



California Regulatory Notice Register

REGISTER 2022, NUMBER 38-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

SEPTEMBER 23, 2022

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

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

**PROPOSED ACTION
ON REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Access Services
Beaumont-Cherry Valley
Water District
Westlands Water District

A written comment period has been established commencing on September 23, 2022 and closing on November 7, 2022. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return

the proposed codes to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest codes. Any written comments must be received no later than November 7, 2022. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

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

EFFECT ON HOUSING
COSTS AND BUSINESSES

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

AUTHORITY

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

REFERENCE

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

CONTACT

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

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

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

**TITLE 5. STUDENT
AID COMMISSION**

AMEND ARTICLE 2, SECTIONS 30023
AND 30026

NOTICE IS HEREBY GIVEN that the California Student Aid Commission (Commission) proposes to amend the proposed regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding this proposal is currently not scheduled. However, any interested person or duly authorized representative may request, no later than 15 days before the close of the written comment period that a public hearing be scheduled.

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

Notice is also given that any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

California Student Aid Commission
Attention: Synequeen Alasa-as, Legal Services
P.O. Box 419026
Rancho Cordova, CA 95741

Comments may also be submitted by facsimile (FAX) at (916) 464-6411 or by e-mail to Rulemaking@csac.ca.gov. The public comment period for this regulatory action will **begin on Friday, September 23, 2022**. Comments must be **submitted by Monday, November 7, 2022**, to be considered.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 69433.7 of the Education Code, the proposed regulations implement, interpret and make specific Section 69435.5 of the Education Code. In addition, Section 69432.9(c)

(2)(B)(iii)(I) requires the Commission to promulgate regulations that address a grace period for submitting a grade point average or a test score in lieu of a grade point average. The California Community College Expanded Entitlement Program is governed by both of these provisions, and the Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations to establish a deadline for when the Commission to receive a grade point average s for the California Community College Expanded Entitlement Program under Education Code Section 69435.5.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Education Code Section 69435.5 was added by Assembly Bill 132 (AB 132), Chapter 144, Statutes of 2021, and amended in 2022 by Assembly Bill 183 (Chapter 54, Statutes of 2022). One of the stated purposes of AB 132 was to: *“establish a California Community College Expanded Entitlement Award for students who were not awarded a Cal Grant A or B award at the time of the student’s high school graduation but who will be enrolled at a California community college during the award year and who meet all of the criteria, as specified.”*

With respect to this goal, Education Code Section 69435.5(c)(1) now provides that: *The commission shall use the standardized student financial aid application described in Section 69432.9.* Education Code Section 69432.9(a) requires: *A Cal Grant applicant shall submit a complete official financial aid application pursuant to Section 69433 and applicable regulations adopted by the commission.* Included within the statutory requirements is that an applicant must include information related to their grade point average.

Education Code section 69432.9(c)(2)(B)(iii) provides: *the Commission shall adopt regulations that establish a grace period for receipt of the grade point average and any appropriate corrections, and that set forth the circumstances under which a student may submit a specified test score designated by the Commission, by regulation, in lieu of submitting a qualifying grade point average.*

The proposed regulatory amendments were developed to satisfy these provisions of the Education Code as they apply to the newly established California Community College Expanded Entitlement Program pursuant to Education Code Section 69435.5.

Objectives and Benefits of the Proposed Regulation

The proposed regulatory amendments will support the effective administration of the newly established California Community College Expanded Entitlement Program by the Commission on behalf of student applicants. The proposed regulations will add program clarity and specificity concerning the corrective ap-

plication grace period, the conditions under which in-lieu test scores may be submitted by program applicants, and the method to reestablish a grade point average. Efficient administration of this program should enable the Commission to increase the number of entitlement awards made available to Community College students, in a timely manner, to support student educational goals. There are no expected benefits to worker safety, and public health and safety resulting from this rulemaking.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

After conducting a review of the related State regulations in this area, the Commission has determined that other regulations exist with respect to high school students, who may qualify for financial aid under the existing Cal Grant Program. However, the Cal Grant program applies to recent high school graduates and is not available to older or returning students who may be entering a Community College. The proposed regulations establishing the California Community Entitlement Program would extend CAL Grant financial aid opportunity to such students. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on Local Agencies and School Districts:
None.

Fiscal Impact Estimates:

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state. With respect to potential cost or savings to State agencies, the California Student Aid Commission may incur minor absorbable costs relative to preparing the proposed regulations.

Housing Cost: None.

Cost Impact on Representative Private Person or Business:

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

Other Business Impacts:

The Commission has determined the proposed regulatory action would have no significant statewide ad-

verse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by California Government Code Section 11342.610. This proposal would not affect private sector or small business as defined by California Government Code Section 11342.610.

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

Results of the Economic Impact Analysis:

The proposed regulations would clarify program provisions and application requirements for the California Community College Expanded Entitlement Program. Participating in this educational grant funding program is a voluntary option available to eligible students. As such, the proposed regulations place no new or substantial requirements on businesses, individuals, or government agencies within California.

The regulatory amendments are not expected to create or eliminate any jobs within the state. The regulation is not expected to create new businesses or eliminate existing businesses within the state or cause an expansion to businesses currently doing business within the state. Therefore, the proposed regulations have no potential for adverse economic or fiscal impact. Furthermore, there is no significant statewide adverse economic impact directly affecting businesses, including California businesses' ability to compete with businesses in other states or on representative private persons.

The benefits of this regulation, as discussed above, would be to improve the efficient administration of this program by the Commission on behalf of student applicants. This should enable more students to take advantage of this source of educational grant funding in support of their educational goals. The regulation is not expected to directly impact California residents' health and welfare, worker safety, or the state's environment.

FEDERAL MANDATE

There are no comparable provisions of federal law related to this proposal. The regulation would only apply in California and specifically to establishing the California Community College Expanded Entitlement Program. The regulations would neither affect nor conflict with any federal regulations or federal education programs.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more

effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested parties to submit statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period or at the public hearing.

CONTACT PERSONS

Inquiries concerning the proposed adoption of the regulations and written comments may be directed to:

Synequeen Alasa-as
California Student Aid Commission
P.O. Box 419026, Rancho Cordova, CA 95741
Telephone: (916) 464-6411
Fax: (916) 464-6411
Email: Rulemaking@csac.ca.gov

The back-up contact person for these inquiries is:

Gary Collord
California Student Aid Commission
P.O. Box 419026, Rancho Cordova, CA 95741
Telephone: (916) 347-0632
Fax: (916) 464-8033
Email: Rulemaking@csac.ca.gov

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

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office listed at the address above. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of regulations, the initial statement of reasons, an economic and fiscal analysis, and other reference information upon which the proposed rulemaking is based. Copies may be obtained by making a written request to Synequeen Alasa-as.

These documents may also be viewed and downloaded from the Commission's Web site at <https://www.csac.ca.gov/proposed-regulations-rulemaking-documents>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If

the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Synequeen Alasa-as at the above address. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by making a written request to Synequeen Alasa-as at the above address.

WEBSITE ACCESS

Materials regarding this proposal can be found at <https://www.csac.ca.gov/proposed-regulations-rulemaking-documents>.

TITLE 10. BUREAU OF REAL ESTATE APPRAISERS

MINIMUM BASIC AND CONTINUING EDUCATION REQUIREMENTS

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers (hereafter Bureau or BRE) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Bureau at its office no later than 5:00 pm on Tuesday, November 8,**

2022, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 11313, 11314, 11340, 11360, and 11361 of the Business and Professions Code (BPC) and to implement, interpret, or make specific BPC sections 11340, 11360, 11361, and 11424, the Bureau is considering amending sections 3500, 3543, and 3568 of, and adding section 3542 to, title 10 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing federal law, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (Public Law 101-73), established the Appraiser Foundation. The Appraiser Qualifications Board is an independent board of the Appraiser Foundation and establishes the minimum education, experience, and examination requirements for appraisers to qualify for state licensure or certification.

Assembly Bill 948 (Holden) Chapter 352, Stats. 2021 (AB 948), prohibits a licensee from basing their appraisal of the market value of a property on the basis of race, color, religion, gender, gender expression, age, national origin, disability, marital status, source of income, sexual orientation, familial status, employment status, or military status of either the present or prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property, or on any other basis prohibited by the federal Fair Housing Act. It requires the Bureau to adopt regulations to require, beginning January 1, 2023, an applicant to complete at least one hour of instruction in cultural competency. It further enacts continuing education (CE) requirements in order to renew a license, beginning on or after January 1, 2023, at least two hours of elimination of bias training and at least one hour of instruction in cultural competency every four years. (It made additional changes not relevant here.)

Business and Professions Code sections 11314 and 11340 provide the Bureau broad rulemaking authority to establish the education requirements necessary for initial licensure. Sections 11360 and 11361 provide the Bureau with rulemaking authority to establish the CE requirements necessary for licensure renewal. The Bureau proposes to separate those different education requirements, which are currently in one section, for greater clarity and easier reading. In addition, the Bureau proposes to specify the new requirements for an applicant for licensure to receive education in cultur-

al competency in order to better serve a diverse California. It also proposes to specify the new continuing education requirements for renewal of a license in cultural competency and training in the elimination of bias to better serve the diverse population in California and ensure more fair appraisals.

Anticipated Benefits of Proposal

The proposal will implement AB 948 by specifying the requirements for instruction in cultural competency for applicants as a requirement of their basic education for licensure, and CE in cultural competency and training in the elimination of bias for licensees as a condition of renewal. This will allow applicants and licensees to understand their obligations and inform providers as to the minimum elements of the respective curriculums in order to create courses that will meet the requirements. By separating out the basic education requirements from the CE requirements, prospective and current licensees will be able to discern more easily which requirements apply to them. The proposed regulations aim to benefit the health and welfare of California’s residents through the elimination of bias and cultural competency to better serve the diverse cross-culture population in California and ensure equal treatment of all and fair appraisals. The regulations also clarify the Bureau’s and licensees’ requirements established with Assembly Bill 948.

Consistency and Compatibility with Existing State Regulations

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

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Bureau has made the following initial determinations:

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 proposed regulations do not result in a fiscal impact to the state. The amendments clarify and specify basic educational and continuing education requirements, but do not increase workload or costs to the state. The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

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

The Bureau has made the 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. No business is required to develop new coursework.

**RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS:
BUSINESS IMPACT ESTIMATES**

Impact on Jobs/Businesses

The Bureau has determined that this regulatory proposal will not impact the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Benefits of Regulation

The proposed regulations aim to benefit the health and welfare of California’s residents through the elimination of bias and cultural competency to better serve the diverse cross–culture population in California and ensure equal treatment of all and fair appraisals. The regulations also clarify the Bureau’s and licensees’ requirements established with Assembly Bill 948. The proposed regulations are not expected to affect worker safety or the state’s environment.

Business Reporting Requirements

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

Effect on Small Business

The Bureau has determined that the proposed regulations will not affect small businesses. While many licensees are small businesses, the amendments clarify and specify basic educational and continuing education requirements, but do not increase costs to small businesses in the state.

Cost Impact on Representative Private Person or Business

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The amendments clarify and specify basic educational and continuing education requirements, but do not increase costs to individuals in the state.

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau 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; 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 submit comments to the Bureau in writing relevant to the above determinations at 3075 Prospect Park Drive, Suite 190, Rancho Cordova, CA 95670, or via e–mail to the Contact Person listed below.

**AVAILABILITY OF STATEMENT OF
REASONS AND RULEMAKING FILE**

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau at 3075 Prospect Park Drive, Suite 190, Rancho Cordova, CA 95670.

**AVAILABILITY OF CHANGED OR
MODIFIED TEXT**

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

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.

CONTACT PERSONS

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

Name: Loretta Dillon
Address: Bureau of Real Estate Appraisers
3075 Prospect Park Drive, Suite 190
Rancho Cordova, CA 95670
Telephone Number: (916) 610-9879
Email: Loretta.Dillon@brea.ca.gov

The backup contact person is:

Name: Mary Ann Lopez
Address: Bureau of Real Estate Appraisers
3075 Prospect Park Drive, Suite 190
Rancho Cordova, CA 95670
Telephone Number: (916) 610-9891
Email: Maryann.Lopez@brea.ca.gov

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of this Notice of Proposed Actions, the Initial Statement of Reasons, and the text of the regulations, as well as the Final Statement of Reasons when completed and text modified from the original proposed text, if any, can be accessed through the Bureau's website at <https://www.brea.ca.gov/html/Rulemaking.html>.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO
CONSIDER PROPOSED IN-USE
LOCOMOTIVE 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 In-Use Locomotive Regulation.

Date: November 17, 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 November 18, 2022. Please consult the public agenda, which will be posted ten days before the November 17, 2022, Board Meeting, for important details, including, but not limited to, the day on which this item will be considered, how to participate via Zoom, and any appropriate direction regarding a possible remote-only Board Meeting if needed.

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 23, 2022. Written comments not submitted during the hearing must be submitted on or after September 23, 2022, and received **no later than November 7, 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 proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 38597, 39600, 39601, 39658, 39659, 39666, 39667, 39674, 39675, 41511, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 43008.6, 43013, 43016, 43018, and 43019.1. This action is proposed to implement, interpret, and make specific sections 39650, 39659, 41511, 43013, and 43018, Health and Safety Code.

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

Sections Affected:

Proposed adoption to California Code of Regulations, title 13, section 2478.

Background and Effect of the Proposed Regulatory Action:

Staff are proposing the In-Use Locomotive Regulation (Proposed Regulation) to achieve emission reductions from diesel-powered locomotives operating in California. Emission reductions from locomotives are needed to better protect communities from near-source pollution impacts, contribute to meeting the current health-based ambient air quality standards, and further California’s climate goals.

Background

In 2020, California’s locomotive sector was responsible for ten percent of statewide oxides of nitrogen (NOx) emissions from mobile sources and are projected to grow to over 15 percent in 2035 without regulation.¹ While most other mobile sectors are expected to significantly reduce emissions by 2035 as cleaner technologies are adopted, the locomotive sector’s relative contribution is expected to increase without the Proposed Regulation.

The Proposed Regulation will reduce emissions from locomotives operating in California by requiring locomotive operators to fund a spending account based on the public health costs to Californians from locomotive emissions and activity levels. Locomotive operators may use funds held in the spending account to purchase cleaner locomotive technologies. The Proposed Regulation would prohibit locomotive with engine build dates 23 years and older from operating in California starting in 2030. The Proposed Regulation, starting in 2030, also requires that switch, industrial and passenger locomotives with original engine build dates of 2030 or later operate in a zero emission (ZE)

configuration in California. Additionally, in 2035, line haul locomotives with original engine build dates of 2035 or later will need to operate in a ZE configuration in California.

The Proposed Regulation will achieve emission reductions that will minimize health risk associated with exposure to toxic and criteria pollutants, help meet federal air quality standards, and support California’s greenhouse gas (GHG) reduction goals. The Proposed Regulation would also increase the use of ZE technology in the off-road sector and support the goals of Executive Order N-79-20.^{2,3}

Effects of the Proposed Regulation

The Proposed Regulation is designed to achieve public health, air quality, and climate benefits by requiring the transition of the oldest diesel-powered locomotives to cleaner technologies including ZE technology. Key elements of the Proposed Regulation include the following:

1. *Spending Account.* For each locomotive operated in California, locomotive operators will deposit funds into a spending account annually. The amount deposited in the account is calculated by using the locomotive’s annual usage in megawatt hours (MWh) or per gallon of fuel and the locomotive’s emission factors. Emission factors reflect estimates of the health cost burden on Californians due to these locomotive emissions. Funds in the Spending Account may only be used for:
 - a. The purchase, lease, or rental of Tier 4 or cleaner locomotives, or for the remanufacture or repower to Tier 4 or cleaner locomotive until January 1, 2030.
 - b. The purchase, lease, or rental of ZE locomotives, ZE capable locomotives, ZE rail equipment, or to repower to ZE locomotives or ZE capable locomotives. A ZE capable locomotive is one that can be operated in a zero emission capacity when in California.
 - c. The purchase of ZE infrastructure intended to support ZE locomotives, ZE capable locomotives or ZE rail equipment.
 - d. The pilot or demonstration of ZE locomotives or ZE rail equipment.
2. *In-Use Operational Requirements.* Starting January 1, 2030, only locomotives with original engine build dates less than 23 years may operate in California. Additionally, on January 1, 2030,

² Executive Order N-79-20, State of California Executive Order signed by Governor Gavin Newsom, September 23, 2020. (weblink: <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>).

³ Executive Order N-79-20 set a goal for 100 percent ZE off-road vehicles and equipment by 2035.

¹ CARB, Appendix G, CARB’s 2022 In-Use Locomotive Emission Inventory: Regulation Proposal and Scenarios.

all switch and passenger and industrial locomotives with an original engine build date of 2030 or later must operate in a ZE configuration in California. Starting January 1, 2035, all line haul locomotives with an original engine build date of 2035 or later must operate in a ZE configuration in California. As part of these requirements, in 2027 and 2032, staff will assess the progress made in ZE technologies for use with switch, industrial, passenger and freight line haul locomotives, as well as the status of infrastructure improvements that may be needed to support ZE and ZE capable locomotives.

3. *Idling Requirements.* The Proposed Regulation specifies that locomotives cannot idle in California for more than 30 minutes before the engine must be shut down. Certain exemptions permit idling in excess of 30 minutes consistent with those found in 40 C.F.R. Part 1033.
4. *Recordkeeping and Reporting.* The Proposed Regulation requires operators to submit annual reports on locomotive operations by California Air District for each locomotive operated in the state.

OBJECTIVES AND BENEFITS OF THE PROPOSED REGULATORY ACTION

Objectives

The main objectives of the Proposed Regulation are to: (1) achieve fine particulate matter (PM_{2.5}), NO_x, and GHG emission reductions needed to protect communities from near-source pollution impacts, contribute toward meeting the current health based ambient air quality standards across California, and contribute toward achieving the state's climate goals; (2) transition diesel-powered locomotives to ZE technology, as directed by Executive Order N-79-20, which set a goal for 100 percent ZE off-road vehicles and equipment by 2035; (3) address multiple state policies and plans directing CARB to achieve additional diesel emission reductions; and (4) collect payment from diesel-powered locomotive operators to cover CARB's reasonable costs associated with the implementation and enforcement of the Proposed Regulation, as allowed by Health and Safety Code sections 38597 and 43019.1.

Benefits

The primary benefits of the Proposed Regulation are PM_{2.5}, NO_x, and GHG emission reductions from diesel-powered locomotives that operate in California. Staff estimates that cumulatively, from 2024 to 2050, the Proposed Regulation will reduce statewide emissions by approximately 7,450 tons of PM_{2.5}, 389,600 tons of NO_x, and 21.9 million metric tonnes of GHGs, relative to the baseline. These emission re-

ductions will benefit California residents by reducing cancer risk to individual residents and off-site workers near facilities where locomotives operate, including those located in and near disadvantaged communities; improving air quality and resulting ozone exposure from reductions in NO_x; providing GHG emission reductions needed to combat climate change; and reducing non-cancer health impacts such as premature deaths, hospital visits for cardiovascular and respiratory illnesses, and emergency room visits for asthma, especially in sensitive receptors including children, the elderly, and people with chronic heart or lung disease. The total statewide valuation of avoided adverse health outcomes as a result of the Proposed Regulation from 2024 to 2050 is approximately \$31.9 billion. Emission reductions will also reduce occupational exposure and benefit on-site workers, including, but not limited to locomotive operators and other individuals who work at facilities where locomotives operate.

The Proposed Regulation will provide an opportunity to increase ZE technology in the off-road locomotive sector. As more ZE and ZE capable locomotives are operated in California as a result of the Proposed Regulation, industry acceptance of advanced technologies will improve. The state of ZE locomotive technologies will progress, starting with shorter ranged locomotives such as switchers, and expand into extended range locomotives such as line haul locomotives.

Operators may choose to retrofit existing locomotives to be able to operate in a ZE capacity some (or all) of the time (referred to here as a ZE capable locomotive) or may instead purchase new or used ZE locomotives as they become commercially available. Retrofitting existing locomotives may benefit various businesses in the ZE locomotive supply chain, including those involved in battery and fuel cell technology throughout the state. Purchases of ZE locomotives may benefit ZE locomotive manufacturers, as well as various businesses in the ZE locomotive supply chain, including those involved in battery and fuel cell technology throughout the state. Supporting infrastructure installations will provide opportunities for design, engineering, construction, and project management firms to design new and expanded infrastructure, as well as benefit suppliers, equipment installers, and electricians. The expansion of electric charging infrastructure will also increase the amount of electricity supplied by utility providers and help the state's investor-owned utilities meet the goals of Senate Bill 350 (De León, Stats. 2015, chapter 547), which requires the state's investor-owned utilities to develop programs to accelerate widespread transportation electrification with goals to reduce dependence on petroleum, increase the uptake of ZE vehicles and equipment, help meet air quality standards, and reduce GHGs.

Lastly, the Proposed Regulation will result in noise reduction benefits. Diesel-powered locomotives can produce a substantial amount of noise, which also results in adverse health impacts. This is of concern when locomotives operate in and near places where people live, work, and play. Staff have received several noise complaints regarding locomotive activity near schools, hospitals, elder care facilities, and residential neighborhoods. The Proposed Regulation will transition diesel locomotives to ZE technology, which can produce little to no noise. The Proposed Regulation will eventually lead to the elimination of use of diesel-powered locomotives and reduce noise levels.

Public Process

To ensure an open and transparent rulemaking, staff have engaged in an extensive public process since development of the Proposed Regulation began in 2019. Staff conducted four public workshops to discuss regulatory concepts, methodology and data used to develop the proposed regulatory concepts, infrastructure considerations, compliance and enforcement mechanisms, as well as solicit stakeholder feedback. Staff posted information regarding these workshops and any associated materials on the CARB locomotive webpage⁴ and distributed notice of these meetings through several public list serves that include over 129,600 recipients.⁵

As of July 2022, staff have conducted more than 250 informal meetings, phone calls, and site visits with a broad group of stakeholders to discuss the Proposed Regulation and gather input and information. This includes members of impacted communities, environmental justice advocates, air districts, locomotive owners and operators, trade associations, locomotive manufacturers and other interested parties. A detailed summary of all stakeholder outreach activities is included in section XI of the Initial Statement of Reasons (ISOR).

⁴ California Air Resources Board, Reducing Rail Emissions in California, accessed August 2, 2022. (weblink: <https://ww2.arb.ca.gov/our-work/programs/reducing-rail-emissions-california>.)

⁵ Number of subscribers for the following CARB lists as of June 29, 2022, AB32 Public Health Workgroup; Cargo Handling Equipment Regulatory Activities; Climate Change; Environmental Justice ChERRP, Commerce; Environmental Justice Stakeholders Group; Port and Rail Plan; Goods Movement Emission Reduction Program; Harbor Craft; Harbor Communities Monitoring; Tractor-Trailer GHG Regulation; Locomotive Emission Reduction Program; Environmental Justice ChERRP, Mira Loma; Truck and Bus Regulation; Port Truck; Railyard Emission Reduction Program; Reduction of GHG Emissions from Refrigerated Shipping Containers; Sustainable Freight Transport Initiative; Shore Power for Ocean Going Vessels; State Implementation Plan; Transport Refrigeration Units; Vessel Speed Reduction for Ocean Going Ships; West Oakland Risk Assessment; Environmental Justice ChERRP, Wilmington.

COMPARABLE FEDERAL REGULATIONS

The United States Environmental Protection Agency (U.S. EPA) sets new locomotive emission standards under 40 C.F.R. Part 1033. There are no comparable federal regulations which address the same issues as CARB’s Proposed Regulation, as the federal government has not adopted regulations for in-use locomotives. Therefore, the Proposed Regulation does not conflict with nor duplicate any current federal regulations.

Section 209(e) of the Clean Air Act prohibits states from adopting standards to control emissions from new locomotives or new engines used in locomotives (42 U.S.C. § 7543(e)(1)(B).) The Proposed Regulation does not prescribe any emission standards for new locomotive engines but instead only requires that locomotive operators meet certain operational requirements. While operators could meet these requirements by purchasing new locomotives that outperform current U.S. Environmental Protection Agency (U.S. EPA) emission standards, that is not necessary to meet the requirements of the Proposed Regulation. In other words, the Proposed Regulation does not require the purchase of any new locomotive that would outperform current U.S. EPA emission standards.

AN EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

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

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

DISCLOSURE REGARDING THE PROPOSED REGULATION

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 or savings to any state agency, would create costs or savings in federal funding to the state, would create costs or mandate to any local agency or school district, whether or not re-

imbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to state or local agencies.

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

Pursuant to Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Proposed Regulation is a mandate that would create costs and cost-savings to local agencies and school districts. However, these costs to local agencies are not reimbursable by the state under Government Code, title 2, division 4, part 7 (commencing with section 17500) because costs associated with the Proposed Regulation apply generally to all locomotive operators, including local agencies and school districts. Therefore, the Proposed Regulation does not constitute a “Program” imposing any unique requirements on local agencies or school districts as set forth in Government Code section 17514.

Cost or Savings for State Agencies:

The estimated costs to CARB as a result of the Proposed Regulation include the direct and indirect labor costs for the additional positions needed to successfully implement and enforce the Proposed Regulation as described below and operational costs (e.g., surveillance systems and data storage).

- 0.5 Air Resources Supervisor II position, 4.0 Air Pollution Specialist (APS) positions, 1.0 Staff Services Analyst position and 4.0 Air Resources Technician (ART) II positions in Fiscal Year 2023–2024.

Implementation duties include assisting locomotive operators with reporting and applicable registration, providing technical assistance, and issuing exemptions and waivers. Enforcement duties include conducting inspections and issuing and processing citations. The need for additional CARB staff is due to the addition of responsibilities for a new program.

The Proposed Regulation will also have a fiscal impact on state government agencies that operate locomotives. Staff determined state government agencies own approximately 27 locomotives, or less than 1 percent of the total number of locomotives operating in California. Staff applied this percentage to the total equipment-related direct costs to estimate the costs incurred by state government locomotive operators.

The Proposed Regulation will increase the number of ZE locomotives operating in California. Displacing diesel with electricity will decrease the total amount of diesel fuel dispensed in the state, resulting in a reduction in diesel fuel tax revenue collected by state government. For this analysis, staff used the combined state and local sales tax rate of 8.6 percent, which is a weighted average based on county-level output, with

3.94 percent⁶ going towards state sales tax and 4.67 percent⁷ going towards local sales tax.

The Energy Resources Fee is a \$0.0003/kilowatt-hour surcharge levied on consumers of electricity purchased from electrical utilities.⁸ The revenue collected is deposited into the Energy Resources Programs Account of the General Fund which is used for ongoing energy programs and projects deemed appropriate by the Legislature, including but not limited to, activities of the California Energy Commission.

The Proposed Regulation includes annual administrative payments of \$175 for each diesel-powered and ZE capable locomotive that is operated in California. The proposed payment will result in revenue to the state to offset costs to CARB to implement and enforce the Proposed Regulation.

Sales tax is levied in California to fund a variety of programs at the local and state levels. The Proposed Regulation will result in the sale of more expensive locomotives and infrastructure in California, which will result in a direct increase in sales tax revenue collected by the state. However, overall, state sales tax revenue may increase less than the direct increase from locomotive and infrastructure sales if overall business spending does not increase. Staff used a combined state and local sales tax rate of 8.6 percent, which is a weighted average based on county-level output, with 3.94 percent⁹ going towards state sales tax and 4.67 percent¹⁰ going towards local sales tax.

From 2023 to 2050, staff estimated the cost to state government due to the Proposed Regulation to be \$470 million, from locomotives operated by state government; and approximately \$68 million in costs to CARB. State government will also see a direct increase in revenue from Energy Resources Fees, annual administrative payments and state sales tax of \$228 million; as well as a decrease in sales tax from diesel fuel of \$1.3 billion. Staff estimated the net cost to state government to be \$1.59 billion from 2023 to 2050.

⁶ California Department of Tax and Fee Administration, Detailed Description of the Sales & Use Tax Rate, accessed August 2, 2022. (weblink: <https://www.cdtfa.ca.gov/taxes-and-fees/sut-rates-description.htm>).

⁷ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, accessed August 2, 2022. (weblink: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>).

⁸ California Department of Tax and Fee Administration, 2020 Electrical Energy Surcharge Rate, December 2019. (weblink: <https://www.cdtfa.ca.gov/formspubs/1725.pdf>).

⁹ California Department of Tax and Fee Administration, Detailed Description of the Sales & Use Tax Rate, accessed August 2, 2022. (weblink: <https://www.cdtfa.ca.gov/taxes-and-fees/sut-rates-description.htm>).

¹⁰ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, accessed August 2, 2022. (weblink: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>).

CARB will seek authorization to use collected annual administrative payments to offset costs incurred to implement and enforce the Proposed Regulation.

Other Non-Discretionary Costs or Savings on Local Agencies:

The Proposed Regulation would cost local government agencies that own locomotives (e.g., Metrolink, Caltrain) approximately \$515 million. Using the locomotive inventories created for the Proposed Regulation, staff calculated direct costs incurred by local government locomotive owners. In attributing costs for local government, based on data from the Federal Transit Administration's National Transit Summaries and Trends 2019,¹¹ staff allocated local governments a 46 percent share of capital costs and 69 percent of maintenance costs associated with the Proposed Regulation. State funding provided 23 percent of capital costs, and federal funding providing 31 percent of capital costs and maintenance costs.

Several cities and counties in California levy a utility user tax on electricity usage. This tax varies from city to city and ranges from no tax to 11 percent. For this analysis, staff used a value of 3.53 percent, representing a population-weighted average. Since switcher locomotives are modeled to transition to battery-electric locomotives and therefore increase the amount of electricity used, there would be an increase in the amount of utility user tax revenue collected by cities and counties. Line haul and passenger locomotives are assumed to be hydrogen fuel cell, and therefore do not affect utility user taxes.

Off-road diesel locomotive use is exempt from on-road diesel taxes, but it does incur sales tax. Displacing diesel with electricity or hydrogen would decrease the total amount of diesel fuel dispensed in the state, resulting in a reduction in tax revenue collected by local governments. For this analysis, staff used the combined state and local sales tax rate of 8.6 percent, which is a weighted average based on county-level output, with 3.94 percent going towards state sales tax and 4.67 percent going towards local sales tax.

Sales tax is levied in California to fund a variety of programs at the local and state levels. The Proposed Regulation will result in the sale of more expensive locomotives and infrastructure in California, which will result in a direct increase in sales tax revenue collected by local governments. However, overall, local sales tax revenue may increase less than the direct increase from locomotive and infrastructure sales if overall business spending does not increase. Staff used a combined state and local sales tax rate of 8.6 percent,

¹¹ Federal Transit Administration, National Transit Summaries and Trends 2019, accessed August 2, 2022. (weblink: <https://www.transit.dot.gov/funding/grants/urbanized-area-formula-grants-5307>).

which is a weighted average based on county-level output, with 3.94 percent¹² going towards state sales tax and 4.67 percent¹³ going towards local sales tax.

From 2023 to 2050, staff estimated the cost to local governments due to the Proposed Regulation to be \$515 million, resulting from locomotives operated by local governments. Local governments will also see a direct increase in utility user and local sales tax revenue of \$220 million and a decrease in sales tax from diesel fuel of \$490 million. Staff estimated the total fiscal cost to local governments to be \$1.0 billion from 2023 to 2050.

Cost or Savings in Federal Funding to the State:

The Proposed Regulation would have a small fiscal impact to federal government agencies that provide funding for state and local locomotives, relative to the total estimated cost of the Proposed Regulation. The cost to the federal government is estimated to be approximately \$362 million from 2023 to 2050.

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.

¹² California Department of Tax and Fee Administration, Detailed Description of the Sales & Use Tax Rate, accessed August 2, 2022. (weblink: <https://www.cdtfa.ca.gov/taxes-and-fees/sut-rates-description.htm>).

¹³ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, accessed August 2, 2022. (weblink: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>).

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)):

11346.3(c)(1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, and that has prepared a standardized regulatory impact assessment (SRIA) in the manner prescribed by the Department of Finance pursuant to section 11346.36. The standardized regulatory impact analysis shall address *all* of the following:

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

The Proposed Regulation is estimated to result in a decrease in employment growth in California most years of the assessment. These changes in employment represent less than 0.01 percent of baseline California employment in 2025, grow to represent a decrease of 0.05 percent of baseline California employment in 2035, and diminishes to be approximately 0.01 percent of baseline California employment by 2050. The patterns of decreasing employment growth closely track the annual costs of the Proposed Regulation as the direct impacts of the Proposed Regulation more broadly impact businesses and individuals in California. In 2023, 2024 and 2025, the modeled results show an increase in employment. This is primarily associated with an increase in revenue from the sale and scrap-
page of locomotives and the associated decrease in maintenance costs in those years.

The rail transportation industry in California bears the greatest direct cost of the Proposed Regulation and is also estimated to see the greatest impact to employment growth. The Proposed Regulation would result in a decrease in employment growth in 2025 of 8 jobs, a decrease in employment growth in 2040 of 249 jobs, and a decrease in employment growth in 2050 of 64 jobs; a decrease of about two percent in the years of greatest impact.

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

The Proposed Regulation does not directly result in business creation or elimination and the Regional Economic Models, Inc. (REMI) model cannot directly estimate the creation or elimination of businesses. However, based on the modeling of changes in output and employment, businesses involved in the manufacture and installation of hydrogen infrastructure, as well as hydrogen manufacturing, may see expansions in business. To the degree that any California businesses are involved in the manufacture of new locomotives, these businesses may also expand to meet demands. The

greatest impacts to output and employment could occur in the rail transportation industry. A large portion of the costs will be borne by Class I operators. The Class I operators are large national corporations and are not anticipated to experience business elimination because of the Proposed Regulation.

While changes in jobs for the California economy cannot directly estimate the broader impacts of business creation and elimination, job changes can be used to understand some of the potential impacts to businesses. The overall job impacts of the Proposed Regulation are small relative to the total California economy. The changes in statewide employment represent, at most, a 0.05 percent change relative to baseline California employment in any given year.

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

There could be indirect competitive disadvantages to California businesses that depend primarily on rail transport. California producers and their products compete with producers and products from other states and nations. The extent and nature of that competition depends on commodity type. For example, some California products are differentiated by source or brand, such as Napa Valley wines, California raisins, or Tesla autos. Since customers may not see wines, raisins, or autos from elsewhere as perfect substitutes, differentiated products can often command a somewhat higher price and have a greater ability to absorb transportation cost differences without losing market share. Other California products dominate their industry due to production volume and are somewhat shielded from competition because other sources cannot satisfy the market demand. However, California products that are not differentiated by source or brand must compete on delivered price and reliability of supply. Some California businesses may therefore face increased competition to the extent that their product prices are affected by increased shipping costs associated with the Proposed Regulation.

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

Gross domestic private 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.

Under the Proposed Regulation, private investment is anticipated to decrease by \$7 million in 2025, decrease by \$673 million in 2040, and decrease by \$96 million in 2050. These impacts to private investment range between a decrease of less than 0.01 percent to a decrease of about 0.11 percent.

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

The Proposed Regulation would initiate the transition to ZE for locomotives operating in California. In the short term, locomotive switchers (Class I, Class III, and industrial) provide a unique opportunity to accelerate the deployment of ZE technology in the off-road sector. Unlike line haul locomotives, which may travel throughout the country and return to a base only for periodic maintenance, switchers are generally used for railyard operations or local and regional delivery, returning to a railyard or home base each night. Due to their daily operational characteristics and the operating range of current ZE technologies, switchers are well suited for ZE pilots in California. Passenger operators are also beginning to implement ZE technology and are expected to have access to commercially available ZE locomotives by 2030 (see Locomotive Technology Feasibility Assessment within the ISOR for further details). Even with line haul locomotives, Union Pacific and BNSF Railway have committed to integrating ZE technology. As use of ZE technologies expands, technical capabilities will improve, and they are expected to operate comparably with diesel technology. Additionally, as ZE switchers are increasingly adopted, industry acceptance of advanced technologies is improving. The current state of ZE locomotive technology is expected to progress and expand into extended range applications, as well as other off-road sectors.

Additionally, the Proposed Regulation would increase the installation of electric charging and hydrogen fueling infrastructure needed to support the use of ZE locomotives. Currently, ZE technologies are underutilized due, in part, to limited access to supporting infrastructure at facilities where locomotives operate. Installations of electric charging and hydrogen fueling infrastructure will support the use of these technologies, as well as other advanced technology equipment and vehicles.

(F) *The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.*

The Proposed Regulation is designed to reduce toxic air contaminant, criteria pollutant, and GHG emissions by transitioning old, highly polluting locomotives to the cleanest diesel-powered locomotives available and ZE locomotives. Cumulatively, from 2023 to 2050, the Proposed Regulation is expected to reduce statewide locomotive emissions by approximately 7,450 tons of PM_{2.5} and 389,600 tons of NO_x relative to the baseline. The total statewide valuation of avoided health outcomes from 2023 to 2050 is approximately \$31.96 billion. The cost-savings associated with reduced fuel

and maintenance costs as well as sold and salvaged locomotives to all locomotive operators is about \$11.4 billion. The operator cost-savings are in part offset by about \$1.8 billion in lost tax and fee revenue at the state and local governments.

(G) *Department of Finance Comments and Responses.*

Department of Finance (DOF) comment (1): "...the SRIA assumes that railroads will replace their entire fleets and continue their current practice of sending any available long-haul locomotives to California. However, the SRIA also estimates that the required hydrogen locomotives would cost about 70 percent more than diesel locomotives and that operators will spend more on hydrogen fuel than on diesel fuel, so railroads may have an incentive to replace only the locomotives that run in California and to continue running diesel locomotives in other states. The SRIA should include a sensitivity analysis to show how impacts may vary under different compliance scenarios or provide justification for the current assumption."

CARB Response: CARB agrees it is probable that California Class I locomotive operators would not replace their entire national line haul fleet to comply with the Proposed Regulation. Absent more granular data specific to Union Pacific and BNSF Railway operations, staff utilized trends observed from annually reported data collected by the 1998 Memorandum of Mutual Understanding and Agreements (MOU), South Coast Locomotive Fleet Average Emissions Program (98MOU). The 98MOU data suggests that Class I locomotive operators prioritized cleaner locomotives in the South Coast Air Basin (SCAB) in the early years of the agreement. Once enough early reduction credits were obtained to achieve the minimum fleet average emissions, the Class I locomotive operators stopped being selective about the SCAB locomotive fleet. From 2010 through 2012, 65 percent of SCAB locomotive activity was done with Tier 2/2+ and cleaner locomotives, with Tier 1/1+ and dirtier locomotives accounting for around 30 percent. By 2017, Tier 1/1+ and dirtier locomotives accounted for 43 percent of Class I SCAB activities and have since remained close to that level. This shows that operators have switched from prioritizing certain locomotives for use in California to dispatching locomotives without considering emission levels when possible. Absent Class I input that could inform the fleet operational characteristics, staff provided analysis on both situations.

The SRIA provides separate modeling outputs for a California specific fleet and a national fleet turnover. The Proposed Regulation and alternatives reflect the cost to California, to provide values for comparison to the California specific health benefits presented. Since operations in California represent ten percent of Class I national operations, operators could either send the

ten percent of their fleet with the cleanest emissions, similar to their early actions under the 98MOU, or could send locomotives without consideration of their emissions, similar to their current actions. Either way, the cost to California is the same and is based on ten percent of their national operations used to calculate California benefits. Staff separately provided a sensitivity analysis of the national costs if Class I operators chose to turn over 100 percent of their line haul locomotives.

Also, the Proposed Regulation *does not* require hydrogen locomotives and is neutral to the technology that achieves ZE or a hybrid ZE-capable locomotive. Using currently available technology as a guide, staff assumes hydrogen fuel cell locomotives to be the current preferred ZE locomotive option for line haul locomotives; however, this may change during the span of the Proposed Regulation based on technology advancements.

The SRIA currently assumes yard switchers and road switchers operated by Class I, Class III, and industrial operators will eventually transition to battery-electric ZE locomotives. Class I line haul and passenger locomotives are presumed to use hydrogen fuel cell locomotives due to their increased operational range needs. In 2016, CARB published a report analyzing economic impacts of operating locomotive exchange points outside California to swap out battery-electric ZE locomotives with diesel locomotives. The report concluded that operation of exchange points would cause delays that may lead to mode shift to trucks, and railroads could lose approximately \$1.1 billion in revenue. Hydrogen fuel cell locomotives can meet Class I line haul operational needs better than battery-electric locomotives without locomotive exchange points due to their longer range. As mentioned previously, it is possible Class I operators could choose to have a designated California fleet of cleaner locomotives and continue to use diesel elsewhere. However, discussions with Class I operators have not indicated whether this was a viable option. Additionally, CARB could not determine what the California fleet would be comprised of, whether battery-electric or hydrogen, and thus absent input from Class I operators more analysis is not likely to yield an improved impact assessment.

DOF comment (2): “The SRIA assumes that incidence-per-ton factors calculated for the period from 2014 to 2016 will hold in the future, while it may be that additional years of data might change these factors and/or causal relationships and hence change the estimated benefits. The SRIA should explain why the period from 2014 to 2016 was used or update the analysis with additional years of data.”

CARB Response: The SRIA uses the most updated incidence-per-ton (IPT) factors available to estimate

future health benefits. CARB will be updating the IPT factors and underlying data in the future, but additional analyses are needed to ensure that the IPT factors for human-made sources of air pollution are not affected by events such as the occurrence of high wild-fire seasons after 2016. There is a strong body of epidemiological research supporting the causal and likely causal relationships between PM_{2.5} exposure and the adverse health outcomes CARB evaluated, and this research has grown over the years. Additionally, recent studies continue to show that exposures to even low PM_{2.5} concentrations, below the levels of current air quality standards, can lead to adverse health outcomes. Therefore, the causal and likely causal relationships reflect the most recent science.

DOF comment (3): “The SRIA evaluates cancer impacts for only the population living within a mile of a railyard. As moving from just inside the 1-mile radius to just outside may not eliminate the cancer risk, the SRIA should include a sensitivity analysis to show how health benefits may vary for different proximities or explain why the 1-mile rule is the best approximation to evaluate changes in cancer risk from reduced locomotive emissions.”

CARB Response: Between 2007 and 2009, CARB conducted railyard health risk assessments (HRA) for 17 major railyards in California. The railyard HRAs showed that the diesel PM (DPM) emission from locomotives operating within a railyard resulted in elevated cancer risks in the communities adjacent to the railyards, and beyond. The HRAs also indicated that the zone of impact can extend to an area of several miles from the boundary of the railyard. DPM has been identified as a toxic air contaminant by CARB and there is no acceptable level of exposure for all communities either adjacent to or around the railyards.

For the Proposed Regulation, staff updated the 2007–2009 HRAs. The updated Health Risk Characterization (HRC) averaged the cancer risk, with a region extending out one mile from the railyard boundary as a reference area to evaluate the relative reduction in cancer risk that would result from the Proposed Regulation. Staff further broke down the one-mile area into bands of 0–0.25, 0.25–0.5, and 0.5–1.0 miles, and the estimated average cancer risks within these areas. The results showed a strong association between the cancer risk level and the distance from emission sources, which is consistent with the findings of previous HRAs.

As presented in the HRC, the locomotive DPM emission reductions from the Proposed Regulation indicate that there would be substantial reductions of health impacts within communities near railyards. The residents exposed to the elevated cancer risks within areas beyond one-mile from the railyard boundaries would also have similar risk reductions from the Proposed

Regulation. Using the one-mile boundary to show that cancer risk from DPM emitted by locomotives directly correlates with the distance from the emission source, means that additional analysis of boundaries beyond one mile was not necessary for the Proposed Regulation.

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 regulatory proposal, staff evaluated the potential economic impacts on representative private persons or businesses. The total direct cost for locomotive operators to comply with the Proposed Regulation is estimated to be approximately \$23.4 billion from 2023 to 2050. These costs include all capital, maintenance, fuel, administrative, and opportunity costs and savings incurred by all parties. The estimated cost savings from 2023 to 2050 is \$10.9 billion. The total net cost of the Proposed Regulation from 2023 to 2050 is estimated to be \$13.8 billion, which is less than the approximate \$31.9 billion in expected monetized health benefits.

The Proposed Regulation could result in indirect costs to individuals to the extent that affected businesses pass compliance costs through to consumers. If the total direct cost of the Proposed Regulation is fully passed through to consumers, the cost per California household from total impact of the Proposed Regulation from 2023 to 2050 is estimated to be an average of \$58 per household yearly.

Passenger locomotive operators that incur increased costs after pursuing local, state, and federal funding may decide to pass on costs to individuals, through changes in service or fares. However, government grant funding could reduce or eliminate the additional capital costs of the Proposed Regulation. To the extent that passenger locomotive operators are successful in offsetting the upfront incremental costs, fares could be unaffected for individuals and could lead to potential fare reductions in later years due to operational cost savings. However, CARB calculated the cost to individuals if fares could not be offset with government funding. The hypothetical impact to fares if passenger

operators passed through 100 percent of their costs to riders would be local passenger fares could increase by approximately 39 cents and state passenger fares could increase by \$2.27 on average, assuming 1.5 percent growth in ridership year-over-year.

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. To identify small businesses and model their estimated costs of compliance with the Proposed Regulation, staff reviewed locomotive populations and fuel usage for Class III and industrial locomotive operators. Among the locomotive operators reviewed, staff identified that those with an average annual revenue over \$5 million have 7 or more locomotives and are already buying new locomotives using their revenue and, in some cases, grants. Small businesses (companies with less than \$5 million in revenue per year) rarely, if ever, purchase new locomotives. They primarily operate pre-Tier 0 engines which have the highest emissions and therefore would also incur the highest Spending Account funding requirements.

The cost for small businesses to comply with the Proposed Regulation from 2023 to 2050, ranges from approximately \$25,000 to \$1,262,000. At maximum, this is approximately 97 percent of small businesses annual revenue. Recognizing that the Proposed Regulation requirements may challenge some small businesses, especially those operating Pre-Tier 0 locomotives, staff has included a Small Business Hardship Extension provision in the Proposed Regulation. For more information on this provision see Appendix A 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.

Staff considered five alternatives to the Proposed Regulation. As explained in section IX of the ISOR, no alternative proposal was found to be less burden-

some and equally effective in achieving the purposes of the Proposed Regulation in a manner that ensures full compliance with the authorizing law. Staff has not identified any reasonable alternatives that would lessen any adverse impact on small business.

STATE IMPLEMENTATION PLAN REVISION

If adopted by CARB, CARB plans to submit the proposed regulatory action to the U.S. EPA for approval as a revision to the California State Implementation Plan (SIP) required by the federal Clean Air Act. 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 Clean Air Act.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the Proposed Regulation, has prepared a draft environmental analysis (Draft 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 Resources Code § 21080.5). The Draft EA concluded implementation of the Proposed Regulation, could result in: beneficial impacts to air quality, GHG emissions and climate change; less than significant impacts to air quality, energy demand, energy resources, GHG emissions, land use and planning, mineral resources, population and housing, public services, recreation, and wildfire; and potentially significant adverse impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, noise, transportation and traffic, tribal cultural resources, and utilities and service systems.

Beneficial impacts are related to reductions in PM, NOx, and GHG emission as well as decreased use of diesel fuel. The potentially significant and unavoidable adverse impacts are primarily related to short-term, construction-related activities. This explains why some resource areas are identified above as having both less-than-significant impacts and potentially significant impacts. The Draft EA, included as Appendix D to the ISOR, is entitled “Draft Environmental Analysis for the Proposed Regulation for In-Use Locomotives.” Written comments on the Draft EA will be accepted during a 45-day public review period starting on September 23, 2022, and ending at 12:00 a.m. on November 7, 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 Layla Gonzalez, Staff Air Pollution Specialist, Freight Systems Section, at layla.gonzalez@arb.ca.gov or at (279) 208-7827 or Ajay Mangat, Manager, Freight Systems Section, at ajay.mangat@arb.ca.gov or at (279) 208-7136.

AVAILABILITY OF DOCUMENTS

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

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB’s website listed below, on September 20, 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 rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

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

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2022/locomotive>.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE IN-USE OFF-ROAD DIESEL-FUELED FLEETS REGULATION

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption the Proposed Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation (Proposed Amendments).

Date: November 17, 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 November 18, 2022. Please consult the public agenda, which will be posted ten days before the November 17, 2022, Board Meeting, for important details, including, but not limited to, the day on which this item will be considered, how to participate via Zoom, and any appropriate direction regarding a possible remote-only Board Meeting if needed.

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 23, 2022. Written comments not submitted during the hearing must be submitted on or after September 23, 2022, and received **no later than** November 7, 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 proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39002, 39003, 39515, 39516, 39600, 39601, 39602, 39602.5, 39650, 39656, 39658, 39659, 39665, 39667, 39674, 39675, 39730.8(c), 40000, 41511, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.1, 42402.2, 42402.4, 42403, 43000, 43000.5, 43013, 43016, 43018, 43018.2, and 43600. This action is proposed to implement, interpret, and make specific sections 39000, 39002, 39003, 39515, 39516, 39600, 39601, 39602, 39602.5, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 39674, 39675, 39730.8(c), 40000, 41511, 42400, 42400.1, 42400.2, 42402.2, 43000, 43000.5, 43013, 43016, 43018, 43018.2, 43600, 43865, and 43866 of the California Health and Safety Code.

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

Sections Affected:

Proposed amendments to California Code of Regulations, title 13, sections 2449, 2449.1, and 2449.2.

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

The following document is incorporated in the regulation by reference:

- American Society for Testing Materials (ASTM) International, 2021. "Standard Specification for Diesel Fuel. Designation D975-21," August 1, 2021. Copyrighted.

Background and Effect of the Proposed Regulatory Action:

The purpose of the Off-Road Regulation is to reduce diesel particulate matter (DPM), Oxides of Nitrogen (NOx), and other criteria air pollutants from in-use off-road diesel-fueled vehicles in California (Cal. Code Regs., title 13, § 2449, subdivision (a)). The Off-Road Regulation addresses emissions from a wide variety of off-road diesel vehicles, ranging from small skidsteer loaders used in residential landscaping to very large mining trucks, dozers, forklifts, cranes, and excavators. These vehicles are often used in construction, mining, industrial operations, and other industries. The existing Off-Road Regulation (Current Regulation) requires fleets to reduce their emissions by retiring older engines and replacing the retired engines with newer engines, repowering older engines, or installing verified diesel emission control strategies in older engines (VDECS); and by restricting the addition of older vehicles to fleets. The Current Regulation has been effective but is in need of updates as technology continues to advance and California's air quality needs remain serious.

Despite significant improvements in California's air quality over the past decades, major populated regions in California are still not in attainment with the federal national ambient air quality standards (NAAQS) for particulate matter 2.5¹ (PM2.5) and ozone. In addition to emitting PM2.5 and NOx (which is a precursor to ozone), off-road diesel vehicles also emit DPM, which has been identified as a toxic air contaminant (TAC) by CARB and poses a significant public health risk, especially at the local level. Action is needed to reduce DPM at a statewide level to reduce the health risk throughout California, especially in communities that experience disproportionate burdens from exposure to TACs. The Draft 2022 State Strategy for the State Implementation Plan (2022 State SIP Strategy) proposes several measures to address these needs for further emissions reductions from the off-road sector, and the Proposed Amendments are identified as one such measure.

The Proposed Amendments, as identified in the Draft 2022 State SIP Strategy, are critical measures needed to achieve further emissions reductions than the Current Regulation from the off-road sector to achieve California's clean air goals. The Proposed Amendments would reduce emissions by requiring fleets to phase out operation of their oldest and

¹ PM2.5 is fine particulate matter that are 2.5 microns or less in diameter.

highest-emitting off-road diesel vehicles, prohibiting the addition of high-emitting vehicles to a fleet, and requiring the use of R99 or R100 renewable diesel² in off-road diesel vehicles. Below is a list of the major changes included in the Proposed Amendments:

- Phase out the oldest and highest-emitting off-road engines (Tiers 0, 1, and 2) from operation in California. This provision will be implemented by fleet size and engine Tier;
- Restrict the addition of vehicles with Tier 3 and 4 Interim (i) engines, which expands provisions of the Current Regulation that restrict the vehicle engine Tier that can be added to a fleet;
- Require public works awarding bodies and prime contractors to obtain a fleet's Certificate of Reported Compliance prior to awarding a contract to or hiring a fleet;
- Mandate the use of R99 or R100 renewable diesel for all fleets, with some limited exceptions;
- Provide voluntary compliance flexibility options for fleets that adopt zero-emission technology; and
- Include additional requirements to increase enforceability, provide clarity, and provide additional flexibility for permanent low-use vehicles.

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

Existing Regulations: Standards for New Off-Road Engines

CARB's regulatory programs for new off-road diesel engines are largely harmonized with the United States Environmental Protection Agency's (U.S. EPA) for nonroad diesel engines. Since the mid 1990's, emission standards adopted by U.S. EPA and CARB have required new off-road engines to become progressively cleaner. In developing the standards for new engines, staff worked closely with U.S. EPA to develop harmonized federal and California programs. The emission standards are divided into four increasingly stringent levels (Tiers); the allowed emission level and effective dates vary by horsepower (hp). Until the mid-1990s, off-road diesel engines were not subject to emission standards (commonly known as Tier 0 or "uncontrolled"). Starting in 1996, depending on engine size, the tiered standards began to be phased in. Tier 4 standards are divided into two stages for engines with a maximum rated hp of 25 or greater, interim and final. More information on the implementation years for the off-road compression ignition engine emission standards can be found in Chapter I the Staff Report: Initial Statement of Reasons (ISOR).

² Fuel that is 99 percent or 100 percent renewable diesel.

Objectives and Benefits of the Proposed Regulatory Action:

The primary goal of the Proposed Amendments is to reduce emissions of criteria and toxic air pollutants which hurt public health, welfare, and the environment in California, to meet federal and State ambient air quality standards. An additional goal of the Proposed Amendments is to maintain a level playing field for compliant fleets conducting business in California and ensure that the projected emissions reductions of both the Current Regulation and the Proposed Amendments are achieved. The Proposed Amendments also aim to support the zero-emission goals outlined in the Governor's Executive Order N-79-20 by providing voluntary compliance pathways that offer compliance flexibility to participants when adopting zero-emission technology, which is critical for expanding zero-emission technology in the off-road sector.

Public Rulemaking Process for Development of the Proposed Amendments

Consistent with Government Code sections 11346, subdivision (b), and 11346.45, subdivision (a), and with the Board's long-standing practice, CARB staff held public workshops and other meetings with interested stakeholders during the development of the Proposed Amendments which were used to make the determination of the proposed action. This extensive public process began in May 2021 and included 3 virtual public workshops, 3 public workgroup meetings, and over 30 individual meetings with stakeholders upon request to gather additional information and feedback during the development of the Proposed Amendments. Staff also established the Proposed Amendments email, ordamendments@arb.ca.gov, so that the public could reach out to CARB staff at any time.

Potential Benefits of the Proposed Amendments

Cumulatively, from 2024 through 2038, the Proposed Amendments are expected to reduce statewide emissions from off-road diesel-fueled vehicles by approximately 31,087 tons of NOx and 2,717 tons of particulate matter (PM) beyond the reductions expected from the Current Regulation. About half of the additional NOx and PM reductions from the Proposed Amendments are expected to be realized within the first five years of implementation. The additional emissions reductions from the Proposed Amendments are expected to reduce the concentration of PM in the communities in which these vehicles operate, benefiting both local residents and the operators of the vehicles alike, as well as reducing the concentration of ozone, which provides regional health benefits. These emission reductions and associated improvements in air quality would be especially beneficial in environmental justice communities that are frequently located in areas with increased exposure to air pollution and toxics from in-use off-road diesel vehicles.

CARB staff estimated the reduction in adverse health outcomes associated with reduced emissions of PM_{2.5} and NO_x due to the Proposed Amendments. These health outcomes include cardiopulmonary mortality, hospital admissions for cardiovascular and respiratory illnesses, and emergency room visits for asthma. Based on the analysis, staff estimates that the total reduction in the number of cases statewide due to the implementation of the Proposed Amendments from 2024 to 2038 would be as follows:

- 571 fewer premature deaths (446 to 699, 95 percent confidence interval),
- 82 fewer hospital admissions for cardiovascular illnesses (0 to 161, 95 percent confidence interval),
- 98 fewer hospital admissions for respiratory illnesses (23 to 173, 95 percent confidence interval), and
- 277 fewer emergency room visits for asthma (175 to 379, 95 percent confidence interval).

The Proposed Amendments would also reduce worker exposure to harmful air pollutants for workers that utilize in-use off-road diesel vehicles at their job. In California alone, it is estimated that 150,000 people are occupationally exposed to off-road heavy-duty diesel vehicles. This includes, but is not limited to, those people working as construction equipment operators, construction laborers, highway maintenance workers, and surface miners.³ The Proposed Amendments will play an important role in reducing the amount of DPM and NO_x emissions to which workers are exposed. The expected results are improved working conditions, fewer lost workdays, and long-term health benefits for workers.

The Proposed Amendments introduce additional requirements for prime contractors and public works awarding bodies that will ensure that these entities only enter into contracts with compliant fleets, therefore making it harder for noncompliant fleets to inappropriately operate in California and applying additional pressure to these fleets to come into compliance if they wish to contract with these entities. These changes achieve implementation and enforcement benefits of maintaining a level playing field for compliant vehicles conducting business in California and reducing the monetary advantage of noncompliant fleets and vehicle owners that try to circumvent the requirements of the Off-Road Regulation.

Although the Proposed Amendments would not require the deployment of zero-emission technology, voluntary provisions have been included to promote

³ Jobs & Income. (2019). USAFacts. Retrieved July 5, 2022, from https://usafacts.org/data/topics/economy/jobs-and-income/?utm_source=bing&utm_medium=cpc&utm_campaign=ND-Economy&msclkid=298c80e31a941c4490cfe2277aaed3f5.

this objective. These provisions offer some compliance flexibility for the deployment of zero-emission off-road vehicles. The voluntary provisions support increasing the population of currently available zero-emission off-road vehicles which, in turn, will improve fleet experience with these vehicles and facilitate expansion of the technology into additional off-road vehicle categories.

Comparable Federal Regulations:

Currently, there are no federal regulations that directly address the same issues as CARB’s Proposed Amendments. The U.S. EPA has promulgated emission standards for new off-road diesel engines, but has not promulgated federal standards for addressing emission reductions from fleets operating in-use vehicles with off-road (nonroad) engines. Consequently, the Proposed Amendments are not comparable to any federal regulations.

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

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

Mandated by Federal Law or Regulations (Gov. Code, §§ 11346.2, subdivision (c), 11346.9)

The Proposed Amendments are not identical to one or more corresponding federal regulations.

DISCLOSURE REGARDING THE PROPOSED REGULATION

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

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

Pursuant to Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Proposed Amendments are a mandate that would create costs and cost-savings to local agencies and school districts. However, these costs to local agencies are not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500). The direct costs from the Proposed Regulation can generally be categorized into two categories: 1) vehicles and maintenance costs and 2) contracting costs for public works awarding bodies to receive Certificates of Reported Compliance from contractors. The vehicle and maintenance costs are not reimbursable because these apply generally to all entities that own and operate affected vehicles, including local agencies. The contracting requirements apply broadly to all prime contractors and all public works awarding bodies that contract for a project involving the use of vehicles subject to the Off-Road Regulation, which effectively applies to most construction related contracting in the State where vehicles subject to the Off-Road Regulation are operating. Additionally, the contracting requirements do not require a higher level of service from public works awarding bodies because most agencies already require compliance with State law as a condition of getting a contract. Therefore, the Proposed Amendments do not constitute a “Program” imposing any unique requirements on local agencies as set forth in section 17514 of the California Government Code.

Cost or Savings for State Agencies:

The State government owns and operates vehicles subject to the tier phase-out and adding vehicle restrictions of the Proposed Amendments. Using February 2022 data from DOORS, the reporting tool for the Off-Road Regulation, CARB staff determined that the number of vehicles owned by the State government is one percent of the total number of vehicles reported.

The Proposed Amendments would require contracting entities, including public works awarding bodies, verify fleet compliance by obtaining and reviewing the Certificate of Reported Compliance from all known fleets before awarding a contract and only enter into contracts with fleets compliant with the regulation. These requirements have administrative costs that yield direct costs on the State government.

CARB anticipates the need for additional staff (3 Air Pollution Specialists and 4 Air Resources Technician II) to conduct additional enforcement, outreach, compliance assistance and maintenance of compliance assistance tools. This additional staff will have an initial cost of \$1.053 million in 2024 and \$1.046 million in annual ongoing costs.

From 2023 through 2038, State government is estimated to face additional costs of approximately \$46 million, savings of \$13 million, an increase of revenue of \$119 million, and decrease of revenue of \$77 million as a result of these Proposed Amendments, if approved. The vehicle and maintenance costs will not be spread across all State government agencies equally but will instead be directly related to the number of vehicles a State agency owns and operates and to the tier distribution of those vehicles. Based on data reported in DOORS, the California Department of Transportation owns and operates about 40 percent of all the State-owned off-road vehicles reported in DOORS and, along with the California Department of General Services, does the most public works contracting that would be subject to the Proposed Amendments. Other agencies that will be impacted by the Proposed Amendments include, but are not limited to, the California Department of Forestry and Fire Protection and the California Department of Parks and Recreation, each with approximately 7 percent of reported State-owned off-road vehicles reported in DOORS, and the California Department of Fish and Wildlife, which has approximately 6 percent of reported State-owned off-road vehicles reported in DOORS.

The Proposed Amendments are not anticipated to have current fiscal year (2022–2023) impacts. The impacts in 2023 are anticipated to occur in the second half of 2023, subsequent to the adoption and effective date of the Proposed Amendments.

Other Non-Discretionary Costs or Savings to Local Agencies:

Local agencies own and operate vehicles subject to the tier phase-out and additional vehicle restrictions of the Proposed Amendments. Almost any local agency could own and operate a vehicle subject to the Proposed Amendments, such as a forklift operating in a warehouse or other facility. However, the local agencies that will be most impacted are those that are involved in public works, waste management and sanitation, flood control and water agencies, parks and recreation districts, fire departments, and transportation agencies. The costs will not be spread across all local agencies equally but will instead be directly related to the number of vehicles a local agency owns and operates and to the tier distribution of those vehicles. Using February 2022 data from DOORS, CARB staff determined that the number of off-road vehicles reported in DOORS owned by local governments to be three percent of the total number of vehicles reported to CARB under the Current Regulation.

The Proposed Amendments require that contracting entities, including public works awarding bodies, verify fleet compliance by obtaining and reviewing the Certificate of Reported Compliance from all known fleets before awarding a contract and only enter into

contracts with fleets compliant with the regulation. These requirements have administrative costs that affect the direct costs on local governments. The new requirements for public works awarding bodies will be directly proportional to the number of public works projects an agency undertakes. During the development of the cost estimates for this requirement, CARB reviewed the Capital Improvement Plans of different agencies. These plans reveal a trend that entities with larger populations tend to have a larger number of public works projects. Using population as a surrogate, CARB anticipates that agencies located in the most populous areas of the state will be most impacted by this requirement. CARB estimates an annual cost of \$1.2 million associated with this provision, \$18.6 million from 2023 through 2038. More details on these estimated costs can be found in Chapter XI of the ISOR and Appendix B of the ISOR, Standardized Regulatory Impact Assessment.

From 2023 through 2038, the Proposed Amendments, if approved, are estimated to have a total cost to local agencies of \$110 million, a total cost savings of \$40 million, a revenue increase of \$141 million (primarily due to sales tax generated from the sales of off-road vehicles), and a revenue decrease of \$91 million. The Proposed Amendments are not anticipated to have current fiscal year (2022–2023) impacts. The impacts in 2023 are anticipated to occur in the second half of 2023 subsequent to the adoption and effective date of the Proposed Amendments.

Cost or Savings in Federal Funding to the State:

The Proposed Amendments are 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. CARB staff believes that it is unlikely that direct costs would be passed on to residents of new residential housing. CARB staff analyzed the potential indirect impact to new residential construction on a per unit basis based on forecasted production of new residential units and the needed units to meet California’s housing needs identified in the 2022 Statewide Housing Plan in Appendix B of the ISOR, Standardized Regulatory Impact Assessment.

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. The overall jobs and output impacts are small relative to the baseline employment for the California economy. The largest employment and output decreases in the State are estimated to be about 0.04 percent in 2025, 2026 and 2027. Reductions in output could indicate the elimination of businesses. Conversely, increased output within an industry could signal the potential for additional business creation if existing businesses cannot accommodate all future demand. There is no threshold that identifies the creation or elimination of businesses.

The Proposed Amendments impose requirements equally on all fleets that operate off-road diesel vehicles in California, whether the business that owns or operates them is based in-state or out-of-state. If an out-of-state business wants to operate vehicles subject to the Off-Road Regulation, it would need to comply with all requirements of the regulation, just as an in-state business would. In addition, the work performed by these off-road diesel vehicles is bound to the job site, and requires large infrastructure investments, such as mining and construction activities. Therefore, it is unlikely the directly-impacted businesses will move out of the State. More information on the potential economic impacts of the Proposed Amendments can be found in Chapter XI of the ISOR.

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 Amendments since the original SRIA submittal. The revisions are discussed in Chapter XI of the ISOR.

The creation or elimination of jobs within the state.

Regional Economic Models, Inc. (REMI) Policy Insight Plus Version 2.5.0 is used to estimate the macroeconomic impacts of the Proposed Amendments on the California economy. The Proposed Amendments are estimated to have a marginally negative impact on statewide employment from 2023 to 2031, and then a positive impact on statewide employment from 2032 to 2038, when compared to the baseline. The results suggest that the estimated negative employment impact for the initial years is primarily from increased production costs due to increases in vehicle purchase costs, maintenance costs, and contracting costs as a result of the Proposed Amendments. This is caused by

the Proposed Amendments' requirement to accelerate the replacement or retirement of vehicles with older engine Tiers between 2023 and 2031, which displaces natural turnover that would have happened after 2031. Overall, the change in total employment is anticipated to be small, relative to the baseline employment for the California economy. The year with the largest employment change is in 2027, which represents a 0.04 percent decrease relative to baseline California employment.

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

The Proposed Amendments are estimated to not directly result in business creation or elimination. Although the REMI model cannot directly estimate the creation or elimination of businesses the model does predict changes in the number of jobs and output in the California economy which can be used to understand some of the potential impacts to businesses. Initially California will see job losses but the overall impact will be a slight growth in employment which suggests that the Proposed Amendments will have a minimal impact on business operations. As off-road fleets and regulated entities face compliance costs, the potential for some of these businesses to be eliminated cannot be ruled out. The overall jobs and output impacts are small relative to the total California economy. The largest employment and output decreases in the State are estimated to be about 0.04 percent in 2025, 2026 and 2027. Reductions in output could indicate the elimination of businesses. Within the primary industries impacted, mining and construction are estimated to see the greatest negative impact in 2027, with an approximate 0.2 percent decrease in employment relative to baseline employment in 2027. Conversely, increased output within an industry could signal the potential for additional business creation if existing businesses cannot accommodate all future demand. There is no threshold that identifies the creation or elimination of business.

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

CARB staff do not anticipate impacts to the competitive advantage or disadvantage of businesses currently doing business in the State. The Proposed Amendments impose requirements equally on all fleets that operate off-road diesel vehicles in California, whether the business that owns or operates them is based in-state or out-of-state. If an out-of-state business wants to operate vehicles subject to the Off-Road Regulation, it would need to comply with all requirements of the regulation, just as an in-state business would. In addition, the work performed by these off-road diesel vehicles is bound to the job site, and requires large infrastructure investments, such as mining and construction activities. Therefore, it is unlikely the direct-

ly impacted businesses will move out of the State. Additionally, the contracting requirements apply broadly to all prime contractors doing business in the State.

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. Private domestic investment is estimated to show a decrease of \$256 million in 2023 compared to the baseline private investment value. The highest decrease of private investment is about \$806 million in 2027, which is followed by a positive trend resulting in an increase of \$225 million in 2038. In any given year this represents changes of 0.15 percent or less than that of baseline investment.

The incentives for innovation in products, materials, or processes.

The Proposed Amendments will further reduce emissions from off-road diesel equipment operating in California by phasing out the use of the most polluting vehicles. The Proposed Amendments target the removal of vehicles with Tier 0, 1, and 2 engines, and require the vehicles to be replaced with the cleanest available technology. The Tier 4 final engine standard has been in use since the late 2010's. Hence, the Proposed Amendments' requirements can be met with existing technology and will not be driving innovation in terms of engine standards.

However, the Proposed Amendments include an optional flexibility provision for fleets that want to incorporate zero-emission technology into their fleets. CARB staff does not assume any benefits or costs associated with this provision, as it is optional. The Proposed Amendments provide an opportunity for fleets wanting to participate in the beachhead innovation of off-road zero-emission technology to obtain additional compliance flexibility. The compliance flexibility offered in the Proposed Amendments could create a staging ground for fleets to initiate and improve their experience with zero-emission technology. While this provision provides opportunities, the degree to which it will be employed will depend on individual fleets' decisions and are not quantified.

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.

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

- The Proposed Amendments are expected to reduce NOx and PM from off-road diesel-fueled

vehicles operating in California beyond what would be achieved under the Current Regulation.⁴ Staff estimate that from 2024 through 2038, the Proposed Amendments would reduce cumulative statewide emissions by approximately 31,087 tons of NOx and 2,717 tons of PM beyond expected emissions reductions from the base regulation. Reducing these emissions would benefit individuals by reducing incidents of premature death, hospital admissions, and emergency room visits. Staff estimates that the total number of cases statewide that would be reduced (from 2024 to 2038) from the implementation of the Proposed Amendments are as follows: 571 fewer premature deaths, 82 fewer hospital admissions for cardiovascular illnesses, 98 fewer hospital admissions for respiratory illnesses, and 277 fewer emergency room visits for asthma. The total statewide valuation due to avoided health outcomes between 2024 and 2038 would be \$5.74 billion.

- The Proposed Amendments would also reduce worker exposure to harmful air pollutants for workers that utilize in-use off-road diesel vehicles at their job. In California alone, it is estimated that 150,000 people are occupationally exposed to off-road heavy-duty diesel vehicles. This includes, but is not limited to, those working as construction equipment operators, construction laborers, highway maintenance workers, and surface miners⁵. This amendment will play an important role in reducing the amount of DPM and NOx emissions to which workers are exposed. The expected results are improved working conditions, fewer lost workdays, and long-term health benefits for workers.

Department of Finance Comments and Responses.

DOF Comment #1: The SRIA must disclose disparate impacts, including those on state agencies that may bear proportionately higher costs relative to others. Currently, the SRIA reports separate costs only for the UC and CSU systems, and these cost estimates must be expanded to include other individual agencies that might also use a disproportionately larger number of the state's off-road vehicles.

⁴ As the engines impacted by the requirements of this regulation are not subject to greenhouse gas certification standards, no GHG analysis was completed for the replacement of these engines. CARB staff did not analyze a potential GHG benefit from the voluntary zero-emission compliance flexibility provision as the degree to which it will be employed will depend on individual fleets' decisions. Furthermore, any GHG benefit derived from the use of renewable diesel is already accounted for in the Low Carbon Fuel Standard and is not evaluated here.

⁵ Jobs & Income. (2019). USAFacts. Retrieved July 5, 2022, from https://usafacts.org/data/topics/economy/jobs-and-income/?utm_source=bing&utm_medium=cpc&utm_campaign=ND-Economy&msclkid=298c80e31a941c4490cfe2277aaed3f5.

Staff Response: CARB cannot precisely quantify an individual fleets direct costs since it would be speculative of CARB to assume a specific compliance strategy, and different compliance strategies have different costs. In Section 4.2 of the SRIA (starting on page 42), CARB attempted to provide an overview of which State agencies owned the most vehicles subject to the Proposed Amendments and therefore could have higher costs. Specifically,

The vehicle and maintenance costs will not be spread across all State government agencies. Based on data reported in DOORS, the California Department of Transportation owns and operates about 40 percent of all the State-owned vehicles and, along with the California Department of General Services, does the most public works contracting that would be subject to the Proposed Amendments. Other agencies that will be impacted by the Proposed Amendments include, but are not limited to, the California Department of Forestry and Fire Protection and the California Department of Parks and Recreation both with approximately 7 percent of reported State-owned vehicles and the California Department of Fish and Wildlife with approximately 6 percent of reported State-owned vehicles.

Actual costs for an individual fleet, including State government fleets, are dependent on many factors, including the current fleet makeup (e.g. higher percentage of Tier 0, Tier 1, or Tier 2 vehicles) and size of the fleet. Fleets that would have a higher cost burden are:

- Larger fleets (i.e., those with more vehicles),
- Fleets that have a relatively high percentage of vehicles subject to the Tier 0, Tier 1, or Tier 2 phase-out requirements of the Proposed Amendments, and
- Fleets that must comply with the large fleet requirements.⁶

Based on these assumptions and using information self-reported to CARB⁷ by the agencies, CARB has identified the State and local agencies that CARB believes may have a higher cost burden. There are limitations to this approach, however, since an individual fleet chooses their compliance strategy.

CARB has added four tables to Appendix C of the ISOR that present the top ten State and local agency fleets by the absolute number of impacted vehicles (those vehicles that are reported as Tier 0, Tier 1, or Tier 2 and subject to the tier phase-out requirement in the Proposed Amendments), and by the proportion of impacted vehicles in their fleets, two of the possi-

⁶ All state agencies are required to comply with the large fleet requirements of the Off-Road Regulation.

⁷ Data recovered from DOORS, the reporting tool for the Off-Road Regulation, on July 1, 2022.

ble criteria that may identify fleets subject to greater impacts. CARB estimates that State agencies own one percent and local agencies own three percent of the statewide population off-road vehicles subject to this regulation.

The new requirements for public works awarding bodies will be directly proportional to the number of public works projects an agency undertakes. During the development of the cost estimates for this requirement, CARB reviewed the Capital Improvement Plans of different agencies. These plans reveal a trend that entities with larger populations tend to have a larger number of public works projects. Using population as a surrogate, CARB anticipates that agencies located in the most populous areas of the State will be most impacted by this requirement. CARB has added a table to Appendix C of the ISOR that displays the counties with the highest projected populations in 2024, when this requirement begins to take effect⁸. Compliance costs for this requirement will vary, based on the internal policies and procedures of each affected organization. CARB has attempted to align these requirements with the reporting required by the Department of Industrial Relation's public works programs in an effort to minimize the compliance burden by mirroring procedures these agencies are already undertaking. More details on how CARB estimated this cost can be found in Appendix B of the ISOR, Standardized Regulatory Impact Assessment.

DOF Comment #2: The SRIA assumes that incidence-per-ton factors calculated for the period from 2014 to 2016 will hold in the future, while it may be that additional years of data may change these factors and/or causal relationships and hence change the estimated benefits. Or provide an explanation for why the period only from 2014 to 2016 is the most appropriate one to use.

Staff Response: The SRIA uses the most updated incidence-per-ton (IPT) factors available to estimate future health benefits. CARB will consider potential updates to the IPT factors and underlying data in the future, but additional analyses would be needed to ensure that the IPT factors for human-made sources of air pollution are not affected by events such as the occurrence of high wildfire seasons after 2016, analyses which are not available yet. There is a strong body of epidemiological research supporting the causal and likely causal relationships between particulate matter 2.5 (PM2.5) exposure and the adverse health outcomes we evaluated, and this research has grown over the years. Additionally, recent studies continue to show that exposures to even low PM2.5 concentra-

tions, below the levels of current air quality standards, can lead to adverse health outcomes. Therefore, the causal and likely causal relationships reflect the most recent science.

DOF Comment #3: The SRIA assumes that vehicle and engine activity profiles from 2020 are the most representative profiles. However, 2020 may not be the most appropriate year to measure vehicle activity (as opposed to 2021, if available, or 2019) as construction activity was unusually low for due to the COVID-19 Pandemic, and the SRIA should demonstrate that the 2020 profiles are not an outlier or use more representative data.

Staff Response: CARB staff believes that the comment about the vehicle and engine activity profiles being based on 2020 activity is from the following statement on page 31 of the SRIA in the list of data sources incorporated into the 2022 CARB Construction, Industrial, Mining and Oil Drilling Emissions Inventory:

Activity hours profiles created from the results of the 2020 Off-Road Activity Survey, an optional survey conducted via the DOORS online reporting system.

CARB provides further explanation of this data source below. The 2020 Off-Road Activity Survey was an optional survey that was conducted via DOORS, the reporting tool for the Off-Road Regulation, in the summer of 2020, with questions about fleets, their vehicles, and vehicle activity regarding the time period between January 1, 2019 and December 31, 2019. There was, additionally, one free-response question about how the fleet's business had been affected in 2020. The responses to this survey reflect 2019 activity, prior to the circumstances of 2020, and can be considered representative data. The 2019 data is the most recently available data. More information about this survey can be found in Appendix F of the Staff Report for the Public Hearing to Consider Proposed Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation.

DOF Comment #4: The SRIA assumes that under current law, operators would replace enough vehicles every year to keep the average fleet age the same as it was in 2013. As operators' vehicle replacement rates could significantly affect both the costs and the benefits, the SRIA should either base its estimated replacement rate on the most relevant data or justify why the 2013 benchmark is the most appropriate target age.

Staff Response: To establish a baseline for comparison for the Proposed Amendments, CARB modeled a baseline that reflects implementation and full compliance with existing federal and State emission standards for new off-road diesel engines and diesel fuel, as well as with the current Off-Road Regulation which applies to fleets operating in-use off-road engines, as

⁸ Department of Finance, P-2A Total Population for California and Counties. Accessed July 7, 2022 <https://dof.ca.gov/forecasting/Demographics/projections/>

amended in 2010 (current law). Under current law, the Off-Road Regulation's final compliance occurs when a fleet meets its final fleet average target. The current law establishes a date on which fleets are to meet this final target or turn over a minimum of 10 percent of the fleet's total fleet horsepower every year until that final fleet average target is met. The final fleet average target dates set in current law are January 1, 2023, for large and medium fleets, and January 1, 2028, for small fleets. After the fleet meets its final fleet average target, the current law only requires that it maintain its fleet average target in subsequent years; no further vehicle replacements are required. Based on data reported to CARB in DOORS, CARB has observed that the average age of fleets dropped noticeably during the regulatory period after 2013 to comply with current law. For example, large fleets had an average age of 9.2 years in 2013, and by 2020 that average age dropped to 7.8. To model a baseline scenario through 2038, CARB needed to assume a rate at which a fleet would replace its vehicles in a situation with no law requiring them to replace vehicles. CARB assumed fleets would return to business practices that they were implementing prior to the initial compliance requirements of the current law.

The current law reflects amendments that were adopted in 2010, with initial performance requirements starting in 2014 for large fleets, 2017 for medium fleets, and 2019 for small fleets. The 2013 benchmark is the most appropriate average age target because it was prior to the initial performance requirements' compliance dates, and it was the earliest year that CARB had a comprehensive dataset of reported vehicles in DOORS. Using a benchmark year after 2013 would have the effect of establishing an average age that is artificially younger than fleets would have been prior to the current law taking effect, and the CARB baseline model would have fleets replacing vehicles at a younger age than what was modeled in the SRIA. Using a benchmark year prior to 2013 was also not practical, as CARB's fleet dataset was less comprehensive and less accurate, and no other entity requires fleets report this information, so there is no other data available as a surrogate.

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 regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. The Proposed Amendments will result in direct cost impacts to owners of off-road diesel vehicles, as well as prime contractors. The total cost of the Proposed Amendments is estimated to be \$3.12 billion from years 2023 through 2038. The net cost, which includes cost-savings, is estimated to be approximately \$1.84 billion from years 2023 through 2038, which is less than the approximate \$5.7 billion in expected monetized health benefits. The direct costs include capital costs for new Tier 4 final off-road diesel vehicles, used Tier 4 final off-road diesel vehicles, annual costs for maintenance of Tier 4 final vehicles, and contracting and signage costs for the prime contractor provisions. A detailed discussion on the methodology and cost impact to typical businesses can be found in Appendix B and Chapter XI of the ISOR.

The Proposed Amendments would not result in any direct costs on a representative private person or individual. CARB staff anticipates that the Proposed Amendments could result in indirect costs to individuals to the extent that compliance costs are passed through to consumers of construction, mining, industrial, government, and other industries. The costs incurred by affected businesses and the public sector would cascade through the economy and affect individuals.

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

The Executive Officer has determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. A small business, for the purpose of the Proposed Amendments, is defined as off-road diesel vehicle fleets with less than 500 total horsepower (ultra-small fleets) operating in California. The methodology and full details for estimating the cost impact to a small business subject to the Proposed Amendments are provided in Appendix B 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 ISOR, the Proposed Amendments are the most cost-effective and least burdensome means of achieving the purposes of the proposal.

STATE IMPLEMENTATION PLAN REVISION

If adopted by CARB, 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). The adopted regulatory action would be submitted as a SIP revision because it amends 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 Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation, has concluded that this proposed action is exempt from California Environmental Quality Act (CEQA), as described in CEQA Guidelines § 15061, because the action is both an Action Taken by Regulatory Agencies for Protection of the Environment (as described in CEQA Guidelines § 15308 for “class 8” exemptions); this proposed action is also exempt as described in CEQA Guidelines § 15061(b)(3) (“common sense” exemption) because it can be seen with certainty that there is no possibility that the proposed action may result in a significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter IX of the ISOR.

SPECIAL ACCOMMODATION REQUEST

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

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

To request these special accommodations or language needs, please contact the Clerks’ Office at 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, Nathan Dean, Air Pollution Specialist, Advanced Emission Control Strategies Section, at ordamendments@arb.ca.gov or (951) 542-3139, or (designated back-up contact) Johanna Levine, Air Resources Supervisor I, Off-Road Implementation Section, at (916) 570-7888.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Public Hearing to Consider the Proposed Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB’s website listed below, on September 20, 2022. Please contact Chris Hopkins, Regulations Coordinator, at chris.hopkins@arb.ca.gov or (279) 208-7347, 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 non-substantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins,

Regulations Coordinator, (279) 208–7347. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

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

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

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB’s website for this rulemaking, at <https://ww2.arb.ca.gov/rulemaking/2022/off-roadiesel>.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 265, 270, 275, 702, 7071, 7710 and 8587.1, of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 270, 275, 1802, 7071, 7710 and 8585.5, Fish

and Game Code; Title 50, Code of Federal Regulations, Part 660, Subpart G; and Section 27.20, Title 14, CCR, proposes to amend sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65 and 28.90, Title 14, California Code of Regulations, relating to recreational fishing regulations for federal groundfish and associated species for 2023 and 2024.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Unless otherwise specified, all section references in this document are to Title 14, California Code of Regulations (CCR).

The Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations biennially. As part of that process, it recommends groundfish harvest limits and regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off Washington, Oregon, and California. These recommendations are subsequently reviewed for implementation as federal fishing regulations by National Oceanic and Atmospheric Administration Fisheries.

Under California law (California Fish and Game Code sections 200, 205, 7071, and 8587.1), the Commission adopts regulations in Title 14, CCR, for the recreational and nearshore commercial groundfish fisheries in state waters zero to three miles from shore. Management authority for most nearshore stocks is shared jointly between state and federal governments in conjunction with the PCGFMP and the Nearshore Fishery Management Plan.

Existing law authorizes the recreational take of groundfish subject to regulations set forth by federal and state authorities. Current regulations establish season lengths, depth constraints, methods of take, as well as size, bag, and possession limits within the five groundfish management areas for all federal groundfish and associated species.

The California Department of Fish and Wildlife is recommending the recreational regulatory changes for federal groundfish be consistent with PFMC recommendations in 2023 and 2024. Other changes are proposed to decouple the recreational regulations for California sheephead and ocean whitefish from those for federal groundfish. This approach will allow the Commission to adopt state groundfish regulations to

timely conform to those taking effect in federal ocean waters in January 2023.

The PFMC approved season structures for 2023 and 2024 are a substantial departure from the status quo, in that each management area will incur a significant reduction in fishing time in nearshore waters. The severe reductions are necessary to incorporate the best scientific information available from the 2021 stock assessments for quillback and copper rockfishes off California and the rebuilding analysis for quillback rockfish off California. A new offshore-only fishery for shelf and slope rockfish and lingcod will be available in some areas of the state during certain months.

Proposed recreational seasons and depths for all species of rockfish, lingcod, cabezon, all greenlings of the genus *Hexagrammos* in 2023 and 2024 by management area:

- Northern Groundfish Management Area: Closed January 1 through May 14; Open May 15 through October 15 in all depths; Closed October 16 through December 31.
- Mendocino Groundfish Management Area: Closed January 1 through May 14; Open May 15 through July 15 in waters seaward of the 50 fathom boundary line; Open July 16 through December 31 in all depths.
- San Francisco Groundfish Management Area: Closed January 1 through May 14; Open May 15 through July 15 in waters seaward of the 50 fathom boundary line; Open July 16 through December 31 in all depths.
- Central Groundfish Management Area: Closed January 1 through April 30; Open May 1 through September 30 in all depths; Open October 1 through December 31 in waters seaward of the 50 fathom boundary line.
- Southern Groundfish Management Area: Closed January 1 through March 31; Open April 1 through September 15 in all depths; Open September 16 through December 31 in waters seaward of the 50 fathom boundary line.

The Cowcod Conservation Areas, which are within the Southern Groundfish Management Area but with a discrete depth limit of 40 fathoms, will be closed January 1 through March 31 in all depths, open April 1 through September 15 in waters shoreward of the 40-fathom depth contour, and closed September 16 through December 31 in all depths.

In all management areas, California scorpionfish, “other flatfish” as defined in Section 28.48, petrale sole, starry flounder, leopard shark, and the federal groundfish listed in Section 28.49 (soupfin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, skates, ratfish, grenadiers, finescale codling, Pa-

cific cod, Pacific whiting, sablefish and thornyheads) are proposed to be open year-round at all depths.

Restrictions on methods of take are added to Section 28.49 to provide for consistency with the method of take for rockfish, California scorpionfish, lingcod, cabezon and kelp and rock greenlings.

The sub-bag limits for quillback rockfish (1-fish), copper rockfish (1 fish), and vermilion rockfish (4 fish) that were implemented through emergency action effective January 6, 2022, will be maintained.

Additionally, there is a proposal to decouple California sheephead and ocean whitefish regulations from those for federal groundfish. The Department is recommending a reduction in the current recreational bag limit for California sheephead from 5 fish to 2 fish. Furthermore, the Department is recommending the current January-February boat-based seasonal closure stay in effect for California sheephead but not for ocean whitefish, while all other depth constraints and area restrictions that currently apply to these species to protect shelf rockfishes be removed. The current shore based angling and diving/spearfishing exceptions for California sheephead currently specified in Section 27.20 will be added to Section 28.26.

The definition of depth constraint is revised in subsection 27.20(a).

Subsection 27.20(b)(1) is revised to reflect the new definition of depth constraint, the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish, and the allowance of take year-round at all depths of some federal groundfish species.

Subsection 27.20(b)(1)(A) is revised to reflect the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish and the allowance of take year-round at all depths of some federal groundfish species.

In subsection 27.20(b)(1)(B), California scorpionfish, leopard shark and the species listed in Section 28.49 are added to the list of species exempt from depth constraints for consistency with the season changes described above.

Subsections 27.20(b)(1)(C) and 27.50(c)(1) are revised to provide clarity that transportation by vessel of species taken under the shore based fishing exemption is unlawful.

Several non-substantive changes are proposed to correct errors or outdated terminology, provide consistency, and reduce redundancy between Title 14 sections, and increase the clarity of the regulations.

- In all sections included in this rulemaking “take and possession” is updated to read “take and/or possession”; the term “federally-managed groundfish” is changed to “federal groundfish”; and “possession limit” is changed to “bag and possession limit”.

- The scientific names of fish are updated to current accepted nomenclature and to correct spelling errors in Section 1.91.
- In Section 27.20, an abbreviation for groundfish management area is introduced.
- Subsection 27.20(b)(1)(C) is amended for regulatory clean-up and will provide consistency with language in Section 632, Marine Protected Areas.
- The web address provided in subsection 27.20(f) is updated.
- The groundfish call hotline is removed from subsection 27.20(f).
- A copy and paste error is corrected in subsection 27.30(a).
- Clarifying language regarding the Cowcod Conservation Areas (CCAs) is added to Section 27.45.
- The formatting of a coordinate listed in subsection 27.50(a) is corrected.
- The organization of Section 27.50, and text is amended to enhance the clarity of the current regulations; no changes to the species that can or cannot be retained within the CCAs are proposed.
- Section 27.51 is amended to reduce redundancy with subsection 27.20(d).
- Currently established fillet size limits and other fillet regulations (as established in Section 27.65) are added to relevant species-specific sections beginning with Section 28.26.

Benefits of the Proposed Regulations

Benefits of the proposed management actions include preserving fishing opportunity, along with the continuation of the reasonable and sustainable management of groundfish resources and the protection of listed and special status species.

This regulation would result in consistency with federal law. California's recreational fishing regulations for federal groundfish species need to conform to, or be more restrictive than, federal regulations to ensure that biological and fishery allocation goals are not exceeded and to avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [United States Code, Title 16, subsection 1856 (b)(1)].

Consistency and Compatibility with Existing Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Legislature has delegated authority to the Commission to adopt recreational fishing regulations (Fish and Game Code, sections 200 and 205). The proposed regulations are consistent with the Commission's regulations in Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no

other state regulations related to the recreational take of groundfish.

PUBLIC PARTICIPATION

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the North Tahoe Event Center, 8318 North Lake Boulevard, Kings Beach, California, which will commence at 8:30 a.m. on Wednesday, October 12, 2022, and may continue at 8:30 a.m. on Thursday, October 13, 2022. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing which will commence at 11:00 a.m. on Tuesday, November 1, 2022. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

It is requested, but not required, that written comments be submitted on or before October 19, 2022 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on October 27, 2022. All comments must be received no later than November 1, 2022 during the teleconference hearing. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, Box 944209, Sacramento, California 94244-2090, phone

(916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or Sherrie Fonbuena at FGC@fgc.ca.gov or at the preceding address or phone number. **Environmental Scientist Melanie Parker, Department of Fish and Wildlife, (Groundfish@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

**IMPACT OF REGULATORY ACTION/
RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT**

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

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:
The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department anticipates decreased opportunities for the recreational and commercial groundfish fishery in 2023–2024

compared to 2022. However, the impact on the entirety of marine sportfishing activity is not expected to be sufficient to significantly impact sportfishing expenditures to businesses within the state.

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

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. However, some short–term job losses may occur as sportfish–related businesses adjust to changes in the composition of recreational fishing opportunities.

The Commission anticipates benefits to the health and welfare of California residents. Participation in sport fisheries opportunities fosters conservation through education and appreciation of California’s wildlife.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California’s sport fishing resources.

- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
None.
- (e) Nondiscretionary Costs/Savings to Local Agencies:
None.
- (f) Programs Mandated on Local Agencies or School Districts:
None.
- (g) Costs Imposed on any Local Agency or School District that are Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:
None.
- (h) Effect on Housing Costs:
None.

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

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

TITLE 16. ARCHITECTS BOARD

FEES

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, 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 no later than Tuesday, November 8, 2022, by 5:00 p.m.**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 5510.15 and 5526 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 5604, the Board is considering amending section 144 of title 16 of the California Code of Regulations (CCR).¹

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This regulatory proposal will amend CCR section 144. The amendments to regulations through this proposed rulemaking are as follows:

CCR 144(d) will increase the fee for an original license from \$300 to \$400 and will increase the fee for an original license that is issued less than one year before the date on which it will expire from \$150 to \$200.

CCR 144(e) will increase the biennial renewal fee from \$300 to \$400.

Anticipated Benefits of Proposal

This regulatory proposal will allow the Board to remain solvent while implementing new requirements in statute and continuing to carry out its consumer protection mandate.

This regulatory proposal will benefit the health and welfare of California residents as it allows the Board to continue to protect consumers through its licensing, enforcement, and educational activities. This regulatory proposal does not affect worker safety or the state’s environment.

Consistency and Compatibility with Existing State Regulations

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

DISCLOSURES REGARDING THIS 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 Board estimates the proposed fee changes in the regulations will increase revenue by approximately \$1.2 million per year and up to \$12 million over a ten-year period.

Because the Board currently charges the fees in this proposal and/or performs workload associated with

¹ All CCR references are to title 16 unless otherwise noted.

these programs and fees, no additional workload and costs are anticipated.

The Board estimates one-time information technology (IT) costs of \$5,000 to update cashiering and accounting software. Any IT costs will be absorbed within existing resources.

The regulations do not result any costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS:
BUSINESS IMPACT ESTIMATES

The Board has determined that the proposed regulatory action will affect the Board’s licensees by increasing application and renewal fees for a license in architecture. However, because a license in architecture is an individual license and not a business license, the Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/Businesses

The Board has made the initial determination that the proposed regulatory proposal will not create or eliminate jobs for licensees because the regulations change licensing fees. Changes in licensing fees in these amounts will not create nor eliminate jobs for architects in California.

The proposed regulatory proposal will not affect the expansion of businesses currently operating within the State of California because the regulations change license fees. Changes in licensing fees in these amounts will not affect the expansion of businesses and is not sufficient to eliminate existing businesses.

The proposed regulatory proposal will not create new business or eliminate existing businesses within the State of California because the regulations change license fees. Changes in licensing fees in these amounts will not create new businesses and is not sufficient to eliminate existing businesses.

This regulatory proposal will benefit the health and welfare of California residents as it allows the Board to continue to protect consumers through its licensing, enforcement, and educational activities. This regulatory proposal does not affect worker safety or the state’s environment.

Business Reporting Requirements

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

Effect on Small Business

The Board has made the initial determination that the proposed regulatory action will affect small businesses.

The regulatory proposal will have the following effects:

- It will not affect the expansion of small businesses currently operating within the State of California because the regulations change license fees. Changes in licensing fees in these amounts will not affect the expansion of small businesses and is not sufficient to eliminate existing small businesses.
- It will not create new small business or eliminate existing small businesses within the State of California because the regulations change license fees. Changes in licensing fees in these amounts will not create new small businesses and is not sufficient to eliminate existing small businesses.

Cost Impact on Representative Private Person or Business

The regulations will increase Board license and license renewal fees as follows:

- Initial License: \$300 to \$400
- Initial License that is issued less than one year before the date on which it will expire from \$150 to \$200
- Renewal License: \$300 to \$400

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

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 provision of law.

In addition to the discussion above, set forth below is the alternative which was considered and the reason the alternative was rejected:

The Board considered reducing expenditures by cutting Board costs, with options to:

- Stop sending enforcement cases to the Attorney General’s Office, which means potential violations are not addressed and licensees do not face discipline.

- Leave unfilled positions vacant. The Board's Assistant Executive Officer position is currently vacant, and the Board will continue to hold it open through this fiscal year for the salary savings. Leaving any other positions vacant would likely impact either the Enforcement or Licensing Divisions, which could mean an unacceptable increase in the time to handle complaints or process applications.

However, exercising either of these options would prevent the Board from fulfilling its consumer protection mandate, as the Board would no longer be able to perform many of the services mandated by the law. Therefore, this is not a viable option.

The Board also considered fee increases that are less than the amounts contained in this regulatory proposal. Revenue projections with lower fee increase amounts would not provide enough revenue for the Board to fiscally solvent for very long, and the Board would need to file another rulemaking raising fees within a fairly short period of time.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2420 Del Paso Rd #105, Sacramento, CA 95834, Sacramento, California 95834.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2420 Del Paso Rd #105, Sacramento, CA 95834, Sacramento, California 95834.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified

proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the contact persons 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.

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 persons named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Kim McDaniel
Address: California Architects Board
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number: 916-471-0768
Fax Number: 916-575-7283
E-Mail Address: Kimberly.mcdaniel@dca.ca.gov

The backup contact person is:

Name: Jane Kreidler
Address: California Architects Board
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number: 916-471-0772
Fax Number: 916-575-7283
E-Mail Address: jane.kreidler@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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

**TITLE 16. LANDSCAPE ARCHITECTS
TECHNICAL COMMITTEE**

INFORMATIVE DIGEST

ISSUANCE OF CITATIONS, § 2630
APPEAL OF CITATIONS, § 2630.2

NOTICE IS HEREBY GIVEN that the California Architects Board (Board or LATC) is proposing to take the action described in the Informative Digest, below.

PUBLIC HEARING

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

COMMENT PERIOD

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 not later than **5:00 p.m. on Tuesday, November 8, 2022**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as 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 section 5630 of the Business and Professions Code (BPC) and section 12274 of the Government Code, the Board is considering amending article 1 of division 26 of title 16 of the California Code of Regulations (CCR).¹

BPC section 5630 authorizes the Board to adopt, amend, or repeal such rules and regulations as are reasonably necessary to carry out the provisions of the Landscape Architects Practice Act (Act). The Board here seeks to clarify the Board’s existing ability to issue citations containing an order of correction to cease unlawful advertising under BPC section 149, to clarify that the 30-day deadlines are counted as calendar days, and to amend the appeal of citations process.

CCR section 2630 provides that the Board’s executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to BPC sections 125.9 or 148 against landscape architects or unlicensed persons who have committed any acts or omissions which are in violation of the Act or any regulation adopted thereto. CCR section 2630 also provides the requirements of issuing a citation.

CCR section 2630.2 provides that any person served with a citation issued pursuant to section 2630 may contest the citation by submitting a written request for a hearing to the Board within 30 calendar days of service of the citation. This section also provides that the cited person may also, within 30 days of service of the citation, submit a written request for an informal conference with the executive officer. Additionally, CCR section 2630.2 provides the process for holding an informal conference and/or a formal administrative hearing and the potential outcomes.

In response to the directives given by the Board, the LATC is pursuing this regulatory proposal to clarify the issuance of citations and the process in which a respondent may appeal a citation that has been issued.

The Board is proposing the following changes:

Amend Title 16 CCR Section 2630 — Issuance of Citations

CCR section 2630 is being amended to clarify the Board’s existing ability to issue orders of corrections to cease unlawful advertising under BPC section 149 and clarify that the 30-day deadlines are counted as calendar days.

Amend Title 16 CCR Section 2630.2 — Appeal of Citations

CCR section 2630.2 is being amended to change the regulation title and include language allowing a respondent to request a formal administrative hearing within 30 days of the affirmation or modification of a citation following an informal conference, as well as allowing the executive officer to appoint a designee to hold the informal conference in the event of a conflict-of-interest or other conflict. CCR section 2630.2 is also being amended to extend from 30 working days to 60 calendar days how long the executive officer or their designee has to hold an informal conference from the time the written request for it has been re-

¹ All CCR references are to title 16 unless otherwise noted.

ceived. Additionally, language was added to clarify that another informal conference cannot be requested for a citation that has been affirmed or modified following an informal conference. The proposal would also make minor and technical revisions.

Policy Statement Overview/Anticipated Benefits of Proposal

The Board seeks to: add language clarifying the Board’s existing ability to issue orders of corrections to cease unlawful advertising under Business and Professions Code section 149; add language clarifying that the 30–day deadlines are counted as calendar days; change the regulation title of CCR section 2630.2; allowing a respondent to request a formal administrative hearing within 30 days of the affirmation or modification of a citation following an informal conference; allowing the executive officer to appoint a designee to hold the informal conference in the event of a conflict–of–interest or other conflict; extending from 30 working days to 60 calendar days how long the executive officer or their designee have to hold an informal conference; clarifying that another informal conference cannot be requested for a citation that has been affirmed or modified following an informal conference; and make minor and technical revisions. The Board anticipates that persons receiving a citation will benefit from the clarifying language about citations and their ability to appeal the citation. Additionally, the Board anticipates that the various minor and technical revisions in the rulemaking will make the issuance of citations and appeal of citations regulations easier for respondents to understand and provide a clear guide for respondents on how to appeal a citation.

Consistency and Compatibility with Existing State Regulations

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

Fiscal Impact Estimates

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: None. This proposal provides a more accurate overview of the Board’s process related to the issuance of a citation and fine, which will provide greater clarity to licensees, consumers, the Board, the Office of Attorney General, and the Office of Administrative Hearings by outlining relevant and transparent standards directly related to violations outlined in current law.

This proposal does not change the fines amounts for violations and is not anticipated to increase the number of citations and fines issued. As a result, no additional workload costs or revenues are anticipated.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because it only affects individuals who have violated the Landscape Architects Practice Act and have been issued a citation.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

Effect on Small Business

The Board has determined that the proposed regulation would not have a significant adverse impact on small businesses because it only affects individuals who have violated the Landscape Architects Practice Act and respondents who have been issued a citation.

Results of Economic Impact Assessment/Analysis

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because it only affects individuals who have violated the Landscape Architects Practice Act and respondents who have been issued a citation.

Benefits of Regulation:

The Board has determined that this regulatory proposal will benefit the health, safety, and welfare of California residents by clarifying how the Board issues citations and the ways by which a person receiving a citation can appeal a citation. The public will also benefit from greater transparency of LATC processes for the issuing and appealing of citations. This regulatory proposal will not affect worker safety or the state’s environment because it does not address issues involved in worker safety and does not involve environmental issues.

Consideration of Alternatives

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

tive 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.

Set forth below is the alternative that was considered and the reason this alternative was rejected:

The Board considered keeping the status quo; however, this alternative was rejected because the revisions made to the issuance of citations and appeal of citations will clarify for persons receiving a citation the process for issuing and appealing citations.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

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.

Text of Proposal

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the California Architects Board, Landscape Architects Technical Committee at 2420 Del Paso Road, Suite 105, Sacramento, California 95834 or by telephoning the Contact Person listed below.

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).

Contact Person

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

Name: Stacy Townsend
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number: (916) 575-7235
Fax Number: (916) 575-7283
E-Mail Address: stacy.townsend@dca.ca.gov

The backup contact person is:

Name: Trish Rodriguez
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone Number: (916) 575-7231
Fax Number: (916) 575-7283
E-Mail Address: latc@dca.ca.gov

Website Access: Materials regarding this proposal can be found on LATC's website under *Proposed Regulation* (www.latc.ca.gov/news/laws/proposed_regulation.shtml).

TITLE 16. CEMETERY AND FUNERAL BUREAU

§ 1267, KEEPING OF PRENEED BOOKS, ACCOUNTS, CONTRACTS, AND RECORDS

§ 1267.1, FUNERAL ESTABLISHMENT INTENDING TO CEASE BUSINESS OPERATIONS

§ 1274, INABILITY TO PERFORM

§ 1275, REQUIREMENTS OF PRENEED TRUST AGREEMENT

§ 1277.5, DISCLOSURE OF PRENEED FUNERAL AGREEMENT

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (Bureau) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office no later than Tuesday, November 8, 2022.

PUBLIC HEARING AVAILABILITY

The Bureau has not scheduled a public hearing on this proposed action. The Bureau 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 Bureau may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Business and Professions Code (BPC or Bus. & Prof. Code) sections 7606, 7735, 7736, 7737, 7731.1, 7737.2, 7738, 7740, 7740.5, 7745, and 7685.6 and to implement, interpret or make specific BPC sections 7737, 7737.1, and 7737.2 the Bureau is considering amending sections 1267, 1274, 1275, and 1277.5, and adding section 1267.1 (commencing with section 1200) of Title 16 of the California Code of Regulations (CCR) as described in this Notice.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Cemetery and Funeral Bureau (Bureau) licenses, regulates, and investigates complaints against 14 different license categories in California, totaling approximately 13,100 licensees. These licensing categories include funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery broker branch, cemetery broker additional, cemetery salespersons, cremated remains disposers, crematories, crematory managers, hydrolysis facilities, cemetery managers, and private, nonreligious cemeteries. It is the Bureau’s duty to enforce and administer the Cemetery and Funeral Act (Chapter 12 (commencing with section 7600) of Division 3 of the Business and Professions Code (BPC)) (Act). (Bus. & Prof. Code, § 7602, subdivision (a)(2).) The Bureau is authorized to establish necessary rules and regulations for the enforcement of the Act and the laws subject to its jurisdiction. (Bus. & Prof. Code, § 7606.)

Title 16, CCR, section 1277 defines “preneed arrangement,” “preneed agreement,” or “preneed” as “written instruction regarding goods or services or both goods and services for final disposition of human remains when the goods or services are not provided until the time of death, and may be either unfunded or paid for in advance of need.” Consumers pay funeral establishments in advance of need for these arrangements pursuant to a trust agreement executed by the funeral establishment, the trustor, and a trustee, which requires all monies received to be deposited into a preneed funeral trust within 30 days of receipt by a funeral establishment.

As of July 2022, the Bureau was responsible for oversight of 1,101 licensed funeral establishments throughout California. Of these, 713 reported having preneed trust funds totaling approximately \$682 million dollars in consumer funds. Although not all licensed funeral establishments report holding preneeds, all have the authority to hold them, and can start writing preneed contracts and accepting consumer monies at any time. The funeral establishment holds these preneed

funds until death occurs, and the goods and services are delivered unless the trustor cancels the contract. The trustee is required to deliver the corpus (contributions received from the trustor) and any income accrued in the trust upon the signature of a majority of the trustees pursuant to BPC section 7737(b). Additionally, funeral establishments may hold unclaimed preneed funds for trustors or beneficiaries whose accounts have not been serviced or canceled. Presently, funeral establishments are not required to take any action on these unclaimed accounts.

In 2021, Assembly Bill (AB) 293 (Kalra, Chapter 514, Statutes of 2021) was enacted, which recast provisions of the Act to require funeral establishments to escheat unclaimed accounts to the state in accordance with the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. Beginning January 1, 2023, it requires funeral establishments to take reasonable efforts to contact the beneficiary or trustor of unclaimed preneed funeral trust accounts so these monies can be returned. If the beneficiary or trustor cannot be found, it requires a funeral establishment to report and pay or deliver all abandoned preneed trust accounts, including the corpus of the trust, together with any income accrued in the trust (interest, dividends, and capital gains) at the time of payment or delivery, less a revocation fee, to the State Controller. It also defines requirements for funeral establishments intending to cease operations both for those transferring their preneed funeral agreements to another funeral establishment and those who are not transferring agreements.

Specifically, AB 293 adds section 1518.5 to the Code of Civil Procedure to require that funds maintained in a preneed funeral trust or similar account or plan become payable and distributable under any of the following circumstances:

- 1) The beneficiary of the trust attained, or would have attained if living, 105 years of age.
- 2) Forty–five years have passed since execution of the preneed funeral agreement.
- 3) The holder received notification of the death or presumed death of the beneficiary and has not provided the contracted funeral merchandise or services.
- 4) The preneed funeral trust is a preneed installment trust and the amount due to the funeral establishment from the trustor has not been paid during the three preceding years and neither the trustor nor the beneficiary has communicated with either the funeral establishment or the trustee about the preneed installment trust during that three–year period.

If the trustor or beneficiary has not corresponded with a funeral establishment concerning the property or expressed an interest for more than three years after the funds became payable and distributable, the funds, less a revocation fee pursuant to BPC section 7735, escheat to the State Controller.

AB 293 also amends BPC section 7737 and adds BPC section 7737.1 to provide specific instructions pertaining to procedures, timeframes, and required elements to include in notices that funeral establishments must issue when intending to cease engaging in business operations for both those transferring their preneed agreements to a successor funeral establishment and those not transferring agreements. BPC section 7737.2 has also been added to require the notices to be on forms created by the Bureau and to be posted on its website by January 1, 2023. Additionally, BPC section 7737.2 states the Bureau shall adopt and post regulations on its website regarding the type of proof of notice funeral establishments ceasing operations, and licensed successor establishments, must provide or retain.

There are no existing regulations or forms for use by funeral establishments to notify trustors, trustees, the Bureau, or successor funeral establishments a funeral establishment is ceasing business operations, that preneed funeral monies are being transferred to a successor funeral establishment, or that preneed funeral monies will be escheated to the state under certain conditions. AB 293 mandates necessitate modified reporting and recordkeeping regulations for funeral establishments, which the Bureau is required to promulgate. This proposal would modify existing regulations and establish new regulations.

The Bureau has drafted proposed text to provide: (1) requirements for additional preneed funeral trust record keeping for licensed funeral establishments, and refine existing language; and (2) reporting requirements to the Bureau for funeral establishments intending to cease operations. The Bureau has also created the forms that must be posted on the Bureau's website for establishments to use to notify affected parties of transfer, cancellation, or escheatment of preneed agreements held by an establishment intending to cease operations.

The Bureau has drafted proposed text to provide: (1) requests to terminate a preneed funeral trust may now be made via electronic communication; (2) requirements for additional preneed funeral trust record keeping for licensed funeral establishments, along with refinement of existing regulatory language; and (3) reporting requirements to the Bureau for establishments intending to cease operations. The Bureau has also created the forms which must be posted on the Bureau's website notifying affected parties of transfer

or cancellation of preneed agreements held by an establishment intending to cease operations.

The Bureau therefore proposes to:

- **Add a new section 1267.1 amend Sections 1267, 1274, 1275, and 1277.5 in Article 8 of Division 23 of Title 16 of the California Code of Regulations**
- **Amend section 1267, Keeping of Preneed Books, Accounts, Contracts, and Records**

Existing law addresses the requirements for maintaining preneed books, accounts, contracts, and records by a funeral establishment.

The Bureau proposes to amend section 1267 to correct spelling and punctuation errors and to renumber subdivisions as necessary to accommodate the additional requirements in this section relevant to the adoption of AB 293. They include additional recordkeeping requirements for all funeral establishments holding preneed funds, those accepting the transfer of another funeral establishment's preneed arrangements, and funeral establishment record keeping requirements for escheated accounts.

- **Adopt section 1267.1, Funeral Establishments Intending to Cease Business Operations**

The Bureau proposes to adopt Section 1267.1 to establish the requirement for funeral establishments intending to cease business operations to submit the form designated by the Bureau to the Bureau pursuant to CCR Section 1274(c), and to describe the additional information that must be included with the submittal.

- **Amend section 1274, Inability to Perform**

Existing law requires when a licensed funeral establishment or licensed funeral director is unable to perform the funeral services prior to or upon the death of the beneficiary of a preneed trust agreement, the trustee shall pay all trust corpus and net income to the beneficiary, trustor or the legal representative of either the beneficiary or trustor without the imposition of any revocation charge.

The Bureau proposes to amend section 1274 to add requirements for funeral establishments intending to cease operations by reason of dissolution, closure, sale, or license revocation in instances when a funeral establishment is not transferring its preneed funeral arrangements to a successor establishment, as well as when it is transferring. When the funeral establishment is not transferring its preneed arrangements and is escheating or cancelling the arrangements the funeral establishment shall use bureau form 12-PACE (New 1/23), Notice of Cancellation of Preneed Funeral Contract or Agreement. When transferring its preneed arrangements, the funeral establishment shall use bureau form 12-PASFD (New 1/23), Notice of Transfer of Preneed Contract or Agreement to Successor Funeral Establishment. It also defines the type of proof

of notice the funeral establishment ceasing operations is required to provide.

- **Amend section 1275, Requirements of Preneed Trust Agreements**

Existing law specifies the information required to be included in a preneed trust agreement.

The Bureau proposes to amend section 1275 to correct the punctuation in subdivision (d) by adding a comma after the word “address,” in subdivision (f) (2) by adding a comma after the word “rule,” and in subdivision (h) to correct the spelling of the word pre-need to preneed.

- **Amend section 1277.5, Disclosure of Preneed Funeral Agreement**

Existing law addresses the requirements for funeral establishments’ disclosure of preneed agreements.

The Bureau proposes to amend section 1277.5(d) by adding a “be” to correct grammar.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

AB 293 protects consumers and their surviving loved ones by providing mechanisms to locate and claim unused preneed trust funds. Specifically, AB 293 clarifies the party responsible for reporting abandoned trust accounts, outlines dormancy triggers regarding the death or presumed death of the beneficiary, and establishes requirements for communication with owners of preneed funeral trust accounts.

Laws regulating preneed funeral trust accounts only ensure the funds for merchandise and services are available at the time of death. Funeral establishments are not required to have consistent contact with the owners of record or adequately address handling of abandoned trust accounts. AB 293 closes this loophole by bringing unclaimed preneed funeral trust accounts under unclaimed property law. AB 293 enhances consumer protection by establishing added requirements for dormant preneed funeral trust accounts.

DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING REGULATIONS

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

INCORPORATION BY REFERENCE

- Notice of Cancellation of Preneed Funeral Contract or Agreement, 12–PACE (New 1/23).

- Notice of Transfer of Preneed Contract or Agreement to Successor Funeral Establishment, 12–PASFD (New 1/23).

DISCLOSURES REGARDING PROPOSED ACTION: FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies:

The proposed regulations do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency. Any increase in workload or cost to the state is a result of AB 293 which has an implementation date of January 1, 2023.

Cost or Savings in Federal Funding to the State:

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

- The Bureau has determined that the only types of businesses that may be affected are licensed funeral establishments holding preneed trust funds for consumers.
- As of July 2022, the Bureau is responsible for 1,101 licensed funeral establishments throughout California. Of these, 713 reported having preneed trust funds totaling about \$682 million dollars in consumer funds. Although not all licensed funeral establishments report holding preneeds, all have the authority to hold preneeds, and can start writing preneed contracts and accepting consumer monies at any time. Given that the licensee population is 1,101, and not all report having preneed trust funds, the Bureau has determined that the number of licensees is insufficient to create a statewide adverse economic impact.
- Opting to start writing preneed contracts and accepting consumer monies is a voluntary business decision made by the licensed funeral establishments and therefore any business impact is a result of this choice and not the regulations.

- Existing law requires licensed funeral establishment to maintain records of preneed funeral agreements. The additional recordkeeping and information requirements add to existing requirements and are not anticipated to add significant additional costs to the funeral establishments.

Business Reporting Requirement

It is necessary for the health, safety, or welfare of the people of the state the regulation apply to businesses.

Cost Impact on Representative Private Person or Business:

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

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Bureau has determined the proposed regulations would not affect small businesses because this proposed regulation only applies to funeral establishments already licensed by the Bureau.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not create or eliminate jobs, will not create new businesses, or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California.

As of July 2022, the Bureau is responsible for 1,101 licensed funeral establishments throughout California, but only 713 report having preneed trust funds.

This Bureau has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposed regulations are only applicable to funeral establishments which are already licensed by the Bureau.
- It will not create new businesses, eliminate existing businesses, or affect the expansion of businesses within the State of California because the proposed regulations are only applicable to funeral establishments which are already licensed by the Bureau. It does require some effort to comply with the added recordkeeping, notification, escheatment, and other compliance requirements. The Bureau does anticipate that it is significant enough to affect the expansion of businesses.
- This regulatory proposal will affect the health and welfare of California residents because funeral establishments holding consumer monies

in preneed trust that should have been escheated will now be rightfully returned to the trustor or beneficiary. In addition, the regulations will provide more checks and balances to protect consumers when funeral establishments are ceasing business operations by ensuring that all preneed funds have been fully accounted for by cancellation, transfer, or escheatment.

- This regulatory proposal does not affect worker safety because it does not relate to worker safety.
- This regulatory proposal does not affect the state’s environment because the regulations have no impact on the environment.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau at 1625 North Market Boulevard, Suite S-208, Sacramento, California 95834.

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 that 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

The Bureau 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.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected or accepted:

Alternative 1: Do nothing. This alternative was rejected because it would make the Bureau non-compliant with the statutory requirements of AB 293.

Alternative 2: Adopt new regulations and amend existing regulatory sections. This alternative was accepted as the most efficient option for the Bureau to enact AB 293.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 1625 North Market Boulevard, Suite S-208, Sacramento, California 95834.

CONTACT PERSON

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

Name: Carolina Sammons
 Address: 1625 North Market Boulevard,
 Suite S-208
 Sacramento, CA 95834
 Telephone Number: (916) 574-7876
 Fax Number (916) 928-7988
 Email Address: carolina.sammons@dca.ca.gov

The backup contact person is:

Name: Gina Sanchez
 Address: 1625 North Market Boulevard,
 Suite S-208
 Sacramento, CA 95834
 Telephone Number: (916) 574-7870
 Fax Number (916) 928-7988
 Email Address: gina.sanchez@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Carolina Sammons at (916) 574-7876.

Website access: Materials regarding this proposal can be found at https://www.cfb.ca.gov/laws_regs/proposed_regs.shtml

TITLE 21. DEPARTMENT OF TRANSPORTATION

NOTICE IS HEREBY GIVEN that the *Department of Transportation*, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on September 23, 2022 and closing on November 7, 2022. All inquiries should be directed to the contact listed below.

The *Department of Transportation* proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include:

- Classifications have been made consistent throughout the Districts & Divisions of the Department
- Changes were made to include any District/Division reorganization
- Changes were made to the IT Division to reflect reorganization and current filing classifications and remove non-filing classifications.

Information on the code amendment is available on the agency's intranet site and/or attached to this email. Any interested person may submit written comments relating to the proposed amendment by submitting them no later than **November 7, 2022**, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than **October 23, 2022**.

The *Department of Transportation* has determined that the proposed amendments:

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

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

Janet Johnson, Conflict-of-Interest Analyst
 (279) 234-2372
Conflict.of.Interest@dot.ca.gov

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

NOTICE IS HEREBY GIVEN that the Emergency Medical Services Authority (EMSA) is proposing to take the action described in the Informative Digest. Written comments, including those sent by mail, facsimile, or e-mail to addresses listed under *Contact Person* in this Notice, must be received by EMSA at its office by November 7, 2022. The Board has not scheduled a public hearing on this proposed action. However, the EMSA will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. EMSA may thereafter adopt the proposal substantially as described below or may modify the proposal if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: The Health and Safety Code Section 1797.107 authorizes EMSA to adopt the proposed regulations, which would implement, interpret, clarify, or make specific Section 1797.112 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (Health and Safety Code Division 2.5) created EMSA and outlined its authorities, duties, and responsibilities. Included in the act are the authority and procedures for promulgating regulation (Health and Safety Code section 1797.107), Health and Safety Code section 1797.112 creates the EMS personnel fund (Fund) along with requirement of the fund, which is maintained by EMSA.

AB 450 (Statutes of 2021, Ch. 450) created a board of appeals and amended Health and Safety Code section 1797.112 to have the Fund pay for the cost and expenses of this new board. However, the only form of income for the Fund is the licensing fees collected for Paramedics. To keep the Fund from becoming insolvent and violating provisions of the statute, the licensing fees must be increased. Additionally, the statute

provides that paramedics whose licenses are subject to disciplinary actions have the right to appeal to a board drawn, in majority part, from their peers.

These regulations seek to address this issue. The proposal provides for an increase of \$65 for all Paramedic licensing fees and changes the applications form to reflect the new amount.

Specifically, the regulatory proposal is as follows:

1. **Amend section 100164 of Division 9 of Title 22 of the California Code of Regulations**
Alters the revision dates of the various applications to reflect the new application with the change to the required fee.
2. **Amend section 100167 of Division 9 of Title 22 of the California Code of Regulations**
Alters the revision dates of the various applications to reflect the new application with the change to the required fee.
3. Amend section 100172 of Division 9 of Title 22 of the California Code of Regulations
Alters the required fee for each application type.

Anticipated Benefits of the Proposed Regulations:

These regulations will allow for the fee change to keep the Fund from becoming insolvent in violation of statutory requirement. Specifically, Health and Safety Code section 1797.112 states,

- “(a) The Emergency Medical Services Personnel Fund is hereby created in the State Treasury, the funds in which are to be held in trust for the benefit of the authority’s testing and personnel licensure program, for the duties and activities of the Paramedic Disciplinary Review Board pursuant to Article 2.5 (commencing with Section 1797.125) of this chapter, and for the purpose of making reimbursements to entities for the performance of functions for which fees are collected pursuant to Section 1797.172, for expenditure upon appropriation by the Legislature.
- (b) The authority may transfer unused portions of the Emergency Medical Services Personnel Fund to the Surplus Money Investment Fund. Funds transferred to the Surplus Money Investment Fund shall be placed in a separate trust account, and shall be available for transfer to the Emergency Medical Services Personnel Fund, together with interest earned, when requested by the authority.
- (c) The authority shall maintain a reserve balance in the Emergency Medical Services Personnel Fund of 5 percent. Any increase in the fees deposited in the Emergency Medical Services Personnel Fund

shall be effective upon a determination by the authority that additional moneys are required to fund expenditures of the personnel licensure program, including, but not limited to, reimbursements to entities set forth in subdivision (a).”

Also, the statute provides that paramedics whose licenses are subject to disciplinary actions have the right to appeal to a board drawn, in majority part, from their peers.

Consistency and Compatibility with Existing State Regulations

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

DOCUMENTS INCORPORATED
BY REFERENCE

Audit Renewal Paramedic License Application, (California Graduate), Form #AR-01, revised 05/202103/2022

Renewal Paramedic License Application, (California Graduate), Form #RL-01, revised 05/202103/2022

Initial Challenge Paramedic License Application, Form #CL-01A, revised 05/202103/2022

Initial In-State Paramedic License Application, (California Graduate), Form #L-01, revised 05/202103/2022

Initial Out-of-State Paramedic License Application, Form #L-01A, revised 05/202103/2022

Reinstatement Paramedic License Application, (Lapsed 1 Year or More), Form #RLL-01B, revised 05/202103/2022

Reinstatement Paramedic License Application, (Lapsed Less Than 1 Year), Form #RLL-01A, revised 05/202103/2022

DISCLOSURES REGARDING THE
PROPOSED ACTION

Cost or savings to any state agency: EMSA is not aware of any significant cost impacts that a state agency would incur in reasonable compliance with the proposed action. Paramedic licenses are held by individuals, not agencies.

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

Local mandate: None.

Nondiscretionary costs or savings to local agencies: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Section 17500-17630: None.

Cost impact on a representative private person or business: EMSA is not aware of any costs impacts that a business would necessarily incur in reasonable compliance with the proposed action. There is a cost to private persons as this raises the fee for a Paramedic license in California by \$65. A license is good for two years; thus this will impact licensees every other year.

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

Significant effect on housing costs: None.

Effect on small businesses: The proposed regulations will not affect small businesses. Licenses are held by individuals, not businesses.

RESULTS OF ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

Economic Impact Assessment:

The Authority concludes that it is: (1) unlikely that the proposal will eliminate any jobs or LEMSAs; (2) unlikely the proposal will create any new jobs; (3) unlikely the proposal will create new businesses or any new LEMSAs; (4) unlikely the proposal will eliminate any existing businesses in California or existing LEMSAs; and (5) unlikely the regulations will result in the expansion businesses currently doing business within the state or expansion of LEMSAs currently operating in the state.

This is also unlikely to benefit the public health and welfare, worker safety, or the environment.

CONSIDERATION OF ALTERNATIVES

EMSA must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the 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 with respect to alternatives to the proposed regulations during the written comment period or at the scheduled hearing.

INITIAL STATEMENT OF REASONS, TEXT
OF THE PROPOSAL, FINAL STATEMENT OF
REASONS, AND RULEMAKING FILE

Copies of the proposed text, any document incorporated by reference, and the initial statement of reasons by contacting the person named below.

All 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.

A copy of the final statement of reasons can be obtained once it has been completed, by making a request to the contact person named below or by accessing the website listed below.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text are available on the EMSA website at https://emsa.ca.gov/public_comment/

CONTACT PERSON

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

Name: Kent Gray, Regulations Manager
EMS Authority

Address: 10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670
Telephone: (916) 384-1476
Cellphone: (916) 639-7837
Fax: (916) 324-2875
E-Mail: Kent.Gray@emsa.ca.gov

The backup contact person is:

Name: Louis Bruhnke, Chief Deputy Director
EMS Authority
Address: 10901 Gold Center Drive, Suite 400
Rancho Cordova, CA 95670
Telephone: (916) 639-7840
Fax: (916) 324-2875
E-Mail: Louis.Bruhnke@emsa.ca.gov

GENERAL PUBLIC INTEREST

DELTA STEWARDSHIP COUNCIL

CHAPTER 2. CONSISTENCY WITH
REGULATORY POLICIES CONTAINED IN
THE DELTA PLAN

ARTICLE 1. DEFINITIONS,
SECTION 5001.

DEFINITIONS AND

ARTICLE 3. CONSISTENCY WITH THE
REGULATORY POLICIES CONTAINED
IN THE DELTA PLAN, SECTION
5012. PRIORITIZATION OF STATE
INVESTMENTS IN DELTA LEVEES AND
RISK REDUCTION

NOTICE OF EXTENSION OF WRITTEN
COMMENT PERIOD AND RESCHEDULED
HEARING FOR OAL FILE NUMBER
Z-2022-0816-07

NOTICE IS HEREBY GIVEN that the Delta Stewardship Council (Council) **has inadvertently filed and posted online an incorrect version of the proposed regulations text for the Office of Administrative Law (OAL) file number Z-2022-0816-07, and, is hereby extending the written comment period and rescheduling the public hearing date, as specified below. The correct version of the proposed regulatory language is available on the Delta Stewardship Council's website at <https://deltacouncil.ca.gov/delta-plan/regulations>.**

The Council will conduct a public hearing at the time and place noted below to hear comments, objections, and recommendations. At a separate meeting on a future date, the Council may consider approving for adoption the proposed amendments.

OPPORTUNITY FOR PUBLIC COMMENT

- *Additional Time Extended to the Written Comment Period: The written comment period for this proposed action is hereby extended to 11:59 p.m. on Wednesday, November 16, 2022.* Interested members of the public may provide comments by mail or by electronic submittal. **The extended public comment period for this regulatory action is in addition to the previously noticed written comment period. *Please note that any comments received during the**

originally noticed comment start date of August 26, 2022, through the date of publication of this Notice in the Register do not need to be resubmitted to the Council.* Any interested person, or her or his authorized representative, may submit written comments relevant to the proposed regulatory action.

- Submit written comments to:

Erin Mullin
Delta Stewardship Council
715 P Street, Suite 15–300
Sacramento, CA 95814
(916) 902–6482

- *Electronic Submittal of Comments.* Any interested person, or her or his authorized representative, may submit comments by electronic submittal at or before 11:59 p.m. on **Wednesday, November 16, 2022. The Council will consider only comments received by the Council by that time.** Electronic submittals of comments are preferred, and must be submitted to the following address to be considered:

amend.rrpl@deltacouncil.ca.gov

- *Public Hearing.* ****The previously noticed October 27, 2022 public hearing is rescheduled to Thursday, November 17, 2022.**** The Council will conduct a public hearing at the time and location set forth below to consider public input, comments, objections, and recommendations to this proposed action. Interested members of the public may present statements, arguments, and comments, verbally or in writing, with respect to the proposed action at the hearing prior to the closing of the hearing. This hearing will be held in accordance with the requirements set forth in Government Code section 11346.8. A remote virtual option to attend the meeting will also be provided.

Date: November 17, 2022

Time: This item will be considered at a regularly scheduled public meeting of the Council, which is anticipated to commence at **9:00 a.m.** This item may be heard at any time during the regularly scheduled meeting. The public hearing item will remain open as long as attendees are presenting testimony and will conclude after all testimony is given. Please consult the agenda, which will be available at <http://deltacouncil.ca.gov> at least ten (10) days before November 17, 2022, to determine the time at which this item will be heard and to obtain information regarding the remote virtual participation option.

Location: *California Natural Resources Building, 2nd Floor Room 221, 715 P Street, Sacramento, CA 95814.* The hearing room is wheelchair accessible.

If you have any questions, please contact:

Erin Mullin
Delta Stewardship Council
715 P Street, Suite 15–300
Sacramento, CA 95814
(916) 902–6482
amend.rrpl@deltacouncil.ca.gov

AUTHORITY AND REFERENCE

Water Code sections 85210(i), 85210(h), and 85306 provide the Council authority for the proposed amendments to California Code of Regulations, Title 23, sections 5001 (“Section 5001”) and 5012 (“Section 5012”). Water Code section 85210(i) authorizes the Council to adopt regulations or guidelines as needed to carry out its powers and duties; Water Code section 85210(h) grants the Council the authority “to request reports from state, federal, and local governmental agencies on issues related to the implementation of the Delta Plan”; and Water Code section 85306 authorizes the Council, in consultation with the Central Valley Flood Protection Board (CVFPB), to recommend priorities for state investments in levee operation, maintenance, and improvements in the Delta. This action is proposed to implement, interpret, and make specific one or more of the following: sections 85020, 85022, 85054, 85057.5, 85225, 85300, 85305, 85306, 85307, and 85309 of the Water Code.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Erin Mullin
Delta Stewardship Council
715 P Street, Suite 15–300
Sacramento, CA 95814
(916) 902–6482
amend.rrpl@deltacouncil.ca.gov

The backup contact person to whom inquiries concerning the proposed administrative action may be directed to is:

Eva Bush
Delta Stewardship Council
715 P Street, Suite 15–300
Sacramento, CA 95814
(916) 284–1619
amend.rrpl@deltacouncil.ca.gov

All comments must be submitted as set forth in the “Opportunity for Public Comment” section, above.

INTERNET ACCESS

Copies of this Notice, the original Notice of Proposed Action published on August 26, 2022 in the Notice Register, the Initial Statement of Reasons, the corrected text of the proposed regulations in underline and strikeout, and all materials published or distributed by the Council regarding this proposed action are available at <https://deltacouncil.ca.gov/dlis/>.

DEPARTMENT OF SOCIAL SERVICES

NOTICE TO INTERESTED PARTIES

The California Department of Social Services (CDSS) is required by federal law to submit an updated State Plan for the Temporary Assistance to Needy Families program. Notice is hereby given that a copy of California’s proposed updated plan is available upon request for public review and comment.

Copies of the proposed State Plan are available from the office listed below. Comments relating to the proposed plan may be submitted in writing to the address/number listed below. All comments must be received no later than **October 25, 2022**.

CONTACT

Mx. J.R. Colmenero
CalWORKs Engagement Bureau
TANF State Plan Renewal
California Department of Social Services
744 “P” Street, MS 8–8–33
Sacramento, CA 95814
(916) 651–6998

**SUMMARY OF
REGULATORY ACTIONS**

**REGULATIONS FILED WITH THE
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

Office of Energy Infrastructure Safety
File # 2022–0726–01
Notifications, Investigations and Notices

This certificate of compliance by the Office of Energy Infrastructure Safety (Office) makes permanent a portion of the regulations adopted in OAL File Numbers 2021–0903–01E, 2022–0228–02EE, and 2022–0526–01EE. This action updates procedures related to investigations and requirements for notifying the Office of various fire–related incidents.

Title 14
Adopt: 29302
Filed 09/07/2022
Effective 09/12/2022
Agency Contact: Jeff Brooks (916) 926–1672

Department of Public Health
File # 2022–0830–02
Prenatal Screening Regulations

In this request for filing and printing pursuant to Health and Safety Code section 124977(d)(1), the Department of Public Health is readopting emergency regulations adopted in OAL Matter Number 2022–0707–04EFP pertaining to the genetic disease testing program carried out pursuant to Chapter 1 of Part 5 of Division 106 of the Health and Safety Code.

Title 17
Amend: 6520, 6523, 6525, 6527, 6531, 6532, 6540, 6540.1, 6541, 6542, 6543, 6544, 6545, 6546, 6547, 6548
Repeal: 6529
Filed 09/09/2022
Effective 09/09/2022
Agency Contact:
Hannah Strom–Martin (279) 217–0764

California Health Benefit Exchange
File # 2022–0830–01
Individual Eligibility and Enrollment and Appeals Process

The California Health Benefit Exchange (Exchange) adopted emergency regulations related to definitions, abbreviations, standards for notice, standards for eligibility determination and redetermination for qualified health plans, requirements for coverage eligibility, procedures for termination of coverage, and an appeals process. In this fourth emergency re-adopt, the Exchange amends its regulations to update the definitions of “Annual Open Enrollment Period,” “Dependent,” “Minimum Value,” “QHP Issuer,” and “Qualifying Coverage in an Eligible Employer-Sponsored Plan.” Also, the Exchange revised provisions related to applications and terms of eligibility.

Title 10
 Amend: 6408, 6410, 6452, 6454, 6470, 6474, 6482,
 6484, 6486, 6490, 6496, 6498, 6500, 6502, 6504,
 6506, 6602
 Filed 09/09/2022
 Effective 09/09/2022
 Agency Contact: Mariah Gonzales (916) 281-2471

California School Finance Authority
 File # 2022-0907-03
 Charter School Facilities Credit Enhancement Grant
 Program

This emergency readopt of OAL Matter Number 2022-0310-03ER by the California School Finance Authority updates the Charter School Facilities Credit Enhancement Grant Program to adopt a definition for the term “Financing,” increase the maximum award amount, and limit awards to a per-Financing basis.

Title 04
 Amend: 10193, 10195
 Filed 09/13/2022
 Effective 09/14/2022
 Agency Contact: Ryan Storey (213) 620-6360

California School Finance Authority
 File # 2022-0907-04
 Project Acceleration Notes and Credit Enhancement
 Alternatives Program

This emergency readoption action by the California School Finance Authority readopts the changes approved in OAL File Number 2022-0310-02ER. That action updated the Project Acceleration Notes and Credit Enhancement Alternatives (“PANACEA”) Program to adopt a definition for the term “Financing,” increased the maximum award amount, and limited awards to a per-Financing basis.

Title 04
 Amend: 10200.1, 10200.3
 Filed 09/13/2022
 Effective 09/14/2022
 Agency Contact: Ryan Storey (213) 620-6360

CalSavers Retirement Savings Board
 File # 2022-0830-04
 CalSavers Retirement Savings Program Amendments

This emergency rulemaking action by the CalSavers Retirement Savings Board readopts amendments originally made in OAL Matter Number 2022-0308-03E, relating to determining employer eligibility and deadlines for registration and enrollment in the CalSavers Retirement Savings Program.

Title 10
 Amend: 10000, 10001, 10002, 10004
 Filed 09/07/2022
 Effective 09/15/2022
 Agency Contact: Eric Lawyer (916) 653-1744

Office of Energy Infrastructure Safety
 File # 2022-0901-01
 Hearing Process Regulation

This emergency readopt establishes a written hearing process by which regulated entities and the public may present additional information to the office regarding a notice of defect or violation. This emergency is deemed pursuant to Government Code sections 15473(c)(2)(E) and 15475(a).

Title 14
 Adopt: 29104
 Filed 09/12/2022
 Effective 09/12/2022
 Agency Contact: Jeff Brooks (916) 926-1672

California Prison Industry Authority
 File # 2022-0729-02
 Legal Matters

This action by the California Prison Industry Authority makes changes without regulatory effect relating to legal matters.

Title 15
 Amend: 8114
 Filed 09/12/2022
 Agency Contact: Moira Doherty (916) 413-1140

Occupational Safety and Health Standards Board
 File # 2022-0729-03
 5207. Cadmium, Appendix F — Nonmandatory
 Protocol for Biological Monitoring

This action makes a change without regulatory effect correcting a typographical error.

Title 08
 Amend: 5207
 Filed 09/07/2022
 Agency Contact: Lara Paskins (916) 274-5721

Air Resources Board
 File # 2022-0802-02
 Small Off-Road Engine Regulations

This action amends the Small Off-Road Engine (SORE) Exhaust and Evaporative Emission Regulations and Test Procedures to accelerate the transition of SORE equipment to zero-emission equipment (ZEE). The amendments set SORE emission standards to zero in two phases. In the first phase, for engine model year (MY) 2024 and later, except generators, exhaust emission standards, except car-

bon monoxide, are set to zero, evaporative emission standards are set to zero, and generator emission standards are made more stringent than the existing standards. In the second phase, starting in MY 2028, emission standards for generators would be zero. This action also amends related emission reduction credit programs, sunsets the Blue Sky Series engine requirements, repeals the variance provisions in the evaporative emission regulations, amends evaporative emission test procedures, amends TP-901 regarding fuel tank testing configurations, amends evaporative emission control system certification procedure CP-902, and aligns exhaust emission test procedures with updates to the federal test procedures since 2012 with California-specific variances.

Title 13
Adopt: 2408.2, 2754.3
Amend: 2400, 2401, 2402, 2403, 2404, 2405, 2405.1, 2405.2, 2405.3, 2406, 2407, 2408, 2408.1, 2750, 2751, 2752, 2753, 2754, 2754.1, 2457.2, 2755, 2756, 2757, 2758, 2759, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2767.1, 2771
Repeal: 2768
Filed 09/14/2022
Effective 01/01/2023
Agency Contact: Bradley Bechtold (661) 305-9128

Board of Vocational Nursing and Psychiatric Technicians
File # 2022-0728-02
Fee Schedule

The Board is increasing its licensee and continuing education course provider application and renewal fees from the statutory minimum level to the statutory maximum level in order to meet the Board's projected expenditures for the 2022-2023 fiscal year and continue to operate.

Title 16
Amend: 2537, 2537.1, 2591, 2590.1
Filed 09/09/2022
Effective 09/09/2022
Agency Contact: Doris Pires (916) 263-7864

Dental Board of California
File # 2022-0728-01
Consolidated Continuing Education

In this regular rulemaking action the Dental Board of California adopts and amends continuing education requirements related to mandatory courses and approved course providers.

Title 16
Adopt: 1016.2
Amend: 1016, 1017
Filed 09/07/2022
Effective 01/01/2023
Agency Contact:
David Bruggeman (916) 263-2027

**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.