other entities in California to meet transportation needs. State and local governments that are required to purchase ZEVs would face capital costs associated with the incremental cost to purchase a ZEV rather than an ICE vehicle, as well as infrastructure upgrades and equipment because of an accelerated transition to ZEVs. These entities would also face ongoing costs and cost-savings associated with changes in maintenance costs and changes in gasoline, diesel, natural gas, electricity, and hydrogen use. Compared to gasoline, diesel, or natural gas vehicles, ZEVs generally have higher upfront capital costs today but lower operating costs, which results in an overall savings throughout the vehicle's useful life. There would also be costs incurred by local and state governments for reporting and workforce training.

Cost or Savings for State Agencies:

To implement the proposed regulation, CARB would need permanent staffing resources. This would be met

through a combination of new staffing resources and redirecting existing staffing resources. In addition to staffing needs, the proposed regulation would require modifying and upgrading existing reporting systems.

The State government fleet is estimated to make up about 19 percent of the vehicles in California’s public fleet based on the total public fleet population and information from the Department of General Services. A proportionate amount of the total costs would be assumed to pass-through the State governments.

The proposed regulation’s fiscal impact, revenues minus costs, to state government is estimated to be a reduction of \$357 million over the first 3 years of the proposed regulation and a reduction of \$33.8 billion over the regulatory analysis period to 2050. After the first five years of the proposed regulation, upfront costs for ZEV purchase and infrastructure development are outweighed by lower operational costs associated with ZEVs. However, loss of revenue from state fuel taxes, depreciation (loss of corporate income tax revenue) and vehicle registration fees are not balanced by the increased revenue from sales tax or energy resource fees. These foregone revenue sources support important government programs and may eventually be replaced by other fees and taxes, in which case these negative impacts to state and local governments would be diminished.

Other Non-Discretionary Costs or Savings on Local Agencies:

The local government fleet is estimated to make up roughly 81 percent of California’s public fleet. All local government fleets are subject to the proposed regulation with requirements beginning for most fleets in 2024. Fleets located in designated counties would face their first requirements in 2027. A proportional amount of the total costs outlined in would be assumed to pass-through to local governments.

The fiscal impact of the proposed regulation in revenues minus costs to local governments is estimated to be an increase of \$225 million over the first 3 years of the proposed regulation and an increase of \$4.5 billion over the regulatory analysis period to 2050. After the first five years of the proposed regulation upfront costs for ZEV purchase and infrastructure development are outweighed by lower operational costs associated with ZEVs. Additionally, loss in fuel tax revenue is outweighed by an increase to utility user and sales tax revenue sources until the 2040–42 timeframe. The overall fiscal impact remains positive throughout the regulatory analysis period to 2050.

Cost or Savings in Federal Funding to the State:

The proposed regulation is not expected to impose any costs or savings in federal funding to the State.

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

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

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, 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 May 2022, CARB submitted a SRIA to the Department of Finance (DOF) for its review. CARB has updated the proposed regulation since the original SRIA submittal, and to address DOF comments. The revisions are discussed in Appendix C of the Staff Report: Initial Statement of Reasons (ISOR).

i. The Creation or Elimination of Jobs Within the State.

The proposed regulation is estimated to initially result in a slightly positive employment impact through about 2026 after which the trend reverses with a negative employment impact through rest of the regulatory horizon. These changes in employment do not exceed 0.2 percent of baseline California employment across the entire regulatory horizon. As the requirements of the proposed regulation go into effect, employment is projected to increase in the construction sector as businesses install infrastructure and make other facility upgrades, and in the electric power sector due to increased demand. The directly affected fleets, which primarily operate in the transportation and warehousing sector, may see a decrease in employment due to higher vehicle costs, but as those vehicles operational savings build up over time these small employment losses would be mitigated. The reduced spending on maintenance and repair costs for ZEV results in a downward trend in employment for that industry. The largest decrease in employment results is from the public sector, which is based on the projected decrease in fuel and sales tax revenue and registration fees. We note that, though outside of this specific analysis, the transition towards ZEVs and its impacts on some of these revenues, are the subject of continued policy de-

velopment given the importance of the services funded. Thus, though this analysis does not assume the creation of new specific revenue-raising measures, such measures, such as roadway pricing strategies, are not unlikely.

ii. The Creation of New Businesses or the Elimination of Existing Businesses Within the State.

The overall jobs and output impacts of the proposed regulation would be small relative to the total California economy, representing changes of no greater than 0.2 percent. The decreasing trend in demand for gasoline and diesel fuel following from this proposed regulation has the potential to result in the elimination of businesses in this industry and downstream industries, such as gasoline stations and vehicle repair businesses, if sustained over time. Staff anticipates growth in industries that manufacture or support ZEVs, including ZEV manufacturer and component suppliers, infrastructure installers, electrical vehicle technicians, and others. This growth would strengthen the ZEV supply chain, foster a ZE market, and promote technology growth sooner than would have otherwise occurred.

iii. The competitive advantages or disadvantages for businesses currently doing business within the state.

The proposed regulation has three primary regulatory components for different fleet types and each component addresses competitive advantage or disadvantage differently. The public fleet requirement would not be anticipated to create a competitive advantage or disadvantage. Public agencies do not compete against each other, and each agency would be able to identify the strategy which allows them to comply within their allocated budgets.

The drayage truck requirement would also not be anticipated to create a competitive advantage or disadvantage since the proposed regulation applies equally to all drayage trucks that enter seaports and railyards and applies equally to California companies as well as companies headquartered out-of-state that operate drayage trucks in California.

The high priority and federal fleet requirement would not be anticipated to create a significant change in competitive advantage or disadvantage. First, federal agencies do not compete with other fleets and would not have a competitive advantage or disadvantage. For high priority fleets, the milestone requirements apply to all trucks that operate in California regardless of where the truck or company is headquartered and would be phased in by truck type. This ensures that all vehicles in these fleets would be subject to the same requirements. Fleets that do not meet the fleet size or revenue threshold would not be initially regulated by this proposed regulation, but the risk of creating a competitive advantage or disadvantage is mitigated as these fleets would become subject to the proposed

regulation if their revenue or fleet size increases above the thresholds established in the proposed regulation. In addition, the fleet size for determining which fleet would be subject to the proposed regulation includes all medium- and heavy-duty vehicles that are operated under common ownership and control. This ensures a level playing field between businesses that compete for the same work regardless of their business model. Ultimately, all fleets that purchase new medium- and heavy-duty vehicles in California would be affected by the component of the proposed regulation that requires all such vehicle sales to be ZE beginning in 2040.

The 100 percent manufacturer ZEV sales requirement would not be anticipated to create a significant change in competitive advantage or disadvantage. This requirement affects entities that are headquartered both within California and outside the state. However, all of the costs from deploying the number of ZEVs required by the proposed regulation are assumed to be borne in California. This approach shows the full estimated cost to California for deploying the same number of ZEVs required by the regulation. As shown in the cost analysis, these proposed regulations are expected to have a positive economic impact on affected entities. Fleets and California businesses are expected to see a net reduction in costs through reduced spending on fuel costs and vehicle maintenance as shown Chapter VIII of the Staff Report.

iv. The Increase or Decrease of Investment in the State.

Private domestic investment consists of purchases of residential and nonresidential structures and of equipment and software by private businesses and nonprofit institutions. It is used as a proxy for impacts on investments in California because it provides an indicator of the future productive capacity of the economy. The relative changes to growth in private investment for the proposed regulation are show a decrease of private investment of about \$1.0 billion in 2030, which trends towards an increase of \$2.49 billion in 2050. These changes in investment do not exceed 0.4 percent baseline investment across the regulatory horizon.

v. The Incentives for Innovation in Products, Materials, or Processes.

The proposed regulation will lead to a growth in industries supporting ZEVs, including ZEV manufacturer and component suppliers, infrastructure installers, electrical vehicle technicians, and others. This growth could also occur along the entire ZEV supply chain since this proposed regulation promotes technology growth sooner than would have otherwise occurred. The increase in the production and usage of ZEVs would be expected to also benefit various businesses related to the ZEV component supply chain, including

those involved with batteries, fuel cells, infrastructure and electric drivetrains.

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

From 2024 to 2050, the proposed regulation is estimated to result in 418,943 tons reduction in NO_x, 8,638 tons reduction in PM_{2.5}, and 307 MMTCO₂, relative to the Legal Baseline. These emission reductions will lead to an estimated 5,519 fewer cardiopulmonary deaths; 873 fewer hospital admissions for cardiovascular illness; 1,042 fewer hospital admissions for respiratory illness; and 2,537 fewer emergency room visits for asthma. These health outcomes result in a total cost savings of \$57.8 billion. The avoided SC–CO₂ benefits range from about \$9.4 billion to \$36.4 billion over this same timeframe.

ZEVs are anticipated to lead to other unquantified benefits such as worker safety and operational efficiencies that may contribute to a fleet owner’s choice to purchase a ZEV over an ICE vehicle. ZEVs are anticipated to increase worker safety since ZEVs produce less vibration in the cab which leads to a reduction in “driver’s fatigue,” a root cause of deadly accidents.^{11, 12, 13} ZEVs also reduce harmful emissions that contribute to air toxics hot spots at workplaces such as truck mechanic shops, loading docks, and inside truck cabs, resulting in better quality air for workers to breathe.¹⁴ ZEVs are quiet and allow for improved communication at job sites, compared to conventional internal combustion engine powered vehicles. Some examples of operational efficiencies that may increase overall productivity for businesses that operate ZEVs over ICE vehicles, include the ability to make deliveries at night where noise ordinances are in effect, and the ability to plug in power tools and to export power or to serve as back-up power.

Lastly, trucking companies and others that have ZEV fleets might choose to advertise themselves as being environmentally friendly and make partnerships or sign contracts with other companies that want

¹¹ Institute of Transport Economics, *Experiences from Battery–Electric Truck Users in Norway*, 2020 (web link: <https://www.mdpi.com/601754>, last accessed January 2022).

¹² Bose Corporation, *The impact of different seats and whole–body vibration exposures on truck driver vigilance and discomfort*, 2017 (web link: <https://doi.org/10.1080/00140139.2017.1372638>, last accessed January 2022).

¹³ RAND Corporation, *Evaluating the Impact of Whole–Body Vibration (WBV) on Fatigue and the Implications for Driver Safety*, 2015 (web link: www.rand.org/t/rr1057, last accessed January 2022).

¹⁴ National Library of Medicine, *Potential air toxics hot spots in truck terminals and cabs*, 2012 (web link: <https://pubmed.ncbi.nlm.nih.gov/23409510/>, last accessed January 2022).

to support the movement toward replacing fossil fuel–burning trucks and buses with those that produce no tailpipe emissions, resulting in better public health. Also, the Securities and Exchange Commission proposed rule called *The Enhancement and Standardization of Climate–Related Disclosures for Investors* would require a domestic or foreign registrant to include certain climate–related information in its registration statements and periodic reports starting for fiscal year 2023.¹⁵ Under SEC’s proposed rule, emissions from a fleet owner’s ICE vehicles are considered scope 1 emissions since they are direct GHG emissions that occur from sources owned or controlled by the company and would need to be reported. The information could influence investor decisions.

vii. *Department of Finance Comments and Responses.*

1. Some state and local government entities may be disproportionately impacted

DOF Comment: The SRIA must include comprehensive estimates of disparate impacts, including on identifiable government entities if some State and local government entities own a larger share of the government fleets and are therefore expected to bear a disproportionate share of the government ownership costs. The SRIA currently reports statewide costs for State and local government but does not discuss fleet costs for disproportionately impacted agencies.

Response: CARB staff are not able to precisely predict how the purchase and ownership of ZEVs may have disparate impacts on state and local government agencies. Our cost analysis shows that the higher up-front costs are offset by lower expected fuel and maintenance savings that result in lower total cost of ownership. Staff expects the change in costs for state and local government fleets would be proportional to the number of vehicles in each fleet.

However, larger fleets may have additional cost savings opportunities per vehicle due to their size. First, they are likely to have more depots, and have more choices on prioritizing where vehicle infrastructure will be placed over the next 10 to 20 years. They are also more likely to get lower price per vehicle in bids than other agencies due to their larger procurements.

The State departments that own the greatest number of medium to heavy–duty vehicles include the Department of Transportation, Department of Forestry and Fire Protection, and Department of Corrections and Rehabilitation. In 2020, these departments each owned over 10 percent of the medium to heavy–duty vehicles

¹⁵ Securities and Exchange Commission. Proposed Rule *The Enhancement and Standardization of Climate–Related Disclosures for Investors*, 87 Fed. Regs. 36594 (June 17, 2022), 17 C.F.R. Parts 210, 229, 232, 239, and 249 (web link: <https://www.sec.gov/rules/proposed/2022/33–11042.pdf>, last accessed June 2022).

within the California State Vehicle Fleet.¹⁶ Data from the Department of Motor Vehicles and the ACT Large Entity Reporting survey responses indicate the largest local government agencies affected by this proposed regulation include the City of Los Angeles, City and County of San Francisco, the City of Sacramento, the City of San Diego, Los Angeles Department of Power and Water, and the County of Los Angeles.¹⁷ Note that emergency vehicles are exempt from the proposed regulation.

2. Justify assumption that fleets will be able to purchase the required ZEVs

DOF Comment: The SRIA assumes that the purchase requirements of the proposed regulation will complement the sales requirements of the existing Advanced Clean Trucks (ACT) regulation, yet also states that the ACT is expected to result in proportionately fewer zero-emission tractors relative to lighter vehicle classes and that the proposed regulation places higher requirements on heavier vehicle classes, especially tractors. Such differences in timing between ACT and the proposed regulation may hinder compliance of fleets that utilize heavier vehicle classes. The SRIA should include a sensitivity analysis to show how impacts may vary if the ACT and the proposed regulations take longer to harmonize or justify the current assumption that the fleets will be able to purchase the required zero-emission vehicles as produced under the ACT.

Staff response: CARB staff believe the assumptions made are appropriate for a number of reasons. First, there are more manufacturers that exclusively produce ZEVs than produce ICE vehicles, and they are not subject to the ACT regulation that begins in 2024. Today, there are already more than 130 different medium to heavy-duty ZEV models available in all weight class categories. The ACT regulation requires large manufacturers to produce ZEVs which ensures additional models will be available. Once manufacturers have made the investments to produce ZEVs, it is in their interest to sell as many vehicles as possible to recoup their costs. Second, from experience with the Innovative Clean Transit regulation that the zero-emission bus purchase requirement is successfully being implemented without a corresponding manufacturer requirement. Third, the proposed regulation has been updated since the SRIA to include a number of exemptions or extensions to minimize concerns where certain vehicle configurations may not be available as a ZEV, or if there are extended delays in receiving a

ZEV. The ZEV unavailability exemption allows a fleet owner to purchase an ICE vehicle if a ZEV is not commercially in the configuration that is needed. The vehicle delivery delay extension allows a regulated fleet to continue operating their existing vehicle as long as it takes to receive a ZEV that is ordered a year in advance of the next compliance deadline. In summary, we believe that having both the proposed ACF regulation and ACT regulation are complementary policies but that each can be successfully implemented on its own.

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

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

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

In developing this proposed regulation, CARB staff evaluated the potential economic impacts on representative private persons or businesses. The proposed regulation would require fleets to replace their gasoline, diesel, natural gas, and other ICE vehicles with medium- and heavy-duty ZEVs. Staff assumes the costs to California includes the upfront capital costs for the ZEVs and their associated infrastructure, changes to operating expenses, and other cost elements associated with this technology transition. This approach shows the full estimated cost to California for deploying the number of ZEVs as required by the proposed regulation.

The estimated direct costs from the proposed regulation and the Legal Baseline scenario include upfront capital costs of the vehicles, infrastructure, and ongoing operating costs which include fueling, maintenance, and low carbon fuel standard (LCFS) revenues, where applicable. Compared to gasoline, diesel, or natural gas vehicles, ZEVs generally have higher upfront capital costs today but lower operating costs, which results in an overall savings in staff's analysis over the useful life of the vehicles. These costs and impacts are discussed in more detail in the Economic Impact Assessment chapter in the Initial Statement of Reason (ISOR).

Individuals or private persons will be indirectly affected by the 100 percent manufacturer ZEV sales requirement for medium- and heavy-duty vehicles beginning in 2040 as many Class 2b-3 pickups are purchased by individuals. Staff have prepared a cost estimate for an individual purchasing a net savings and rapid payback to the vehicle purchaser. For more information, refer to the Economic Impact Assessment

¹⁶ California Department of General Services. California State Fleet, 2015-2020. (web link: <https://data.ca.gov/dataset/california-state-fleet> June 2, 2022). Accessed June 20, 2022.

¹⁷ CARB, Large Entity Reporting Data, 2021 (web link: <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-trucks/large-entity-reporting>, last accessed May 2022).

Chapter in the ISOR. Individuals are also expected to see health benefits due to ZEVs displacing ICE vehicles and providing local, regional, and statewide emissions benefits.

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

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. The methodology and full details for estimating the cost impact to an example small business owner-operator operating a tractor in drayage service is provided in Chapter VIII of the ISOR.

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. As explained in the accompanying Chapter XI of the ISOR, the proposed regulation is the most effective and least burdensome means of achieving the purposes of the proposal.

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 of the proposed regulation. The following is a brief summary of the major alternatives proposed and the rationale for rejecting such major alternatives:

Alternative 1 is rejected because it is less effective at reducing emissions of criteria pollutants and GHGs as the proposed regulation. Alternative 1 achieves minimal reductions of PM_{2.5} and GHGs and achieves significantly less reductions of NO_x emissions than the proposed regulation. Alternative 1 also does not effectively advance the deployment of heavy-duty ZEVs as compared to the proposed regulation and is accordingly not consistent with the goals established by the Governor in multiple Executive Orders and by the Board.

The Accelerated ZEV Transition alternative is rejected as the more aggressive timeframe raises questions about feasibility for certain fleets in the near-term while the ZEV market is still developing. With an accelerated timeframe, smaller tractor fleets would not have the opportunity to learn from the experiences of early adopters and larger fleets. Smaller fleets are more likely to rely on publicly available charging infrastructure and independent maintenance and ser-

vice technicians that is still in the process of being developed and may not be available where needed in all cases. Additionally, smaller fleets are more likely to purchase used vehicles, which may not be available as ZEVs due to this alternative's accelerated timeframe. The 2040 end date provides more than ample time for a steady transition to the clean energy economy utilizing the natural rate of attrition and job sector shifts. Additionally, California endorses the Global Memorandum of Understanding (MOU) on Medium- and Heavy-Duty ZEV, which established the same target of 100 percent sales by 2040 to enable a full transition. However, staff will continue to investigate the pros and cons of accelerating the 100 percent ZEV date from 2040 to an earlier date.

**STATE IMPLEMENTATION
PLAN REVISION**

If adopted, CARB plans to submit the proposed regulatory action to the United States Environmental Protection Agency (U.S. EPA) for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act (CAA) (42 U.S.C. 7401 et seq.). The adopted regulatory action would be submitted as a SIP revision because it adopts regulations intended to reduce emissions of air pollutants in order to attain and maintain the National Ambient Air Quality Standards promulgated by U.S. EPA pursuant to the CAA.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the proposed regulation, has prepared a draft environmental analysis (EA) under its certified regulatory program (Cal. Code Regs., title 17, §§ 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA) (Public Res. Code § 21080.5). The EA concluded implementation of the proposed regulation could result in: beneficial impacts to air quality (long-term operational-related), energy (long-term operational-related), GHG (long-term operational-related); less than significant impacts, or no impacts, to energy (short-term construction-related), and greenhouse gas (short-term operational-related), land use planning, mineral resources, population and housing, public services, recreation, and wildfire; and potentially significant [indirect/secondary] adverse impacts to aesthetics, agriculture and forestry resources, air quality (short-term construction-related), biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, transportation/traffic, tribal cultural resources, and utilities and service systems. The Draft EA, included as Appendix D to the

ISOR, is entitled Draft Environmental Analysis for the Proposed Advanced Clean Fleets Regulation. Written comments on the Draft EA will be accepted during a 45-day public review period starting on September 2, 2022, and ending on October 17, 2022.

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 Craig Duehring, Manager, In-Use Control Measures Section, at (279) 208-7369 or (designated back-up contact) Paul Arneja, Air Resources Engineer, at (279) 208-7342.

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 proposed regulation. The report is entitled: Advanced Clean Fleets Regulation.

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB's website, listed below, on August 30, 2022. Please contact Bradley Bechtold, Regulations Coordinator, at Bradley.Bechtold@arb.ca.gov or (279) 208-7266 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 Bradley Bechtold, Regulations Coordinator, (279) 208-7266. The Board staff has compiled a record for this proposed regulatory action, which includes all the information upon which the proposed regulation 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 the proposed regulation at <https://ww2.arb.ca.gov/rulemaking/2022/acf2022>

TITLE 16. DENTAL BOARD

NOTICE OF PROPOSED
REGULATORY ACTION CONCERNING
DENTISTS INITIATING AND
ADMINISTERING VACCINES

NOTICE IS HEREBY GIVEN that the Dental 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

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., Tuesday, October 18, 2022**, or must be received by the Board at the hearing, should one be scheduled.

PUBLIC HEARING

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.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

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 ex-

ception 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 1614, and 1625.6, and to implement, interpret or make specific BPC sections 1625.6, 1645.2 and 1680, the Board is considering making changes to Article 9 of Chapter 2 of Division 10 of Title 16 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Board is responsible for licensing and regulating dental professionals in California. The Board licenses an estimated 89,000 dental professionals, including approximately 43,500 licensed dentists; 44,500 registered dental assistants (RDAs); and 1,700 registered dental assistants in extended functions (RDAEFs). The Board is also responsible for setting the duties and functions of an estimated 50,000 unlicensed dental assistants.

In early 2021, the Director of the Department of Consumer Affairs issued a public health emergency waiver allowing dentists to administer the COVID-19 vaccines. Assembly Bill (AB 526) (Chapter 653 Statutes of 2021) was signed into law on October 8, 2021. The bill amended provisions of the Dental Practice Act at BPC section 1625.6 to permit dentists to prescribe and administer influenza and COVID-19 vaccinations approved or authorized by the federal Food and Drug Administration to patients 3 years of age and older on a permanent basis. Dentists who would administer these vaccines must biennially complete a vaccination training program offered by the CDC or a provider approved by the Board. They must also comply with all state and federal recordkeeping requirements. This includes documentation for the patient's primary care provider and entering the vaccination information into the appropriate immunization registry designated by the Immunization Branch of the California Department of Public Health.

While BPC 1625.6 provides the authority for dentists to initiate and administer influenza and COVID-19 vaccinations, it does not provide specifics on the length of the required training program. BPC 1625.6 also does not provide specifics on how dentists are to provide immunization information to their patients'

primary care providers or to the state immunization registry. This proposal would establish such standards.

Pursuant to the provisions of AB 526, the Board prepared Emergency Regulations and filed them with the Office of Administrative Law on June 13, 2022. The Emergency Regulations were approved on June 23, 2022 and will expire after 240 days (per statute) on February 22, 2023. The Dental Board of California (the Board) is seeking to make permanent the emergency regulations (the Regulations) in Section 1066 approved by the Office of Administrative Law on June 23, 2022. The Regulations authorize dentists to independently prescribe and administer influenza and COVID-19 vaccines approved or authorized by the United States Food and Drug Administration in compliance with the individual federal Advisory Committee on Immunization Practices (ACIP) influenza and COVID-19 vaccine recommendations and published by the federal Centers for Disease Control and Prevention (CDC) to persons three years of age or older. The Board is now submitting the adopted Emergency rulemaking, rulemaking file, and certificate of compliance in accordance with the requirements of Government Code section 11346.1, subdivision (e) and Business and Professions Code section 1625.6 to permanently establish these standards.

Proposed section 1066 would implement section 1625.6 of the Business and Professions Code (BPC) as enacted by AB 526 and make specific the requirements a dentist must complete when initiating and administering influenza and COVID-19 vaccines to patients. The regulations address the length and frequency of required training, the records that must be kept by the dentist concerning their training and the vaccines they administer, the information dentists must provide to their patients and their patients' primary care provider, state and federal reporting requirements including reporting vaccine administration through California's Immunization Registry (CAIR), and state and federal documentation and recordkeeping requirements.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

Having dentists initiate and/or administer vaccinations will make obtaining vaccinations more convenient. When it is more convenient and less expensive to obtain vaccinations, Californians are more likely to vaccinate, raising vaccination rates and improving public health and public safety. Having individuals obtain vaccinations from dentists may result in a proportionate reduction in physician and other health care workers' workloads, freeing them to focus on patients with more serious medical issues requiring their attention. Such benefits are difficult to quantify.

BPC Code section 1601.2 mandates that the protection of the public shall be the highest priority for the Board and that whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The proposed standard provides protection for the public by setting out training, notification, reporting and record retention procedures for dentists who will now be able to offer the public broader access to vaccinations, thus increasing California's vaccination rates, and improving the health of all Californians.

Making these regulations permanent will help provide notice and guidance to dentists who wish to provide vaccines to their patients of the measures necessary to administer and initiate these vaccines in a manner consistent with the law and accepted vaccination practices.

DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING REGULATIONS

The Board has evaluated this proposal and determined that these proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING PROPOSED ACTION

FISCAL IMPACT ESTIMATES

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

The regulations help to provide additional guidance to dentists related to training, continuing education, notification to a patient's primary care provider, reporting and record keeping requirements for dentists to initiate and administer influenza and COVID-19 vaccinations as required by 1625.6 of the Business and Professions Code.

This proposal establishes continuing education requirements related to administering vaccines for licensees, as specified, and does not increase the total number of continuing education hours required. As a result, the Board does not anticipate an increase in workload or costs.

The Board will ensure compliance with the proposed regulations through its existing continuing education and enforcement activities and does not anticipate a significant number of violations.

However, in the event a licensee is out of compliance with the regulations and is subject to formal discipline, the Board estimates enforcement-related costs of \$5,000 per case.

The regulations do not result in a fiscal impact to the state in the form of federal funding or any cost or savings.

Cost or Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Effect on Housing Costs: 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 upon the following facts.

The Board does not believe this regulation will have a significant adverse economic impact on businesses. Adopting this regulation simply provides dentists, who choose to initiate and/or administer vaccinations without a doctor’s prescription, as authorized by Business and Professions Code (BPC) section 1625.6, with the training, recordkeeping and reporting requirements to ensure that the dentists have the appropriate training and are in compliance with federal and state laws governing vaccine administration. Allowing dentists the ability to initiate and/or administer vaccinations will reduce the cost and increase the convenience of obtaining vaccinations. By making vaccines more readily available, dentists may experience an increase in business from patients electing to use their dentist for these services instead of their doctor. In addition, unless a dentist already has the capacity for vaccine storage in their dental office, dentists seeking to administer these vaccines are more likely to do so in other settings that have that storage capacity and the ability to deal with any adverse reactions to the vaccinations. These settings would include clinics, hospitals, and sites set up to handle mass vaccinations. Such settings would likely be able to address and support the documentation and notification requirements, and hence any potential costs, of these proposed regulations.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any negative cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. By making vaccines more readily available, dentists may experience an increase in business from patients electing to use their dentist for these services instead of their doctor. In addition, unless a dentist already has the capacity for vaccine storage in their dental office, dentists seeking to administer these

vaccines are more likely to do so in other settings that have that storage capacity and the ability to deal with any adverse reactions to the vaccinations. These settings would include clinics, hospitals, and sites set up to handle mass vaccinations. Such settings would likely be able to address and support the documentation and notification requirements, and hence any potential costs, of these proposed regulations.

EFFECT ON SMALL BUSINESS

While the Board does not have, nor does it maintain, data to determine if any of its licensees (dentists) are a “small business,” as defined in Government Code section 11342.610, the Board has made an initial determination that the proposed regulatory action will not affect small businesses. Although the proposed regulation will directly affect businesses statewide, which may include small businesses, the Board does not anticipate any adverse economic impact as described in the Business Impact Estimate section listed above.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board does not anticipate that these regulations would create or eliminate jobs, nor would the regulations create or eliminate businesses because dentists can choose whether to get trained to initiate and/or administer vaccines. Also, the proposed regulation simply sets out the standards for initiating and/or administering vaccinations for dentists to follow. The regulations would allow for dentists to expand their businesses by offering vaccinations as an additional service to their patients. The Board does not have data to determine the degree of expansion that dentists might experience for their practice as a result of this new service opportunity.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents:

This regulatory proposal affects the health and welfare of California residents because the proposed regulation will further increase the priority of the Board which is the protection of the public. The adoption of permanent regulations for the initiating and administration of influenza and/or COVID–19 would help make vaccinations easier to obtain, resulting in more Californians getting vaccinated. This would contribute to a rising vaccination rate among Californians, which benefits the public health and welfare of all Californians.

This regulatory proposal will have no impact on worker safety because dentists have dispensed some

vaccines to the public for some time under waivers granted by this Department under a state of emergency, and the Board has not received any information about impacts on worker safety. This regulatory proposal will have no impact on the state's environment because it is not relevant to the State's environment. This proposal relates to standards for dentists administering or initiating influenza or COVID-19 vaccines to dental patients.

Business Reporting Requirements

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

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based, which may be obtained from the contact person identified in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing (if requested) or prior to the hearing upon request from the Board at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 or by accessing the Board's website at https://www.dbc.ca.gov/about_us/lawsregs/proposed_regulations.shtml.

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

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 below.

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 below or by accessing the website listed below.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation 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 proposal described in this Notice, 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 or arguments orally if a hearing is requested, or in writing relevant to the above determinations as described in the "Written Comments" section of this notice.

CONTACT PERSON

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

Name: David Bruggeman,
Staff Services Manager I
Dental Board of California
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2327
Fax No.: (916) 263-2140
E-Mail Address
Lawrence.Bruggeman@dca.ca.gov

The backup contact person is:

Name: Tina Vallery, Staff Services Manager I
Dental Board of California
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2580
Fax No.: (916) 263-2140
E-Mail Address: Tina.Vallery@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's Website at https://www.dbc.ca.gov/about_us/lawsregs/proposed_regulations.shtml

GENERAL PUBLIC INTEREST

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has

set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING

On **October 20, 2022**, at 10:00 a.m.
in Room 310 of the County Administration Center
1600 Pacific Highway, San Diego, California

as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING

On **October 20, 2022**, at 10:00 a.m.
in Room 310 of the County Administration Center
1600 Pacific Highway, San Diego, California

as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653-2022-097-001-R1

Project: Upper South Fork Eel River Instream Large Wood Habitat Enhancement Project

Location: Mendocino County

Applicant: Trout Unlimited, Inc.

Notifier: Elise Ferrarese

Background

Project Location: The Upper South Fork Eel River Instream Large Wood Habitat Enhancement Project (Project) is located along Branscomb Road, west of the town of Branscomb, at a property owned by KLM Investment Properties, Inc., Assessor Parcel Number (APN) 0136804400 and 01368034, and affects the Upper South Fork Eel River. The Eel River supports populations of Central California Coast (CCC) Southern Oregon/Northern California (SONCC) Coho Salmon (*Oncorhynchus kisutch*), as well as the Northern California Steelhead (*Oncorhynchus mykiss*).

Project Description: Trout Unlimited, Inc. (Applicant) proposes to enhance or restore habitat within the Upper South Fork Eel River to provide a net conservation benefit for SONCC Coho salmon and Steelhead. The Project includes the placement of 115 pieces of large woody material, including 48 key pieces in 24 distinct structures, within a one-mile reach of instream habitat resulting in a "very good" large wood density rating. To be considered a key piece, a log with a rootwad still attached needs to be at least one and one-half times (1.5X) the bankfull width and a log without a rootwad will be twice (2X) the length of the stream's bankfull width. These large wood installations have multiple beneficial functions depending on design and orientation, including increase aggradation, alcove enhancement, cover, floodplain connectivity, scour, side channel connectivity, and velocity

refugia. An excavator will be used to place the large wood features. All heavy equipment work will be completed during low flow periods when impacts to water quality can be minimized or avoided. The excavator will primarily operate from the stream banks but will need to cross the river in two locations. To do this, a temporary bridge will be placed across the channel. Qualified fisheries biologists will use exclusions to keep fish and amphibians out of harm's way during bridge and log placement. Three sites will be accessed from the stream channel below top of bank, however, equipment will be on a gravel bar and no equipment will operate from the wetted channel, so no dewatering will be necessary. Construction activities will follow best management practices as outlined by the California Department of Fish and Wildlife (CDFW) and the National Marine Fisheries Service, which include prevention and cleanup of spills, erosion and sediment prevention and control, avoidance of cultural and other protected resources, canopy protection, providing fish passage, and restoration of construction-related disturbance.

Project Size: The total area of ground disturbance associated with the Project is approximately 1.78 acres and 307 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: Approximately 115 pieces of large woody material, 200 pieces of anchoring hardware, and minor amounts of native soil from streambank disturbances.

Project Timeframes: Start date: August 1, 2022

Completion date: October 31, 2023

Number of Workdays: Approximately 31

Work window: July 10 to October 31

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and improve spawning and rearing conditions within the Eel River, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) No. 1B22078WNME, Electronic Content Management Identification (ECM PIN) No. CW-881674 for the Project. The NOA describes the Project and requires the Applicant to com-

ply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to water quality, plants, and wildlife.

Receiving Water: South Fork Eel River

Fill or Excavated Area: Temporary impacts to 0.81 acres and 307 linear feet of bed, bank, and/or channel of the South Fork Eel River. No permanent impacts are planned.

Dredge Volume: None.

Discharge Volume: Approximately 115 pieces of large woody material, 200 pieces of anchoring hardware, and minor amounts of native soil.

Project Location: The Project is located along Branscomb Road, west of the town of Branscomb in Mendocino County, along the Upper South Fork Eel River. Coordinates for the Project are:

Lat: 39.67342, Long: -123.646774 — Downstream project end

Lat: 39.664256, Long: -123.646828 — Upstream project end

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On August 3, 2022, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on August 8, 2022, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2022-0804-02) on August 19, 2022. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

Specifically, CDFW finds that: (1) the Project purpose is voluntary habitat restoration and the Project is not required as mitigation; (2) the Project is not part of a regulatory permit for a non-habitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order; and (3) the Project meets the eligibility requirements of the State Water Resources Control Board's

Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects.

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Project Information, (2) Avoidance and Minimization Measures, (3) Limits on Area of Disturbance for Stream Dewatering, (4) Construction Season, (5) General Conservation Measures, (6) Dewatering Activities and Fish Relocation Protection Measures, (7) Vegetation/Habitat Disturbance Protection Measures, and (8) Environmental and Cultural Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Additional Information, Upper South Fork Eel River Instream Large Wood Habitat Enhancement Project*, written by the Applicant.

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant’s Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Monitoring and Reporting plan, Upper South Fork Eel River Large Wood Augmentation Project*, written by the Applicant and the Eel River Watershed Improvement Group.

Notice of Completion

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

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

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

General Order. The Applicant shall submit documents electronically to: Nicholas.VanVleet@wildlife.ca.gov.

Project Authorization

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

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

DEPARTMENT OF FISH AND WILDLIFE

HABITAT RESTORATION AND ENHANCEMENT ACT CONSISTENCY DETERMINATION NO. 1653–2022–096–001–R1

Project: Bone Ranch Wet Meadow Enhancement Project

Location: Modoc County, CA

Applicant: Stacy Freitas

Notifier: U.S. Fish and Wildlife Service, Partners in Fish and Wildlife Program

Background

Project Location: The Bone Ranch Wet Meadow Enhancement Project (Project) is located adjacent to County Road 54, 12 miles southwest of the town of Alturas, California, on a property owned by a private party and held under a Conservation Easement, Assessor Parcel Number (APN) 017–330–009–000, and affects unnamed tributaries to the Pit River. The Pit River and associated drainages and wet meadows support a variety of avian species, including greater sandhill cranes and Swainson’s hawk, and are important stopovers for migratory species.

Project Description: U.S. Fish and Wildlife Service (Applicant) proposes to enhance or restore habitat within the Bone Ranch wet meadow to provide a net conservation benefit for greater sandhill cranes (*Grus canadensis tabida*), Swainson’s hawk (*Buteo swainsoni*) and a variety of other migratory and non-migratory species. The goal of the project is to restore hydrologic function to wet meadow within the project

area by slowing flowing water down and spreading it out over a greater surface area to better irrigate wet meadow vegetation. The project will also remove a manmade agricultural ditch that is facilitating subsurface drainage of the wet meadow and conveyance of water offsite. The components proposed as part of this project are described below.

A. Potholes and Swales

Shallow potholes and swales will be constructed to facilitate water conveyance within and through the wet meadow, to increase habitat diversity, and to provide a source of clean fill material to construct the weirs. The potholes will be located in areas to flatten higher portions of the wet meadow and/or in areas where shallow ponding of water will benefit wet meadow vegetation establishment and habitat diversity. The potholes will be excavated approximately 1 foot below existing grade and will have 5:1 side slopes. Swales will be approximately 2 feet below existing grade and will have a 15-foot wide bottom with 3:1 side slopes. Any constructed potholes will be graded to drain toward the swale to facilitate drainage of the meadow to the channels. The exact size of the potholes will be dependent on the need for fill within the project area. It is anticipated that up to 560 cubic yards of soil will be excavated from potholes and swales, as needed, to construct the project.

B. Rock Weirs

Seven rock weirs will be placed in the secondary, low flow channels that branch off the Pit River and the southern channel located within the project area. The purpose of the weirs are to slow flowing water enough to promote more frequent inundation and saturation of the adjacent wet meadow within the project area. As described below, the weirs will be situated below the top elevation of the stream bank to allow water to continue to flow over and through the ditch (i.e., they are not intended or proposed to entirely block water movement through the channel). The weirs will be composed of reused material generated by the excavation of the potholes and swales within the project area and imported rock. The upstream portion of each weir will include a 3-foot long apron that will be keyed into the existing channel bottom, approximately 1 foot below existing grade. The rock will transition at a 3:1 slope over the top of placed soil reused from the project area. The top elevation of the rock weirs will extend horizontally for 4 feet, below the top of the bank of the existing stream channel. The weir will transition back down to the channel bottom at a 2:1 slope and will also be keyed into the channel bottom, approximately 1 foot below the existing grade. In total, up to 420 cubic yards of soil and 330 cubic yards of rock will be placed within cross sections of existing stream channels to construct all seven weirs.

C. Agricultural Ditch Fill

An existing agricultural ditch will be filled in three discrete locations with approximately 42 cubic yards of excavated material generated during construction. Strippings generated from the clearing and grubbing of the project area will be placed on the top 6 inches of the agricultural ditch footprint. The placement of stripped material will help promote vegetation growth postconstruction due to the concentration of root masses and seed bank potential.

D. Fence Replacement

An existing fence will be replaced in kind with a wildlife friendly fence. The fence will consist of posts spaced no farther than 12-foot intervals and with 4 strands of wire. The bottom and top wires will be smooth to reduce the potential for wildlife entanglement when crossing under or over the fence.

E. Site Access

Equipment access will be from County Road 54, approximately 800 feet from the southern edge of the project area. Once inside the project area, equipment and materials will cross over existing channels where proposed weir footprints are located to reduce the impact to existing channels. Access within the interior of the project area will occur along seasonally dry access routes throughout the wet meadow to discrete work area locations. Temporary access routes will not result in any additional placement of fill and will be utilized to move equipment through the project area. Temporary access routes to and within the project area will total approximately 2.29 acres.

F. Construction Staging

One staging area approximately 0.52 acres in size will be established for worker parking, equipment maintenance, equipment fueling, and material storage within a dry location within the project area.

Project Size: The total area of ground disturbance associated with the Project is approximately 4.80 acres and 420 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Temporary Impacts to wetlands and waters: 0.07 acres, 90 linear feet of streambed Permanent Impacts to wetlands and waters: 1.92 acres, 330 linear feet of streambed.

Other project impacts (non-water or wetland): 2.81 acres.

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the follow-

ing: (1) Filling of agricultural ditches, (2) construction of rock weirs, and (3) construction of earthen coffer dams. These activities shall require placement of approximately 750 cubic yards of soil and rock. The soil fill material will be generated by the creation of the pothole and swale features.

Project Timeframes: Start date: August 1, 2022

Completion date: November 30, 2022

Work window: August to November 2022

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California and the creation and enhancement of wet meadow habitat, the Central Valley Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) Waste Discharge Identification (WDID) No. 5A25CR00064 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to aquatic organisms and avian species.

Receiving Waters: Unnamed tributaries to the Pit River, unnamed wetlands and agricultural ditches

Filled or Excavated Areas:

Temporary Fill/Excavation Impact Information:
0.07 acres, 90 linear feet

2.81 acres non-jurisdictional area

Permanent Impacts to wetlands and waters: 1.92 acres, 330 linear feet

Excavated volume: 560 cubic yards from creation of potholes and swales

Discharge volume: 750 cubic yards of soil and rock material for rock weirs (perm)

42 cubic yards of soil for agricultural ditch fill (perm)

42 cubic yards of soil for cofferdams (temp)

Project location: Modoc County, Latitude: 41.417416, Longitude: -120.767174, APN 017-330-009-000

Regional Water Board staff determined that the Project may proceed under the Order. Additionally, Regional Water Board staff determined that the Project, as described in the Notice of Intent (NOI) complies with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.).

On 7/22/2022, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on 7/22/2022, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2022-0722-01) on 8/5/2022. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction Sequence, (2) Construction Access, (3) Construction Methods, (4) Biological Reports and Species Protection Measures. The specific avoidance and minimization requirements are found in an attachment to the NOI, *Small Habitat Restoration Projects, Order Number SB12006GN, Notice of Intent: Supplemental Attachment Bone Ranch Wet Meadow Enhancement Project*. Prepared by U.S. Fish and Wildlife Service and Ducks Unlimited, Inc.

(PDF titled BoneRanch_SupplementalInformation_COMPILED)

Monitoring and Reporting

As required by Fish and Game Code section 1653, subdivision (g), the Applicant included a copy of the monitoring and reporting plan. The Applicant's Monitoring and Reporting Plan provides a timeline for restoration, performance standards, and monitoring parameters and protocols. Specific requirements of the plan are found in an attachment to the NOI, *Small Habitat Restoration Projects, Order Number SB12006GN, Notice of Intent: Supplemental Attachment Bone Ranch Wet Meadow Enhancement Project*. Prepared by U.S. Fish and Wildlife Service and Ducks Unlimited, Inc.

(PDF titled BoneRanch_SupplementalInformation_COMPILED)

DEPARTMENT OF FISH AND WILDLIFE

Notice of Completion

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

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

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

Project Authorization

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

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

FISH AND GAME CODE SECTION 1653
 CONSISTENCY DETERMINATION
 REQUEST FOR
 Finch Creek Fish Passage Barrier Removal Project
 (Tracking Number: 1653–2022–099–001–R4)
 Monterey County

California Department of Fish and Wildlife (CDFW) received a Request to Approve on 8/23/2022, that the University of California Berkeley proposes to carry out a habitat restoration or enhancement project pursuant to Fish and Game Code section 1653. The proposed project involves removing a concrete ford fish passage barrier from Finch Creek and replacing it with a concrete bridge deck and restoring 240 feet of stream bed with native material and plants. The proposed project will be carried out on Finch Creek, within the Hastings Natural History Reservation, Carmel Valley, Monterey, California.

On 1/5/2022, the Central 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 Finch Creek Fish Passage Barrier Removal 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. 32722WQ02) for coverage under the General 401 Order on 6/27/2022.

University of California Berkeley 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, University of California Berkeley 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, University of California Berkeley will have the opportunity to submit under Fish and Game Code section 1652.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

INYO ROCK DAISY

(*Perityle inyoensis* synonym *Laphamia inyoensis*)

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its August 17, 2022 meeting, accepted for consideration the petition submitted to list the Inyo rock daisy (*Perityle inyoensis* synonym *Laphamia inyoensis*) as threatened or endangered under the California Endangered Species Act.

Pursuant to subdivision (e)(2) of Section 2074.2 of the Fish and Game Code, the Commission determined that the amount of information contained in the petition, when considered in light of the California Department of Fish and Wildlife's (Department) written evaluation report, the comments received, and the remainder of the administrative record, would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur.

Based on that finding and the acceptance of the petition, the Commission is also providing notice that the Inyo rock daisy is a candidate species as defined by Section 2068 of the Fish and Game Code.

Within one year of the date of publication of this notice of findings, the Department shall submit a written report, pursuant to Section 2074.6 of the Fish and Game Code, indicating whether the petitioned action is warranted. Copies of the petition, as well as minutes of the August 17, 2022 Commission meeting, are on file and available for public review on the Commission's website at fgc.ca.gov or from Melissa Miller-Henson, Executive Director, California Fish and Game Commission, 715 P Street, 16th floor, Sacramento, California 95814, phone (916) 653-4899.

Written comments or data related to the petitioned action should be directed to the California Department of Fish and Wildlife, P.O. Box 944209, Sacramento, CA 94244-2090, Attn: Kristi Lazar or email nativeplants@wildlife.ca.gov (include "Inyo Rock Daisy" in the subject line). Submission of information via email is preferred.

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.

Division of Occupational Safety and Health (Cal-OSHA)

File # 2022-0812-01

Definition of Normal Consumption

The Division of Occupational Safety and Health (Division) readopts, for a second time, this emergency action to implement and make specific the policy set forth in Labor Code section 6403.3 (the so-called "stockpile" requirement on health care facilities for maintaining adequate supplies of personal protective equipment [PPE]), which was enacted to address the shortage of PPE for front line health care workers resulting from the COVID-19 pandemic and to protect these healthcare workers from further spread of COVID-19 as well as ensure adequate supply of PPE to prepare for the future. Specifically, the Division proposes to readopt a regulation to clarify the meaning of "normal consumption" of PPE and to provide a straightforward and understandable formula for calculating "three months of normal consumption" of PPE as those terms are used in Labor Code section 6403.3.

Title 08

Adopt: 340.70

Filed 08/18/2022

Effective 08/24/2022

Agency Contact: Lisa Brokaw (510) 286-6958

Business, Consumer Services and Housing Agency

File # 2022-0810-01

Conflict-of-Interest Code

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

Title 02
 Amend: 59760
 Filed 08/24/2022
 Effective 09/23/2022
 Agency Contact: Phil Laird (916) 653-4090

Fair Political Practices Commission
 File # 2022-0722-03
 Complaints Filed with the Commission

This action amends the requirements for the contents of and procedures for submitting complaints and referrals to the Enforcement Division of the Fair Political Practices Commission. The action also amends the Commission's regulation concerning its posting of, and its responses to requests from the public for, information about enforcement matters.

Title 02
 Amend: 18360
 Filed 08/22/2022
 Effective 09/21/2022
 Agency Contact: Amanda Apostol (916) 322-5660

Fair Political Practices Commission
 File # 2022-0725-03
 Cryptocurrency

This action repeals the Fair Political Practices Commission's regulation prohibiting the making or receiving of contributions in cryptocurrency and adopts a new regulation that specifies the requirements for the making and receiving of contributions of cryptocurrency.

Title 02
 Adopt: 18421.1
 Repeal: 18215.4
 Filed 08/22/2022
 Effective 09/21/2022
 Agency Contact: Amanda Apostol (916) 322-5660

Fair Political Practices Commission
 File # 2022-0725-05
 Complaint Against a Commissioner

This action adopts a regulation specifying the process for referral, by the Chief of Enforcement, of complaints which allege that a member of the Fair Political Practices Commission has violated the Political Reform Act to the Office of the Attorney General.

Title 02
 Adopt: 18315
 Filed 08/22/2022
 Effective 09/21/2022
 Agency Contact: Amanda Apostol (916) 322-5660

California Energy Commission
 File # 2022-0714-02
 Gender-Neutral Language and Other Grammatical Changes

This action by the California Energy Commission makes changes without regulatory effect by updating regulatory text to incorporate gender-neutral language and to correct grammatical errors.

Title 20
 Amend: 1002, 1102, 1104, 1105, 1206, 1221, 1302, 1303, 1312, 1342, 1392, 1394.1, 1602, 1603, 1605.3, 1606, 1608, 1609, 1622, 1625, 1673, 1709, 1709.8, 1715, 1727, 1747, 1770, 1867, 2323, 2506, 2507, 2510, 2554, 2555, 2556, 3201, 3204, 3207
 Filed 08/24/2022
 Agency Contact: Nicolas Oliver (916) 931-8011

California Prison Industry Authority
 File # 2022-0718-01
 Intoxicants

This action by the California Prison Industry Authority makes changes without regulatory effect to a regulation concerning intoxicants to revise structure, grammar, and punctuation.

Title 15
 Amend: 8107
 Filed 08/24/2022
 Agency Contact: Moira Doherty (916) 413-1140

Air Resources Board
 File # 2022-0308-02
 Clean Miles Standard Regulation

In this rulemaking action, the Board adopts regulations to implement Senate Bill 1014 (Stats. 2018, chapter 369), the Clean Miles Standard and Incentive Program. The regulations establish the annual targets for transportation network companies (TNCs), over-compliance credits, and optional credits.

Title 13
 Adopt: 2490, 2490.1, 2490.2, 2490.3, 2490.4
 Filed 08/19/2022
 Effective 10/01/2022
 Agency Contact: Chris Hopkins (279) 208-7347

Board of Pharmacy
 File # 2022-0713-01
 Pharmacy/Hospital Self-Assessment Forms

This action amends regulations governing Self-Assessment of a Pharmacy by the Pharmacist-in-Charge to update and establish the requirements for the following self-assessment forms in regulation: Community Pharmacy Self-Assessment/Hospital Outpatient Pharmacy Self-Assessment (Form 17M-

13) and Hospital Pharmacy Self-Assessment (Form 17M-14), which are used as a self-assessment tool for pharmacies to confirm compliance with provisions of applicable state and federal law.

Title 16
Amend: 1715
Filed 08/24/2022
Effective 10/01/2022
Agency Contact: Lori Martinez (916) 518-3078

Board of Pharmacy
File # 2022-0713-02
Wholesaler/3PL Self-Assessment Form

In this rulemaking action, the Board amends its regulation to reflect changes in the terminologies used in pharmacy laws. The amendment also modifies the content of Form 17M-26, now entitled "Wholesaler/Third Party Logistics Provider Self-Assessment," and adds instructions related to the form in the regulation.

Title 16
Amend: 1784
Filed 08/24/2022
Effective 10/01/2022
Agency Contact: Lori Martinez (916) 518-3078

Department of Justice
File # 2022-0712-01
Fair and Accurate Governance of the CalGang Database

This rulemaking action amends the Department of Justice Audit Form CJIS 9005 to better cover gangs that are active in multiple Nodes, and it changes the deadline for the annual written attestation from Node and User Agencies from October 15th to January 1st of the next year.

Title 11
Amend: 755.8, 756.1, 756.6
Filed 08/18/2022
Effective 08/18/2022
Agency Contact: Marlon Martinez (213) 269-6437

Fish and Game Commission
File # 2022-0711-01
State Marine Recreational Management Areas

This action restores prohibitions against taking living marine resources and adds restrictions against taking geologic and cultural marine resources in State Marine Recreational Management Areas.

Title 14
Amend: 632
Filed 08/19/2022
Effective 08/19/2022
Agency Contact: Sherrie Fonbuena (916) 902-9284

Department of Health Care Access and Information
File # 2022-0714-01
Hospital Supplier Diversity Reporting Program

This action by the Department of Health Care Access and Information adopts notice and reporting requirements concerning hospital supplier diversity in accordance with Assembly Bill 962 (Stats. 2019, chapter 815).

Title 22
Adopt: 95000, 95001, 95002, 95003, 95004, 95005, 95006, 95007, 95008, 95009, 95010, 95011, 95012, 95013, 95014
Filed 08/22/2022
Effective 10/01/2022
Agency Contact: Sharon Takhar (916) 326-3975

Department of Veterans Affairs
File # 2022-0713-03
Vet Homes Eligibility Determinations

This action amends eligibility requirements for Veterans Homes. It clarifies eligibility for joint applications and joint admissions for a veteran and a non-veteran spouse/domestic partner, adds requirements for veterans to provide records related to criminal background, and for restrictions on admission based on criminal background. It additionally adds provisions for an appeals process.

Title 12
Amend: 505.2
Filed 08/24/2022
Effective 10/01/2022
Agency Contact: Phil McAllister (916) 653-1961

State Personnel Board
File # 2022-0713-04
Appeals Process Reimbursement

This rulemaking action by the State Personnel Board seeks to clarify the appeal procedures applicable to voided appointments and orders for reimbursement of compensation.

Title 02
Amend: 52.4, 243.2, 243.3, 243.5, 243.6
Filed 08/22/2022
Effective 10/01/2022
Agency Contact: Lori Gillihan (916) 651-1043

**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 oal.ca.gov.