



California Regulatory Notice Register

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

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. 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:

Allan Hancock Community College District
 East Bay Schools Insurance Group
 San Geronio Pass Water Agency

STATE AGENCY:

California Public Employees' Retirement System
 Native American Heritage Commission

A written comment period has been established commencing on December 2, 2022 and closing on January 17, 2023. 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 January 17, 2023. 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 2. DEPARTMENT OF HUMAN
RESOURCES**

**DIVISION 1. ADMINISTRATIVE
PERSONNEL**

**CHAPTER 3. SUBCHAPTER 1. GENERAL
CIVIL SERVICE RULES**

**ARTICLE 27. 457 DEFERRED
COMPENSATION PLAN**

**SECTION 599.943 SAVINGS PLUS
PROGRAM CONTRACT PERIODS**

The California Department of Human Resources (CalHR) proposes to amend the regulation described below after considering all comments, objections, and recommendations.

I. PUBLIC HEARING

CalHR has not scheduled a public hearing on this proposed action. However, CalHR 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.

II. WRITTEN COMMENT PERIOD

Any Interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to CalHR. Comments may also be submitted by facsimile (FAX) at 916-327-1885 or by e-mail to joseph.mesich@calhr.ca.gov. The written comment period closes at 12:00 a.m. on January 17, 2023. CalHR will only consider comments received at CalHR's office by that time. Submit comments to the following address:

Joseph Mesich, Investment & Project Analyst
California Department of Human Resources
1515 S Street, North Building, Suite 500
Sacramento, CA 95811

III. AUTHORITY AND REFERENCE

Government Code section 19815.4 authorizes CalHR to formulate, adopt, amend, or repeal rules, and regulations affecting the purposes, responsibilities and jurisdiction of the department that are consistent with the law and necessary for administration of its programs. The proposed amendment interprets and makes specific Government Code section 19993 and Public Contracts Code sections 10295(c)(4), 10344.1., and 10430(c).

**IV. INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Public Contract Code (PCC) section 10430, subdivision (c), provides CalHR flexibility in the competitive bid process for contracts for state employee benefits, including voluntary retirement savings plans for state employees. Specifically, PCC section 10430 provides that Chapter 2, Part 2, Division 2, of the PCC, regarding state acquisition for goods and services does not apply to "any entity exempt from Section 10295." Further, PCC section 10295, subdivision (c)(4) exempts CalHR from obtaining Department of General Services' approval prior to awarding a contract. However, CalHR is required to comply with PCC section 10344.1, which requires the program to provide "all qualified bidders with a fair opportunity to enter the bidding process" and to follow additional state contracting best practices to the extent feasible.

Despite the flexibility provided by PCC section 10344.1, California Code of Regulations (CCR), title 2, section 599.943 requires the Savings Plus Program to comply with the State's competitive bidding process when selecting an investment firm for a new contract. Thus, section 599.943 does not align with PCC statutes that provide CalHR a more flexible approach to the competitive bidding requirements.

**V. EVALUATION OF INCONSISTENCY/
INCOMPATIBILITY WITH
EXISTING STATE REGULATIONS**

CalHR evaluated whether or not the proposed amendment is inconsistent or incompatible with existing state regulations. These are the only regulations concerning Savings Plus Program Contracting. Therefore, the proposed amendment is not inconsistent nor incompatible with other existing state regulations.

**VI. ANTICIPATED BENEFITS FROM
THIS PROPOSED REGULATION**

The proposed amendment modifies the regulation and recognizes that a different requirement applies to

CalHR, which does not specifically follow the state’s standard competitive bid process. This amendment to the regulation allows the Savings Plus Program to comply with the state’s competitive bidding process and for the program to be nimbler when needed. Where there is a high risk of an investment manager losing assets, the Savings Plus Program should be permitted to utilize a modified competitive search process to select a replacement investment manager to manage program assets. This flexibility allows the Savings Plus Program to meet its fiduciary obligations and safeguard program assets.

VII. DISCLOSURES REGARDING THE PROPOSED ACTION

CalHR has made the following initial determinations:

1. *Mandate on local agencies and school districts:* None.
2. *Cost or savings to any state agency:* The current regulation does not have any fiscal impact on state agencies, local government, or private sector business. The proposed amendment would not change this assessment.
3. *Cost to any local agency or school district, which must be reimbursed in accordance with Government Code sections 17500 through 17630:* None.
4. *Other nondiscretionary cost or savings imposed on local agencies:* None.
5. *Cost or savings in federal funding to the state:* None.
6. *Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:* None.
7. *Cost impacts on representative private person or business:* CalHR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. *Results of the Economic Impact Assessment/Analysis:*

Adoption of these regulations will not:

- a. Create or eliminate jobs within California;
- b. Create new businesses or eliminate existing businesses within California; or
- c. Affect the expansion of businesses currently doing business within California.
- d. Create new benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

Adoption of these regulations will:

- e. The proposed amendment modifies the regulation and recognizes that a different requirement applies to CalHR, and not necessarily the state’s standard competitive bid process. This amendment allows Savings Plus to comply with the state’s competitive bidding process and for the program to be nimbler when needed. In the example above, where there is a high risk of an investment manager losing assets, Savings Plus should be permitted to utilize a modified competitive search process to select a replacement investment manager to manage program assets. This flexibility allows Savings Plus to meet its fiduciary obligations and safeguard program assets.
9. *Significant effect on housing costs:* None.
10. *Small Business Impact:* The proposed regulation amendment has no impact on small businesses. This only regulates the internal process by which the state HR departments shall ensure only those who are truly qualified dependents of active employees are receiving benefits, and does not extend in any way to private businesses or the general public.

VIII. CONSIDERATION OF ALTERNATIVES

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

CalHR invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the hearing, if one is requested, or during the written comment period.

IX. CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Joseph Mesich, Investment & Project Analyst
 California Department of Human Resources
 1515 S Street, North Building, Suite 500
 Sacramento, CA 95811
 Telephone: 916-324-0519
 E-mail: joseph.mesich@calhr.ca.gov

The backup contact person for these inquiries is:

Jodi LeFebre, Legislative Coordinator
California Department of Human Resources
1515 S Street, North Building, Suite 500
Sacramento, CA 95811
Telephone: 916-214-6119
E-mail: jodi.lefebvre@calhr.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Joseph Mesich at the above address.

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

CalHR will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during normal business hours. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons.

XI. AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, CalHR may adopt the proposed amendment to the regulation as described in this notice. If CalHR makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) availability to the public, and will submit a copy to anyone who has submitted a written comment, for at least 15 days before CalHR adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of Joseph Mesich at the address indicated above. CalHR will accept written comments on the modified regulation for 15 days after the date on which they are made available.

XII. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Joseph Mesich at the above address.

XIII. AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strike out can be accessed through our website at www.calhr.ca.gov.

TITLE 2. DEPARTMENT OF HUMAN RESOURCES

DIVISION 1. ADMINISTRATIVE PERSONNEL

CHAPTER 3. SUBCHAPTER 1. GENERAL CIVIL SERVICE RULES

ARTICLE 27. 457 DEFERRED COMPENSATION PLAN

SECTION 599.942 INVESTMENTS

The California Department of Human Resources (CalHR) proposes to amend the regulation described below after considering all comments, objections, and recommendations.

I. PUBLIC HEARING

CalHR has not scheduled a public hearing on this proposed action. However, CalHR 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.

II. WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to CalHR. Comments may also be submitted by facsimile (FAX) at 916-327-1885 or by e-mail to joseph.mesich@calhr.ca.gov. The written comment period closes at 12:00 a.m. on January 17, 2023. CalHR will only consider comments received at CalHR’s office by that time. Submit comments to the following address:

Joseph Mesich, Investment & Project Analyst
California Department of Human Resources
1515 S Street, North Building, Suite 500
Sacramento, CA 95811

III. AUTHORITY AND REFERENCE

Government Code section 19815.4 authorizes CalHR to formulate, adopt, amend, or repeal rules, and regulations affecting the purposes, responsibilities and jurisdiction of the department that are consistent with the law and necessary for administration of its programs. Government Code section 19993.05 allows the Savings Plus Program the flexibility to offer the investment options that are in the best interest of its participants.

IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Code of Regulations section 599.942 was adopted in January 1986 and specifies that the state’s 457 Deferred Compensation Plan shall consist of a savings plan, two annuity products, both fixed and variable; and one mutual fund provider. The purpose of this regulation was to ensure a minimum number of options were provided to participants.

In 1998, the Legislature passed Assembly Bill 1416, enacting Government Code section 19993.05 and required CalHR to include a variety of investment choices, including but not limited to stocks, bonds, open ended mutual funds, and annuities, for program participants.

Senate Bill 1504 (Chapter 903, Statutes of 2018) amended Government Code section 19993.05, known as the Freedom of Financial Choice Act by removing statutory requirements for the Savings Plus Program to offer specific investment options, including annuity products, and gave CalHR the exclusive authority to determine investment options for the Savings Plus Program.

Due to the revision and broader language of available investment options under the Government Code section 19993.05, Savings Plus is able to amend section 599.942 and harmonize regulations to the Savings Plus Plan documents. The regulatory amendments will allow the Savings Plus Program the necessary flexibility while still specifying certain parameters for investment options.

V. EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

CalHR evaluated whether or not the proposed amendment is inconsistent or incompatible with existing state regulations. These are the only regulations concerning what the State’s 457 Deferred Compensation Plan shall consist of. Therefore, the proposed amendment is not inconsistent nor incompatible with other existing state regulations.

VI. ANTICIPATED BENEFITS FROM THIS PROPOSED REGULATION

The proposed regulation will remove the requirement to offer certain specified investment options, will align regulatory language with the amended Government Code section 19993.05 and existing Savings Plus Plan document language, and allow the Savings Plus Program the flexibility to offer investment options that are in the best interest of its participants.

VII. DISCLOSURES REGARDING THE PROPOSED ACTION

CalHR has made the following initial determinations:

1. *Mandate on local agencies and school districts:* None.
2. *Cost or savings to any state agency:* The current regulation does not have any fiscal impact on state agencies, local government, or private sector business. The proposed amendment would not change this assessment.
3. *Cost to any local agency or school district, which must be reimbursed in accordance with Government Code sections 17500 through 17630:* None.
4. *Other nondiscretionary cost or savings imposed on local agencies:* None.
5. *Cost or savings in federal funding to the state:* None.
6. *Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:* None.
7. *Cost impacts on representative private person or business:* CalHR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. *Results of the Economic Impact Assessment/ Analysis:*
Adoption of these regulations will not:
 - a. Create or eliminate jobs within California;
 - b. Create new businesses or eliminate existing businesses within California; or
 - c. Affect the expansion of businesses currently doing business within California.
 - d. Create new benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.
 Adoption of these regulations will:
 - e. The proposed regulatory change will remove the requirement to offer certain specified investment options, align regulatory language with existing Plan Document language and Government Code section 19993.05 and allow the flexibility to offer investment options that are at a lower cost and in the best interest of its participants.
9. *Significant effect on housing costs:* None.
10. *Small Business Impact:* The proposed regulation amendment has no impact on small businesses. This only regulates the internal process by which the state HR departments shall ensure only those who are truly qualified dependents of active employees are receiving benefits, and does

not extend in any way to private businesses or the general public.

VIII. CONSIDERATION OF ALTERNATIVES

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

CalHR invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the hearing, if one is requested, or during the written comment period.

IX. CONTACT PERSONS

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E-mail: jodi.lefebvre@calhr.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Joseph Mesich at the above address.

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

CalHR will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during normal business hours. As of the date this notice is published,

the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons.

XI. AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, CalHR may adopt the proposed amendment to the regulation as described in this notice. If CalHR makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) availability to the public, and will submit a copy to anyone who has submitted a written comment, for at least 15 days before CalHR adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of Joseph Mesich at the address indicated above. CalHR will accept written comments on the modified regulation for 15 days after the date on which they are made available.

XII. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Joseph Mesich at the above address.

XIII. AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strike out can be accessed through our website at www.calhr.ca.gov.

TITLE 4. GAMBLING CONTROL COMMISSION

**COMMISSION FEES
MODERNIZATION PROJECT III
CGCC-GCA-2022-03-C**

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on **January 17, 2022**. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on January 18, 2022**. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

PUBLIC HEARING

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under *Contact Persons* no later than 15 days prior to the close of the written comment period.

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally 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 oral or written 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 sections 19824, 19826, 19840, 19841, 19951, 19955 and 19984 of the Business and Professions Code; and to implement, interpret or make specific sections 19805, 19826, 19841, 19867, 19951, and 19984 of the Business and Professions Code, the Commission is proposing to adopt the following changes to Chapters 2, 5, and 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND
POLICY STATEMENT

Introduction:

The Commission is the state agency charged with the administration and implementation of the Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations as necessary to implement the Act.

Senate Bill (SB) 189 (Chapter 48, Statutes of 2022) was signed into law on June 30, 2022. SB 189, in part, significantly modified Business and Professions Code (BPC) section 19951. BPC section 19951 is the section that provides the Commission the authority to charge an annual fee to cardrooms. Prior to the adoption of SB 189, the provision provided a specific fee structure that each cardroom was required to pay. This fee structure was based on the number of tables the cardroom was licensed to operate or the gross revenue of the cardroom, as specified.

With the adoption of SB 189, this fee structure has been repealed and replaced with authority for the Commission to adopt regulations to collect a fee that is limited to the reasonable regulatory expenditures of the Bureau of Gambling Control within the Department of Justice (Bureau) and the Commission. As the Commission is aware that the existing fee structure in regulation is not limited to the reasonable regulatory expenditures of the Bureau and Commission, maintaining these regulations is inconsistent with the requirements of BPC section 19951.

Existing Law:

BPC section 19805 provides the definitions used within the Act.

BPC section 19824 provides that the Commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of the Act.

BPC section 19826 provides the responsibilities of the Bureau, including to receive and process applications for any license, permit, or other approval, and to collect all related fees.

BPC section 19840 provides that the Commission may adopt regulations for the administration and enforcement of the Act. Additionally, the Commission's regulations, to the extent appropriate, shall take into consideration the operational differences of large and small businesses.

BPC section 19841 provides a list of regulations that the Commission must adopt, including regulations providing the manner and method of collection and payment of fees and implementing the provisions of the Act relating to licensing and other approvals.

¹ Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

BPC section 19951 provides that the Commission may collect fees sufficient to fund the reasonable regulatory expenditures of the Bureau and Commission to fully carry out their duties and responsibilities under the Act.

BPC section 19955 provides that if an owner licensee fails to make timely payments under BPC section 19951(b)(2), the Commission may order the temporary closure of the gambling establishment and if the fees remain unpaid after 90 days, the Commission may deem the license surrendered.

BPC section 19984 provides that the Commission shall establish regulations related to third-party providers of proposition player services (TPPPS), including the establishment of reasonable fees and deposits as necessary to defray the costs of providing regulation and oversight.

EFFECT OF REGULATORY ACTION

This proposed action has been prepared to implement the annual fee calculation recommended by MGT Consulting Group in response to the State Auditor's Report (Audit Report)² released on May 16, 2019, in regards to cardrooms.

ANTICIPATED BENEFITS OF PROPOSED REGULATION

This proposed action will have the benefit of requiring cardroom business licensees to pay total annual fees in an amount necessary for the Commission and Bureau to maintain proper funding levels while removing any inappropriate additional payments.

SPECIFIC PROPOSAL

This proposed action will make changes within the California Code of Regulations, Title 4, Division 18 as follows:

CHAPTER 2. LICENSES AND WORK PERMITS

ARTICLE 2. INITIAL AND RENEWAL LICENSES AND WORK PERMIT

AMEND 12112. INITIAL LICENSE APPLICATIONS; REQUIRED FORMS.

Section 12112 provides the forms and other information necessary for an application for an initial license to be considered complete. This section includes the attachment of many forms, including the Application for Owner Category License, CGCC-CH2-05. As part of submitting this form, applicants for cardroom business licenses and TPPPS business licenses are required to submit their annual fees. Section 12368

has been amended to provide a separate timeline for submitting annual fees.

CHAPTER 5. ACCOUNTING AND TRANSACTION APPROVALS

ARTICLE 1. ACCOUNTING AND FINANCIAL REPORTING

ADOPT 12318. CARDROOM BUSINESS LICENSE GAMING REVENUE REPORT.

Subsection (c) of Section 12368 required the submittal of a completed Cardroom Business License: Annual Fee Calculation, CGCC-CH7-03, alongside the submittal of the current year's annual fee (which itself is due no later than 120 calendar days following the end of the cardroom business licensee's preceding fiscal year). This form includes information both to report the revenue for gambling activities, broken down by individual games and tournaments, and information for the determination of the cardroom business licensee's annual fee. With the change to the annual fee payment structure, the section related to the annual fee schedule is inconsistent, no longer necessary, and is therefore repealed. The remainder of the form and the current submittal timeline was moved to this new section. Due to the move to Chapter 5 and the removal of part of the form, it has been renamed Cardroom Business License: Gaming Revenue Report, CGCC-CH5-01.

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS

ARTICLE 1. GENERAL PROVISIONS

AMEND 12360. DEFINITIONS.

Section 12360 provides the definitions that pertain only to Chapter 7. The Commission is proposing to add six new definitions to this section. All existing definitions are renumbered accordingly, which is a non-substantive change.

Paragraph (b)(1) provides the definition of "Active Licensee" to mean a cardroom business licensee who has generated revenue for at least the last year as reported in Section 12313. This means that if a cardroom business licensee has reported revenue in the previous year's financial statement, they are considered active.

Paragraph (b)(2) provides the definition of "Annual Fee" to mean the amount a cardroom business licensee is required to pay to cover Non-Application Costs pursuant to Section 12368.2.

Paragraph (b)(3) provides the definition of "Application Cost" to mean all costs, including the deposit, related to the processing of an application.

Paragraph (b)(10) provides the definition of "Non-Application Cost" to mean all costs other than application costs borne by the Commission, Department of Justice, and all other State operations expenditures for the administration and enforcement of the Act.

² State Audit Report 2018-132.

Paragraph (b)(11) provides the definition of “Non-Operational Licensee” to mean a cardroom business licensee that maintains a valid license but did not generate revenue in the past year as reported in Section 12313. This means that if a cardroom business licensee has not reported revenue in the previous year’s financial statement, they are considered non-operational.

Paragraph (b)(13) provides the definition of “Surrendered or Revoked Licensee” to mean a former cardroom business licensee who stopped operating and ceased to maintain a valid license prior to August 31 of the year the invoices are created.

AMEND 12368. CARDROOM BUSINESS LICENSE ANNUAL FEE.

Section 12368 provides the process and timelines for a cardroom business licensee to submit their annual fee. The current provision mirrors the previous process and fee schedule provided in BPC 19951, which has since been repealed. As such, all of the existing Section 12368 is proposed be repealed and replaced as follows:

Subsection (a) provides that no later than October 1 of each year an invoice in an amount determined by the Commission pursuant to Section 12368.2 will be sent by the Bureau to each cardroom business licensee.

Subsection (b) provides that the annual fee may be paid in installments if the cardroom business licensee submits a written request to the Bureau within 30 calendar days from the date the invoice was mailed.

Subsection (c) provides that a request for installment payments is to be considered approved unless, within 14 calendar days of receiving the request, the Bureau determines and notifies the cardroom business licensee that it has been disapproved. If not disapproved, a cardroom business licensee will provide its payments January 1, April 1, and June 30 of the payment year. If disapproved, or if not requested, the cardroom business licensee will pay the entire amount by January 1. The standard for disapproval by the Commission is based on if the cardroom business licensee has shown a history of failing to make installment payments as required or failed to submit the request within the required 30 calendar days.

Subsection (d) provides that the cardroom business license certificate will not be issued until the Bureau has received the cardroom annual fees, or has approved the cardroom business licensee for installment payments.

Subsection (e) provides that that any renewal application for a cardroom business licensee will not be approved if the cardroom business licensee has any outstanding annual fees.

Subsection (f) provides that no application for a contract may be approved by the Bureau for a TPPPS to operate at this cardroom until any delinquent annual fees have been paid in full.

Subsection (g) provides the invoice amounts for cardroom business licensees when they first receive their licenses. Since the definition of an active licensee requires the submittal of fiscal information, it is likely that a newly approved cardroom business licensee will not have operated for a sufficient time to have completed a full fiscal year in the timeframe required for the calculation of an annual fee.

Paragraph (1) provides that upon the first issuance of a cardroom business license, either as a temporary or an initial license, the Bureau will issue an invoice in the amount required of an active licensee with a gross revenue under \$1,500,000, as provided in Section 12368.2, divided by 12, multiplied by the number of whole months remaining in the current calendar year, the cardroom business licensee must submit to the Bureau the annual fee within 30 calendar days from the date the invoice was mailed.

Paragraph (2) provides that for the first full calendar year of licensure, a cardroom business licensee will be invoiced the unadjusted annual fee required of an active licensee with a gross revenue under \$1,500,000, as provided in Section 12368.2 for the following calendar year.

ADOPT 12368.2. CARDROOM BUSINESS LICENSE ANNUAL FEE AMOUNTS.

Section 12368.2 provides the annual fee amounts required of cardroom business licensees. The fees required include:

- \$0 for surrendered or revoked licensees;
- \$5,237 for non-operational licensees;
- \$10,473 for active licensees with a three-year average gross revenue under \$1,500,000; or,
- 1.29% of the three-year average gross revenue for active licensees with a three-year average gross revenue of \$1,500,000 or more.

ARTICLE 10. GAMING TABLES

AMEND 12470. REQUEST FOR ADDITIONAL TEMPORARY TABLES FOR TOURNAMENTS OR SPECIAL EVENTS.

Section 12470 provides the process by which a cardroom business licensee can request additional tables for use on a temporary basis. Currently, this process includes two fees, a fixed application fee to cover the costs of processing the application and an adjustment to the cardroom business licensee’s annual fee to reflect the additional tables. Now that the annual fee payment is no longer linked to the number of tables operated by the cardroom business licensee, it is repealed.

Paragraph (3) of subsection (a) provides that the fee is required to be submitted with the application. Additionally, the form Cardroom Business License: Gaming Tables, CGCC-CH7-07, attached to the Appendix

in this section, provides the same requirement. It is repealed from both the section and the form.

Subsection (f) provides the calculation for this fee. As this fee is no longer being collected, it is repealed.

AMEND 12472. REQUEST FOR ADDITIONAL PERMANENT TABLES.

Section 12472 provides the process by which a cardroom business licensee can request additional permanent tables. Currently, this process includes an adjustment to the cardroom business licensee's annual fees; however, as those fees are no longer being based on the total number of tables operated by the cardroom business license, this additional fee is being repealed.

Subsection (d) provides the timeline for the Bureau and Commission to review and consider the application for additional permanent tables. This includes a notification and submittal of additional annual fees. As this fee is no longer being collected, it is repealed.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

The proposed action is intended to make changes to the Commission's regulations to improve the Commission's existing processes and in so doing makes them more compatible and internally consistent.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

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 Commission is anticipating an increase in annual fee collection of approximately \$4,726,704 in cardroom annual fees per state fiscal year when compared to what is currently being collected. To accommodate the additional workload, the Commission has already received additional budget authority for the 2022–2023 fiscal year of \$168,000 for one Staff Management Auditor position.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES: None.

MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

EFFECT ON HOUSING COSTS: None.

IMPACT ON BUSINESS:

The Commission has made a determination that the proposed regulatory 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. This determination is based on the following facts or evidence/documents/testimony:

This proposed action imposes no new mandatory requirements on businesses.

The Commission is anticipating an additional statewide cost of \$4,726,704 in cardroom annual fees. This cost would directly impact cardroom business licensees. This is reflected in an average increase of \$764,801 in annual fees for a typical business and \$48,652 for a small business. The calculation method has been weighted to ensure that those businesses whose three-year average gross revenue is under \$1,500,000 per year pay a lower proportion of the total fees necessary in order to ensure that no cardroom business licensee is significantly impacted.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission is anticipating an impact on a typical cardroom business licensee resulting from the increase to their annual fee. As noted above, the Commission estimates the average increase to be \$764,801 per typical business. The proposed regulation will have no impact on a representative private person.

EFFECT ON SMALL BUSINESS:

The Commission is anticipating an impact on a small cardroom business licensee resulting from the increase to their annual fee. As noted above, the Commission estimates the average increase to be \$48,652 per small business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. For this purpose, the definition of a small business as defined by the federal Small Business Administration was utilized.

The basis for this determination is that this proposed action only adjusts cardroom business licensees' annual fees to reflect actual costs incurred by the Commission and Bureau, which is unlikely to result in additional or reduced industry participation or performance.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of requiring cardroom business licensees to pay total annual fees in an amount necessary for the Commission and Bureau to maintain proper funding levels.

HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by aiding and preserving the integrity of controlled gambling.

WORKER SAFETY:

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

STATE’S ENVIRONMENT:

It has been determined that the proposed action will not affect the State’s environment because it does not pertain to environmental issues.

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.

INITIAL STATEMENT OF REASONS,
INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request to the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

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

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission’s office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the primary contact 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 one of the contact persons named below or by accessing the Commission’s website also listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following *primary* contact person:

Joshua Rosenstein, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 274-5823
Fax: (916) 263-0499
E-mail: jrosenstein@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following *backup* contact person:

Alex Hunter, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220,
Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499
E-mail: ahunter@cgcc.ca.gov

WEBSITE ACCESS

Materials regarding this proposed action are also available on the Commission’s website at www.cgcc.ca.gov.

**TITLE 8. AGRICULTURAL LABOR
RELATIONS BOARD**

The Agricultural Labor Relations Board (ALRB or Board) proposes to adopt, amend, and repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to:

- Adopt new sections 20247.1 and 20410;

- Amend sections 20150, 20155, 20160, 20162, 20164, 20166, 20169, 20170, 20190, 20192, 20216, 20217, 20219, 20220, 20222, 20235, 20236, 20238, 20240, 20241, 20242, 20243, 20246, 20248, 20249, 20250, 20262, 20274, 20282, 20286, 20290, 20291, 20299, 20300, 20310, 20305, 20325, 20330, 20335, 20350, 20355, 20360, 20363, 20365, 20370, 20375, 20377, 20382, 20385, 20390, 20393, 20400, 20401, 20402, 20407, 20408, 20910; and
- Repeal section 20168.

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 the representative of any interested person, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or the representative of any interested person, may submit written comments relevant to the proposed regulatory action to the Board. Comments also may be submitted by email to Santiago.Avila-Gomez@alrb.ca.gov. The written comment period closes on January 17, 2023, which is 46 days after the publication of this notice. The Board will consider only comments actually received by that time. Written comments shall be submitted to:

Santiago Avila-Gomez, Executive Secretary
Agricultural Labor Relations Board
1325 J Street, Suite 1900-B
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Pursuant to Labor Code section 1144, the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions, and effectuate the purposes and policies, of the Agricultural Labor Relations Act (ALRA or Act), codified at Labor Code section 1140 et seq.

General reference for **section 20150** of the Board's regulations: 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20155** of the Board's regulations: Sections 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20160** of the Board's regulations: Sections 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20162** of the Board's regulations: Sections 1151.3, 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code.

General reference for **section 20164** of the Board's regulations: Sections 1151.3, 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20166** of the Board's regulations: Section 1151.3, 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20169** of the Board's regulations: Sections 1151.3, 1151.4(a), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20170** of the Board's regulations: Sections 1151.3, 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20190** of the Board's regulations: Sections 1140.2(b), 1156.3, 1160.2, and 1160.5, Labor Code. General reference for **section 20192** of the Board's regulations: Sections 1142(b), 1151.4(a), 1156.3, 1156.7(c), (d), 1160.2, 1160.3, and 1160.5, Labor Code. General reference for **section 20216** of the Board's regulations: Sections 1151(a) and 1160.2, Labor Code. General reference for **section 20217** of the Board's regulations: Sections 1151(a), and 1160.2, Labor Code. General reference for **section 20219** of the Board's regulations: Sections 1149, 1151.4(a), 1160.2, and 1160.5, Labor Code. General reference for **section 20220** of the Board's regulations: Sections 1151(a), 1160.2, 1160.5, and 1160.6, Labor Code. General reference for **section 20222** of the Board's regulations: Sections 1151.4(a), 1160.2, and 1160.3, Labor Code. General reference for **section 20235** of the Board's regulations: Sections 1160.2, Labor Code. General reference for **section 20236** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20238** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20240** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20241** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20242** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20243** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20246** of the Board's regulations: Section 1160.2, Labor Code. General reference for **proposed section 20247.1** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20248** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20249** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20250** of the Board's regulations: Sections 1151, 1160.2, and 1160.3, Labor Code. General reference for **section 20262** of the Board's regulations: Sections 1145, 1160.2, 1160.3, Labor Code. General reference for **section 20274** of the Board's regulations: Sections 1151(a) and 1160.2, Labor Code. General reference for **section 20282** of

the Board's regulations: Section 1160.3, Labor Code. General reference for **section 20286** of the Board's regulations: Sections 1160.2 and 1160.3, Labor Code. General reference for **section 20290** of the Board's regulations: Section 1160.3, Labor Code. General reference for **section 20291** of the Board's regulations: Section 1160.3, Labor Code. General reference for **section 20299** of the Board's regulations: Section 1161, Labor Code. General reference for **section 20300** of the Board's regulations: Sections 1142(b), 1156.2, 1156.3, 1156.4, 1156.5, 1156.6, and 1156.7, Labor Code. General reference for **section 20310** of the Board's regulations: Sections 1156.3, 1156.4, and 1157.3, Labor Code. General reference for **section 20305** of the Board's regulations: Section 1157, Labor Code. General reference for **section 20325** of the Board's regulations: Section 1156.3, Labor Code. General reference for **section 20330** of the Board's regulations: Section 1156.3, Labor Code. General reference for **section 20335** of the Board's regulations: Section 1156.3, Labor Code. General reference for **section 20350** of the Board's regulations: Sections 1156.3, 1156.7, and 1157.2, Labor Code. General reference for **section 20355** of the Board's regulations: Section 1156.3, Labor Code. General reference for **section 20360** of the Board's regulations: Sections 1156.3 and 1156.7, Labor Code. General reference for **section 20363** of the Board's regulations: Sections 1156.3 and 1157, Labor Code. General reference for **section 20365** of the Board's regulations: Section 1156.3, Labor Code. General reference for **section 20370** of the Board's regulations: Sections 1142(b), 1145, 1151, 1151.3, 1156.3, 1156.7(c), (d), Labor Code. General reference for **section 20375** of the Board's regulations: Sections 1156.3(c) and 1157.2, Labor Code. General reference for **section 20377** of the Board's regulations: Section 1156.3, Labor Code. General reference for **section 20382** of the Board's regulations: Sections 1155.2 and 1156.6, Labor Code. General reference for **section 20385** of the Board's regulations: Sections 1142(b), 1156, 1156.2, Labor Code. General reference for **section 20390** of the Board's regulations: Sections 1156.3 and 1156.7(c), (d), Labor Code; *Montebello Rose Co. v. ALRB* (1981) 119 Cal.App.3d 1; *Cattle Valley Farms* (1982) 8 ALRB No. 24. General reference for **section 20393** of the Board's regulations: Sections 1142(b), 1156.3, and 1156.7, Labor Code. General reference for **section 20400** of the Board's regulations: Sections 1156.3, 1164, 1164.11, and 1164.12, Labor Code. General reference for **section 20401** of the Board's regulations: Sections 1164, 1164.11, and 1164.12, Labor Code. General reference for **section 20402** of the Board's regulations: Sections 1151, 1164, 1164.11, and 1164.12, Labor Code. General reference for **section 20407** of the Board's regulations: Section 1164, Labor Code. General reference for **section 20408** of the Board's regulations: Section 1164.3,

Labor Code. General reference for **proposed section 20410** of the Board's regulations: Sections 1164 and 1164.10, Labor Code. General reference for **section 20910** of the Board's regulations: Sections 1152 and 1157.3, Labor Code.

POLICY STATEMENT OVERVIEW

The ALRB is a quasi-judicial administrative agency charged with administering and enforcing the ALRA, a landmark law enacted in 1975 that extended collective bargaining rights to farmworkers who were excluded from the coverage of the National Labor Relations Act. The ALRB enforces and protects the organizational rights of farmworkers and oversees labor relations disputes between growers and the unions representing farmworkers.

The proposed regulations and amendments update the Board's filing and service requirements; replace gendered terms with non-gendered language; update procedures in unfair labor practice cases and clarify the rights and obligations of parties in unfair labor practice proceedings; update requirements in representation election proceedings; and adopt procedures governing requests for supplemental mandatory mediation and conciliation under Labor Code section 1164.10.

These proposed regulatory actions are intended to improve and make more efficient the Board's administrative processes, and to clarify the respective rights and obligations of parties to the Board's proceedings. The Board announced at its June 23, 2020 public meeting that it would be commencing a review of its regulations for purposes of improving the Board's administrative procedures, and since then solicited input from stakeholders on proposals. The Board's designated regulations subcommittee held a workshop to receive input or proposals from stakeholders on March 11, 2021, and presented recommendations to the Board at its April 13, 2021 public meeting on concepts for proposed regulatory actions. The Board approved the subcommittee's recommendations.

The subcommittee published proposed regulatory language in underline and strike-through format on September 22, 2021, reflecting the concept proposals approved by the Board. The Board approved the subcommittee's proposed regulatory language concerning its filing and service provisions, representation proceeding proposals, gender-neutralizing provisions, and supplemental mandatory mediation and conciliation. The Board directed the subcommittee to reconsider and modify proposals concerning unfair labor practice procedures.

The subcommittee thereupon issued a notice on October 20, 2021, soliciting further public input regarding its proposals. After considering the written

comments received, the subcommittee issued updated reports on February 11, 2022, with proposals regarding unfair labor practice procedures, representation procedures, and supplemental mandatory mediation and conciliation. On February 22, 2022, the Board approved the subcommittee's proposals and directed the subcommittee to commence a formal rulemaking.

INFORMATIVE DIGEST

A. Adoption of New Sections

Proposed Section 20247.1 requires a case management conference to be held in an unfair labor practice case between the parties and assigned administrative law judge.

Proposed Section 20410 adds procedures to govern supplemental mandatory mediation and conciliation proceedings between a certified labor organization and agricultural employer.

B. Amendments to the Text of Existing Regulations

Section 20150 describes formatting and document requirements for filings with the Board. The proposed amendments provide for easier-to-read font requirements, describe new formatting requirements for electronically filed documents and documents not electronically filed, and requires parties or their representatives to include an email address with their address on the filing caption page.

Section 20155 states every document filed with the Board must be signed by the filing party or its representative. The proposed amendments allow for use of electronic signatures and replace gendered terms with non-gendered language.

Section 20160 states the office locations where parties should file certain types of documents and the number of copies to be submitted. The proposed amendments require all parties represented by counsel or other representative to file documents with the Board electronically, while parties not represented by counsel or other representative may continue to file hard-copy documents with the Board. The proposed amendments remove the requirements a party file multiple copies of a document with the Board for hard-copy filings.

Section 20162 requires parties or their representatives to include their names, addresses, and telephone numbers on their initial filings with the Board or to file a notice of appearance with the executive secretary stating such information. The proposed amendments require parties or their representatives also to provide their email addresses on their initial filings or in a notice of appearance.

Section 20164 describes service requirements for filings in Board proceedings. The proposed amendments require the Board and represented parties to file and serve documents electronically, while parties not

represented may file hard-copy documents with the Board and must be served with hard-copies of filings by the Board or other parties.

Section 20166 describes requirements for serving parties with filings in proceedings before the Board. The proposed amendments incorporate proposed new electronic filing requirements and replace gendered terms with non-gendered language.

Section 20169 states requirements for electronically filing documents with the Board. The proposed amendments require parties represented by counsel or other representative to file documents with the Board electronically, while unrepresented parties may file hard-copy documents with the Board. The proposed amendments further describe certain formatting requirements for electronic filings, including pagination, document naming, and file-size requirements. The proposed amendments also change the deadline from 4:00 p.m. to 5:00 p.m. for a document filed electronically to be considered filed that same business day. The proposed amendments also describe methods for electronically serving other parties. The proposed amendments state a party may request permission to file a document in hard-copy form where file-size or other technical complications prevent use of electronic filing.

Section 20170 describes the calculation of time periods for filings with the Board based on when a document is served. The proposed amendments clarify that service of a document may be done by mail, overnight delivery, in person, or electronic filing, and the timeframe for another party to file a document will run from the date of one of these actions. The proposed amendments also change the added time to respond to a document served by mail from 3 days to 5 days, provide that 2 business days shall be added to the time to respond to a document served by overnight courier, and state that no extra days are added to the time to respond to a document served electronically. The proposed amendments also remove references to outdated methods of filing or service by facsimile.

Section 20190 describes requirements for filing a request for a continuance of hearing dates. The proposed amendments add references to settlement conferences a party may seek to continue. The proposed amendments also extend the length of a continuance an administrative law judge may grant after a hearing has begun from two business days to 10 business days, and state that requests for continuances of longer than 10 business days must be supported by extraordinary circumstances. The proposed amendments also make other technical non-substantive changes to the language.

Section 20192 states the requirements for a party to file a request for an extension of time to perform some action, including that a party requesting an extension

must state the position of the other party when filing its request. The proposed amendments require a party requesting an extension of time to include with the request a declaration stating the other party's position on the request or, if the party was unable to obtain the other party's position, a description of the party's efforts to contact the other party to obtain its position.

Section 20216 directs a regional director to investigate the allegations contained in an unfair labor practice charge. The proposed amendments allow the regional director limited authority to serve interrogatories to the charged party during the investigation.

Section 20217 states procedures governing subpoenas issued by the General Counsel during the investigation of an unfair labor practice charge. The proposed amendments confirm the authority of the General Counsel to issue subpoenas requiring the attendance of a witness to provide testimony, in addition to subpoenas requiring the production of documents. The proposed amendments also require a party objecting to a subpoena on privilege grounds to produce a privilege log. The proposed amendments also provide a party opposing an application to enforce a subpoena an opportunity to respond to the application. The proposed amendments also confirm that the Board may delegate authority to the General Counsel to seek judicial enforcement of a subpoena, and also that the General Counsel may seek evidentiary sanctions against a party who refuses to comply with a subpoena. The proposed amendments also replace gendered terms with non-gendered language and make other technical non-substantive changes to the language.

Section 20219 allows for review of a regional director's decision to dismiss an unfair labor practice charge. The proposed amendments allow the General Counsel to grant review on the General Counsel's own motion of a dismissal of an unfair labor practice charge filed by an agricultural employee. The proposed amendments also update references to the filing and service regulations to reflect requirements that represented parties file documents electronically while permitting unrepresented parties to file documents non-electronically.

Section 20220 describes the process by which the General Counsel issues a complaint based on an unfair labor practice charge. The proposed amendments replace gendered terms with non-gendered language.

Section 20222 allows for the amendment or withdrawal of unfair labor practice charges. The proposed amendments replace gendered terms with non-gendered language.

Section 20235 allows a respondent in an unfair labor practice case to serve on the General Counsel a request for particulars seeking more information if the allegations of the complaint lack specificity. The proposed amendments allow the General Counsel to

serve a respondent with a request for particulars where an answer asserts a defense based on a charging party's immigration status.

Section 20236 allows a party in an unfair labor practice proceeding to request documents from another party before hearing. The proposed amendments require a party objecting to the production of documents based on a claim of privilege to provide a privilege log.

Section 20238 states the process for a party to compel another party to comply with pre-hearing discovery requests, and allows an administrative law judge to order evidentiary sanctions against a non-complying party. The proposed amendments clarify that evidentiary sanctions may be ordered in cases involving a party's failure to comply with a subpoena.

Section 20240 describes procedures for filing and responding to motions before or after hearing in unfair labor practice proceedings. The proposed amendments incorporate other proposed changes to require electronic filing by represented parties, as well as to remove references to outdated methods of service by facsimile. The proposed amendments also replace gendered terms with non-gendered language.

Section 20241 describes procedures for filing motions between the time of a prehearing conference and the close of a formal hearing in unfair labor practice proceedings. The proposed amendments incorporate other proposed changes to require electronic filing by represented parties, as well as remove the requirement a party file multiple copies of a document with the Board.

Section 20242 states the procedure for a party to file an application with the Board seeking review of an order by an administrative law judge or executive secretary. The proposed amendments clarify that the Board will not consider an application seeking review of issues that can be reviewed in exceptions to a final administrative law judge decision, provide a party who seeks to oppose an application to the Board an opportunity to respond to it, and make other technical non-substantive changes to the language.

Section 20243 allows a party in an unfair labor practice case to make a motion to the administrative law judge for a decision to be entered in its favor after the other party's presentation of evidence. The proposed amendments replace gendered terms with non-gendered language.

Section 20246 describes procedures for a party to apply to an administrative law judge for permission to take the deposition of a witness. The proposed amendments remove the requirement a party file multiple copies of a document with the Board and replace gendered terms with non-gendered language.

Section 20248 allows an administrative law judge the option to hold a settlement conference with parties to an unfair labor practice proceeding. The proposed

amendments requires administrative law judges to hold settlement conferences, and make other technical non-substantive changes to the language.

Section 20249 describes prehearing conferences held between the parties and administrative law judge in unfair labor practice proceedings. The proposed amendments correct a typographical error, replace gendered terms with non-gendered language, and remove references to outdated methods of service or filing by facsimile.

Section 20250 states the procedures for parties issuing and responding to subpoenas in unfair labor practice proceedings. The proposed amendments require a party who objects to production of documents based on a claim of privilege to produce a privilege log. The proposed amendments also update references to the filing and service regulations to reflect requirements that represented parties file documents electronically while permitting unrepresented parties to file documents non-electronically. The proposed amendments also confirm that the Board may delegate authority to the General Counsel to seek judicial enforcement of a subpoena, and also that the General Counsel may seek evidentiary sanctions against a party who refuses to comply with a subpoena. The proposed amendments also provide a party opposing an application to enforce a subpoena an opportunity to respond to the application. The proposed amendments also replace gendered terms with non-gendered language and make other technical non-substantive changes to the language.

Section 20262 describes the authority of administrative law judges in Board proceedings. The proposed amendments replace gendered terms with non-gendered language, and remove a requirement that multiple copies of a statement of facts describing a party's misconduct be filed with the executive secretary.

Section 20274 requires the production of witness statements after a witness has testified in an unfair labor practice hearing. The proposed amendments replace gendered terms with non-gendered language.

Section 20282 states the procedures and requirements for filing exceptions with the Board to an administrative law judge's decision in an unfair labor practice case. The proposed amendments incorporate other proposed changes to require represented parties to file documents electronically with the Board, remove the requirement a party file multiple copies of a document with the Board, remove the requirement that the Board physically return to a party portions of a legal brief exceeding the page limit, and make other non-substantive technical changes.

Section 20286 states an administrative law judge's decision in an unfair labor practice case becomes final if exceptions are not filed with the Board, and provides parties may file motions for reconsideration of any Board order or decision. The proposed amendments

remove a reference to the section regarding filing or serving documents by facsimile, which the Board proposes to repeal.

Section 20290 provides for the commencement of proceedings to secure compliance with a Board order. The proposed amendments replace gendered terms with non-gendered language, update references to requirements for filing a notice of hearing, and make other non-substantive technical changes in the language.

Section 20291 describes the contents of a compliance specification or notice of hearing. The proposed amendments replace gendered terms with non-gendered language and make other non-substantive technical changes in the language.

Section 20299 provides rules governing the Agricultural Employee Relief Fund. The proposed amendments make non-substantive technical changes in the language.

Section 20300 states the requirements for filing a petition for certification. The proposed amendments allow a petition for certification to be signed by hand or electronically and remove the requirement of filing multiple copies of a certification petition with the Board. The proposed amendments also allow service of a certification petition on a security guard stationed at a location where employees are working, and state the petitioning party must notify the employer by email and overnight delivery where service of the petition is made on anyone other than an officer, owner, or director of the employer. The proposed amendments also confirm a regional director's authority to dismiss a petition where there is pending an unfair labor practice complaint against the employer containing certain allegations of unlawful conduct, and state the regional director may order an election to proceed, with the ballots cast in the election impounded, if there are charges of unfair labor practices against the employer for which no complaint has yet issued. The proposed amendments also replace gendered terms with non-gendered language and make other technical non-substantive changes to the language.

Section 20305 describes the required contents of a petition for certification. The proposed amendments require the representative of the party filing the petition to include an email address with the required contact information.

Section 20310 states the requirements for an employer after a representation petition is filed. The proposed amendments require the employee list to be produced by the employer also include employees' telephone numbers and email addresses, and state the employer must produce an electronic list if it maintains the information electronically. The proposed amendments also require an employer to maintain accurate records of its employees' contact information.

The proposed amendments also require an employer to provide the email address of a labor contractor supplying labor during the relevant pay period(s), in addition to the current requirement the employer provide the labor contractors' names, addresses, and telephone numbers. The proposed amendments also replace gendered terms with non-gendered language and make other technical non-substantive changes to the language. The proposed amendments also update the reference citations for the regulation.

Section 20325 describes the required contents of a petition for intervention in a representation election. The proposed amendments require the representative of the party seeking to intervene to include an email address with the required contact information. The proposed amendments also add authority and reference citations.

Section 20330 states procedures applicable to representation election proceedings when more than one petition for certification is filed. The proposed amendments make technical non-substantive changes to the language.

Section 20335 provides for the consolidation or severance of proceedings involving representation election petitions or election objections and unfair labor practice proceedings. The proposed amendments replace gendered terms with non-gendered language and make other non-substantive technical changes in the language.

Section 20350 describes representation election procedures. The proposed amendments replace gendered terms with non-gendered language.

Section 20355 describes procedures for challenging the eligibility of an individual to vote in a representation election. The proposed amendments replace gendered terms with non-gendered language, and add authority and reference citations.

Section 20360 states the process for counting ballots cast in a representation election, and confirms the Board's authority to impound (i.e., securely store but not count) ballots cast in an election where there are unresolved allegations of misconduct or unlawful conduct. The proposed amendments state ballots may be impounded based on unresolved unfair labor practice allegations, and specify the timeframes for which the ballots may remain impounded. The proposed amendments also add authority and reference citations.

Section 20363 states the procedure for a party to file challenges to ballots cast in a representation election. The proposed amendments update the references to filing and service requirements to remove a reference to filing or service by facsimile, remove the requirement a party file multiple copies of a document with the Board, and replace gendered terms with non-gendered language.

Section 20365 describes procedures for filing and resolving objections to a representation election. The proposed amendments require a represented party to file objections electronically and an unrepresented party to file objections personally with the executive secretary. The proposed amendments also remove the requirement a party file multiple copies of the objections with the Board and make other technical non-substantive changes to the language.

Section 20370 describes procedures for holding a hearing to resolve disputes involving election objections, challenges to ballots cast in an election, and other similar matters involving a labor organization's certification. The proposed amendments remove formatting requirements duplicative of requirements stated elsewhere in the Board's regulations, remove the requirement a party file multiple copies of a document with the Board, remove the requirement that the Board physically return to a party pages of a legal brief exceeding the page limit on exceptions filed with the Board, and make other technical non-substantive language changes to the language.

Section 20375 sets forth the process for conducting run-off elections when no party receives a majority of valid votes cast in a representation election. The proposed amendments remove an outdated reference to contacting a party by telegram, replace gendered terms with non-gendered language, and make other technical non-substantive changes in the language.

Section 20377 states rules for holding representation elections in strike circumstances. The proposed amendments replace gendered terms with non-gendered language.

Section 20382 states the process for a labor organization to file a petition to extend its certification. The proposed amendments remove the requirement a party file multiple copies of a document with the Board, and make other technical non-substantive changes to the language. The proposed amendments also add authority and reference citations.

Section 20385 states the process for resolving disputes concerning clarification of a bargaining unit or amending a labor organization's certification. The proposed amendments require represented parties to file exceptions to a regional director's report electronically and unrepresented parties to file exceptions in person or by registered mail. The proposed amendments also remove the requirement a party file multiple copies of documents with the Board.

Section 20390 states the procedures for filing a petition to decertify a labor organization as the exclusive bargaining representative of an employer's agricultural employees. The proposed amendments confirm the authority of a regional director to dismiss a decertification petition where there is pending an unfair labor practice complaint against the employer containing

certain allegations of unlawful conduct or, alternatively, may order an election to proceed with the ballots to be impounded. The proposed amendments also state the regional director may order an election to proceed, with the ballots cast in the election impounded, if there are charges of unfair labor practices against the employer for which no complaint has yet issued. The proposed amendments also require a party filing a decertification petition to provide the email address of its representative, and replace gendered terms with non-gendered language and make other technical non-substantive changes to the language.

Section 20393 states the procedure by which a party may obtain review of a dismissal of a representation petition or reconsideration of a Board order or decision in a representation proceeding. The proposed amendments update references to the regulations stating requirements for serving parties with documents filed with the Board to remove references to section 20168 regarding filing or serving documents by facsimile. The proposed amendments also remove the requirement a party file multiple copies of a request for review of a regional director dismissal of a representation petition, replace gendered terms with non-gendered language, and make other technical non-substantive changes to the language.

Section 20400 describes the requirements for a request for referral to mandatory mediation and conciliation. The proposed amendments update references to the regulations stating requirements for serving parties with documents filed with the Board to remove references to remove references to section 20168 regarding filing or serving documents by facsimile.

Section 20401 describes the requirements for filing an answer to a request for referral to mandatory mediation and conciliation. The proposed amendments update a reference to the regulations stating requirements for serving parties with documents filed with the Board to remove reference to remove references to section 20168 regarding filing or serving documents by facsimile.

Section 20402 states the procedures for Board review of a request for referral to mandatory mediation and conciliation. The proposed amendments update references to the regulations stating requirements for serving parties with documents filed with the Board to remove references to remove references to section 20168 regarding filing or serving documents by facsimile. The proposed amendments also remove requirement a party file multiple copies with the Board of any exceptions to an administrative law judge decision, and made other technical non-substantive changes to the language.

Section 20407 describes the mandatory mediation and conciliation process. The proposed amendments remove a reference to section 20168 regarding filing

or serving documents by facsimile, replace gendered terms with non-gendered language, and make other technical non-substantive changes to the language.

Section 20408 describes the procedure for obtaining Board review of a mediator’s report in mandatory mediation and conciliation proceedings. The proposed amendments remove a reference to section 20168 regarding filing or serving documents by facsimile, and make other technical non-substantive changes to the language.

Section 20910 allows a labor organization to obtain a list of an agricultural employer’s agricultural employees before filing a petition for a representation election if the labor organization can show support from at least 10% of the employees. The proposed amendments allow a labor organization to obtain a pre-petition list of employees without the requirement of filing a previous notice of intent to take access, and provide the labor organization may obtain only one employee list in any 120-day period. The proposed amendments also replace gendered terms with non-gendered language.

C. Repeal of Existing Regulations

Section 20168 states rules for filing and serving documents by facsimile. The proposed repeal of this section is consistent with the Board’s proposal to update its filing and service requirements to remove references to outdated methods of filing or service in favor of electronic filing in most circumstances.

D. Amendments only to the Authority and Reference Citations of Existing Regulations

None.

For more information regarding specific proposed regulations or amendments to the existing regulations, please refer to the proposed regulatory language.

CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

The Board has determined the proposed regulatory adoptions and amendments are not inconsistent or incompatible with existing regulations. The ALRB has exclusive jurisdiction to enforce and administer the provisions of the ALRA. There are no other regulations adopted by any other state agency that affect the procedures or laws affected by the proposed regulatory adoptions and amendments. Thus, the Board has concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The proposed rulemaking is intended to modernize, improve, and make more efficient the ALRB’s administrative procedures.

Filing and Service Requirements

The proposed changes are modernized to eliminate outdated methods of filing and serving documents, such as “mailgram,” “telegraph,” and “facsimile,” as well as requirements that parties file multiple copies of documents with the Board. Instead, the proposed changes generally require electronic filing and service of documents, consistent with trends among courts and other administrative agencies, while allowing parties who represent themselves to continue to file hard-copy documents with the Board. The proposed changes also provide that documents may be signed electronically.

Representation (Election) Proceedings

The proposed regulatory action updates provisions regarding the ALRB’s election proceedings to modernize certain terms. The proposed changes add categories of contact information for workers to be included on the list of employees an employer must produce after the filing of a representation petition. The proposed changes also offer more clarity to parties in election proceedings by specifically describing circumstances that may warrant dismissal of a petition for an election (i.e., blocking an election) or the impounding of ballots in an election (i.e., where ballots are cast but not counted pending the resolution of related allegations of unlawful conduct by a party). Such principles previously have been addressed and developed by the Board through administrative orders or decisions on a case-by-case basis. By defining in regulation certain circumstances that may warrant dismissal of an election petition or impounding ballots cast in an election, the Board seeks to provide more clarity to the parties in such proceedings and guidance to staff administering election proceedings. With respect to the impounding of ballots, the Board also proposes to introduce timeframes and deadlines under which ballots are impounded. This is intended to make such proceedings more efficient, consistent with the expedited timeframes in which election proceedings otherwise occur.

Unfair Labor Practice Proceedings

The proposed regulatory action aims to improve efficiencies in the ALRB’s unfair labor practice proceedings. To aid in the general counsel’s investigation of a charge, the proposed changes also allow a regional director the ability to serve on a charged party a limited number of interrogatories to ensure identification of the proper parties to a proceeding. Following issuance of an unfair labor practice complaint, the proposed changes would add a case management conference requirement. This will promote further communication between the parties, which is vital to the resolution of labor disputes. It also will allow the parties and as-

signed judge to begin narrowing the issues in dispute to make the hearings more efficient.

The proposed changes also will allow the general counsel a limited right to seek further information from a respondent who asserts a defense in an answer to an unfair labor practice complaint based on a worker’s immigration status. Respondents currently have the ability to seek such further information from the general counsel when a complaint contains vague or ambiguous allegations, and this proposed change would allow the general counsel a similar limited right. This will allow further refinement and narrowing of issues in dispute for cases that ultimately go to hearing. While settlement conferences generally are held in unfair labor practice cases as a matter of practice, the proposed changes would require settlement conferences in all unfair labor practice cases, thus ensuring an opportunity for the parties to attempt to resolve their dispute consistent with the policy of encouraging the informal resolution of labor disputes. In addition, the proposed changes would allow parties to agree to short continuances or extensions of time, with approval of the assigned judge, without having to satisfy burdensome requirements or added procedures for approving such requests, as is the case under the Board’s current regulations. This will give the parties and judge more control over scheduling issues where only short continuance or extensions are requested.

The proposed changes to the Board’s unfair labor practice regulations also seek to more clearly state certain rights and obligations of the parties in such proceedings. The proposed changes will require privilege logs be produced where a party objects to a discovery request or subpoena on attorney-client privilege grounds. Such changes will assist other parties and assigned judges in evaluating such privilege objections on a much more timely and informed basis, and thus will serve to make resolution of any such disputes more efficient.

The proposed changes to the Board’s unfair labor practice regulations also make clear certain matters previously left to development through the Board’s administrative orders or decisions or otherwise established in the Board’s precedent. The proposed changes will state clearly the standard a party must satisfy before the Board will grant an application for interim review of an administrative law judge’s ruling. This standard currently is stated in the Board’s precedent, but stating the standard in the regulation governing interim appeals is intended to provide more clarity to the parties. The proposed changes also confirm the general counsel may issue investigatory subpoenas requiring testimony from witnesses, and further that a party’s disobedience of a subpoena may be grounds for the imposition of evidentiary sanctions. While these matters are established in case precedent, adding these

terms to the regulations will provide more clarity regarding the parties' respective rights and obligations in unfair labor practice proceedings.

Mandatory Mediation and Conciliation

The proposed regulatory action specifies procedures for handling requests for supplemental mandatory mediation and conciliation pursuant to Labor Code section 1164.10, which became effective on January 1, 2019. No such proceedings have been conducted by the Board since the statute took effect, and the statute does not specify the rules applicable to such proceedings. The proposed regulatory action informs the parties of the applicable rules for supplemental mandatory mediation and conciliation, as well as their respective rights and obligations in such proceedings.

Non-Gendered Language

The proposed regulatory changes replace gendered terms with non-gendered language, in accordance with Assembly Concurrent Resolution No. 260 (September 5, 2018).

NO EXISTING AND COMPARABLE
FEDERAL REGULATION OR STATUTE

The Board has determined that there are no existing, comparable federal regulations or statutes addressing the matters encompassed by this regulatory action. Agricultural employees are excluded from coverage under the National Labor Relations Act, and labor relations between agricultural employers and employees are governed by state law under the ALRA. As the proposed regulatory changes apply solely to agricultural employers and employee organizations under the jurisdiction of the ALRA, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing federal regulations or statutes.

DISCLOSURES REGARDING THE
PROPOSED REGULATORY ACTION

The Board has made the following initial determinations:

Mandate, cost or savings imposed on local agencies and school districts: The proposed action will not impact local agencies or school districts, result in any costs or savings to local agencies or school districts, or impose any new mandate on local agencies or school districts that must be reimbursed pursuant to Government Code section 17500 et seq.

Cost or savings to state agency: The proposed action will not result in any new costs or savings to any state agency.

Non-discretionary cost or savings imposed upon local agencies: The proposed action will not result

in any non-discretionary cost or savings to local agencies.

Cost or savings in federal funding to the state: The proposed action will not result in any new costs or savings to the state.

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

Significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states: The proposed action will have no significant adverse economic impact on California businesses.

Significant effect on housing costs: The proposed action will have no effect on housing costs.

Business Reporting Requirement: The proposed action will not require a report to be made.

The Board has determined the proposed regulations will not affect small business because the proposed regulations will not result in any additional costs or burdens on small businesses.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

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

BENEFIT ANALYSIS

The ALRB aims to improve efficiencies in its administrative processes and provide more clarity to parties engaged in proceedings before the Board. More efficient procedures, the promotion of fuller communication between parties, and clearer statements of the parties' rights and obligations, as well as the standards applied by the Board in adjudicating disputes, will improve the ALRB's resolution of labor disputes. Earlier resolution of labor disputes will lead to more timely remedies to farmworkers. The proposed regulatory action will not adversely affect the health and welfare of California residents, worker safety, or the state's environment. The proposed regulatory action will further the policies of the ALRA by facilitating more timely resolution of labor disputes. Stable labor relations and efficient dispute resolution will benefit California residents' welfare, and lead to less instances or possibilities of disruptions in the state's vital agricultural industry. Modernizing the Board's filing requirements will benefit the state's environment by removing the necessity in most cases of producing and delivering

paper copies of documents filed with the Board. Eliminating gendered language in the Board's regulations will make the Board's regulations more inclusive.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), a rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, 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 Board has solicited input from the public and interested stakeholders concerning proposed regulatory actions at its public meetings over the past two years, including at the Board's April 13, 2021 public meeting at which the concepts proposed to be implemented through this rulemaking action were discussed, the Board's October 12, 2021 public meeting at which the regulatory language included with this notice was discussed, and the Board's February 22, 2022 meeting at which the regulatory proposals were approved for rulemaking. No reasonable alternatives to the regulatory actions proposed to be taken by the Board here have been identified or brought to its attention by any member of the public or stakeholder.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action should be directed to:

Santiago Avila-Gomez, Executive Secretary
Agricultural Labor Relations Board
1325 J Street, Suite 1900-B
Sacramento, CA 95814
Email: Santiago.Avila-Gomez@alrb.ca.gov

The backup person for these inquiries is:

Todd M. Ratshin, Chief Board Counsel
Agricultural Labor Relations Board
1325 J Street, Suite 1900-B
Sacramento, CA 95814
Email: Todd.Ratshin@alrb.ca.gov

Please direct requests for copies of the proposed text (i.e., the express terms) of the regulations, the initial statement of reasons, the modified text of the regu-

lations, if any, or other information upon which the rulemaking is based, to Santiago Avila-Gomez at the above address.

PRELIMINARY ACTIVITIES

The ALRB announced it would be undertaking a review of its regulations at its June 23, 2020 public meeting, and at its August 11, 2020 public meeting invited the public and stakeholders to provide input on proposed regulatory actions and designated a subcommittee to present recommended rulemaking actions to the Board. The Board solicited public input again at its October 13 and December 8, 2020 public meetings. The Board's regulations subcommittee held a workshop for stakeholders to present regulatory proposals on March 11, 2021. At the Board's April 13, 2021 public meeting, the regulations subcommittee presented to the Board its concept proposals for regulatory actions, which the Board approved. On September 22, 2021, the regulations subcommittee published its draft regulatory revisions for implementing the proposals approved by the Board, and presented the draft regulatory revisions to the Board at its October 12, 2021 public meeting. The Board approved the subcommittee's proposed regulatory language concerning its filing and service provisions, representation proceeding proposals, gender-neutralizing provisions, and supplemental mandatory mediation and conciliation. The Board directed the subcommittee to reconsider and modify its proposals concerning unfair labor practice procedures.

The subcommittee thereupon issued a notice on October 20, 2021, soliciting further public input regarding its proposals. After considering the written comments received, the subcommittee issued updated reports on February 11, 2022, with proposals regarding unfair labor practice procedures, representation procedures, and supplemental mandatory mediation and conciliation. On February 22, 2022, the Board approved the subcommittee's proposals and directed the subcommittee to commence a formal rulemaking.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the express terms of the proposed regulations and the initial statement of reasons. Copies of these documents may be obtained by contacting Santiago Avila-Gomez at the above address and are also

available on the Board's web site at <<https://www.alrb.ca.gov/statutes-regulations/regulatory-activity/>>.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After holding a hearing, if one is requested, and considering all timely and relevant comments, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, the modified text with changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations as revised. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of Santiago Avila-Gomez at the above address. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the final statement of reasons may be obtained by contacting Santiago Avila-Gomez at the above address or accessed on the ALRB's web site as set forth below.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of this notice of proposed action, the initial statement of reasons, and the text of the proposed regulations in underline and strikeout, can be accessed on the ALRB's web site at <<https://www.alrb.ca.gov/statutes-regulations/regulatory-activity/>> throughout the rulemaking process. Written comments received during the written comment period will also be posted on the ALRB's web site. The final statement of reasons or, if applicable, notice of a decision not to proceed will be posted on the ALRB's web site following the Board's action.

**TITLE 10. DEPARTMENT OF
FINANCIAL PROTECTION
AND INNOVATION**

The Commissioner of Financial Protection and Innovation ("Commissioner") proposes to adopt new regulations under the Corporate Securities Law of 1968. Specifically, the Commissioner proposes to adopt Section 260.236.2 of Subchapter 2 of Chapter 3 of Title 10 of the California Code of Regulations. The proposed regulation relates to the implementation

of continuing education requirements for Investment Adviser Representatives ("IARs").

AUTHORITY

[Government Code Section 11346.5,
Subdivision (a)(2)]

Corporations Code section 25610.

REFERENCE

[Government Code Section 11346.5,
Subdivision (a)(2)]

Corporations Code section 25236.

PUBLIC COMMENTS

[Government Code Section 11346.5,
Subdivision (a)(17)]

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Government Code section 11346.8, subdivision (a). The request for hearing must be received by the Department's contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

[Government Code Section 11346.5,
Subdivision (a)(15)]

Where to Submit Comments

Any interested person, or his or her authorized representative, may submit written comments on the proposed regulatory action to the Department of Financial Protection and Innovation ("Department"), addressed as follows, by any of these means:

Postal Mail

Department of Financial Protection and
Innovation
Attention: Araceli Dyson
2101 Arena Boulevard
Sacramento, CA 95834

Electronic Mail

Comments may be submitted electronically to regulations@dfpi.ca.gov. Please identify the comments as PRO 07-21 in the subject line.

Time for Comments

Comments may be submitted until January 16, 2023. If the final day for the acceptance of comments is a Saturday, Sunday or state holiday, the comment period will close on the next business day.

INFORMATIVE DIGEST

[Government Code Section 11346.5,
Subdivision (a)(3)]

Policy Statement and Specific Benefits Anticipated from Regulatory Action [Government Code Section 11346.5, Subdivision (a)(3)(C)]

The objective of the proposed regulation is to adopt rules that implement continuing education requirements for Investment Adviser Representatives (“IARs”).

Benefits of the proposed regulation include protecting consumers who use investment advisers to manage their funds by ensuring that IARs remain competent and knowledgeable about current industry regulations, developments, and best practices when handling their clients’ life savings. The proposed regulations will also ensure that IARs are familiar with ethical issues related to investment advising. This will greatly contribute to overall investor protection.

One impact of the regulations will be to improve the overall quality of investment advice and professionalism provided by IARs to clients. Compliance with the proposed regulations will likely reduce the risk of investor losses due to mistakes, failure to understand investment products, fraud, and abuse. Additionally, the regulations will likely increase regulatory compliance in examinations conducted by the Department. The Department also anticipates that consumers of investment adviser services will experience fewer instances of substandard services and will be subjected to fewer instances of unethical or illegal behavior as a result of these regulations.

Summary of Existing Laws and Regulations, and Effect of Proposed Action [Government Code Section 11346.5, Subdivision (a)(3)(A)]

Corporations Code section 25236, subdivision (a), provides that no investment adviser licensed under the Corporate Securities Law of 1968,¹ shall conduct any business as such investment adviser in this state unless the investment adviser and all natural persons associated with such investment adviser meet such specified and appropriate standards with respect to training, experience and other qualifications as the Commissioner finds necessary or desirable. However, the section does not specify the training necessary for natural persons associated with investment advisers. For instance, the statute does not specify how many units of training are required, what type of training content is acceptable, and what the applicable reporting period is.

IARs are tested for knowledge before they are registered, but there is no mechanism to ensure that their

level of knowledge and competence is maintained or expanded. By comparison, most other financial professionals are subject to continuing education requirements, including broker–dealer agents, insurance agents, certified financial planners, and real estate agents.

Given that IARs play an important role in their clients’ financial lives, the North American Securities Administrators Association (“NASAA”) received significant support from state regulators and the securities industry for the creation of a continuing education program and developed the Investment Adviser Representative Continuing Education (“IARCE”) Model Rule.

On November 30, 2020, NASAA announced that its membership voted to adopt a model rule to set parameters by which NASAA members could implement continuing education programs for investment adviser representatives in their jurisdictions. The model rule has a products and practices component and an ethics component and is intended to be compatible with other continuing education programs. This proposed rulemaking would implement NASAA’s IARCE Model Rule.

Existing Federal Regulation or Statute [Government Code Section 11346.5, Subdivision (a)(3)(B)]

There are no existing federal regulations or statutes pertaining to continuing education requirements for Investment Adviser Representatives. The proposed regulatory action is not inconsistent with existing federal laws.

Existing State Regulations [Government Code Section 11346.5, Subdivision (a)(3)(D)]

The Commissioner has conducted an evaluation of whether the proposed regulation is consistent with existing state regulations and has concluded that this regulation is consistent with existing regulations under the Corporate Securities Law of 1968. There are no existing regulations pertaining to continuing education requirements for Investment Adviser Representatives. The proposed regulation is consistent with existing policy considerations under the Corporate Securities Law of 1968. Therefore, the proposed rulemaking is neither inconsistent nor incompatible with other existing state regulations.

FORMS INCORPORATED BY REFERENCE

[Title 1, California Code of Regulations,
Section 20, Subdivision (c)(3)]

There are no forms incorporated by reference in the proposed regulatory action.

¹ Corp. Code, § 25000 et seq.

DISCLOSURES REGARDING
THE PROPOSED ACTION

[Government Code Section 11346.5, Subdivision
(a)(5) and (6), and (12)(A)]

- Mandate on local agencies or school districts: none.
- Cost or savings to any State agency: \$1,206,000 in costs to implement the proposed regulations and \$1,140,000 plus salary increases annually thereafter.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: none.
- Other nondiscretionary cost or savings imposed on local agencies: none.
- Cost or savings in federal funding to the state: none.
- Significant effect on housing costs: none.

ECONOMIC IMPACT ON BUSINESS
[Government Code Section 11346.5,
Subdivision (a)(8)]

The Commissioner has made an initial determination that the proposed regulatory action is unlikely to have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. In making this initial determination, the Commissioner relied on a 2021 NASAA Investment Adviser Section Annual Report and the NASAA Survey results Summary (2018) to support her initial determination that the regulatory action will likely not have a significant adverse economic impact on business. The Commissioner has not relied on any other reports, facts, evidence, documents, or testimony to support the initial determination that the regulation is unlikely to have a significant, statewide adverse economic impact on business.

EFFECT ON SMALL BUSINESS

[Title 1, California Code of Regulations, Section 4]

Under Government Code section 11342.610, subdivision (b), an investment adviser is not a small business. Therefore, this rulemaking action will not have an impact on small businesses.

COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSON OR BUSINESS

[Government Code Section 11346.5,
Subdivision (a)(9)]

Investment adviser representatives will incur annual costs estimated at \$36 (for the annual reporting fee), plus the cost of continuing education courses, to comply with the continuing education requirements. Some courses will be offered by NASAA for free while other course will be offered at varying prices depending on the authorized provider. IARs who are also registered as a broker–dealer agent and/or hold other professional designations may incur minimal to no costs for continuing education courses. This is because an IAR who is also a registered broker–dealer agent and complies with the Financial Industry Regulatory Authority’s Continuing Education requirements for broker–dealer agents will be in compliance with the requirement to report six credits of Products and Practices content under the proposed rule. IARs who hold other professional designations may also be in compliance with the IAR continuing education requirements under the proposed rule. Therefore, many IARs who are dually registered as broker–dealer agents or hold other professional designations will already meet some or all of the continuing education requirements of this regulatory proposal.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS

[Government Code Section 11346.5,
Subdivision (a)(10)]

The Commissioner has determined:

- The proposed action will not result in the creation of new jobs within the state. The proposed rule imposes continuing education requirements on IARs registered in this state. Providers of continuing education may experience an increase in demand for services but not significantly enough to add positions or create jobs.
- The proposed action will not result in the creation of new businesses in the state. The proposed rule imposes continuing education requirements on IARs registered in California. Therefore, the rule may cause existing providers of continuing education to expand their products and services to IARs who must fulfill the new requirements. However, the Department does not anticipate a creation of new businesses. Also, the Department does not anticipate an elimination of existing businesses due to the regulation.
- The proposed action may result in the expansion of businesses currently doing business in

the state. The proposed rule imposes continuing education requirements on IARs registered in California. Therefore, the proposed rule may cause existing businesses that provide continuing education to expand their products and services to IARs who must fulfill the new requirements.

- As discussed above under the Informative Digest, the proposed action may benefit the health and welfare of California residents by protecting consumers who use investment advisers to manage their funds by ensuring that IARs remain competent and knowledgeable about current industry regulations, developments, and best practices when handling their clients' life savings. The proposed regulations will also ensure that IARs are familiar with ethical issues related to investment advising, contributing to overall investor protection.
- No benefits or adverse impacts to worker safety or to the state's environment are anticipated from this regulatory action.

BUSINESS REPORTING REQUIREMENT

[Government Code Section 11346.5,
Subdivision (a)(11)]

This proposed rulemaking does not impose any business reporting requirements. Under the proposed regulation, the IAR is responsible for ensuring that authorized providers of continuing education report the IAR's completion of the courses.

CONSIDERATION OF ALTERNATIVES

[Government Code Section 11346.5,
Subdivision (a)(13)]

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

AVAILABILITY OF THE NOTICE, STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE [Government Code Section 11346.5, Subdivision (a)(16) and (20), and (b)]

As of the date this Notice is published, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the Proposed Text of the regulations, and all the information upon which the proposal is based. The Notice, Initial Statement of Reasons, and Proposed Text are available by contacting the person designated below:

Department of Financial Protection and
Innovation
Attention: Araceli Dyson
2101 Arena Boulevard
Sacramento, CA 95834
Telephone: (916) 839-8995
E-mail: regulations@dfpi.ca.gov

The Notice, Proposed Text, and Initial Statement of Reasons are also available on the Department's website at www.dfpi.ca.gov. To access the documents from the Department's website, select the "Laws and Regulations" tab under the "Licensees" dropdown menu on the home page, select the "Regulations/Rulemaking" link, and then select the "Corporate Securities Law of 1968" link.

As required by the Administrative Procedure Act, the Department's Legal Division maintains the rulemaking file. The rulemaking file is available for public inspection and copying throughout the rulemaking process at the Department of Financial Protection and Innovation, Legal Division, 2101 Arena Blvd, Sacramento, CA 95834.

AVAILABILITY OF CHANGED OR MODIFIED TEXT [Government Code Section 11346.5, Subdivision (a)(18)]

If the Department makes changes which are sufficiently related to the original Proposed Text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Department adopts, amends or repeals the regulations as revised. A request for a copy of any modified regulation(s) should be addressed to the contact person designated above. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF FINAL
STATEMENT OF REASONS
[Government Code Section 11346.5,
Subdivision (a)(19)]

Upon its completion, the Final Statement of Reasons will be available to the public, and copies may be requested from the contact person named above or accessed on the Department's website listed above.

CONTACT PERSON
[Government Code Section 11346.5,
Subdivision (a)(14)]

Inquiries regarding the substance of the proposed regulation may be directed to:

Department of Financial Protection and
Innovation
Attention: Counsel Pamela Hernandez
One Sansome Street, Suite 600
San Francisco, California 94104
Telephone: (415) 263-8514
E-mail: pamela.hernandez@dfpi.ca.gov

Non-substantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to:

Department of Financial Protection and
Innovation
Attention: Araceli Dyson
2101 Arena Boulevard
Sacramento, CA 95834
Telephone: (916) 839-8995
E-mail: regulations@dfpi.ca.gov

The backup contact person for non-substantive inquiries is:

Department of Financial Protection and
Innovation
Attention: Mark Dyer
2101 Arena Boulevard
Sacramento, California 95834
Telephone: (916) 576-3637
E-mail: regulations@dfpi.ca.gov

TITLE 11. DEPARTMENT OF JUSTICE

DIVISION 1. ATTORNEY GENERAL
CHAPTER 13.5. CHECK CASHER
PERMIT PROGRAM

The Department of Justice (Department) proposes to amend sections 990.1, 990.2, 991, 991.1, 991.2,

991.3, 991.4, 991.5, 992, 992.1, 992.2, 992.3, 992.4, 992.5, 992.6, 992.7, 992.8, 993, 993.1, 993.2, 993.3, 993.4, and repeal sections 993.5, 993.6, and 993.7 of title 11, division 1, chapter 13.5 of the California Code of Regulations concerning the Check Casher Permit Program.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department 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 before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on January 17, 2023, at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Department of Justice
Check Casher Permit Program
Attention: Nancy Munoz
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3434
nancy.munoz@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority cited: Section 1789.37, Civil Code.
Reference: Section 1789.37, Civil Code.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Summary of Existing Laws and Regulations:

Pursuant to Civil Code section 1789.37, every owner of a check cashing business in California must obtain a permit from the Department. Currently, this permitting process is administered by the Department's Check Casher Permit Program in accordance with Civil Code section 1789.30 et seq. and title 11, division 1, chapter 13.5 of the California Code of Regulations.

A "check casher" is a person or entity that engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for a fee. The requirements of Civil

Code section 1789.30 et seq. do not apply to state and federally chartered banks, savings associations, credit unions, or industrial loan companies. Retail sellers that may incidentally charge a fee not exceeding \$2 to cash checks or money orders as a service to their customers are also excluded from the requirements of Civil Code section 1789.30 et seq.

Effect of the Proposed Rulemaking:

The changes proposed in this rulemaking would update the existing regulations concerning the Check Cashier Permit Program to address outdated form references, amend language related to reimbursement requests and time delay appeals that had aligned with the now repealed Government Code sections 15376 and 15378, establish deadlines for administrative hearing requests, and replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the Administrative Procedure Act.

Anticipated Benefits of the Proposed Regulations:

This rulemaking action will benefit both current holders and future applicants of check cashier permits because amending outdated regulations to align with the Department’s current practices increases confidence in the state’s rulemaking process by improving transparency and accountability and bolsters legitimacy of the state’s regulatory structure. (Little Hoover Commission, Better Regulation: Improving California’s Rulemaking Process, October 2011.)

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing State regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the Check Cashier Permit Program.

Forms Incorporated by Reference:

1. Supplemental Application for Mobile Check Cashing Unit, BCIA 4000, rev. 04/2022 (see subdivision (b) of section 991.1)
2. Renewal Application for Mobile Check Cashier Permit, BCIA 4001, rev. 04/2022 (see subdivision (a) of section 991.4)
3. Application for Check Cashier Permit, BCIA 4130, rev. 04/2022 (see subdivision (a) of section 991.1)
4. Renewal Application for Check Cashier Permit, BCIA 4132, rev. 04/2022 (see subdivision (a) of section 991.4)

5. Request for Live Scan Service, BCIA 8016CCPP, orig. 09/2022 (see subdivision (a) of section 991.2)
6. Applicant Fingerprint Form, FD–258, rev. 11/2020 (see subdivision (b) of section 991.2)

Other Statutory Requirements:

None.

DISCLOSURES REGARDING
THE PROPOSED ACTION

The Department’s Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

Other non-discretionary costs or savings imposed on local agencies: None.

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

Cost impacts on representative person or business:

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

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete: The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Assessment:

The Department concludes that it is (1) unlikely that the proposal will create or eliminate jobs within the state, (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

- (1) The proposal would not benefit the health and welfare of California residents.
- (2) The proposal would not benefit worker safety.
- (3) The proposal would not benefit the state’s environment.

Benefits of the proposed action: This rulemaking action will benefit both holders and applicants of check cashier permits by updating due process and public policy requirements in a manner that is impartial and transparent.

Business report requirement: None.

Small business determination: The Department has determined that there are approximately 4,200 Check Cashier businesses that are small businesses. These

small businesses will be required to use the amended forms and will be subject to the hearing process in Chapter 5 of the Administrative Procedure Act.

CONSIDERATION OF ALTERNATIVES

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

The Department has determined that the proposed regulations are the most effective way to satisfy due process and public policy requirements in a manner that is impartial and transparent.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice
Check Cashier Permit Program
Attention: Nancy Munoz
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3434
nancy.munoz@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Department of Justice
Check Cashier Permit Program
Attention: Hy Do
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3316
hy.do@doj.ca.gov

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

The Department will have the entire rulemaking file available for inspection and copying throughout

the rulemaking process upon request to the contact person above. Interested parties are advised to call the Department for an appointment. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the “express terms” of the regulations), forms incorporated by reference, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, forms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at www.oag.ca.gov/regulations. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications, which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department’s website at www.oag.ca.gov/regulations. Please refer to the contact information included above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the express terms, forms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at www.oag.ca.gov/regulations.

**TITLE 14. OFFICE OF PLANNING
AND RESEARCH**

INFORMATION DIGEST/POLICY
STATEMENT OVERVIEW

CHAPTER 2. REGULATIONS
GOVERNING APPLICANT FEES
FOR ENVIRONMENTAL
LEADERSHIP PROJECT APPLICATIONS

NOTICE IS HEREBY GIVEN that the Office of Planning and Research (“OPR”) proposes to adopt the regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

OPR did not schedule a public hearing on this proposed action. However, OPR 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 before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action via email or mail to:

Office of Planning And Research
Attention: Shannon Clark
1400 Tenth Street
Sacramento, CA 95814
Email: comments@opr.ca.gov

The written comment period closes on **January 17, 2023**. OPR will only consider timely received comments. When commenting, please indicate that your comment refers to this rulemaking action.

AUTHORITY AND REFERENCE

Public Resources Code section 21184.7 authorizes OPR to adopt these proposed regulations. The proposed regulations implement, interpret and make specific the application fees for applications submitted pursuant to the Jobs and Economic Improvement through Environmental Leadership Act of 2021. (Pub. Resources Code sections 21180, 21181, 21182, 21183, 21183.5, 21183.6, 21184, 21184.5, 21184.7, 21185, 21186, 21187, 21187.5, 21188, 21189, 21189.1 and 21189.3.)

Summary of Existing Laws and Effect of Proposed Action

In 2021, the Legislature adopted the Jobs and Economic Improvement Through Environmental Leadership Act (hereafter “Act”) (codified at Public Resources Code sections 21178–21189.3). The Act permits Environmental Leadership Development Projects (“projects”) that meet the requirements outlined in the Act and are certified by the Governor to receive streamlined judicial review under the California Environmental Quality Act (“CEQA”). Public Resources Code section 21184.7 authorizes OPR to charge a fee to applicants seeking certification for the costs incurred by OPR in reviewing applications for recommendation to the Governor for certification for judicial streamlining.

The regulations proposed in this rulemaking action specify the fees that applicants must pay when submitting applications to OPR for judicial streamlining pursuant to CEQA. The regulations also specify a due date and procedures for the submission of fees. Specifically, the proposed regulations specify that 1) application fees for projects are due at the time of filing the application with OPR, 2) that application fees should be submitted by check to OPR’s address, and 3) that applicants must include their name, the name of the project seeking certification, and a statement that the enclosed check is the application fee for the applicant’s Environmental Leadership Project Application and that OPR is authorized to process the check. The proposed rule further states that proof that the application fee has been mailed at the time an applicant submits their application is sufficient to allow OPR to begin reviewing the application, and that the application fee must be received and processed prior to certification by the Governor. The proposed regulations exempt affordable housing project applicants, as defined at Section 21180, subdivision (b)(4) of the Public Resources Code, from the application fees established by the regulations. The proposed regulations also specify that the application fee applies to all applications submitted after the effective date of the regulations.

Objectives and Anticipated Benefits of the Proposed Regulation

The broad objective of the proposed regulations is to ensure that OPR is reimbursed for some of its costs of reviewing judicial streamlining applications while also not imposing overly burdensome costs on Environmental Leadership Development Project applicants. These regulations would allow OPR to recoup a portion of its costs without making the application process infeasible for applicants, including affordable housing project applicants. Additionally, these pro-

posed rules specify the due date for application fees and establish procedures for the submission of application fees to ensure that OPR is able to process application fees quickly and efficiently and to provide clarity for projects.

Benefits of the proposed rule include allowing OPR to recoup some of the costs of reviewing applications for streamlining certification under the Act, which will sustain OPR's ability to implement the Act. Implementation of the Act will benefit the public in a number of ways, including streamlining the judicial review of projects that replace old and outmoded facilities, generate thousands of full-time jobs during construction and operation, and implement innovative measures that significantly reduce significant greenhouse gas emission and other impacts. Additionally, the proposed rule clarifies when applications are due and provides a fee exemption for affordable housing projects, which will lessen the burdens of applying to this program on those types of projects. This will benefit the public by making judicial streamlining under the Act more accessible to affordable housing projects, which are an important part of addressing California's housing shortage.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

OPR determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, OPR has concluded that these are the only regulations that concern reimbursement of OPR's costs for implementation of the Act.

DISCLOSURES REGARDING THE PROPOSED ACTION

OPR has made the following initial determinations:

Mandate on local agencies or school districts: None.

Costs to a local agency or school district required to be reimbursed pursuant to Government Code section 17500 et seq.: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

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

Cost or savings to any state agency: The proposed regulations establish a thirty-nine thousand dollar (\$39,000) application fee to be paid to OPR by applicants to reimburse OPR for the costs of implementing the Act. The proposed regulations exempt affordable housing project applicants, as defined at Section 21180, subdivision (b)(4) of the Public Resources Code, from this application fee. OPR estimates that it will receive approximately 5 applications between the effective date of this rule and January 1, 2024, when the Act requires all applications be certified. Of these

applications, OPR estimates that two applications will be affordable housing applications, which are exempt from the application fee under the proposed rule. Therefore, OPR estimates that OPR will recover approximately one hundred and seventeen thousand dollars (\$117,000) in implementation costs.

Cost Impact on a representative private person or business: The proposed regulations establish a thirty-nine thousand dollar (\$39,000) application fee to be paid to OPR by applicants to reimburse OPR for the costs of implementing the Act. The proposed regulations exempt applicants of an affordable housing project, meeting conditions set forth in Section 21180, subdivision (b)(4) of the Public Resources Code, from this application fee. OPR estimates that it will receive approximately 5 applications in the next year. Therefore, a representative, non-affordable housing project applying for certification under the Act, would have a cost impact of \$39,000. Pursuant to Public Resources Code section 21183(a)(1), a non-affordable housing project applicant must have a minimum total investment of one hundred million dollars in order to apply for certification under the Act. This means, that the fee imposed on development applicants represents less than one percent (1%) of the applicant's total investment. Because the proposed rule does not impose any burdensome procedures for the submission of application fees, OPR does not anticipate that the proposed rule will impose any other costs on project applicants outside of the application fee. OPR also notes that applying for streamlining certification under the Act is voluntary, and any prospective project applicant may avoid the application costs imposed by the proposed rule by not submitting an application.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: OPR has determined that this proposed regulatory action will not have a significant statewide adverse economic impact affecting business. This determination is based on the fact that the establishment of a \$39,000 application fee on approximately three project applicants will not create or eliminate existing businesses, and will not affect the expansion of business currently doing business within California. Pursuant to Public Resources Code section 21183(a)(1), a non-affordable housing project applicant must have a minimum total investment of one hundred million dollars in order to apply for certification under the Act. This means, that the fee imposed on development applicants represents less than one percent (1%) of the applicant's total investment. Submitting an application for judicial streamlining is entirely voluntary, and thus the application fee set by the proposed rule would not impose any mandatory costs on California businesses.

Significant effect on housing costs: None.

Small business determination: OPR has determined that the proposed regulatory action will not affect small business. As defined in Government Code section 11342.610, a small business does not include “a subdivider or developer” or “general construction [activities] where the annual gross receipts exceed nine million five hundred thousand dollars (\$9,500,000). Because OPR anticipates that all projects applying for streamlining under the Act will be developers, and because by definition all the project applicants subject to the application fee must have a minimum project investment of one hundred million dollars (\$100,000,000) the proposed rule will not apply to small businesses as defined in section 11342.610.

RESULTS OF ECONOMIC IMPACT ANALYSIS/ASSESSMENT

OPR concludes that the proposed rule (1) will not create or eliminate any jobs within the state of California, (2) will not create new or eliminate existing businesses within California, (3) will not expand businesses currently doing business within the California, and (4) will benefit the health and welfare of California residents and the state’s environment by sustaining OPR’s implementation of the CEQA streamlining provisions of the Act.

Benefits of the proposed action: OPR anticipates that the proposed rule will benefit California by allowing OPR to recoup approximately one hundred and seventeen thousand dollars (\$117,000) in implementation costs, thus allowing OPR to be able to continue sustainably implementing the Act. Continued implementation of the Act will benefit the public and the environment by streamlining the judicial review of projects that replace old and outmoded facilities, generate thousands of full-time jobs during construction and operation, and implement innovative measures that significantly reduce significant greenhouse gas emissions and air quality impacts. Further, the proposed rule will provide clarity and transparency for applicants on the fee process. Specifically, the proposed rule clarifies the fee amount, when and how to submit their fees, and when the application fee will go into effect. Additionally, continued implementation of the Act will enable affordable housing projects to apply for CEQA streamlining, which will ease judicial delays for affordable housing projects in California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), OPR must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of OPR would be more effective in carry-

ing 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.

OPR invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Shannon Clark
Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814
Telephone: (916) 758-0705
Email: Shannon.clark@opr.ca.gov

The backup contact person for this proposed action is:

Ryan Silber
Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814
Telephone: (916) 322-0548
Email: ryan.silber@opr.ca.gov

AVAILABILITY OF DOCUMENTS

Availability of Statement of Reasons, Text of Proposed Regulations and Rulemaking File

OPR has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and the documents relied upon to prepare this regulatory action. This material is contained in the rulemaking file and is available for public inspection upon request to Shannon Clark using the contact information above.

Availability of Changed or Modified Text

After considering all timely and relevant comments received, OPR may adopt the proposed regulation substantially as described in this Notice. OPR may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Shannon Clark using the contact information listed above.

Availability of the Final Statement of Reasons

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Shannon Clark using the contact information above, or by accessing the website listed below.

Availability of Documents on the Internet

Copies of this Notice, the proposed text of the regulation, and the initial statement of reasons can be accessed through OPR's website at: <https://opr.ca.gov/ceqa/judicial-streamlining/>

TITLE 17. AIR RESOURCES BOARD

AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR CHROMIUM ELECTROPLATING AND CHROMIC ACID ANODIZING OPERATIONS

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider the proposed amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations.

Date: January 26, 2023

Time: 9:00 a.m.

In-Person Location:

Mary D. Nichols Campus, Southern California Headquarters California Air Resources Board | Haagen-Smit Auditorium 4001 Iowa Avenue, Riverside, California 92507

Remote Option:

Zoom

This public meeting may continue at 8:30 a.m., on January 27, 2023. Please consult the public agenda, which will be posted ten days before the January 26, 2023, Board meeting, for important details, including the day on which this item will be considered and how the public can participate via Zoom if they choose to be remote.

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 December 2, 2022. Written comments not submitted during the

hearing must be submitted on or after December 2, 2022, and received **no later than January 17, 2023**. 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 39600, 39601, 39650, 39658, 39659, and 39666 and 40 Code of Federal Regulations Part 63 Subpart N. This action is proposed to implement, interpret, and make specific Health and Safety Code sections 39600, 39601, 39601.5, 39605, 39650, 39656, 39658, 39659, 39665, 39666.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOVERNMENT CODE, § 11346.5, SUBDIVISION (a)(3))

Sections Affected:

Proposed amendment to California Code of Regulations, title 17, sections 93102, 93102.1, 93102.2, 93102.3, 93102.4, 93102.5, 93102.6, 93102.7, 93102.8, 93102.9, 93102.10, 93102.11, 93102.12, 93102.13, 93102.14, 93102.15 and 93102.16.

Background and Effect of the Proposed Regulatory Action:

CARB staff is proposing amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations (Pro-

posed Amendments). The Proposed Amendments are needed to further reduce health impacts from chrome plating facilities (which include decorative and hard chrome plating and chromic acid anodizing facilities) and to reduce exposures to hexavalent chromium in communities near these facilities.

Background

In 1986, CARB's Board identified hexavalent chromium as a toxic air contaminant (TAC)¹ under California law pursuant to Assembly Bill (AB) 1807² and Health and Safety Code section 39657.³ Specifically, the Board identified hexavalent chromium as a TAC that has the potential to cause cancer with no associated threshold for cancer initiation. This means there is no level of emissions below which exposure to hexavalent chromium would be considered safe. Hexavalent chromium has the second highest cancer potency of identified TACs (second only to dioxin) and is about 500 times more toxic than diesel exhaust particulate matter (diesel PM).⁴

Following the Board's identification of hexavalent chromium as a TAC, CARB has taken action to reduce exposures to this hazardous chemical. In 1988, the Hexavalent Chromium Airborne Toxic Control Measure for Chrome Plating and Chromic Acid Anodizing Operations (Chrome Plating ATCM) was adopted to reduce hexavalent chromium emissions from these operations. The Chrome Plating ATCM reduced overall emissions by requiring add-on pollution control devices such as High Efficiency Particulate Air (HEPA) filters, packed bed scrubbers, and chemical fume suppressants.

In 1998, the Board adopted amendments to the Chrome Plating ATCM to establish equivalency with the federal regulation for chrome plating (1995 Chrome Plating National Emission Standards for Hazardous Air Pollutants (NESHAP)). These amendments did not change the limits already in place but established separate limits for new sources.

In 2007, to further protect the public and to address improvements in emissions control technologies and emissions reduction practices, CARB adopted additional amendments to the Chrome Plating ATCM. The amendments were the most stringent and health-protective emission standards applicable to chrome plating operations in the nation.

In July 2017, Assembly Bill (AB) 617 (C. Garcia, Stats. 2017, ch. 136) was signed into California law to address local air pollution in environmental justice (EJ) communities. As mandated under AB 617,

the air districts must develop and adopt a Community Emission Reduction Plan (CERP) for each selected community, in consultation with CARB, community members, and other stakeholders in the affected community. AB 617 CERPs identified chrome plating operations as a concern for some communities. Through the CERP process and EJ listening sessions, CARB staff found that people living near many of these facilities are concerned about exposure to elevated concentrations of hexavalent chromium.

Past ambient air monitoring demonstrated elevated levels of hexavalent chromium near chrome plating facilities. Evaluation of facility location has shown that sensitive receptors such as schools and residents are often located in close proximity to chrome plating facilities. Approximately nine percent of all chrome plating facilities are located within approximately 300 meters of a school. The data also show that the chrome plating facilities are often located in low income and racially-diverse communities.

Based on staff's analysis, approximately 73 percent of California's chrome plating facilities are located within Senate Bill (SB) 535 communities.⁵ SB 535 requires the California Environmental Protection Agency to identify disadvantaged communities for investment opportunities, based on geographic, socioeconomic, public health, and environmental hazard criteria. To implement this statute, the CalEnviroScreen 4.0 tool⁶ identifies disadvantaged communities as those that receive scores of 75 percent to 100 percent. Additionally, approximately 14 percent of chrome plating facilities are located within communities with high cumulative exposure burdens from toxic air contaminants and criteria air pollutants selected by the Board under AB 617. AB 617 directs CARB to consider communities for selection based on criteria outlined in the statute and the Community Air Protection Blueprint and includes prioritizing disadvantaged communities and sensitive receptor locations.

The Proposed Amendments will result in the most stringent regulation of hexavalent chromium emissions from the chrome plating industry (compared to federal standards and local district rules), with the goal of eliminating toxic hexavalent chromium emissions from the chrome plating industry in California over time. Due to the high level of toxicity of hexavalent chromium, the health impacts of exposure to hexavalent chromium, the proximity of chrome plating facilities near sensitive receptors and disadvantaged communities, and following evaluation of hexavalent chromium air monitoring data, a zero emission level is necessary to prevent an endangerment of public

¹ *CARB Identified Toxic Air Contaminants*

² AB 1807 (Tanner 1983) – *Toxics Air Contaminant Identification and Control*

³ *California Health and Safety Code 39657*

⁴ *Consolidated Table of OEHHA/CARB approved health values*

⁵ *Senate Bill (SB) 535 California Global Warming Solutions Act of 2006 Greenhouse Gas Reduction Fund*

⁶ *CalEnviroScreen/OEHHA*

health. As such, the Proposed Amendments phase out the use of hexavalent chromium from the chrome plating industry in California.

Effect of the Proposed Amendments

The Proposed Amendments are intended to eliminate emissions of hexavalent chromium from chrome plating facilities and to encourage the development of alternative technologies to replace hexavalent chromium. The Proposed Amendments will also begin to address cumulative exposures to hexavalent chromium within communities that could be impacted by multiple chrome plating operations. The requirements of the Proposed Amendments become effective in stages as follows:

Starting January 1, 2024:

- No person shall construct or operate a new chrome plating facility that uses hexavalent chromium in California (applies to decorative and functional chrome plating facilities).
- Owners or operators of existing chrome plating facilities may modify their facilities after January 1, 2024, if they do not exceed permitted throughput levels in place as of January 1, 2024, and as long as any additional or modified hexavalent chromium tanks meet all applicable requirements.
- Owners or operators of chrome plating facilities that use hexavalent chromium shall implement the applicable housekeeping practices to reduce fugitive emissions.

By July 1, 2024:

- Additional hexavalent chromium containing tanks that were not covered by the 2007 ATCM become subject to the Proposed Amendments (the 2007 ATCM only covered chrome plating tanks).
- Owners or operators of functional chrome plating facilities shall control hexavalent chromium emissions from Tier II tank(s) by utilizing a tank cover, mechanical fume suppressant or other method approved by District. Alternatively, they can comply with the applicable emission limit using an add-on air pollution control device.
- Owners or operators of functional chrome plating facilities shall cover the entire surface area of Tier III tank(s) until an add-on air pollution control device that meets the applicable emission limitation has been installed as required by the Proposed Amendments.
- Owners or operators of chrome plating facilities that use hexavalent chromium shall implement the best management practices to reduce fugitive emissions.

By January 1, 2026:

- Owners or operators of functional chrome plating facilities must meet the following requirements:
 - Building enclosure requirements for Tier I tanks, Tier II tanks, Tier III tanks, and buffing, grinding, and polishing operations.
 - New emission limit of 0.00075 mg/ampere-hour (amp-hour) for each chrome plating tank that uses hexavalent chromium.
 - Best management practices that apply beginning January 1, 2026.
 - Conduct an initial source test on Tier III tank(s) to determine compliance with hexavalent chromium emission rates and continue to conduct ongoing source tests every 2 calendar years.

By January 1, 2027:

- Owners or operators of decorative plating facilities may no longer use hexavalent chromium for the purpose of decorative chrome plating unless they are granted an extension.

By January 1, 2032:

- CARB staff must complete the first technology review on alternatives to hexavalent chromium in functional plating.

By January 1, 2036:

- CARB staff must complete the second technology review on alternatives to hexavalent chromium for functional chrome plating.

By January 1, 2039:

- Owners or operators may no longer use hexavalent chromium for the purpose of functional chrome plating.

Based on the results of the technology reviews, CARB staff may recommend amendments to the phase out dates for Board consideration. CARB may also consider other changes to the sections affected, as listed on page two of this notice, or other sections within the scope of this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

Objectives

The main objectives of the Proposed Amendments are to: reduce emissions of hexavalent chromium prior to the phase out; eliminate emissions of hexavalent chromium from chrome plating operations in California following the phase out; minimize health impacts in communities near chrome plating facilities; and encourage the development of safer alternative technologies to replace hexavalent chromium.

Benefits

The primary benefits of the Proposed Amendments are reductions in hexavalent chromium emissions from chrome plating facilities and reductions in poten-

tial cancer risk. CARB staff estimated the emissions reductions of hexavalent chromium over the lifetime of the Proposed Amendments. The emission reduction benefits were evaluated from 2026 to 2043 to account for a period of five years after full implementation.

The emissions reduction benefits were estimated using the current emission level requirements and the emission reductions based on the Proposed Amendments. For decorative plating operations, CARB staff estimated hexavalent chromium emissions reductions of 22.3 pounds (lbs). For hard chrome plating operations, CARB staff estimated total emissions reductions of 96.4 lbs. For chromic acid anodizing operations, staff estimated total emissions reductions of 2.3 lbs over the analysis period. These emissions reductions will benefit California residents by reducing potential cancer risk from reduced exposure to hexavalent chromium. While there is no current methodology for quantifying a monetized benefit in the reduction of cancer risk, the phase out is expected to decrease the potential cancer risk from exposure to hexavalent chromium from chrome plating operations to zero by the year 2039.

In addition, as a co-benefit, the usage and emissions of Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) containing fume suppressants are expected to be reduced to zero by the time the Proposed Amendments are fully implemented due to the transition to existing alternative technologies that do not use PFAS-containing fume suppressants. Exposure to some PFAS in the environment may be linked to harmful health effects in humans and animals. These toxic substances can be found in many places such as: water, air, fish, soil, wildlife, and different consumer, commercial, and industrial products.

The phase out of hexavalent chromium is intended to protect public health and encourage the development of safer alternatives to hexavalent chromium in chrome plating operations. As more facilities begin using safer technologies, such as trivalent chromium, industry acceptance of these technologies is expected to improve. Although alternative technologies are not currently available to replace all applications in functional chrome plating operations, the Proposed Amendments are anticipated to encourage design, research, engineering, construction, and project management firms to improve trivalent chromium technology and develop new technologies. More information on alternative technologies can be found in the Chapter III of the Initial Statement of Reasons (ISOR).

Public Process

To ensure an open and transparent rulemaking, CARB staff have engaged in an extensive public process since the development of the Proposed Amendments. On June 8, 2018, CARB staff issued a regulatory notice to inform the public of the start of the

rulemaking process to amend the 2007 Chrome Plating ATCM. Since that time, CARB staff conducted seven technical workgroup meetings and two public workshops to solicit stakeholder feedback and discuss regulatory concepts, costs, technology alternatives, emission inventory estimates, health and environmental impacts, compliance, and source testing results. Staff posted information regarding these technical working group meetings and workshops and any associated materials on the Chrome Plating website and distributed notice of these meetings through the Chrome Plating List Serve, which includes over 3,400 recipients.

In addition, CARB staff conducted numerous meetings and phone calls with members of impacted communities, environmental justice advocates, local air districts, industry stakeholders (including owners and operators of chrome plating facilities, chemical fume suppressants suppliers, equipment manufacturers (OEMs), and trade associations). CARB staff also had discussions with other state agencies, the U.S. Environmental Protection Agency (U.S. EPA), and other interested parties. CARB staff visited about 30 chrome plating facilities to learn more about their business operations and to better understand potential implementation challenges associated with the Proposed Amendments. A detailed summary of all stakeholder outreach activities is included in Chapter XII and Appendix E of the ISOR.

Comparable Federal Regulations:

In January 1995, U.S. EPA promulgated the Chromium Plating NESHAP⁷ (40 Code of Federal Regulations, Part 63, Subpart N). The Chromium Plating NESHAP was enacted because U.S. EPA identified chrome plating tanks as significant emitters of chromium compounds, which are hazardous air pollutants. This regulation established concentration standards for hard chrome plating facilities that could be met by the addition of forced ventilation systems. However, add-on air pollution control devices were not necessarily required in order for the hard chrome plating facilities to meet the concentration standards. In addition, the surface tension standards were established for decorative chrome plating facilities and chromic acid anodizing facilities.

On July 19, 2004, U.S. EPA amended the Chromium Plating NESHAP to allow the use of chemical fume suppressants to control chromium emissions; to provide an alternative standard for hard chrome plating tanks equipped with enclosed hoods; to modify surface tension parameter testing; to expand the definition of “chromium electroplating and anodizing” to

⁷ *National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks*

include the ancillary hardware associated with the plating process, “add-on” control equipment, rectifier, process tanks, ductwork; and to amend the pressure drop for composite mesh pads to ± 2 inches of water column instead of ± 1 inch of water column.

On September 19, 2012, U.S. EPA further amended the Chromium Plating NESHAP to include revisions to the emissions limits for total chromium, incorporate housekeeping requirements to reduce emissions not released from a stack (i.e., fugitive emissions), and phase-out the use of chemical fume suppressants that use perfluorooctane sulfonic acid (PFOS).⁸ PFOS is an organic chemical identified as being potentially carcinogenic⁹ with health and safety concerns and is classified as one of the PFAS compounds.

AN EVALUATION OF INCONSISTENCY
OR INCOMPATIBILITY WITH EXISTING
STATE REGULATIONS
(GOVERNMENT CODE, § 11346.5,
SUBDIVISION (a)(3)(D))

During the process of developing the proposed regulatory action, CARB staff 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 (Government
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 section 11346.5, subdivisions (a)(5) and (6), the Executive Officer has determined that the proposed regulatory action would create costs or savings to any State agency, would not create costs or savings in federal funding to the State, would not create costs or mandate to any local agency or school district, 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.

⁸ PFOS – Perfluorooctane sulfonic acid (CAS No. 1763–23–1) is a compound that has been banned by the US EPA and was used in fume suppressants in California prior to 2016. This compound is considered to be highly toxic and persistent in the environment. EPA took action in banning this compound for use in its chrome plating regulation.

⁹ EPA Health Effect Support Document for PFOS

Cost or Savings for State Agencies:

There is no direct cost impact to state agencies. Sales tax revenue for tanks, chemicals needed for trivalent chromium plating process, add-on emission control equipment, building enclosure materials and equipment/materials needed to implement best management practices may increase, resulting in a potential increase in sales tax revenue. However, there may also be a decrease in demand for California chrome plated parts due to the Proposed Amendments which would potentially decrease sales tax revenue together with loss of corporate and personal income tax revenue in California. The total average estimated sales tax decrease to state agencies due to the Proposed Amendments from 2024 through 2043 is \$92.2 million.

Other Non-Discretionary Costs or Savings on Local Agencies:

The Proposed Amendments are not expected to impose any non-discretionary costs or savings on local agencies.

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
(GOVERNMENT 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
(GOVERNMENT 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. Although the Proposed Amendments may have a significant adverse economic impact directly affecting chrome plating businesses, these impacts would not be significant relative to the statewide economy.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT
(GOVERNMENT CODE, § 11346.5,
SUBDIVISION (a)(10))

Major Regulation: Statement of the Results of the Standardized Regulatory Impact Analysis (SRIA) (Government Code, § 11346.3, subdivision (c)):

In May 2022, CARB submitted a SRIA to the Department of Finance (DOF) for their review. To determine the economic impacts of the proposed regulatory action, CARB modeled the economic impacts of the Proposed Amendments on the California economy. Since submittal of the SRIA, some updates/revisions were made for the economic impact analysis. These updates are discussed in Chapter IX of the ISOR. The economics impacts have minor negative impacts on economic indicators. Overall, the change in the growth of jobs, Gross State Product (GSP), and output is projected to not exceed 0.04 percent of the baseline. Certain sectors are expected to experience significant costs or gains.

The creation or elimination of jobs within the state.

CARB staff uses Regional Economic Models, Inc. (REMI) Policy Insight Plus Version 2.5.0 to estimate the macroeconomic impacts of the Proposed Amendments on the California economy. REMI is a structural economic forecasting and policy analysis model that integrates input, output, computable general equilibrium, econometric and economic geography methodologies. Across the California economy, the REMI simulation shows small increases in job growth in 2025, 2026, and 2038 due to increases in final demand in various industries to support the phase out of hexavalent chromium and to implement add-on measures. These job increases are primarily due to increased demand for new tanks and other expenditures for trivalent chromium plating, in advance of the deadlines to comply with the phase out of hexavalent chromium in 2027 for decorative facilities and 2039 for functional facilities. These increases in job growth are followed by decreases in job growth relative to the baseline in subsequent years of the analysis due to the ongoing costs of the Proposed Amendments, indicating net job elimination due to the Proposed Amendments in the analysis period of 2024 through 2043.

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

The Proposed Amendments do not guarantee creation or elimination of businesses. However, the trend of increasing production costs, as shown in the SRIA and updated in Section IX of the ISOR, for the chrome plating industry has the potential to result in a contraction or decrease in the number of businesses in this industry. The degree to which there will be business

closures is determined by production cost increases to chrome plating facilities, consumer acceptance of trivalent chromium plated products as an alternative to hexavalent chromium plated products, and the ability of California businesses to find alternatives to hexavalent chromium plating.

Consumer responses to the Proposed Amendments may be different for decorative and functional chrome plating. While trivalent chromium is a commercially available alternative to hexavalent chromium for decorative chrome plating, customers may choose out-of-state chrome platers due to aesthetics. Some stakeholders have raised concerns that the color deposited by hexavalent chromium does not precisely match the color deposited by trivalent chromium and consumers may not accept products plated with trivalent chromium. This could result in a decrease in demand for products that are chrome plated in California following the 2027 phase out of hexavalent chromium in decorative chrome plating. Decorative platers in California will have to choose whether to invest in replacement technology, send parts out of state to be plated, move out of state, or shut down completely.

Although some replacements to hexavalent chromium in functional chrome plating are commercially available, they do not yet cover all applications for hard chrome plating and chromic acid anodizing. Other alternatives are at various stages of development but may not cover all applications of hard chrome plating and chromic acid anodizing within the time frame specified in the Proposed Amendments. Therefore, two technology reviews that are three and seven years preceding the 2039 phase out date have been added to the Proposed Amendments.

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

The Proposed Amendments would impact all chrome plating facilities in California, with the phase out of hexavalent chromium for decorative chrome plating on January 1, 2027, and on January 1, 2039, for functional chrome plating. The Proposed Amendments would result in production cost increases for California chrome plating facilities. For decorative chrome plating facilities, trivalent chromium plating is currently available, but the production cost is higher. These increases in production costs, assuming they can be passed through to the chrome plating customers, may result in a competitive disadvantage relative to out of state facilities that are not subject to the Chrome Plating ATCM. In addition to cost increases, decorative chrome plating facility operators and chrome plating industry representatives have expressed concerns regarding customer acceptance of trivalent chromium plated parts. The major reason expressed by some industry stakeholders is that trivalent chromium plated parts are slightly different in color

than hexavalent chromium plated parts. Customer preference for hexavalent chromium plated parts and the availability of decorative hexavalent chromium plating in other states may also result in competitive disadvantage for California decorative chrome plating facilities.

The Proposed Amendments may also result in a competitive disadvantage for California functional chrome plating facilities relative to out of state facilities. As discussed previously, some replacements to hexavalent chromium in functional chrome plating are commercially available, however, they do not yet cover all applications for hard chrome plating and chromic acid anodizing. Other alternatives are at various stages of development but may not cover all applications of hard chrome plating and chromic acid anodizing within the time frame specified in the Proposed Amendments. Therefore, two technology reviews that are three and seven years preceding the 2039 phase out date have been added to the Proposed Amendments. Through these technology reviews, CARB will evaluate the status of alternative technologies, including technological limitations, prior to the phase out of hexavalent chromium in functional chrome plating. If the technology reviews show that alternative technology will not be available by the 2039 phase out, the ATCM can be amended by adjusting the dates or the specific requirements of the phase out accordingly. Therefore, the Proposed Amendments encourage functional chrome plating facilities in California, and businesses which supply equipment and materials to them, to invest in research and development of the trivalent chromium plating technology and other alternatives to hexavalent chromium. As discussed above, the availability of hexavalent chromium plating in other states may result in a competitive disadvantage for California chrome plating facilities.

The increase or decrease of investment in the state.

The Proposed Amendments will likely have a small impact on private investment decline in the State. Private investment due to the Proposed Amendments is expected to decrease relatively modestly during the initial years of the regulation. After 2038, there is significant increase in the magnitude of the impact due to the increase in direct costs on functional chrome plating facilities. The increased production cost is likely to increase price levels in general in the economy, force business owners to decrease relative wage levels, and, as a result, will decrease private investment. The impact from the increase in direct cost is somewhat offset by the impacts from final demand in 2038. However, all impacts in the period of analysis do not exceed 0.04 percent of estimated statewide baseline investment in any year.

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

The Proposed Amendments would provide a strong signal for the research and development of alternative technologies to hexavalent chromium plating and incentive for alternative technology businesses to demonstrate their technologies and ensure their commercial availability. Construction companies may see an increase in business due to the conversion to alternative technology and because some chrome plating facilities will be installing add-on controls and constructing building enclosures. Further, companies who engage in source testing may see an increase in business because functional chrome plating facilities will be required to conduct source testing every two years.

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 Amendments will eliminate the use of hexavalent chromium from chrome plating operations in California. Cumulatively, from 2025 to 2043, the Proposed Amendments are estimated to reduce hexavalent chromium emissions by approximately 122 pounds relative to the baseline. The baseline is estimated using the current emission level requirements and facility permitted amp-hrs. These emission reductions will benefit California residents by reducing potential cancer risk to individual residents and off-site workers near chrome plating facilities, including those located in disadvantaged communities. The exposure reductions are expected to decrease the potential cancer risk from chrome plating operations to zero by the year 2039. In addition, the Proposed Amendments will lead to reduced occupational exposure to hexavalent chromium for on-site workers due to the phase out of hexavalent chromium from chrome plating operations.

A co-benefit of the Proposed Amendments will be the elimination of PFAS emissions from chrome plating operations. Because the Proposed Amendments phase out the use of hexavalent chromium in chrome plating operations, it will also eliminate PFAS, a toxic fluorinated compound found in many fume suppressants. Reduced exposures to these toxic chemicals will provide additional public health and air quality benefits for Californians.

The Proposed Amendments may result in financial benefits to many different industries whose products will be needed to comply with the Proposed Amendments, including but not limited to companies selling chemicals and equipment needed for trivalent chromium plating operations, add-on control suppliers, contractors for source testing, and design, engineering,

and construction firms. Some of the businesses that will benefit may include small businesses.

Department of Finance Comments and Responses.

Department of Finance (DOF) comment #1: (T)he SRIA does not expect any business closures in response to the proposed regulations, nor does it discuss any potential competitive disadvantages to California's chrome facilities, despite acknowledging stakeholder concerns regarding the availability of alternatives. However, unavailable or inferior alternatives may reduce the demand for in-state chrome services and instead incentivize consumers to switch to out-of-state businesses who would still be able to utilize hexavalent chromium processes. The SRIA must include a comprehensive assessment of the potential business and employment impacts, including a discussion of these potential behavioral responses to the proposed regulation, or further justify why it is reasonable to assume these adverse impacts would be unlikely to occur.

Response: CARB staff (staff) would like to clarify that the SRIA does explain that there may be business closures in response to the Proposed Amendments. DOF's comment stating that the SRIA does not expect any business closures may be referring to page 62 of the SRIA, where staff indicate that, "the direct costs of the Proposed Amendments themselves would not be anticipated to result in significant changes in business elimination in California. The overall job and output growth impacts are small relative to the California economy, about 0.01 percent in the years of greatest impact." This section of the SRIA refers to impacts to the entire California economy, and the scenario that is analyzed assumes that trivalent chromium is a viable alternative to hexavalent chromium plating and anticipated to be available for both decorative and functional applications by the applicable phase out dates. Other scenarios were also analyzed, as discussed below.

The SRIA acknowledges on page 66 that chrome plating "facilities may choose to leave California because of increased costs." Although the Proposed Amendments do not directly require business closures, business closures are one of the potential impacts. The degree to which there will be business closures is determined by production cost increases to chrome plating facilities, consumer acceptance of trivalent chromium plated products as an alternative to hexavalent chromium plated products, and the time it takes to develop other alternatives to hexavalent chromium plating.

Consumer responses to the Proposed Amendments may be different for decorative and functional chrome plating. While trivalent chromium is a commercially available alternative to hexavalent chromium for decorative chrome plating, customers may choose out-of-state chrome platers due to aesthetics. Some stake-

holders have raised concerns that the color deposited by hexavalent chromium does not precisely match the color deposited by trivalent chromium and that consumers may not accept products plated with trivalent chromium. This could result in a decrease in demand for products that are chrome plated in California following the 2027 phase out of hexavalent chromium in decorative chrome plating. Decorative platers in California will have to choose whether to invest in replacement technology, send parts out of state to be plated, move out-of-state, or shut down completely.

Although some replacements to hexavalent chromium in functional chrome plating are commercially available, they do not yet cover all applications for hard chrome plating and chromic acid anodizing. Other alternatives are at various stages of development but may not cover all applications of hard chrome plating and chromic acid anodizing within the time frame specified in the Proposed Amendments. Therefore, two technology reviews that are three and seven years preceding the 2039 phase out date have been added to the Proposed Amendments. Through these technology reviews, CARB will evaluate the status of alternative technologies, including technological and product feasibility limitations, prior to the phase out of hexavalent chromium in functional chrome plating. If the technology reviews show that there is no available alternative technology, the ATCM can be amended by adjusting the dates or the specific requirements of the phase out accordingly.

Staff analyzed four separate scenarios to illustrate the potential business and employment impacts of the Proposed Amendments. One of these scenarios assumes that trivalent chromium is a viable alternative to hexavalent chromium plating and will be available for both decorative and functional applications by the applicable phase out dates. The other three are intended to capture impacts of potential scenarios that could result from a decrease in demand if consumers do not accept trivalent chromium plated products or the available alternative technology for functional chrome plating is not available.

Staff explored several methods to model the decrease in chrome plating operations in California, including decreasing final demand for the chrome plating industry and directly reducing output (the amount of production) in the chrome plating industry. In the SRIA, staff chose to model the decrease in chrome plating in California as a decrease in final demand, as opposed to directly reducing output, because this resulted in the largest impacts to the overall economy and to the chrome plating industry and therefore better illustrates the potential range of impacts.

These impacts are the motivation behind the sensitivity analysis presented in Section 5.3.6 of the SRIA, where staff considered the impacts under potential

scenarios where the Proposed Amendments would be associated with a 25, 50, and 75 percent decrease in final demand for California’s chrome plating industry. This approach was taken due to the lack of specific data quantifying the reduction in demand or the amount of business closures that could result from the Proposed Amendments. Staff requested data regarding changes in demand and potential closures at numerous working group meetings, workshops, and one-on-one meetings with industry. While there is no threshold of cost increases or changes in final demand that can be used to determine business closures, the results of the SRIA can be used to estimate the potential for business closures by applying the estimated percentage changes in employment to the estimated number of chrome plating facilities.

The sensitivity analysis captures potential impacts to both decorative and functional chrome plating facilities in the scenarios where demand decreases 25, 50, and 75 percent. For example, staff evaluated a scenario where the 2026¹⁰ phase out of hexavalent chromium in decorative chrome plating results in a 25 percent decrease in final demand, which would be a decrease of \$34 million (25 percent of the estimated sales of all decorative plating facilities) from 2026 through 2037. Additionally, to capture the impact of the 2039 phase out of hexavalent chromium in functional chrome plating, in addition to the decrease that resulted from the 2026¹⁰ phase out for decorative chrome plating, staff evaluated a further decrease of \$307 million (25 percent of the estimated sales of all chrome plating facilities, including decorative and hard chrome plating and chromic acid anodizing) from 2038 through 2043 (See Table 5.7 of the SRIA).

The following summarizes the impacts to the chrome plating industry under the various scenarios analyzed in the SRIA (See Table 1 of Appendix C–2 in the ISOR).¹¹ The estimated loss in employment is the maximum estimated decrease in employment within the chrome plating industry for decorative and functional facilities. For decorative facilities, the value is based on changes in employment between 2024 through 2037, when most costs are borne by decorative facilities (due to the 2026¹⁰ phase out). The employment loss estimate for functional facilities is estimated by taking the maximum value of employment loss in the chrome plating industry from 2038 through 2043 (due to the 2039 phase out) and subtracting job

decreases attributed to the decorative facilities.¹² The “Percent Change in Employment” column provides a comparison between the “Estimated Employment Loss” column and the estimated employment within the chrome plating industry (see Table 5.7 of the SRIA). The “Estimated Facility Closures” column applies the “Percent Change in Employment” to the estimated number of facilities in the chrome plating industry (see Table 5.7 of the SRIA).

- For the scenario with no additional decrease in final demand: decorative chrome plating facilities are estimated to experience a maximum loss of 7 jobs or approximately 1 percent of total employment. This corresponds to approximately 1 facility closure.
- For the scenario with 25 percent decrease in final demand: decorative chrome plating facilities are estimated to experience a maximum loss of 122 jobs or approximately 14 percent of total employment. This corresponds to approximately 7 facility closures.
- For the scenario with 50 percent decrease in final demand: decorative chrome plating facilities are estimated to experience a maximum loss of 240 jobs or approximately 27 percent of total employment. This corresponds to approximately 14 facility closures.
- For the scenario with 75 percent decrease in final demand: decorative chrome plating facilities are estimated to experience a maximum loss of 359 jobs or approximately 41 percent of total employment. This corresponds to approximately 21 facility closures.
- For the scenario with no additional decrease in final demand: functional chrome plating facilities are estimated to experience a maximum loss of 193 jobs or approximately 5 percent of total employment. This corresponds to approximately 3 facility closures.
- For the scenario with 25 percent decrease in final demand: functional chrome plating facilities are estimated to experience a maximum loss of 1,053 jobs or approximately 28 percent of total

¹² In the main scenario, larger negative impacts begin in 2039 due to the phase out of hexavalent chromium in functional plating. In the sensitivity analysis, the larger negative impacts begin starting in 2038. This is because in 2038, there are positive impacts to employment and output due to increased final demand for trivalent chrome plating equipment and installation that counterbalance the increased costs to the chrome plating industry. In the sensitivity analysis, the negative impact of decreased final demand in the chrome plating industry outweighs these positive impacts that occur in 2038. As described in the SRIA, staff made a conservative assumption that chrome plating facilities made the same levels of investment to convert to trivalent chromium to comply with the Proposed Amendments in the main scenario and sensitivity scenarios.

¹⁰ When the SRIA was conducted, it was based on a 2026 phase out. However, the phasing out for decorative chrome plating has since been changed to 2027, which will push back the impacts an additional year.

¹¹ Note that Table 5.14 in the SRIA has been corrected. Please see Table IX.3 in the ISOR.

employment. This corresponds to approximately 18 facility closures.

- For the scenario with 50 percent decrease in final demand: functional chrome plating facilities are estimated to experience a maximum loss of 1,938 jobs or approximately 52 percent of total employment. This corresponds to approximately 32 facility closures.
- For the scenario with 75 percent decrease in final demand: functional chrome plating facilities are estimated to experience a maximum loss of 2,836 jobs or approximately 76 percent of total employment. This corresponds to approximately 47 facility closures.

For example, staff estimate that, if there was an additional 75 percent decrease in final demand for chrome plating, this could be associated with a decrease of 359 decorative chrome plating jobs and 2,836 functional chrome plating jobs. These decreases in employment would represent a 41 percent decrease in employment at decorative chrome plating facilities and a 76 percent decrease in employment at functional chrome plating facilities. If the decreases in employment were matched by similar percentages of facility closures, this would be associated with the closure of 21 decorative chrome plating facilities and 47 functional chrome plating facilities.

Staff would also like to note that the SRIA discloses the competitive disadvantage to California chrome platers relative to out-of-state facilities due to increased costs (Section 5.3.8, Competitive Advantage or Disadvantage). Staff acknowledges that there could be competitive disadvantages relative to out-of-state facilities, which will still be able to utilize hexavalent chromium. For both decorative and functional facilities, there could be a competitive disadvantage because prices may increase if California chrome platers pass on the cost of converting to trivalent chromium to consumers. Out-of-state facilities that did not incur the costs to transition to alternative technology may be able to offer lower prices to consumers, which would cause a competitive disadvantage for California chrome platers. In addition, for decorative chrome plating facilities, the color difference between hexavalent and trivalent chromium plated parts may cause competitive disadvantage for California decorative chrome platers if customers prefer the color of hexavalent chromium plated parts.

Some commenters have expressed concerns that, due to the forward-looking nature of contracts for chrome plating services (which some industry representatives have claimed can span years to a decade), customers may not wait for the results of the technology review(s) before securing contracts with out-of-state facilities. The lack of certainty that California

facilities will be able to perform hard chrome plating or chromic acid anodizing using hexavalent chromium may pose a competitive disadvantage to California facilities before hexavalent chromium is phased out. It is not possible to quantify the impacts due to the speculative nature of this issue and due to lack of data regarding the timing and number of contracts that could be impacted and the uncertainty regarding the potential customer responses to the Proposed Amendments.

DOF comment #2: (T)he SRIA does not clearly disclose how inflation is incorporated into the analysis, however, costs may be different under higher assumed inflation rates. The brief qualitative discussion of the implications of higher inflation that is currently included in the SRIA should be expanded to clearly illustrate how costs are impacted by incorporating Finance's most recent inflation projections at the time of the analysis, as required.

Response: For the purposes of comparison in the SRIA, all costs and benefits are reported in constant 2021 dollars (SRIA at page 16). Cost and benefit values are converted to 2021 dollars, when necessary, using the annual values for California CPI-U published by the Department Industrial Relations, Office of the Director.¹³ This was used to convert the following costs described in the SRIA:

- The decorative chrome plating replacement cost and the non-electrical operating cost in decorative and functional facilities are converted from 2020 dollar to 2021 dollar using CPI-U.
- The costs for building enclosures, best management practices, and housekeeping upgrades were converted from 2018 dollars to 2021 dollars.

DOF's Consumer forecasts of CPI-U, released with the 2022-23 May Revision to the Governor's Budget, estimates that the prices of goods and services purchased by urban consumers rose by 6.98 percent from 2021 to 2022 and will continue to rise by approximately 3 percent per year from 2022 through 2025.¹⁴ If the SRIA were to present costs in constant 2022 dollars using DOF's forecasted values of CPI-U, the cost of the Proposed Amendments would be \$664.6 million 2022 dollars before tax and amortization, compared with \$640.2 million 2021 dollars before tax and amortization.

Inflation is also incorporated into the analysis through adjusting the REMI Model's National Control (model baseline) with DOF's forecasts of the national Personal Consumption Expenditures Index. The PCE-Price Index reflects the price level of a region. It

¹³ California Department of Industrial Relations, Office of the Director, California Consumer Price Index, California Consumer Price Index Chart. Accessed June 28, 2022.

¹⁴ California Department of Finance, Consumer Price Index, Calendar Year averages: from 1950, May 2022.

is used to deflate nominal personal income to real personal income. The SRIA uses the forecast of National Deflators published with the 2022–23 Governor’s Budget, which was the most recent data at the time of the analysis.¹⁵ Since the completion of the analysis, DOF has published newer forecasts with the 2022–23 May Revision to the Governor’s Budget. Staff has updated the REMI National control to account for the higher levels of inflation than what was assumed previously. In addition, staff have updated the REMI model National and Regional controls to incorporate DOF’s latest forecasts for U.S. Real Gross Domestic Product, income, and employment, as well as California civilian employment by industry, updated with the 2022–23 May Revision to the Governor’s Budget.

BUSINESS REPORT
(GOVERNMENT 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**
(GOVERNMENT CODE, § 11346.5,
SUBDIVISION (a)(9))

The Proposed Amendments would not result in any direct costs to individuals. However, staff anticipates the Proposed Amendments would result in indirect costs to individuals to the extent that compliance costs are passed through to consumers of chrome plating services.

EFFECT ON SMALL BUSINESS
(CAL. CODE REGS., TITLE 1, § 4,
SUBDIVISIONS (a) AND (b))

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. The methodology and full details for estimating the cost impact to a small business is provided in Chapter IX of the ISOR.

¹⁵ California Department of Finance. Economic Research Unit. National Deflators: Calendar Year averages: from 1929, April 2021. Sacramento: California. January 2022.

CONSIDERATION OF ALTERNATIVES
(GOVERNMENT 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 three alternatives to the Proposed Amendments. As explained in Chapter X of the ISOR, no alternative proposal was found to be less burdensome and equally effective in achieving the purposes of the Proposed Amendments in a manner that ensures full compliance with the authorizing law. Staff have not identified any reasonable alternatives that would lessen any adverse impact on small business.

ENVIRONMENTAL ANALYSIS

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

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

The potentially significant and unavoidable adverse impacts are primarily related to short-term construction-related activities and long-term opera-

tions. This explains why some resource areas are identified above as having both less-than-significant impacts and potentially significant impacts. Please refer to the draft EA for further details.

The draft EA, included as Appendix D to the ISOR, is entitled Draft Environmental Analysis Prepared for the Proposed Amendments to the Airborne Toxic Control Measure for Chromium Plating and Chromic Acid Anodizing Operations. Written comments on the draft EA will be accepted during a 45-day public review period starting on December 2, 2022, and ending on January 17, 2023.

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 Eugene Rubin, Staff Air Pollution Specialist, Toxics Control Section, at (916) 287-8214 or Eugene.Rubin@arb.ca.gov or (designated back-up contact) Greg Harris, Manager, Toxics Control Section, at (279) 208-7540 or Greg.Harris@arb.ca.gov.

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: The Proposed Amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations.

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 November 29, 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 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 regard-

ing 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/2023/chromeatcm2023>.

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED 2022 AMENDMENTS TO AREA DESIGNATIONS FOR STATE AMBIENT AIR QUALITY STANDARDS

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 2022 amendments to Area Designations for State Ambient Air Quality Standards.

Date: January 26, 2023

Time: 9:00 a.m.

In-Person Location:

Mary D. Nichols Campus, Southern California Headquarters
California Air Resources Board |
Haagen-Smit Auditorium
4001 Iowa Avenue
Riverside, California 92507

Remote Option:

Zoom

This public meeting may continue at 8:30 a.m., on January 27, 2023. Please consult the public agenda,

which will be posted ten days before the January 26, 2023, 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 December 2, 2022. Written comments not submitted during the hearing must be submitted on or after December 2, 2022, and received **no later than January 17, 2023**. 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 39600, 39601, 39607(e), 39608, and 40925.5. This action is proposed to implement, interpret, and make specific sections 39607(e), 39608, and 40925.5.

INFORMATIVE DIGEST OF
 PROPOSED ACTION AND POLICY
 STATEMENT OVERVIEW
 (GOVERNMENT CODE, § 11346.5,
 SUBDIVISION (a)(3))

Sections Affected:

Proposed amendment to California Code of Regulations, title 17, sections 60201 and 60210.

Background and Effect of the Proposed Regulatory Action:

CARB is charged with the responsibility of adopting ambient air quality standards in consideration of the public health, safety, and welfare (Health and Safety Code [H&SC] section 39606). To date, CARB has adopted State ambient air quality standards (State standards) for ten pollutants, set forth in the California Code of Regulations, title 17, section 70200. In addition, H&SC section 39607(e) requires CARB to establish designation criteria which provide the basis for designating areas of California as attainment or nonattainment with respect to the State standards. The designation criteria are set forth in the California Code of Regulations, title 17, sections 70300 through 70306, and appendices 1 through 3 thereof. Based on these designation criteria, H&SC section 39608 further requires CARB to establish and annually review area designations for State standards.

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.

Objectives and Benefits of the Proposed Regulatory Action:

During the annual review, CARB determines whether changes to the existing area designations are warranted based on an evaluation of recent air quality data. The proposed amendments to the area designations classify the air quality in communities as to whether it meets the State standards. Depending on the proposed changes to an area's designation, the local air quality management district or air pollution control district (district) may be required to adopt and submit a plan to correct for deficiencies in meeting the State standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. Districts may modify the emissions reduction strategy or alternative measure of progress in the plan if the district demonstrates to CARB's satisfaction that the modified strategy is at least as effective in improving air quality as the strategy in the plan.

The annual review and update of the area designations gives the public, businesses, and government an indication of whether the health-based standards are being met. This information allows the public to make

more educated decisions regarding personal health and residency, as well as participation in outdoor activities. In addition, businesses and government are given the opportunity to make informed decisions regarding worker health and safety.

Objectives:

This year's review of the area designations is based on air quality data from 2019 through 2021. The proposed amendments provide for the following changes:

- For Ozone Area Designations (section 60201):
 - Redesignate Lake Tahoe Air Basin from attainment to nonattainment;
 - Redesignate Amador County in the Mountain Counties Air Basin from nonattainment–transitional to nonattainment;
 - Redesignate Tuolumne County in the Mountain Counties Air Basin from nonattainment to nonattainment–transitional;
 - Redesignate Shasta County in the Sacramento Valley Air Basin from nonattainment–transitional to nonattainment;
 - Redesignate Santa Barbara County in the South Central Coast Air Basin from nonattainment to nonattainment–transitional; and
- For Fine particulate matter (PM_{2.5}) Area Designations (section 60210):
 - Redesignate Sutter and Yuba Counties in the Sacramento Valley Air Basin from attainment to nonattainment.

Benefits:

Environmental Justice. Some communities experience higher exposures to air pollutants, and it is a priority of CARB to ensure that full protection is afforded to all Californians. Though the proposed amendments to the area designations do not contain any requirements for action, the area designations are designed to identify areas with unhealthful air quality, based on the most recently available complete data, and can help better inform actions to improve air quality. CARB's designations provide members of these communities with updated information about the air quality of their communities which, as stated, allows them to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities.

Safeguarding the quality of the physical environment. An area's designation status provides a classification that assists local districts in more accurately assessing local air quality. As discussed above, depending on the proposed changes to an area's designation, a district may be required to adopt and submit a plan to correct for deficiencies in meeting the State standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. As a result, indirect benefits to the

quality of the physical environment may result if the district adopts or amends its regulations with a goal toward achieving the State standards.

Encouraging a regional approach to the State ambient air quality, whenever possible. The proposed designations by discrete areas allow each local district to assess the air quality of individual areas and address their unique situations and needs. This approach allows each local district to identify the most cost-effective, efficient, and acceptable approach to achieve the State standards.

Consistency with the State goal of providing a decent home and suitable living environment. The annual review and update of the area designations gives local districts an updated and more accurate indication of whether the health-based standards are being met. This information allows local districts to make informed decisions regarding appropriate actions to meet the State standards.

Protection of worker safety. The annual review and update of the area designations gives the public, businesses, and government an updated and more accurate indication of whether the health-based standards are being met. This information also allows businesses and government the opportunity to make better informed decisions regarding worker health and safety.

COMPARABLE FEDERAL REGULATIONS

There are no comparable federal or local regulations that address area designations for the State standards.

AN EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS (GOVERNMENT CODE, § 11346.5, SUBDIVISION (a)(3)(D))

The proposed changes, as well as the process for affecting those changes, to the area designations are consistent and compatible with existing State regulations.

In proposing the designation changes, CARB has considered the data for record (defined in California

Code of Regulations, title 17, section 70301(a)),¹ which meet the representativeness and completeness criteria. The representativeness criteria are set forth in Appendix B to the Initial Statement of Reasons (ISOR) and in the California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 1. The completeness criteria are also set forth in Appendix B to the ISOR and in the California Code of Regulations, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 3.

In addition, CARB has considered the criteria for designating areas as nonattainment (California Code of Regulations, title 17, section 70303), nonattainment–transitional for pollutants other than ozone (California Code of Regulations, title 17, section 70303.1), nonattainment–transitional for ozone (California Code of Regulations, title 17, section 70303.5), and attainment (California Code of Regulations, title 17, section 70304) in making these proposed designations.

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

DISCLOSURES REGARDING THE PROPOSED REGULATION

FISCAL IMPACT/LOCAL MANDATE DETERMINATION REGARDING THE PROPOSED ACTION (GOVERNMENT 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 reason-

¹ California Code of Regulations, title 17, section 70301(a) provides: “Except as otherwise provided in this article, designations shall be based on ‘data for record.’ (1) Data for record are those data collected by or under the auspices of the state board or the districts for the purpose of measuring ambient air quality, and which the Executive Officer or his or her delegate has determined comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures. (2) Any other data which are provided by a district or by any other person will be data for record if the Executive Officer or his or her delegate determines within 90 days of submittal of complete supporting documentation that the data comply with the siting and quality assurance procedures established in Part 58, Title 40, Code of Federal Regulations or other equivalent procedures...”

able compliance with the proposed regulatory action are presented below.

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

COSTS TO LOCAL AGENCIES

The proposed regulatory action would trigger reporting requirements under the Health and Safety Code sections 40910–40930 and potentially create costs to two local districts, which are not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500). CARB estimates the total non–discretionary costs on local agencies to be approximately \$35,956 for all affected air districts. No other non–discretionary costs are anticipated.

HOUSING COSTS
(GOVERNMENT 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
(GOVERNMENT CODE, §§ 11346.3,
SUBDIVISION (a), 11346.5,
SUBDIVISIONS (a)(7) & (8))

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

RESULTS OF THE ECONOMIC
IMPACT ANALYSIS/ASSESSMENT
(GOVERNMENT CODE, § 11346.5,
SUBDIVISION (a)(10))

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

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

- (B) The creation of new business or the elimination of existing businesses within the State of California.
- (C) The expansion of businesses currently doing business within the State of California.
- (D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action **would not** affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the ISOR.

The area designations are labels that describe the healthfulness of the air quality in each area. Because these regulations by themselves are labels of an area’s air quality, they do not contain any specific requirements for action, but may trigger or suspend the review, adoption, and submittal of a triennial plan by a local district. As a result, in most cases they have no specific, direct economic impact. In general, this regional approach to categorizing air quality allows each district to identify the most cost–effective and efficient approach to achieve the State standards.

In addition, the annual review and update of the area designations gives the public an indication of whether the health–based standards are being met, thereby allowing the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. These personal health and residency decisions may translate into cost savings from reduced medical expenses, hospitalizations, and time off from work, as well as improved psychological benefits. It also allows businesses and government the opportunity to make informed decisions about worker health and safety. These business and government decisions may also translate into cost savings from reduced workers’ expenses such as medical expenses, hospitalizations, time off from work, and worker’s compensation, as well as improved worker morale.

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to review and update the area designations which give the public, businesses, and government, an indication of whether the health–based standards are being met. There is expected to be a positive impact to the health and welfare of California residents, worker safety, and the state’s environment.

A summary of these benefits is provided under “Objectives and Benefits” in the Informative Digest

of Proposed Action and Policy Statement Overview Pursuant to Government Code section 11346.5, subdivision (a)(3) on page 3 above.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES
(GOVERNMENT CODE, § 11346.5, SUBDIVISION (a)(9))

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. CARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. CARB 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 SMALL BUSINESS
(CAL. CODE REGS., TITLE 1, § 4, SUBDIVISIONS (a) & (b))

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposed regulatory actions are labels of an area's air quality; they do not contain any specific requirements for action, other than triggering the review, adoption, and submittal of a triennial plan by the local district. As a result, they have no specific, direct impact on small businesses.

CONSIDERATION OF ALTERNATIVES
(GOVERNMENT 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.

ENVIRONMENTAL ANALYSIS

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

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

SPECIAL ACCOMMODATION REQUEST

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

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

To request these special accommodations or language needs, please contact the Clerks' Office at 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 alternativo u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al 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 Jenette Kwong, Air Resources Engineer, Air Quality Analysis Section, at (279) 208-7626 or (designated back-up contact) Theresa Najita, Air Pollution Specialist, Central Valley Air Quality Planning Section, at (279) 842-9813.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Proposed 2022 Amendments to Area Designations for State Ambient Air Quality Standards.

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 November 29, 2022. Please contact Bradley Bechtold, Regulations Coordinator, at bradley.bechtold@arb.ca.gov or (916) 322-6533 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, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

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

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

The public may request a copy of the modified regulatory text from 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/2023/2022-state-area-designations-regulation>.

GENERAL PUBLIC INTEREST

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING AND BUSINESS MEETING

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING:

On **January 19, 2023**, at 10:00 a.m. in the Auditorium of the Harris State Building 1515 Clay Street, Oakland, California

as well as via the following:

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

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

BUSINESS MEETING:

On **January 19, 2023**, at 10:00 a.m. in the Auditorium of the Harris State Building 1515 Clay Street, Oakland, California

as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)

- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

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

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

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

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

**NOTICE OF INTENT TO LIST CHEMICALS BY THE LABOR CODE MECHANISM:
1-BROMO-3-CHLOROPROPANE,
1-BUTYL GLYCIDYL ETHER, AND
GLYCIDYL METHACRYLATE**

The California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) intends to list 1-bromo-3-chloropropane (CAS RN 109-70-6), 1-butyl glycidyl ether (CAS RN 2426-08-6), and glycidyl methacrylate (CAS RN 106-91-2) as known to the state to cause cancer under

the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65¹).

This action is being proposed pursuant to the “Labor Code” listing mechanism². OEHHA has determined that these substances meet the criteria for listing by this mechanism.

Background on listing by the Labor Code mechanism: Health and Safety Code section 25249.8(a) incorporates California Labor Code section 6382(b)(1) into Proposition 65. The law requires that certain substances identified by the International Agency for Research on Cancer (IARC) be listed as known to cause cancer under Proposition 65. Labor Code section 6382(b)(1) refers to substances identified as human or animal carcinogens by IARC. OEHHA has adopted regulations concerning these listings in Title 27, Cal. Code of Regs., section 25904. As the lead agency for the implementation of Proposition 65, OEHHA evaluates whether a chemical’s listing is required.

OEHHA’s determination: *1-Bromo-3-chloropropane*, *1-butyl glycidyl ether*, and *glycidyl methacrylate* meet the requirements for listing as known to the state to cause cancer for purposes of Proposition 65.

IARC has published on its website “IARC Monographs on the Identification of Carcinogenic Hazards to Humans, Volume 125 “Some Industrial Chemical Intermediates and Solvents” (IARC, 2020). IARC concluded that *1-bromo-3-chloropropane* and *1-butyl glycidyl ether* are “possibly carcinogenic to humans” (Group 2B) based on sufficient evidence of carcinogenicity in animals and strong evidence in experimental systems that they each exhibit key characteristics of carcinogens (IARC, 2020). IARC concluded that *glycidyl methacrylate* is “probably carcinogenic to humans” (Group 2A) based on sufficient evidence of carcinogenicity in animals, strong evidence that the chemical belongs, on the basis of mechanistic considerations, to a class of reactive glycidyl epoxides, and strong evidence in human primary cells that the chemical exhibits key characteristics of carcinogens (IARC, 2020).

Opportunity for comment: OEHHA is providing this opportunity to comment as to whether the chemicals identified above meet the requirements for listing as causing cancer specified in Health and Safety Code section 25249.8(a), Labor Code section 6382(b)(1), and Title 27, Cal. Code of Regs., section 25904(b). Because this is a ministerial listing, comments should be limited to whether IARC has identified the specific chemical or substance as a human or animal carcino-

¹ Health and Safety Code section 25249.5 *et seq.*

² Health and Safety Code section 25249.8(a) and Title 27, Cal. Code of Regs., section 25904.

gen. Under this listing mechanism, OEHHA cannot consider scientific arguments concerning the weight or quality of the evidence considered by IARC when it identified these chemicals and will not respond to such comments if they are submitted (Title 27, Cal. Code of Regs., section 25904(c)).

Submission of Comments

All written comments must be submitted to OEHHA by electronic submission, mail, or hand-delivery, by **Monday, January 9, 2023**. OEHHA strongly recommends that comments be submitted electronically through our website at <https://oehha.ca.gov/comments>, rather than in paper form. Alternatively, comments can be submitted in paper form, either by mail or delivered in person.

Electronic Submission (preferred):

Through OEHHA website at:

<https://oehha.ca.gov/comments>

Mailed Submission:

Attention: Esther Barajas-Ochoa
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, California 95812-4010

In-person delivery submission:

Attention: Esther Barajas-Ochoa
Office of Environmental Health Hazard Assessment
1001 I Street, 23rd Floor
Sacramento, California 95814

OEHHA encourages all commenters to submit their comments in a format compliant with Section 508 of the federal Rehabilitation Act, Web Content Accessibility Guidelines 2.1³ and California Government Code sections 7405 and 11135, so that they can be read using screen reader technology and people with visual impairments are able to listen to them.

Comments received during the public comment period will be posted on the OEHHA website after the close of the comment period.

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

If you have any questions, please contact Esther Barajas-Ochoa at Esther.Barajas-Ochoa@oehha.ca.gov or at (916) 445-6900.

Reference

International Agency for Research on Cancer (IARC, 2020). IARC Monographs on the Identification of Carcinogenic Hazards to Humans, Volume 125. Some Industrial Intermediates and Solvents. IARC,

³ <https://www.w3.org/WAI/standards-guidelines/wcag/>

World Health Organization, Lyon, France. Available from <https://publications.iarc.fr/596>.

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.

State Allocation Board
File # 2022-1108-01
California Preschool, TK and FDK Facilities Grant Program; Community Colleges

This emergency rulemaking by the State Allocation Board amends regulations and associated forms to address changes to the California Preschool, Transitional Kindergarten (TK) and Full-Day Kindergarten (TDK) Facilities Grant Program pursuant to Education Code, section 17375.

Title 02
Amend: 1860.2, 1860.3, 1860.4, 1860.5, 1860.5.1, 1860.6, 1860.14, 1860.15, 1850.19
Filed 11/16/2022
Effective 11/16/2022
Agency Contact: Lisa Jones (279) 946-8459

Fair Political Practices Commission
File # 2022-1021-03
Statement of Organization

This action amends regulations pertaining to required contents of Statements of Organization that must be filed with the Secretary of State.

Title 02
Amend: 18410
Filed 11/17/2022
Effective 01/01/2024
Agency Contact: Amanda Apostol (916) 322-5660

Fair Political Practices Commission
File # 2022-1021-04
Recall Elections

This action establishes additional requirements and procedures related to recall elections.

Title 02
Amend: 18531.5
Filed 11/17/2022
Effective 12/17/2022
Agency Contact:
Amanda Apostol (916) 322-5660

Fair Political Practices Commission
File # 2022-1021-05
Minors

This action establishes minimum age requirements to serve in various capacities.

Title 02
Adopt: 18400
Filed 11/17/2022
Effective 12/17/2022
Agency Contact:
Amanda Apostol (916) 322-5660

Air Resources Board
File # 2022-0720-03
On-Board Diagnostic System Amendments

This action by the California Air Resources Board amends regulations relating to On-Board Diagnostic System Requirements and associated enforcement provisions for passenger cars, light-duty trucks, medium-duty vehicles and engines, and heavy-duty engines.

Title 13
Amend: 1968.2, 1968.5, 1971.1, 1971.5
Filed 11/22/2022
Effective 11/22/2022
Agency Contact: Chris Hopkins (279) 208-7347

Board of State and Community Corrections
File # 2022-1005-04
Minimum Standards for Local Detention Facilities

This action by the Board of State and Community Corrections amends minimum standards for local detention facilities to update and revise terminology, clarify the prohibition of carotid restraints, and make other changes that reflect current practices.

Title 15
Amend: 1006, 1007, 1008, 1010, 1012, 1018, 1024, 1027, 1027.5, 1028, 1029, 1032, 1040, 1041, 1044, 1045, 1046, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1058.5, 1059, 1061, 1062, 1063, 1064, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1080, 1081, 1082, 1083, 1084, 1101, 1102, 1104, 1105, 1106, 1122, 1122.5, 1143, 1144, 1145, 1147, 1149, 1151, 1161, 1162, 1163, 1200, 1205, 1206, 1206.5, 1207, 1207.5, 1208, 1208.5, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1230, 1240, 1241, 1242, 1243, 1245, 1248, 1260, 1261, 1263, 1264, 1265, 1266, 1267, 1270, 1271, 1272
Repeal: 1247
Filed 11/17/2022
Effective 01/01/2023
Agency Contact: Lindsay Tu (916) 324-1959

California Horse Racing Board
File # 2022-1017-02
Use of Driving Whip

In this regular rulemaking, the California Horse Racing Board is amending regulations to further limit the use of the whip during a race and require the driver to keep a line in each hand throughout the race, except as specified.

Title 04
Amend: 1734
Filed 11/22/2022
Effective 01/01/2023
Agency Contact: Rick Pimentel (916) 274-6043

California Victim Compensation Board
File # 2022-1011-02
Claims of Persons Erroneously Convicted

This action amends procedures for making a compensation claim of a person erroneously convicted of a felony, including application and filing requirements, preliminary review, evidentiary standards, claim review standards, hearing procedures, and hearing officer decision standards, and sanction standards.

Title 02
Adopt: 646
Amend: 640, 641, 642, 643, 644, 645
Filed 11/23/2022
Effective 01/01/2023
Agency Contact: Neil Ennes (916) 491-3728

Department of Conservation
File # 2022-1014-05
California Farmland Conservancy Program

In this rulemaking action, the Farmland Conservancy Program amends its real estate appraisal requirements

for grant applications. Real estate appraisals no longer must be completed before the Department can act on an application for grant funds. Instead, the appraisals are required to be completed prior to the disbursement of funding under the grant. This change allows the Department to conditionally approve grant applications prior to completion of final appraisals.

Title 14
 Amend: 3010
 Filed 11/23/2022
 Effective 01/01/2023
 Agency Contact:
 Graham St. Michel (530) 556-6127

Department of Corrections and Rehabilitation
 File # 2022-1011-03
 Religious Personal Property

In this regular rulemaking action, the Department of Corrections and Rehabilitation updates regulations related to personal and religious personal property, including the Religious Personal Property Matrix (RPPM) and Request for Additional Item form, incorporated by reference.

Title 15
 Amend: 3190
 Filed 11/22/2022
 Effective 01/01/2023
 Agency Contact: Rosie Ruiz (916) 445-2244

Department of Health Care Access and Information
 File # 2022-1006-01
 Transcatheter Aortic Valve Replacement Data Acquisition

This action proposes to require hospitals that perform transcatheter aortic valve replacements (TAVR) to submit information to the STS/ACC TVT Registry in order to accurately track clinical data for this procedure.

Title 22
 Adopt: 97140, 97145, 97150, 97155, 97160
 Filed 11/18/2022
 Effective 01/01/2023
 Agency Contact:
 Nancy Coronado (916) 326-3879

Dental Hygiene Board of California
 File # 2022-1010-01
 Retired Licensure

Business and Professions Code section 464 (added by Stats. 2016, ch. 473, sec. 1) authorizes any of the boards within the Department of Consumer Affairs to establish by regulation a system for a retired category

of license for persons who are not actively engaged in the practice of their profession or vocation. In this regular rulemaking, the Dental Hygiene Board of California is establishing a system for a retired category for registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions.

Title 16
 Adopt: 1119
 Amend: 1117
 Filed 11/16/2022
 Effective 01/01/2023
 Agency Contact: Adina Pineschi-Petty
 (916) 516-5537

Department of Corrections and Rehabilitation
 File # 2022-0621-01
 Use of Force

In this resubmitted rulemaking action, the Department amends its regulations related to use of force to change definitions, procedures on reporting and investigating use of force incidents, and forms incorporated by reference.

Title 15
 Amend: 3000, 3268, 3268.1, 3268.2, 3268.3
 Filed 11/16/2022
 Effective 11/16/2022
 Agency Contact:
 Renee Rodriguez (916) 445-2220

**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.

