



California Regulatory Notice Register

REGISTER 2023, NUMBER 45-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

NOVEMBER 10, 2023

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Codes — Notice File Number Z2023-1031-04 1429

AMENDMENT

MULTI-COUNTY: East Bay Regional Park District
Pajaro Valley Public Cemetery District
STATE AGENCY: California Catastrophe Response Council

ADOPTION

MULTI-COUNTY: Le Grand-Athlone Water District
Pioneer Community Energy

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

Civil Penalties: Violations of Government Code 3550 — Notice File Number Z2023-1026-01 1430

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

Requesting Information from the Department — Notice File Number Z2023-1027-01 1435

TITLE 13. AIR RESOURCES BOARD

Proposed Zero-Emission Forklift Regulation — Notice File Number Z2023-1024-06 1438

TITLE 14. FISH AND GAME COMMISSION

Exotic Game Mammals and Wild Pig Validations — Notice File Number Z2023-1030-02 1451

TITLE 14. FISH AND GAME COMMISSION

Recreational California Halibut Updates — Notice File Number Z2023-1031-03 1454

TITLE 16. BUREAU OF AUTOMOTIVE REPAIR

Vehicle Safety Systems Inspection Program — Notice File Number Z2023-1030-01 1456

(Continued on next page)

***Time-
Dated
Material***

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL
*Listing Laundry Detergents Containing Nonylphenol Ethoxylates as a Priority Product —
 Notice File Number Z2023–1030–03* 1461

GENERAL PUBLIC INTEREST

BOARD OF EQUALIZATION
*Notice of Rescheduled Public Hearing and Extension of Written Comment Period
 (Original Notice Published on September 8, 2023, Notice Register 2023, Number 36–Z,
 Concerning Audit Selection)* 1467

DEPARTMENT OF FISH AND WILDLIFE
*Consistency Determination Number 1653–2020–130–001–R1, Chamberlain Creek Restoration
 Project, Mendocino County* 1470

DEPARTMENT OF FISH AND WILDLIFE
*Consistency Determination Request for Kelt Reservoirs Project, 2080–2023–017–05,
 Santa Barbara County* 1472

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 1472

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

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

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

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: East Bay Regional Park District
Pajaro Valley Public Cemetery District
- STATE AGENCY: California Catastrophe Response Council

ADOPTION

- MULTI-COUNTY: Le Grand-Athlone Water District
Pioneer Community Energy

A written comment period has been established commencing on November 10, 2023 and closing on December 26, 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 December 26, 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) 323-9103.

**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) 323-9103.

**TITLE 8. PUBLIC EMPLOYMENT
RELATIONS BOARD**

The Public Employment Relations Board (PERB or Board) proposes to adopt 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 32095, 32610.2 and 32611.8. Section 32095 defines the term "special remedies." Section 32610.2 informs public employers and labor organizations of the preconditions for filing an unfair practice charge at PERB alleging a violation of Government Code section 3558. Section 32611.8 provides the procedures for PERB to adjudicate issues regarding an award of special remedies related to claims filed under Government Code sections 3550 and 3558.

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 his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 327-6377 or by email at jeremy.zeitlin@perb.ca.gov. The written comment period closes on December 26, 2023, which is 46 days after the publication of this notice. The Board will only consider comments received at the Board offices by that time. Submit written comments to:

Jeremy Zeitlin, Senior Regional Attorney
Public Employment Relations Board
Elihu M. Harris State Office Building
1515 Clay St., Suite 2206
Oakland, CA 94612
1031 18th Street
(415) 654-2358
Email: jeremy.zeitlin@perb.ca.gov

AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), 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 Educational Employment Relations Act (EERA; Government Code section 3540 et seq.). Pursuant to Government Code sections 3509(a) and 3541.3(g), 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 Meyers-Milias-Brown Act (MMBA; Government Code section 3500 et seq.). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act; Government Code section 3512 et seq.). Government Code section 3563(f) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer-Employee Relations Act (HEERA; Government Code section 3560 et seq.). Pursuant to Public Utilities Code section 99561(f), 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 Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA; Public Utilities Code section 99560 et seq.). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), 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 Trial Court Employment Protection and Governance Act (Trial Court Act; Government Code section 71600 et seq.). Pursuant to Government Code sections 3541.3(g) and 71825(b), 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 Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act; Government Code section 71800 et seq.). Government Code section 3524.52(a), authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Judicial Council Employer-Employee Relations Act (JCEERA; Gov-

ernment Code section 3524.50 et seq.). Pursuant to Government Code sections 3541.3(g) and 3555.5(c), 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 Public Employee Communication Chapter (PECC; Government Code section 3555 et seq.). Pursuant to Government Code sections 3541.3(g) and 3551(a), 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 Prohibition on Public Employers Deterring or Discouraging Union Membership chapter (PEDD; Government Code section 3500 et seq.). Pursuant to Welfare and Institutions Code section 10421(e), 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 Building a Better Early Care and Education System Act (Childcare Provider Act; Welfare and Institutions Code section 10420 et seq.). Pursuant to Public Utilities Code section 40122.1(a), 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 Orange County Transit District Act (OCTDA; Public Utilities Code section 40122.1 et seq.). Pursuant to Public Utilities Code section 28849(b), 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 San Francisco Bay Area Rapid Transit District Act (BART Act; Public Utilities Code section 28848 et seq.). Pursuant to Public Utilities Code section 102399(b), 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 Sacramento Regional Transit District Act (SacRT Act; Public Utilities Code section 102398 et seq.). Pursuant to Public Utilities Code section 98160.5(b) and Government Code section 3541.3(g), 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 Santa Cruz Metropolitan Transit District Act of 1967 (SCMTD Act; Public Utilities Code section 98160 et seq.). Pursuant to Public Utilities Code section 100309(b), 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 Santa Clara Valley Transportation Authority Act (SCVTA Act; Public Utilities Code section 100300 et seq.).

General reference for **section 32095** of the Board’s regulations: sections 3550, 3551, 3551.5 and 3558, Government Code.

General reference for **section 32610.2** of the Board’s regulations: section 3558, Government Code.

General reference for **section 32611.8** of the Board’s regulations: sections 3550, 3551, 3551.5 and 3558, Government Code.

POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB presently administers sixteen collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers–Miliias–Brown Act (MMBA) of 1968, which established collective bargaining for California’s city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976, establishing collective bargaining in California’s public schools (K–12) and community colleges; the State Employer–Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; the Higher Education Employer–Employee Relations Act (HEERA) of 1979, extending the same coverage to the California State University System, the University of California System and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA) of 2003, which covers supervisory employees of the Los Angeles County Metropolitan Transportation Authority; the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, which together provide for collective bargaining rights for most trial court employees; the Public Employee Communication Chapter (PECC) of 2017, which conferred PERB jurisdiction over violations of the PECC; the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD) of 2018, which conferred PERB jurisdiction over violations of the PEDD; the Building a Better Early Care and Education System Act of 2019, known as the Childcare Provider Act (CCPA), establishes collective bargaining for family childcare providers who participate in a state-funded early care and education program.

In 2020, the Legislature gave PERB jurisdiction over the Bay Area Rapid Transit District Act (BART Act), where the Board has jurisdiction over disputes relating to employer–employee relations at BART, and jurisdiction over the Orange County Transit District Act (OCTDA) in the Public Utilities Code giving PERB jurisdiction over unfair practice charges at the Orange County Transportation Authority. In 2021, the Legislature gave PERB jurisdiction over disputes relating to employer–employee relations of the Sacra-

mento Regional Transit District (SacRT) for those exclusive representatives that have elected to move one or more of its bargaining units to the jurisdiction of PERB for unfair practice charges.

In addition, in 2022, the Legislature gave PERB jurisdiction over disputes related to employer–employee relations at both the Santa Cruz Metropolitan Transit District (SCMTD) and the Santa Clara Valley Transportation Authority (SCVTA).

In 2021, the Legislature amended the Public Employee Communication Chapter of 2017 (PECC, Gov. Code, § 3555 et seq.) to establish new standards for unfair practice charges under Government Code section 3558, which requires public employers to provide certain bargaining unit employee information to an exclusive representative within 30 days of hire and subsequently at least every 120 days. The Legislature amended section 3558 to require exclusive representatives to provide public employers notice of the alleged violation and an opportunity to cure the alleged violation within 20 calendar days. Public employers are only permitted to cure three times during a 12–month period before an unfair practice charge is filed.

Section 3558, subdivision (d)(2) provides that a public employer found to violate section 3558 is subject to a civil penalty not to exceed \$10,000, paid to the General Fund, based on the following criteria: (1) the public employer’s annual budget; (2) the severity of the violation; and (3) any prior history of violations by the public employer.

Additionally, section 3558, subdivision (d)(4) requires the Board to award the prevailing party an attorney fee award and costs accruing from the inception of proceedings before PERB’s Division of Administrative Law. If the Board is required to defend a decision under section 3558 after a party seeks judicial review, or the Board is required to seek enforcement action in superior court to achieve compliance with a Board order, a court should award attorneys fees and costs to the Board if it is the prevailing party.

In 2022, the Legislature amended the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD, Gov. Code, § 3550 et seq.) to establish similar civil penalty and attorney fee and costs provisions as the PECC has. The Legislature added Government Code section 3551.5, which establishes civil penalties of up to \$1,000 per affected employee, not to exceed \$100,000 in total. The penalty will be deposited into the General Fund, and the Legislature prescribed the following factors to determine the amount of the penalty: (1) the public employer’s annual budget; (2) the severity of the violation; and (3) any prior history of violations by the public employer.

Section 3551.4, subdivision (b) allows the Board to award attorney’s fees and costs to prevailing employee organizations, accruing from the inception of pro-

ceedings before the Division of Administrative Law, provided that the claim was not frivolous, unreasonable, or groundless when brought, or the employee organization continued to litigate after it clearly became so. Additionally, the Board is entitled to attorney’s fees and costs when it is required to seek superior court enforcement or defend the decision after an employer seeks judicial review.

INFORMATIVE DIGEST

Section 32095 concerns the definitions of certain “special remedies.” This proposed regulation defines special remedies as attorney’s fees and costs sought under Government Code sections 3551.5, subdivision (b)(1), and 3558, subdivision (d)(4). It further defines special remedies as civil penalties assessed under Government Code sections 3551.5, subdivision (a), and 3558, subdivision (d)(2).

Section 32610.2 concerns pre–filing procedures for PECC charges. The proposed regulation clarifies that an unfair practice charge must allege that the exclusive representative notified the employer in writing of the facts and theories of the alleged violation(s). It also provides that employers are not liable for violations that it cures within 20 days from the date it receives written notice from the exclusive representative, so long as the employer has not cured three or more alleged violations within the 12 months immediately preceding the current cure. The opportunity to cure is only available in instance where an employer’s submission is inaccurate or incomplete, not when the employer entirely fails to provide the list of employee information. The proposed regulation further clarifies that the three–cure limit is counted regardless of the exclusive representative or bargaining unit involved in the prior cure.

Section 32611.8 concerns special remedies for PECC and PEDD charges. The proposed regulation establishes that an administrative law judge or the Board itself may resolve special remedies issues in conjunction with resolving liability issues. The proposed regulation further provides a procedure for a party to resolve any outstanding issues related to special remedies before PERB’s Office of the General Counsel.

CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

The Board has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review of all regulations that would relate to or affect this area of California law, the Board has determined that due to PERB’s exclusive jurisdiction to implement and en-

force the labor relations acts within its jurisdiction, the proposed regulations are the only regulations concerning the implementation and enforcement of the special remedies set forth in Government Codes sections 3551.5 and 3558 or any other statute PERB enforces. Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

Since April 2017, PERB has been seeking to streamline its procedures as part of a general Case Processing Efficiency Initiative. Adopting these proposed regulations will extend that effort to PERB’s statutory obligation to enforce the PEDD and PECC and those statutes’ new provisions for special remedies.

The proposed regulations will aid PERB in efficiently adjudicating claims for special remedies under these two statutes by clearly defining what remedies qualify as “special remedies” (Section 32095), setting forth the pre-filing requirements for pursuing a claim under the PECC (Section 32610.2), and establishing a definite procedure for claiming and resolving requests for special remedies under the PECC and PEDD (Section 32611.8). This guidance will permit PERB and the public sector employers and unions that appear before the agency to save time and resources when determining the extent of any claim for special remedies under the PECC and PEDD.

Essentially, the proposed amendments continue the Board’s efforts to update its case processing regulations to provide constituents with easy to understand yet comprehensive rules on case processing.

NO EXISTING AND COMPARABLE FEDERAL REGULATION OR STATUTE

During the process of developing these proposed regulatory adoptions, the Board has conducted a search for any similar federal regulations and statutes on this topic and has determined that there are no existing, comparable federal regulations or statutes that govern this topic, as these proposed regulatory changes apply solely to public employers and employee organizations under the jurisdiction of the California public sector labor relations statutes set forth above. Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing federal regulations or statutes.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: The proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: The proposed action would not impose any new costs which must be reimbursed.

Other non-discretionary cost or savings imposed upon local agencies: The proposed action would not result in any new costs which must be reimbursed, or savings imposed upon local agencies.

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

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

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

Significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The proposed action will not have a significant adverse economic impact on California businesses.

Significant effect on housing costs: There will be no effect on housing costs.

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

The Board has determined that the proposed regulations will not affect small business because they only apply to the public sector.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board concludes that the adoption of the proposed regulations 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 proposed regulations will impose standard procedures for public sector employers and unions that are litigating requests for special remedies under the PECC and PEDD. These regulations will likely reduce litigation costs for these constituents, improve PERB’s

case processing efficiency, and promote public sector labor harmony.

The proposed regulatory action will not adversely affect the health and welfare of California residents, worker safety, or the state's environment. In addition, California residents' general welfare will be benefitted by stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that California's public agencies and employees provide to California's communities.

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 invites interested persons to present statements or arguments with respect to alternatives to the amended 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:

Jeremy Zeitlin, Senior Regional Attorney
Public Employment Relations Board
Elihu M. Harris State Office Building
1515 Clay St., Suite 2206
Oakland, CA 94612
1031 18th Street
(415) 654-2358
Email: Jeremy.zeitlin@perb.ca.gov

The backup person for these inquiries is:

Laura Ziegler Davis, Supervising Regional Attorney
Public Employment Relations Board
Elihu M. Harris State Office Building
1515 Clay St., Suite 2206
Oakland, CA 94612
1031 18th Street
(415) 654-2251
Email: Laura.Davis@perb.ca.gov

Please direct requests for copies of the proposed text (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 Jeremy Zeitlin at the above address.

PRELIMINARY ACTIVITIES

PERB held public meetings on April 14, 2022 and August 11, 2022 wherein the public was given the opportunity to provide comments regarding the proposed regulations.

On December 8, 2022, the Board itself approved the publication of the proposed regulatory text and the commencement of the formal rulemaking process.

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 amended regulations and the initial statement of reasons. Copies of these documents may be obtained by contacting Jeremy Zeitlin at the above address, and are also available on the Board's website at www.perb.ca.gov.

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 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 shall 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 regulation and/or the final statement of reasons should be sent to the attention of Jeremy Zeitlin 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 Jeremy Zeitlin at the above address.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of this notice of proposed action, the initial statement of reasons, and the text of the adopted regulations in underline, can be accessed through PERB’s website located at www.perb.ca.gov throughout the rulemaking process. Written comments received during the written comment period will also be posted on PERB’s website. The final statement of reasons or if applicable, notice of a decision not to proceed, will be posted on PERB’s website following the Board’s action.

**TITLE 13. DEPARTMENT OF MOTOR
VEHICLES**

DIVISION 1, CHAPTER 1
ARTICLE 5.0 — REQUESTING
INFORMATION FROM THE DEPARTMENT

The Department of Motor Vehicles (department) proposes to amend Sections 350.06 in Article 5.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to Government Requester Accounts.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than **December 25, 2023**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt/amend/ repeal these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 1808.21,

1808.47, 1810, 1810.7 and 1811; and Civil Code section 1798.26.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Vehicle Code section 1810 authorizes the department to permit inspection of information from its records concerning the registration of a vehicle or information from the files of driver’s licenses. Vehicle Code section 1810 also allows the department to adopt regulations establishing the process by which a requester provides information to the department that identifies the requester and requires an indication of the reason for which the information is requested. The department issues requester codes for commercial purposes, such as auto auctions, dealers, financial institutions, and process servers. The department also issues governmental requester codes to entities such as the federal, state, city, and county government and also used by attorney general, district attorney, public defenders. Upon verification of the information, the department issues either a commercial requester code or a government requester code. As part of the application process, the requester is also required to implement procedures to ensure the privacy of the information contained in the department’s records.

The current regulation requires government requesters to complete a Government Requester Account Application, form INF 1130. This form is used by federal, state, and local agencies to access information related to the employee pull notice program, vehicle/vessel information, driver’s license information, and occupational licensing information.

The department is proposing to amend the form INF 1130 and adopt a new form called the Government Requester Account Application for California Courts, Tax Collectors, and Parking/Toll Agencies, form INF 1130A. The department has determined that separating the courts, tax collectors and parking/toll agencies from other government requesters will streamline the application process.

BENEFITS OF THE
PROPOSED REGULATION

The department anticipates this action will benefit the residents of California by ensuring governmental entities applying for a requester account have robust procedures in place to ensure the information accessed will be maintained in a secure manner and only by those employees who are authorized to access and review the information.

CONSISTENCY AND COMPATIBILITY
WITH STATE REGULATIONS

The department has conducted a review of other state regulations and has determined there are no other regulations related to government requester accounts for departmental records, therefore, this proposed action is neither inconsistent nor incompatible with other state regulations.

COMPARABLE FEDERAL STATUTES OR
STATE REGULATIONS

There are no existing federal statutes or regulations that govern governmental entities accessing departmental records.

DOCUMENTS INCORPORATED
BY REFERENCE

The following documents are incorporated by reference:

- Governmental Requester Account Application, Form INF 1130 (Rev. 4/2023)
- Governmental Requester Account Application for California Courts, Tax Collectors, and Parking/Toll Agencies, INF 1130A (Rev. 9/2023)

These forms are not published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, the documents are readily available to interested parties by contacting the department representative identified below.

ECONOMIC AND FISCAL
IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- *Cost or Savings to Any State Agency:* None.
- *Other Non–Discretionary Cost or Savings to Local Agencies:* None.
- *Costs or Savings in Federal Funding to the State:* None.
- *Effects on Housing Costs:* None.
- *Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.:* None.
- *Cost Impact on Representative Private Persons or Businesses:* The department is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. This proposed action does not have any costs associated with private persons.

- *Small Business Impact:* This proposed action will not impact small businesses. Section 350.06 establishes an application process only for government requesters. There are no small businesses required to comply with Section 350.06.
- *Local Agency/School District Mandate:* The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- *Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:* The department does not anticipate this action will have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

ECONOMIC IMPACT ASSESSMENT
(GOVERNMENT CODE SECTION 11346.3)

The department has made the following determinations related to this proposed regulatory action:

- Creation or Elimination of Jobs Within the State of California

This proposed action amends two forms used by entities applying for Government Requester Accounts. The rulemaking will neither create nor eliminate jobs within the State of California.

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

This proposed action amends two forms used by entities applying for Government Requester Accounts. The rulemaking will neither create nor eliminate existing businesses within the State of California.

- Expansion of Business Currently Doing Business Within the State of California

This proposed action amends two forms used by entities applying for Government Requester Accounts. The rulemaking will not expand businesses currently doing business within the State of California.

- Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

This action is unlikely to impact the health of California residents, worker safety, or the state’s environment. The department anticipates this action will benefit the welfare of California residents by adopting two forms that have been expanded to ensure entities with requester codes have in place robust procedures to ensure the safety and integrity of the information contained in the department’s records.

RESULTS OF THE ECONOMIC
IMPACT STATEMENT

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

The department has made the initial determination that this action will not impact, 1) the creation or elimination of jobs within the State of California, 2) the creation or elimination of existing businesses within the State of California, 3) the expansion of businesses currently doing business within the State of California, or 4) the health of California residents, worker safety, or the state's environment. The department anticipates this action will benefit the welfare of California residents by adopting two forms that have been expanded to ensure entities with requester codes have in place robust procedures to ensure the safety and integrity of the information contained in the department's records.

PUBLIC DISCUSSIONS OF
PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

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 effective as 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.

CONTACT PERSON

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

Randi Calkins, Regulations Specialist
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 282-7294

Facsimile: (916) 657-6243

Email: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Peggy Gibson, Attorney IV
Department of Motor Vehicles
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strike-out to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <https://www.dmv.ca.gov/portal/about-the-california-department-of-motor-vehicles/california-dmv-rulemaking-actions/>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 13. AIR RESOURCES BOARD

**NOTICE OF PUBLIC HEARING TO
CONSIDER PROPOSED ZERO–EMISSION
FORKLIFT REGULATION**

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider the proposed Zero–Emission Forklift Regulation (Proposed Regulation).

Date: June 27, 2024

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 9:00 a.m., on June 28, 2024. Please consult the public agenda, which will be posted ten days before the June 28, 2024 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 November 10, 2023. Written comments not submitted during the hearing must be submitted on or after November 10, 2023, and received **no later than December 26, 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 (Government Code (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, 43013, 43018, 43101, 43102, and 43104. This action is proposed to implement, interpret, and make specific sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43211, and 43212.

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

Sections Affected:

CARB proposes to modify sections 2433 and 2775.1 of the California Code of Regulations (CCR), title 13 and add to the CCR, title 13, the following sections: 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, and 3011.

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

The following documents, test methods, and model would be incorporated in the regulation by reference as specified by section:

- American National Standard Institute, “Safety Standard for Rough Terrain Forklift Trucks,” 2021, ANSI B56.6–2021, incorporated by reference in CCR, title 13, section 3000.
- American National Standard Institute, “Safety Standard for Vehicle Mounted Forklifts,” 2020, ANSI B56.14–2020, incorporated by reference in CCR, title 13, section 3000.
- Title 29, Code of Federal Regulations, Part 1910.147(b), last amended on July 25, 2011,

incorporated by reference in CCR title 12, section 3000.

Background and Effect of the Proposed Regulatory Action:

CARB mobile source programs have made significant progress in improving air quality throughout California. However, many areas throughout the State still fail to attain the National Ambient Air Quality Standards (NAAQS) for ozone and fine particulate matter (PM) (i.e., PM_{2.5}). About 26 million Californians live in areas exceeding the NAAQS, out of the total population of about 39 million. Consequently, about 67 percent of California's population live in areas exposed to concentrations above the federal ozone and PM_{2.5} standards.¹ In addition, climate change continues to impact California communities and the environment by increasing smog formation;^{2,3,4} extending the pollen season; contributing to intense wildfires;⁵ creating hotter temperatures that could cause heat-related health problems;^{6,7} cause weather extremes, such as drought⁸ and flooding;^{9,10} and increase preva-

lence of infectious diseases.^{11,12} Taking action to reduce criteria-pollutant and greenhouse gas (GHG) emissions is urgently needed to reduce the toll air pollution and climate change is taking on Californians.

Mobile sources and the fossil fuels that power them are the largest contributors to the formation of ozone, GHG emissions, fine PM (i.e., PM_{2.5}), and toxic diesel PM. The combustion of fossil fuel by mobile sources accounts for approximately 80 percent of smog-forming nitrogen oxide (NO_x) emissions, 90 percent of the diesel PM emissions, and nearly 40 percent of statewide GHG emissions.^{13,14,15} Of that, off-road equipment contributes to approximately 14 percent of the NO_x emissions and seven percent of the PM emissions attributable to mobile sources.¹⁶

The Proposed Regulation has been identified in the 2016 State Strategy for the State Implementation Plan, the 2016 Mobile Source Strategy (MSS), the 2020 MSS, and the Sustainable Freight Action Plan as one of several measures necessary for California to achieve its established air-quality and climate goals.

Forklifts that use internal combustion engines can be spark-ignited (i.e., gasoline, propane, or natural gas) or compression-ignited (i.e., diesel). Large Spark-Ignition (LSI) forklifts are spark-ignited forklifts of 25 horsepower or greater.

The Proposed Regulation would reduce criteria-pollutant and GHG emissions within the State by accelerating the transition of LSI engine powered forklifts to zero-emission technology (i.e., battery-electric, fuel cell-electric, or other zero-emission technology as the only source of power for propulsion and work). Certain types of forklifts, such as rough-terrain fork-

¹ Based on 2021 monitored ozone design values contoured over population by census tract.

² Reidmiller, D.R., et al., Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II, Chapter 14, Human Health, U.S. Global Change Research Program, 2018 (web link: <https://nca2018.globalchange.gov/chapter/14/>).

³ McMichael, A.J. et al. (Eds.), Climate Change and Human Health: Risks and Responses, World Health Organization, page 12, 2003 (web link: https://apps.who.int/iris/bitstream/handle/10665/42742/924156248X_eng.pdf?sequence=1&isAllowed=y).

⁴ NRDC, Issue Brief: Climate Change and Health in California, page 3, February 2019 (web link: <https://www.nrdc.org/sites/default/files/climate-change-health-impacts-california-ib.pdf>).

⁵ Singleton, M.P. et al., Increasing Trends in High-Severity Fire in the Southwestern USA from 1984 to 2015, Forest Ecology and Management, Volume 433, 2019 (web link: https://www.fs.usda.gov/rm/pubs_journals/2019/rmrs_2019_singleton_m001.pdf).

⁶ Kadir, T. et al. (Eds.), Indicators of Climate Change in California, Office of Environmental Health Hazard Assessment, August 2013 (web link: <https://oehha.ca.gov/media/downloads/climate-change/document/climatechangeindicatorsreport2013.pdf>).

⁷ California Air Resources Board, Health and Air Pollution (web link: <https://ww2.arb.ca.gov/resources/health-air-pollution>, last accessed August 2023).

⁸ Mann, M.E. and Gleick, P.H., Climate Change and California Drought in the 21st Century, Proceedings of the National Academy of Sciences of the United States of America, March 2015 (web link: <https://www.pnas.org/doi/epdf/10.1073/pnas.1503667112>).

⁹ Swain, D.L. et al., Increasing Precipitation Volatility in Twenty-First-Century California, Nature, 2018 (web link: https://www.sierraforestlegacy.org/Resources/Conservation/FireForestEcology/ThreatsForestHealth/Climate/Cl_Swain_et_al_2018_Increasing_Precip_Volatility.pdf).

¹⁰ Dettinger, M., Climate Change, Atmospheric Rivers, and Floods in California—a Multimodel Analysis of Storm Frequency and Magnitude Changes, Journal of the American Water Resources Association, June 2011 (web link: <https://ca.water.usgs.gov/pubs/2011/climate-change-atmospheric-rivers-floods-california-dettinger.pdf>).

¹¹ Lindgren, E. et al., Monitoring EU Emerging Infectious Disease Risk Due to Climate Change, Science, April 2012 (web link: https://www.researchgate.net/publication/224856024_Monitoring_EU_Emerging_Infectious_Disease_Risk_Due_to_Climate_Change).

¹² Solomon, G. et al., Airborne Mold and Endotoxin Concentrations in New Orleans, Louisiana, After Flooding, October through November 2005, Environmental Health Perspectives, September 2006 (web link: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1570051/>).

¹³ California Air Resources Board, 2022 Scoping Plan for Achieving Carbon Neutrality, page 184, December 2022 (web link: <https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf>).

¹⁴ California Air Resources Board, *Mobile Source Strategy*, page 5, May 2016 (web link: <https://ww3.arb.ca.gov/planning/sip/2016sip/2016mobsr.pdf>).

¹⁵ California Air Resources Board, 2022 Scoping Plan for Achieving Carbon Neutrality, page 56, Figure 1–8: 2019 State GHG emission contributions by Scoping Plan sector, December 2022 (web link: <https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf>).

¹⁶ California Air Resources Board, Staff Report for the Proposed Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation, page 35, September 2022 (web link: <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/off-roaddiesel/isor.pdf>).

lifts and diesel forklifts, would not be addressed by the Proposed Regulation.

About half of the forklift population in California already uses zero-emission technology largely due to advantages that zero-emission technology can provide, such as reduced indoor air pollution and lower operating costs. The Proposed Regulation would target most existing LSI forklifts for use of zero-emission technology.

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:

The primary objectives of the Proposed Regulation include the following:

- Accelerate the deployment of Zero-Emission Forklifts (ZEFs), which achieve the maximum emissions reduction possible to assist in the attainment of NAAQS for criteria air pollutants (Health and Safety Code Sections 43000.5(b) and 43018(a)).
- Decrease and eliminate emissions from petroleum and fossil-fuel use by forklifts by setting standards that eliminate exhaust emissions from forklifts. Emissions from petroleum use as an energy resource contribute substantially to the following public health and environmental problems, among others: air pollution and its associated health impacts, acid rain, global warming, and the degradation of California’s marine environment and fisheries (PRC Section 25000.5[b], [c]).
- Decrease GHG emissions in support of statewide GHG reduction goals by adopting strategies to deploy ZEFs in California to support the Scoping Plan, which was developed to reduce GHG emissions in California, as directed by Assembly Bill (AB) 32 (Nuñez, Chapter 488, Statutes of 2006) and Executive Order S–3–05 (Chapter 249, Stats. 2016, Pavley).
- Develop a regulation that is consistent with and meets the goals of the State Implementation Plan (SIP), providing necessary emissions reductions for all of California’s nonattainment areas to meet NAAQS (Health and Safety Code Sections 39002, 39003, 39602.5, 43000, 43000.5, 43013, and 43018).
- Maintain and continue reductions in emissions of GHGs beyond 2020, in accordance with Senate Bill (SB) 32 (Health and Safety Code Sections 38551(b), 38562, 38562.5, 38566); and pursue measures that implement reduction strategies covering the State’s GHG emissions in furtherance of California’s mandate to reduce GHG

emissions to the 1990 level by 2020 and 40 percent below the 1990 level by December 31, 2030. In addition, target and achieve carbon neutrality in California as soon as possible, but no later than 2045, pursuant to SB 100 (De León, Chapter 312, Statutes of 2018) and AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022), maintain net negative emissions thereafter in accordance with AB 1279 and Executive Order B–55–18, and to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85 percent below the 1990 levels, pursuant to AB 1279.

- Lead the transition of California’s off-road sector from internal combustion to zero-emission technology. Support ZEF sales and Executive Order N–79–20’s goal to transition off-road operations to zero-emission by 2035.
- Complement existing programs and plans to ensure, to the extent feasible, that activities undertaken pursuant to the measures complement, and do not interfere with, existing planning efforts to reduce GHG emissions, criteria pollutants, petroleum-based transportation fuels, and toxic air contaminant emissions.
- Incentivize and support emerging zero-emission technology that will be needed to achieve CARB’s SIP goals.
- Achieve emission reductions that are real, permanent, quantifiable, verifiable, and enforceable (Health and Safety Code Sections 38560, 38562(d)(1)).
- Provide market certainty for zero-emission technologies and charging and hydrogen-fueling infrastructure to guide the acceleration of the development of environmentally superior ZEFs that will continue to deliver performance, utility, and safety demanded by the market.
- Take steps to ensure all Californians can live, work, and play in a healthful environment free from harmful exposure to air pollution. Protect and preserve public health and well-being, and prevent irritation to the senses, interference with visibility, and damage to vegetation and property (Health and Safety Code Section 43000(b)).
- Spur economic activity of zero-emission technologies in the off-road sectors. Incentivize innovation that will transition California’s economy into greater use of clean and sustainable zero-emission technologies and promote increased economic and employment benefits that will accompany this transition (AB 1493, Section 1(g) (Pavley, Chapter 200, Statutes of 2002); Health and Safety Code Section 38501(e)).

- Establish a fair and level playing field among fleet operators, forklift manufacturers, forklift dealers, and forklift rental agencies.
- Craft requirements in a way that ensures institutional capacity for CARB to manage, implement, and enforce requirements.

The Proposed Regulation is one of many regulatory measures that will be needed to achieve California’s air–quality, climate, and zero–emission goals. The Proposed Regulation would establish phase–out requirements applicable to the most–common internal–combustion forklifts used in industrial and other applications across the State. Given operational constraints (such as indoor operation and forklift size) and the state of zero–emission forklift technology, phased–out LSI forklifts are expected to be ultimately replaced with zero–emission forklifts (battery–electric or fuel–cell powered).

Full implementation of the Proposed Regulation through calendar year 2043 is expected to result in the following emission reductions:

- 18,724 tons of NO_x.
- 2,075 tons of PM_{2.5}.
- 4,973 tons of reactive organic gases (ROG).
- 9.4 million metric tons (MMT) of carbon dioxide (CO₂).

Estimated cumulative health impacts of the Proposed Regulation through calendar year 2043 include the following:

- 544 avoided cardiopulmonary mortalities.
- 115 fewer hospital admissions for cardiovascular disease.
- 148 fewer cases of cardiovascular Emergency Department visits.
- 62 fewer cases of nonfatal acute myocardial infarction.
- 17 fewer hospitalizations for respiratory disease.
- 321 fewer cases of respiratory Emergency Department visits.
- 42 fewer cases of lung cancer incidence.
- 1,295 fewer cases of asthma onset.
- 109,800 fewer cases of asthma symptoms.
- 80,635 fewer cases of work loss days.
- 272 fewer hospitalizations for Alzheimer’s disease.
- 39 fewer hospitalizations for Parkinson’s disease.

Cumulative cost–savings from full implementation of the Proposed Regulation through calendar year 2043 are estimated as follows:

- \$7.5 billion in health benefit savings.
- \$0.25 to \$1 billion in social cost of carbon savings.
- \$2.7 billion in net fleet cost savings.

Without the Proposed Regulation, the ZEF population is expected to remain somewhat constant, at a population of about 79,000. The Proposed Regulation is projected to significantly increase the number of ZEFs in California. The estimated number of ZEFs would increase from about 79,000 to about 109,000 in 2031, and to about 168,000 ZEFs by 2038, when full implementation would be reached.

Summary of Proposed Regulation

The Proposed Regulation would require California fleets to phase out most LSI forklifts over time. The Proposed Regulation includes two primary components: a restriction on the sale and acquisition of LSI forklifts starting on January 1, 2026, and phase–out requirements starting on January 1, 2028, for existing LSI forklifts. The Proposed Regulation would also establish requirements for forklift manufacturers, forklift dealers, and forklift rental agencies. The following bullets provide more detailed information on each component of the Proposed Regulation.

A. Scope

- Applicable forklifts would fall into two categories, Class IV and Class V, based on the powered industrial truck classification system developed by the Occupational Safety and Health Administration.¹⁷
 - A Class IV forklift is one that uses an internal–combustion engine, has cushion tires, and is typically used indoors on smooth surfaces.
 - A Class V forklift is one that uses an internal–combustion engine, has pneumatic tires (air–filled, foam–filled, or solid), and is typically used outdoors on uneven surfaces.
- The Proposed Regulation would apply to Class IV and Class V forklifts that use LSI engines (hereinafter “Class IV LSI Forklifts” and “Class V LSI Forklifts,” respectively). However, certain types of forklifts, such as rough terrain forklifts, vehicle mounted forklifts, diesel forklifts, combat and tactical support equipment, and others would be excluded from the Proposed Regulation.
- The performance requirements of the Proposed Regulation (i.e., purchase restriction and phase–out requirements) would apply to Class IV LSI Forklifts of any lift capacity and Class V LSI Forklifts with a lift capacity of up to 12,000 pounds (hereinafter “Targeted Class IV forklifts” and “Targeted Class V forklifts,” respectively, and collectively as “Targeted Forklifts”). Although the performance requirements of the

¹⁷ Occupational Safety and Health Administration, Powered Industrial Trucks (Forklift) eTool (web link: <https://www.osha.gov/e-tools/power-industrial-trucks/types-fundamentals/types/classes>, last accessed August 2023).

Proposed Regulation would not apply to Class V LSI Forklifts with a lift capacity greater than 12,000 pounds, reporting of said forklifts would be required.

B. Forklift Fleet Operators

- Beginning on January 1, 2026, fleets would not be allowed to acquire or take possession of a new Targeted Forklift.
- Beginning on January 1, 2026, fleets would not be allowed to acquire or take possession of a used 2026 or subsequent model year (MY) Targeted Forklift.
- MY Phase–Out Schedule: Beginning January 1, 2028, Targeted Forklifts in operation prior to January 1, 2026, would be required to be phased out of the California fleet in accordance with the MY schedule that is summarized as follows:
 - Class IV LSI forklifts with a lift capacity of 12,000 pounds or less:
 - For Large Fleets (26 or more forklifts), phase–out would begin on January 1, 2028, starting with 2018 and previous MY forklifts, and end on January 1, 2035, by which 2025 MY forklifts would be required to be phased out.
 - For Small Fleets (less than 26 forklifts) and Agricultural Operations, phase–out would begin on January 1, 2029, starting with 2016 and previous MY forklifts, and end on January 1, 2038, by which 2025 and previous MY forklifts would be required to be phased out.
 - Class IV LSI forklifts with a lift capacity of more than 12,000 pounds
 - For Large Fleets, phase–out of 2025 and previous MY forklifts would be required to occur by January 1, 2035.
 - For Small Fleets and Agricultural Operations, phase–out of 2025 and previous MY forklifts would be required to occur by January 1, 2038.
 - Class V LSI forklifts with a lift capacity of 12,000 pounds or less
 - For all fleets, phase–out would begin on January 1, 2030, starting with 2017 and previous MY forklifts, and end on January 1, 2038, by which 2025 MY forklifts would be required to be phased out.
- Forklift fleets would be expected to replace phased–out Targeted Forklifts with ZEFs, either battery–electric or fuel–cell electric.

- Until January 1, 2038, forklift fleets would still be able to purchase, lease, or rent used 2025 and previous MY Targeted Forklifts for use in California so long as said forklifts have not yet been phased out according to the applicable MY Phase–Out Schedule summarized above.
- Until January 1, 2038, forklift fleets would be able to rent 2026, 2027, and 2028 MY Targeted Class V Forklifts for use in California.
- The Proposed Regulation would include compliance exemptions for low usage, emergency operations, and temporary storage of Targeted Forklifts to be removed from the fleet as well as compliance extensions for infrastructure construction, ZEF delivery delays, and feasibility issues.
- The Proposed Regulation would allow a Fleet Operator to delay the phase–out of one Targeted Forklift until January 1, 2038, for each Class V LSI Forklift with a lift capacity greater than 12,000 pounds replaced with an equivalent ZEF.
- The Proposed Regulation includes annual reporting and recordkeeping requirements starting January 1, 2026, and labeling requirements in certain situations.
- Staff’s proposal includes amendments to existing reporting and labeling requirements in the LSI Engine Fleet Requirements Regulation (LSI Fleet Regulation), set forth in Title 13, California Code of Regulations, Sections 2775, 2775.1, and 2775.2. The revisions would simplify that regulation’s reporting requirements, which would reduce the compliance burden for operators as well as increase clarity of the annual reporting requirements, since many of the operators that would be subject to the Proposed Regulation are currently subject to the LSI Fleet Regulation.
- Beginning January 1, 2026, a commercial or governmental entity that hires a Fleet Operator would also be responsible for the operation of an LSI Forklift that does not comply with the provisions in the Proposed Regulation.

C. Forklift Manufacturers

- The Proposed Regulation would establish a new zero–emission standard for engines and powertrains used in zero–emission forklifts.
- Manufacturers would no longer be allowed to produce for sale in California or offer for sale in California new Targeted Class IV Forklifts as of January 1, 2026, and no longer be allowed to produce for sale in California or offer for sale in California new Targeted Class V Forklifts January 1, 2029, unless the forklift engine meets the zero–emission standards set forth by the Proposed Regulation.

- Beginning January 1, 2026, manufacturers would be required to submit production and sales information to the Executive Officer annually for all LSI forklifts produced for sale or sold in California.

D. Forklift Dealers

- A dealer would not be allowed to possess the following:
 - 2026 and subsequent MY Targeted Class IV Forklifts starting January 1, 2026;
 - New Targeted Class IV Forklifts starting January 1, 2026;
 - 2025 and previous MY Targeted Class IV Forklifts that have already been phased out in accordance with the phase-out schedule for Class IV LSI Forklifts in Small Fleets and Agricultural Operations, summarized above, starting January 1, 2026;
 - 2025 or previous MY Targeted Class V Forklifts that have already been phased out in accordance with the Class V LSI Forklift phase-out schedule summarized above, starting January 1, 2026;
 - 2026 and subsequent MY Targeted Class V Forklifts starting January 1, 2029; and
 - Any Targeted Forklift starting January 1, 2038.
- Starting January 1, 2026, a dealer would not be able to sell, lease, offer for sale, offer for lease, or deliver to a fleet operator in California:
 - A new Targeted Forklift.
 - A used 2026 or subsequent MY Targeted Forklift.
 - A 2025 or previous MY Targeted Forklift if the MY of said forklift has already been phased out in accordance with the applicable schedule summarized above. For Targeted Class IV Forklifts, a dealer would use the phase-out schedule for Small Fleets and Agricultural Operations to determine whether or not a Forklift has been phased out.
- Starting January 1, 2026, a dealer would not be able to sell, lease, offer for sale, offer for lease, or deliver to a rental agency in California:
 - A new Targeted Class IV Forklift.
 - A used 2026 or subsequent MY Targeted Class IV Forklift.
 - A 2025 or previous MY Targeted Class IV Forklift if the MY of said forklift has already been phased out in accordance with the applicable schedule for Class IV Forklifts in Small Fleets and Agricultural Operations, as summarized above.

- A 2025 or previous MY Targeted Class V Forklift if the MY of said forklift has already been phased out in accordance with the Class V Forklift phase-out schedule summarized above.

- Starting January 1, 2029, a dealer would not be able to sell, lease, offer for sale, offer for lease, or deliver to a rental agency in California:
 - A new Targeted Class V Forklift.
 - A used 2026 or subsequent MY Targeted Class V Forklift.
- The Proposed Regulation would include exemptions for dealers to sell and transport new Targeted Forklifts to out-of-state purchasers and to fleet operators that would operate such forklifts as dedicated emergency forklifts.
- The Proposed Regulation includes recordkeeping requirements on LSI forklift sales transactions starting January 1, 2026.

E. Forklift Rental Agencies

- Rental agencies would be subject to the same MY phase-out schedule as fleet operators.
- Unlike fleet operators, between January 1, 2026, and December 31, 2028, rental agencies would be allowed to acquire Targeted Class V Forklifts as forklifts they offer for rent. Such forklifts would be required to be phased out by January 1, 2038.
- The Proposed Regulation would allow a rental agency to delay the phase-out of one Targeted Forklift until January 1, 2038, for each Class V LSI Forklift with a lift capacity greater than 12,000 pounds replaced with an equivalent ZEF.
- The Proposed Regulation includes annual reporting and recordkeeping requirements starting January 1, 2026.

Comparable Federal Regulations:

The SIP acknowledges the need for emission reductions in the off-road vehicle sector and has included the Proposed Regulation as one of the measures that will support meeting the air quality standards established in the federal Clean Air Act (CAA).¹⁸

There are currently no federal requirements for fleets or rental agencies to phase out the purchase or use of Targeted LSI forklifts. There are also no federal requirements prohibiting manufacturers or dealers from selling Targeted LSI forklifts.

¹⁸ The federal Clean Air Act sets out requirements for adoption of air quality standards, as well as the required elements of State Implementation Plans, which must demonstrate how a nonattainment area will meet the standards by the required attainment deadline.

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

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

DISCLOSURE REGARDING THE PROPOSED REGULATION

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

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

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would create costs or savings to any State agency, would not create costs or savings in federal funding to the State, and would create costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

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

Pursuant to Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), this regulatory action will result in a mandate that would create costs and cost-savings to local agencies and school districts. However, these costs are not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), because this action neither compels local agencies to provide new governmental functions (i.e., it does not require such agencies to provide additional services to the public), nor imposes requirements that apply only on local agencies or school districts.¹⁹ Instead, this regulatory action establishes requirements that would apply to all individuals and entities that own or operate regulated forklifts. This action also does not compel local agencies to increase the actual level or quality of services that they already provide the public.²⁰ For the foregoing reasons, any costs incurred by

local agencies to comply with this regulatory action are not reimbursable.²¹

Cost or Savings for State Agencies:

To implement the Proposed Regulation, CARB would need permanent staffing resources. This would be met through a combination of new staffing resources and redirecting existing staffing resources. In addition to staffing needs, the Proposed Regulation would require modifying and upgrading existing reporting systems.

State government is assumed to incur an incremental cost from the purchase of ZEFs, while also realizing operational savings from the use of ZEFs. State and local government fleets are estimated to make up about 3 percent of the California’s affected forklift fleet. Assuming the number of forklifts owned by State and local governments is proportional to their share of government employment, it is estimated that 2.2 percent and 0.8 percent of the statewide forklift cost and operational savings resulting from the Proposed Regulation would be realized by local government fleets and State government fleets, respectively.²²

Annual net total fiscal impact to the State government is estimated to range between a net positive budgetary impact of \$7.2 million in 2030, primarily due to increased sales tax revenue, to a net negative budgetary impact of \$49.3 million in 2040. Through 2043, the cumulative total upfront cost to the State government is estimated to be \$32.8 million, and the cumulative total fiscal impact is estimated to be a net negative budgetary impact of \$159.7 million from 2024 through 2043. A negative net budgetary or fiscal impact results when revenue losses and costs exceed revenue gains and cost savings.

Other Non-Discretionary Costs or Savings on Local Agencies:

Local government fleets are estimated to make up roughly 2.2 percent of California’s fleet. All local government fleets are subject to the Proposed Regulation with requirements beginning for most fleets in 2026.

Upfront costs would include the cost of purchasing new ZEFs as well as infrastructure costs for adding forklift battery chargers, facility improvements, and electrical upgrades. Local governments would also be expected to realize cost savings related to reduced ZEF energy cost, lower ZEF maintenance cost, and revenue from Low Carbon Fuel Standard (LCFS) credits. In addition, local governments would be impacted by reduced gasoline and use taxes due to reduced usage of gasoline and propane, respectively, and increased sales

¹⁹ County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 56.

²⁰ San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859, 877.

²¹ County of Los Angeles v. State of California, 43 Cal.3d. 46, 58.

²² Based on REMI Policy Insight Plus (v3.0.0), Local governments’ share of State and Local government employment is 77 percent.

taxes due to the sale of ZEFs and associated equipment and utility user fees.

Accounting for both total upfront costs and total operational costs results in total costs of \$157.9 million for local governments from 2026 through 2043. Over that same period, staff estimates total cost-savings of \$220.2 million due to operational savings. In terms of tax and fee revenue, the Proposed Regulation would result in increases in Utility User fees revenue and sales tax revenue totaling \$167.0 million and in decreases in gasoline tax revenue and use tax revenue totaling \$398.1 million. Accounting for all costs and savings, the total fiscal impact is estimated to be a net negative budgetary impact (i.e., a cost) of \$168.9 million from 2026 through 2043.

Cost or Savings in Federal Funding to the State:

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

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

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

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subdivision (a), 11346.5, subdivision (a)(7), 11346.5, subdivision (a)(8)):

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. In addition, as discussed further below, the Proposed Regulation would apply equally to all fleets operating forklifts in California whether they are California businesses or out-of-state businesses. Furthermore, forklifts are not generally transported from one state to another in order to perform work, so staff does not expect that California forklift fleets are competing for work with out-of-state forklift fleets. Finally, although the proposed forklift requirements could make it more expensive in the very short term to operate in California (due to the capital needed to purchase ZEFs), the Proposed Regulation is projected to result in overall net savings for fleets within the state.

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

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

In April 2023, CARB submitted a Standardized Regulation Impact Assessment (SRIA) to the Depart-

ment of Finance (DOF) for its review. CARB has updated the Proposed Regulation since the original SRIA submittal and addressed DOF comments on the SRIA. Details are provided in Appendix B of the ISOR.

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

The Proposed Regulation is estimated to result in an initial decrease in employment growth that is less than 0.01 percent of baseline employment and begins to diminish towards the end of the regulatory horizon. The job impacts represent the net change in employment across the economy, which is composed of positive impacts for some industries and negative impacts for others. In 2043, the Proposed Regulation is estimated to result in job gains of 8,047, primarily in construction, retail and wholesale, and services, and zero jobs foregone.

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

The macroeconomic model used in this analysis cannot directly estimate the creation or elimination of businesses. However, changes in jobs and output for the California economy can be used to understand some potential impacts. The overall jobs and output impacts of the Proposed Regulation are small relative to the total California economy, representing changes of no greater than 0.02 percent; hence, the overall impact on creation and elimination of businesses is also expected to be small relative to the total California economy. However, impacts to some specific industries are relatively larger than this. The industrial equipment repair industry is estimated to see negative impacts, as ZEFs become a greater portion of the fleet. This trend would suggest that the number of businesses providing those services may decrease along with the reduced demand.

Additionally, the decreasing trend in demand for propane and gasoline has the potential to result in the elimination of businesses downstream of refineries, such as propane wholesalers and merchants, if sustained over time, though the overall retail and wholesale sectors are projected to expand.

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

Staff does not believe the Proposed Regulation would advantage or disadvantage California fleets versus out-of-state fleets. The Proposed Regulation would apply equally to all fleets operating forklifts in California whether they are California businesses or out-of-state businesses. Furthermore, forklifts are not generally transported from one state to another to perform work, so staff do not expect that California forklift fleets are competing for work with out-of-state forklift fleets. Although the proposed forklift re-

quirements could make it more expensive in the very short term to operate in California (due to the capital needed to purchase ZEFs), the Proposed Regulation is projected to result in overall net savings for fleets operating within the state.

The rental agencies near the state border could gain a competitive advantage over rental agencies out-of-state with limited zero-emission offerings. California rental agencies could potentially recapture the business of fleets that have historically rented forklifts from out-of-state rental agencies.

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

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

The relative changes to growth in private investment for the Proposed Regulation are estimated to result in an increase of private investment of about \$33 million in 2030, which trends towards an increase of \$563 million by 2043. Overall, there is an estimated cumulative increase of about \$1.75 billion for 2026–2043.

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

The Proposed Regulation would provide flexibility to fleets that replace Targeted Class IV and V Forklifts with ZEFs ahead of their phase-out deadlines. Forklifts replaced ahead of compliance deadlines would provide fleet owners with the ability to reduce compliance burden in future years. Furthermore, financial incentive programs are more likely to fund compliance actions that are early or over-and-above what is required. Considering these reasons, staff believes that some fleets could opt to comply ahead of phase-out deadlines to access these incentives as well as to start reaping the operational benefits of zero-emission technology.

Staff anticipates growth in industries that manufacture or support ZEFs, including ZEF and ZEF-component manufacturers and suppliers, infrastructure installers, electrical powertrain technicians, and others. This growth is, in turn, expected to strengthen the ZEF supply chain, generate greater technology awareness, and foster a greater ZE market. In addition, because the Proposed Regulation would provide a strong signal of California's continued commitment to zero-emission technology, staff believes it would spur greater private investment, and accelerate technology innovation and market growth.

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

The Proposed Regulation would improve air quality by reducing statewide NOx, PM2.5, and ROG emissions. The Proposed Regulation would also achieve GHG emission reductions needed to combat climate change and its impacts. From 2026 to 2043, the Proposed Regulation is estimated to result in 18,724 tons reduction in NOx, 2,075 tons reduction in PM2.5, 4,973 tons reduction in ROG, and 9.4 MMT reduction of CO₂, relative to business-as-usual.

The Proposed Regulation will lead to an estimated 544 fewer cardiopulmonary deaths; 115 fewer hospital admissions for cardiovascular disease; 148 fewer cases of cardiovascular Emergency Department visits; 62 fewer cases of nonfatal acute myocardial infarction; 17 fewer hospitalizations for respiratory disease; 321 fewer cases of respiratory Emergency Department visits; 42 fewer cases of lung cancer incidence; 1295 fewer cases of asthma onset; 109,800 fewer cases of asthma symptoms; 80,635 fewer cases of work loss days; 272 fewer hospitalizations for Alzheimer's disease; and 39 fewer hospitalizations for Parkinson's disease. These health outcomes result in a total cost savings of \$7.5 billion. The avoided social cost of carbon ranges from about \$0.25 to \$1 billion over this same timeframe

Although not quantified, the Proposed Regulation would also reduce occupational exposure to carbon monoxide (CO), a pollutant that can cause fatigue, headaches, confusion, and dizziness, especially in indoor environments where forklifts commonly operate.²³ The emission reductions expected from the Proposed Regulation would benefit California residents by reducing their exposure to harmful air pollutants associated with adverse health impacts. In particular, individuals who operate Class IV and V forklifts, those who work at facilities where said forklifts operate, and those who live within communities that are disproportionately impacted by air pollution would benefit most from the Proposed Regulation.

The Proposed Regulation could decrease the occupational exposure to air pollution of forklift operators and other people who work around forklifts in California. These individuals are likely at higher risk of developing cardiovascular and respiratory issues as a result of forklift PM emissions. Although CARB staff cannot quantify the potential effect on occupational

²³ CARB, Carbon Monoxide and Health (web link: <https://ww2.arb.ca.gov/resources/carbon-monoxide-and-health#:~:text=Carbon%20monoxide%20is%20harmful%20because,oxygen%20delivery%20to%20the%20brain>, last accessed on August 2023).

exposure, the Proposed Regulation is expected to provide larger health benefits for these individuals.

Targeted Class IV and Class V Forklifts are well-suited to transition to zero-emission technology. As more fleets convert to ZEFs due to the Proposed Regulation, forklift manufacturers would be expected to maintain or possibly even increase their investments in developing zero-emission technologies and expand their zero-emission product lines. Such investments could contribute to break-through technologies and broader acceptance of zero-emission technologies in off-road vehicle applications.

The increased use of electric charging infrastructure by off-road electric vehicles would decrease the amount of fossil fuel consumed in California, helping the State meet the goals of SB 350.²⁴ Furthermore, SB 350 directs investor-owned utilities (IOU) to implement programs to accelerate widespread transportation electrification, including the deployment of charging infrastructure. SB 350 goals include increasing the sales of zero-emission vehicles, reducing air pollutant emissions to help meet air quality standards, and reduce GHGs. As a result of SB 350, the States' three large IOUs (PG&E, SDG&E, and SCE) are establishing or have established commercial electricity rate programs that reduce battery charging rates at specified times of the day. Some publicly-owned utilities have developed similar transportation electrification rate programs as the IOUs. By increasing the number of ZEFs in the State, the Proposed Regulation would support the utilities programs and help meet SB 350 goals.

(G) Department of Finance Comments and Responses.

1. SRIA needs to identify any changes in the amount of operating income received by state and local agencies.

DOF Comment: The SRIA must identify any changes in the amount of operating income received by state and local agencies. The SRIA estimates that the impact on state personal income will exceed \$1 billion in several years. State income tax revenue is typically equal to about 4 percent of state personal income, thus, a \$1 billion change in income could cause income tax revenue to change by about \$40 million. The SRIA should provide estimates for the regulation's expected impact on income tax revenue in each year of the analysis.

Response: The model used to estimate the macro-economic impacts of the Proposed Regulation on the California economy includes impacts to personal income. Changes in personal income in California may change the amount of revenue the State of California

collects in personal income tax. From 2026 to 2043, the average change in California State Personal Income and Personal Income Tax Revenue are estimated at \$168.1 million and \$6.7 million (2021\$), respectively. A table detailing the estimated change in personal income and personal income tax revenue over the regulatory horizon can be found in Chapter VIII, Section E.2.f of the ISOR. The change in personal income tax is estimated based on a statewide average tax rate of about four percent.²⁵

2. SRIA needs to explain the rationale, use a distribution of forklift lifespans, or conduct a sensitivity analysis for assuming 15-year lifespans for new forklifts without a corresponding distribution of forklift lifespans.

DOF Comment: The SRIA must explain the rationale of any assumption material to the impact estimate. It assumes that capital expenditures on new forklifts will spike in 2041 as all the forklifts purchased in 2026 reach the end of their expected 15-year lifespans and will need to be replaced. The SRIA should explain why this is the most plausible assumption for the analysis or use a distribution of forklift lifespans (or possibly a sensitivity analysis with several plausible distributions) that is more typical for vehicles.

Response: The Proposed Regulation, at the time the SRIA was finalized, required retirement of existing LSI forklifts from 2026 to 2038 (with exceptions based on lift capacity). CARB staff assumed each retired LSI forklift would be replaced with an electric forklift. CARB staff modeled a 15-year life for each of the electric forklifts purchased under the regulation. The 15-year life for electric forklifts leads to replacement purchases for each forklift that mirror the original regulatory schedule exactly 15 years later. For example, all electric forklifts purchased in 2026 to comply with the Proposed Regulation are replaced in 2041, etc. The 15-year life was based on the age distribution of the electric forklifts reported to CARB in the online reporting database, DOORS. Fifteen years represents the median useful life of forklifts, or the

²⁴ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB350

²⁵ The statewide average income tax rate varies over time. It averaged about four percent over the period of 2015–2022 based on historical personal income data. Specifically, statewide average income tax rate was calculated by dividing annual personal income tax revenue projections obtained from the May Revision of the California Governor's Proposed Budget for fiscal years 2017–2018 through 2023–2024, which are available through <https://ebudget.ca.gov/>, last accessed October 2023, and dividing by total personal income provided in the California Economic Forecast spreadsheet prepared by the California Department of Finance (web link: <https://dof.ca.gov/wp-content/uploads/sites/352/Forecasting/Economics/Documents/California-Economic-Forecast-MR-2023-24.xlsx>); the California Economic Forecast spreadsheet is also available through the Department of Finance's Economic Forecasts webpage at <https://dof.ca.gov/forecasting/Economics/economic-forecasts-u-s-and-california/>, last accessed October 2023.

age where 50 percent of the electric forklifts appear to be retired from service.

Based on the comments from DOF, CARB staff modeled two additional scenarios where the replacement of electric forklifts was spread over a range of years rather than all being replaced exactly at 15 years. Under the first scenario, purchases were spread over the 3-year range from age 14 to 16, and under the second scenario, purchases were spread even further over an 11-year range from age of 10 to 20.

If electric forklifts are replaced from age 14 to 16, the peak replacement purchases would occur in 2042, and would be 26 percent lower than the previous peak in 2041. If electric forklifts are replaced from age 10 to 20, the peak replacement year would not occur until 2046, and would be 35 percent below the previous 2041 peak replacement purchases.

Ultimately, the total purchases during the period from 2036 to 2050 would vary by less than half of one percent. However, peak year costs would be significantly reduced in either of the scenarios explored.

The 15-year life was selected as a typical lifespan for an electric forklift. Realistically, the exact behavior and replacement of electric forklifts will depend on use, owner preferences, economic conditions, and additional details specific to the forklift and owner. This analysis demonstrates that peak year costs may vary but the overall number of forklifts replaced during the period (and therefore overall costs) is consistent across various retirement assumptions and modeling.

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

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

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

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses.

CARB staff expects that there would not be direct costs to individuals as a result of this Proposed Regulation. Individuals would realize health benefits, as described in the Health Benefits section of the ISOR, from statewide, regional, and local emission benefits due to ZEFs displacing LSI forklifts. However, individuals could be impacted by indirect costs and savings realized by fleet operators, rental agencies, and manufacturers, which are further discussed in the Macroeconomic Impacts chapter of the ISOR.

A typical business that currently owns and/or operates Class IV or Class V forklifts would incur upfront

capital costs and on-going operating costs due to the Proposed Regulation. These costs would include, as applicable, the purchase cost of ZEFs, ZEF batteries, and ZEF chargers; costs associated with installing chargers and/or upgrading facility-side electrical or fueling infrastructure; electricity or fuel costs; maintenance costs; finance charges; and taxes. In addition, a typical business would also incur compliance costs, such as recordkeeping and reporting costs. A typical business would also be expected to realize cost savings that offset costs; such savings would include reduced fuel and maintenance costs and potential LCFS credit revenue.

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

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

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

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. As explained in the accompanying Chapter IX of the ISOR, the Proposed Regulation is the most effective and least burdensome means of achieving the purposes of the proposal.

The Executive Officer analyzed several alternatives to the Proposed Regulation and summarized the findings of this analysis in Chapter IX of the ISOR, and the rationale behind rejecting them in favor of the Proposed Regulation. The following is a brief summary of the major alternatives proposed and the rationale for rejecting such major alternatives.

Alternative 1 (more stringent) would accelerate the phase-out of both Targeted Class IV Forklifts and Targeted Class V Forklifts. As discussed in the Summary of Proposed Rulemaking, the Proposed Regulation would phase out Targeted Class IV Forklifts between 2028 and 2038 and Targeted Class V Forklifts between 2030 and 2038. Alternative 1 would phase out both Targeted Class IV and Class V Forklifts between 2028 and 2032.

Although Alternative 1 would achieve greater emission benefits and greater cumulative net savings due to the accelerated turnover of Targeted Class IV and

Class V Forklifts to ZEFs, it was rejected for the following reasons:

- The turnover rate of Targeted Forklifts under Alternative 1 would create a significantly greater cost burden for fleets during the first five years of the regulation. While using ZEFs is expected to result in cost savings over time, the upfront cost of Alternative 1 could be too challenging to overcome for fleets that are more constrained with respect to available capital. Alternative 1 has an estimated cumulative net cost of approximately \$593 million from 2026 through 2030 whereas the Proposed Regulation has an estimated cumulative net savings of approximately \$116 million over that same period (a difference of about \$709 million). From 2026 to 2043, the estimated upfront costs (forklift purchases, sales tax, and infrastructure installation) for Alternative 1 are \$5.5 billion, whereas the estimated upfront costs over the same period for the Proposed Regulation are \$5.1 billion. From 2026 to 2043, the present value²⁶ upfront costs for Alternative 1 and the Proposed Regulation are approximately \$3.9 billion and \$2.7 billion, respectively. Consequently, the present value upfront costs of Alternative 1 are roughly \$1.2 billion (or 44 percent) higher than the Proposed Regulation.
- In addition, Alternative 1’s turnover rate could also pose a challenge for manufacturers to build sufficient numbers of ZEF products in the proposed timeframe. Under the baseline scenario, an estimated 9,250 ZEF and 18,470 LSI Forklift purchases (due to natural turnover) are expected during the first three years of the phase-out schedule. Under Alternative 1, in addition to the estimated 9,250 ZEF purchases needed to maintain the existing ZEF baseline population, 52,280 ZEFs would be purchased within the first three years of the phase-out schedule. By contrast, under the Proposed Regulation, 18,810 ZEFs (surplus to baseline) would be purchased during the same timeframe. Consequently, during the first three years of the phase-out schedule, Alternative 1 would require added purchases of almost three times more ZEFs than the Proposed Regulation and five times more ZEFs than the baseline scenario.
- Furthermore, based on stakeholder feedback, manufacturer supply chain delays are responsible for current forklift delivery delays of an additional one to one-and-a-half years, relative to pre-pandemic delivery timelines. Especially

for Alternative 1, which has a more-accelerated turnover rate, the anticipated growth in demand for certain components used in ZEFs could exacerbate delays in manufacturing and supply chain disruptions, which could further impact delivery dates of ZEFs. Difficulty in procuring necessary components could also place manufacturers in difficult competitive and financial positions in market segments where they could be required to redesign their products and retool their operations earlier than planned to accommodate parts that are available.

Alternative 2 (less stringent) would only apply to Targeted Class IV and Class V Forklifts with a lift capacity of 8,000 pounds or less. That is, unlike the Proposed Regulation, Alternative 2 would not require the phase-out of Targeted Class IV and Class V Forklifts with a lift capacity greater than 8,000 pounds. The phase-out schedules for Alternative 2 would be the same as those in the Proposed Regulation for both forklift classes.

The projected upfront cost for Alternative 2 is lower than the Proposed Regulation, and its benefit-cost ratio is higher than for the Proposed Regulation (2.72 versus 2.26). However, Alternative 2 would also result in lower NO_x, PM_{2.5}, ROG, and CO₂ emission benefits and fewer ZEFs deployed. Although CARB’s 2016 SIP commitment for ROG reductions of 0.2 tons per day (TPD) by 2031 would be met through Alternative 2, the commitment for NO_x reductions of 2 TPD by 2031 would not be met. Alternative 2 would obtain only 0.81 TPD NO_x by 2031.

The deployment of zero-emission vehicles and equipment is a key component of California’s long-term strategy to meet its aggressive air quality, climate, and zero-emission goals. Alternative 2 was rejected because it would not be as effective as the Proposed Regulation at improving air quality and protecting public health, combating climate change, and accelerating the adoption of ZE technology.

STATE IMPLEMENTATION PLAN REVISION

If adopted by CARB, CARB plans to submit the proposed regulatory action to the United States Environmental Protection Agency (U.S. EPA) for approval as a revision to the California SIP required by the federal CAA. The adopted regulatory action would be submitted as a SIP revision because it adopts regulations intended to reduce emissions of air pollutants in order to attain and maintain the NAAQS promulgated by U.S. EPA pursuant to the CAA.

²⁶ Present value accounts for the time value of money. For the purpose of this analysis, the present value is based on a five percent rate of return.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the Proposed Regulation, has prepared a draft environmental impact analysis (EIA) under its certified regulatory program (CCR, title 17, §§ 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA) (Public Res. Code § 21080.5). The EIA concluded implementation of the Proposed Regulation could result in: beneficial impacts to air quality (long-term operational-related), greenhouse gas emission (short-term construction and long-term operational-related); less than significant impacts to energy (short-term construction-related and long-term operational-related), mineral resources, population and housing, public services, recreation, and wildfire; and potentially significant [indirect/secondary] adverse impacts to aesthetics, agriculture and forestry resources, air quality (short-term construction-related), odors, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use planning, noise and vibration, transportation, tribal cultural resources, and utilities and service systems. The Draft EIA is included as Appendix C the ISOR. Written comments on the Draft EIA will be accepted during a 45-day public review period starting on October 20, 2023, and ending on December 4, 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 Keith Roderick, Air Resources Engineer, Staff Lead, Advanced Emission Control Strategies Section, at 279-208-7768 or Lori Berard, Air Pollution Specialist, Cost Analysis Lead, Advanced Emission Control Strategies Section, at 951-542-3083.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared an ISOR for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: *Public Hearing to Consider the Proposed Zero-Emission Forklift Regulation*.

Copies of the ISOR and the full text of the proposed regulatory language, [in underline and strikeout format to allow for comparison with the existing regulations (if applicable), may be accessed on CARB's website listed below, on October 17, 2023. Please contact Bradley Bechtold: Regulations Coordinator, at Bradley.Bechtold@arb.ca.gov or (279) 208-7266 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, (279) 208-7266. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

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

Following the public hearing, the Board may 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/zeforkliftsregulation>

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections **200, 203, 219, 265, 270, 275, 355, 1050, 1572, 2000, 2001, 2127, 2150.2, 3000, 3003.1, 3005.5, 3800, 3960.2, 3965, 4005, 4009.5, 4150, 4181, 4181.5, 4331, 4657, and 10502** of the Fish and Game Code and to implement, interpret or make specific Sections **110, 200, 201, 203, 203.1, 219, 260, 265, 270, 275, 355, 713, 1008, 1050, 1570, 1571, 1572, 2000, 2001, 2005, 2055, 2150.4, 2192, 3000, 3003.1, 3004.5, 3005.5, 3500, 3511, 3800, 3950, 3960, 3960.2, 3965, 4000, 4004, 4005, 4009.5, 4150, 4152, 4180, 4181, 4181.5, 4190, 4652, 4652.5, 4653, 4654, 4655, 4656, 4657, 4700, 4800, 4900, 4902, 10500, and 10502** of said Code and Section **8670.61.5** of the Government Code, proposes to **amend** Sections 250, 251.5, 252, 257.5, 258, 350, 352, 353, 401, 465.5, 679, and 708.13, **add** Sections 375, 376, 377, 378, and 379,

and **repeal** Section 368, Title 14, California Code of Regulations, relating to **Exotic Game Mammals and Wild Pig Validations**.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Governor Newsom signed into law Senate Bill 856 (2022) — Wild Pig Validations sponsored by Senator Dodd from Napa. Most of the provisions of this bill are effective July 1, 2024. This bill made sweeping changes to Fish and Game Code (FGC) which included changes to laws regarding definitions, licensing, hunting take, captive hunting preserves and capture, possession, and release of wild pigs. The intent of his legislation is to give the public and the California Department of Fish and Wildlife (Department) more tools to manage wild pigs and the damage they cause to private property and the environment.

Following the lead of the legislature who made considerable amendments to FGC, the Department proposes a number of changes to California Code of Regulations, Title 14, Division 1, Subdivision 2, Chapter 3. This chapter has been historically Big Game, but under this proposal, would be changed to Big Game and Exotic Game Mammals. The first proposed change recommended by the Department follows suit with the removal of wild pigs from FGC Section 3950 (Game Mammals Defined), and the creation and addition of wild pigs to FGC Section 3965 (Exotic Game Mammals Defined), by the legislature. This change requires the Department to strike wild pigs from Title 14 section 350 (Big Game Defined), and associated sections 352 (Shooting Hours for Big Game), and 353 (Methods Authorized for Taking Big Game). The Department is proposing to repeal and renumber section 368 (Wild Pigs) to follow the new flow to this section.

The Department is proposing to create four new sections for exotic game mammals directly related to sport hunting. To do this, exotic game mammals must be added to supporting regulations sections 250, 251.5, 252, 257.5 and 258. The first new section proposed is 375 (Exotic Game Mammals Defined), which characterizes such an animal as a mammal, nonnative to California, seen to be detrimental to the ecology and conservation of native species and their habitat. This section would list wild pigs, feral pigs, European wild pigs and their hybrids as the only group. Following Big Game as an example, the next section proposed is 376 (Shooting Hours for Exotic Game Mammals), followed by section 377 (Methods Authorized for Taking Exotic Game Mammals), and section 378 (Wild Pig), renumbered from 368, which defines the hunting season, bag and possession limits for wild pigs. The proposed section 379 (Prohibition on Feeding Exotic

Game Mammals), places a prohibition on knowingly feeding exotic game mammals.

The Department proposes to amend Title 14 section 401 (Issuance of Permit to Take Animals Causing Damage), by allowing depredation permits for wild pigs to extend for up to five years rather than the current one-year scenario. This should reduce annual administrative duties for both the Department and permit holders. Another proposed amendment to section 401 include extends the reporting period to one year rather than monthly, which creates uniformity with new proposed reporting requirements for sport take per the requirements set forth in FGC Section 4657. The Department proposes to remove the tagging requirement for wild pigs taken under depredation permits and require individuals to have their permit in their possession. Finally, the Department proposes to remove language related to wanton waste for pigs taken under a depredation permit.

The Department proposes to add exotic game mammals to Title 14 section 465.5 (Use of Traps), to indicate that exotic game mammals may not be taken with the use of steel-jawed traps. The addition of exotic game mammals to section 465.5 also means that the requirements for trap placement, trap marking and trap-check frequency ((g)(1)-(g)(5)), all apply to any body gripping trap set for an exotic game mammal, for the purposes described in this section.

The Department proposes to make changes Title 14 section 708.13 (Wild Pig License Tags), for conformity with statute, by replacing “tag” with “validation.” The Department also proposes a reporting method for sport harvest to address requirements in statute. Individual must report their take annually in the Automated License Data System before procuring a validation for the next hunting license year whether they have harvested wild pigs or not. The Department proposes reporting criteria of county, month and number taken facilitated in the Automated License Data System at the end of each license year.

The proposed changes to Title 14 are assumed to have little impact, if any, on businesses. Assessment of financial impacts to the Department indicates the Department may lose an estimated \$156,000 annually, after wild pig tags are transitioned to validations.

Benefits of the Proposed Regulations:

The benefits of this regulation stem from the ability to manage wild pigs separately from other big game mammal species through the creation of a new game classification “exotic game mammals,” and the designation of wild pig as the first exotic game mammal. The regulation benefits hunter’s ability to take pigs by replacing pig tags with a single validation that allows for unlimited take. The regulation benefits landowners by stating that the California Department of Fish and Wildlife cannot place any limitations on the number of

pigs that a landowner can take with a depredation permit and by utilizing hunters to aid in taking nuisance pigs. This regulation seeks to mitigate environmental damage caused by wild pigs through the prohibition of any new contained hunting preserves, while grandfathering in existing facilities and prohibiting existing contained hunting preserve operations from being sold, transferred, or passed on. These regulations also require marking of released pigs which is intended to aid in identifying any pigs that escape from contained hunting preserves.

Consistency and Compatibility with Existing State Regulations:

The Legislature has delegated authority to the Commission to promulgate hunting regulations (FGC Sections 200 and 203) and with regard to management of the state’s mammal resources. Given SB 856 and the authority provided herein, no other state agency has the authority to promulgate such regulations for wild pigs. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of fishing regulations and has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

PUBLIC PARTICIPATION

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before **February 1, 2024** at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on **February 9, 2024**. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **San Diego, California**, which will commence at **8:30 a.m. on December 13, 2023** and may continue at **8:30 a.m., on December 14, 2023**. The exact location of this meeting has not yet been determined. As soon as this information is available, but not less than ten days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published on the Commission’s website. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/telecon-

ference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **Sacramento**, California, which will commence at **8:30 a.m. on February 14, 2024** and may continue at **8:30 a.m., on February 15, 2024**. The exact location of this meeting has not yet been determined. As soon as this information is available, but not less than ten days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published on the Commission's website. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

AVAILABILITY OF DOCUMENTS

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

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data

collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

IMPACT OF REGULATORY ACTION/ RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

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

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

The Commission does not anticipate any significant adverse economic impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed regulations will not impose new compliance costs.

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

The Commission does not anticipate impacts on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses in California. No benefits to worker safety are anticipated. Benefits are anticipated to the general health and welfare of California residents and the state's environment by mitigating the potential spread of pig-borne diseases and environmental damage caused by wild pigs.

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

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

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

None. The proposed regulation will not affect any other state agency and the Department program oversight and Law Enforcement Branch workload is projected to be unchanged from currently existing budgets and resources. However, the Department anticipates license revenue changes with the switch from pig tags to pig validations (See STD399 Addendum).

(e) Nondiscretionary Costs/Savings to Local Agencies

None.

(f) Programs Mandated on Local Agencies or School Districts

None.

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

None.

(h) Effect on Housing Costs

None.

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

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

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections **110, 200, 205, 265, and 275** of the Fish and Game Code and to implement, interpret or make specific Sections **110, 200, 205, 265, 270, and 275** of said Code, proposes to **amend** Section 28.15, Title 14, California Code of Regulations, relating to **recreational California halibut regulations updates**.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

To promote sustainability of the California halibut (halibut) population, the California Department of Fish and Wildlife (Department) proposes a regulation change that will reduce recreational take without jeopardizing this popular recreational fishery.

The proposed regulation change aims to make permanent the existing two-fish daily bag and possession limit in northern California established by emergency regulation in Section 28.15, through a regular rulemaking (certificate of compliance). It is expected that the fishery will require additional time to rebuild following the high take caused by an effort shift from the salmon and nearshore groundfish closures, and environmental conditions, documented in 2023. Due to the necessity displayed by the emergency regulation, and interest from the recreational industry for increased stability in the halibut population, the Department has determined that the fishery should not revert to a bag limit of three fish in this region.

In addition, the proposed regulation includes a second option, which reduces the daily bag and possession limit in southern California from five to two fish, and results in a uniform statewide limit of two. This second option enhances the sustainability of the southern halibut stock. The proposed bag limit of two fish will have minimal impact on anglers under current halibut stock conditions, provides a precautionary buffer against increased fishing harvest, and ensures a sustainable halibut population statewide.

Introducing the second option at this time ensures regulatory efficiency by combining the proposed actions. The regulatory proposal also seeks to include minor language adjustments to Section 28.15 to improve clarity for stakeholders.

While change to the recreational fishing regulations have been anticipated to result from the multi-sector halibut management review, the recreational sector is being addressed first due to the timing afforded by the emergency bag limit reduction needed for northern California and identified need in southern California.

Benefits of the Regulation:

The Commission anticipates benefits to the State’s environment by sustainably managing California’s ocean resources. The California halibut fishery would benefit to minimize overfishing and allow time for the environmental and biological factors to resolve.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Fish and Game Code sections 200 and 205). Commission staff has searched the California Code of Regulations and has found no other state regulations that address the recreational take of California halibut. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other recreational fishing regulations and marine protected area regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

PUBLIC PARTICIPATION

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before **February 1, 2024** at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on **February 9, 2024**. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244–2090.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **San Diego**, California, which will commence at **8:30 a.m.** on **December 13, 2023** and may continue at **8:30 a.m.**, on **December 14, 2023**. The exact location of this meeting has not yet been determined. As soon as this information is available, but not less than ten days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published on the Commission’s website. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916–653–4899. Please refer to the Commission meet-

ing agenda, which will be available at least 10 days prior to the meeting, for the most current information.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **Sacramento**, California, which will commence at **8:30 a.m.** on **February 14, 2024** and may continue at **8:30 a.m.**, on **February 15, 2024**. The exact location of this meeting has not yet been determined. As soon as this information is available, but not less than ten days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published on the Commission’s website. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916–653–4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

AVAILABILITY OF DOCUMENTS

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

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude

full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

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

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. A two-fish bag limit maintains the existing economic climate because the reduction is not significant enough to alter fishing behavior beyond reducing daily harvest. The second option for a statewide proposed bag limit of two fish will have minimal impact on anglers under current halibut stock conditions.

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

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents, or worker safety. The Commission anticipates benefits to the State's environment by sustainably managing California's

marine resources and reducing bycatch. The environmental risks arising from the proposed rule are not regarded as significant, as the rule manages the resource more conservatively than existing regulation.

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

EFFECT ON SMALL BUSINESS

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

CONSIDERATION OF ALTERNATIVES

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

**TITLE 16. BUREAU OF AUTOMOTIVE
REPAIR**

**VEHICLE SAFETY SYSTEMS
INSPECTION PROGRAM**

NOTICE IS HEREBY GIVEN that the Bureau of Automotive Repair ("Bureau" or "BAR") is proposing to take the action described in the Informative Digest

below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

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

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or email to the addresses listed under “Contact Person” in this Notice, must be **received by the Bureau at its office no later than Tuesday, December 26, 2023**, or must be received by the Bureau at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 9882, 9882.2, 9884, 9884.9, 9884.19, 9887.1, 9887.2, 9888.2, 9888.5, and 9888.6 of the Business and Professions Code (“BPC”), the Bureau is considering the following changes to the California Code of Regulations (“CCR”): 1) amending sections 3303, 3303.2, 3305, 3306, 3307, 3308, 3309, 3310, 3315, 3316, 3320, and 3321 of Title 16, Division 33, Chapter 1, Articles 1, 2, 3, and 4 of the CCR and 2) adopting Article 2.5, sections 3311.1, 3311.2, 3311.3, 3312.1, 3312.1.1, 3312.2, 3313.1, 3313.2, 3314.1, 3314.1.1, and 3314.2 in Title 16, Division 33, Chapter 1 of the CCR.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Consumer Affairs (DCA), Bureau of Automotive Repair is the state agency charged with licensing automotive repair dealers (ARDs), smog check stations, STAR stations, brake and lamp adjusting stations, and their respective inspectors, repair technicians, and adjusters.

Existing law provides for the regulation and licensing of lamp and brake adjusters and adjusting stations, including specific qualifications and inspection criteria. In 2021, the Legislature passed Assembly Bill 471 (“AB 471”; Low, Chapter 372, Statutes of 2021), which modified the BPC (adding new sections, and amending or repealing existing sections), requiring the Bureau to develop regulations implementing a new vehicle

safety systems inspection program. This new program promotes the safe and uniform installation, maintenance, and servicing of vehicle safety systems and components. The program includes inspection criteria and standards for specific safety systems and vehicle components, and the issuance of vehicle safety systems inspection licenses to stations and technicians to conduct inspections of, and repair, vehicle safety systems. Pursuant to AB 471 and BPC section 9888.5(c), regulations creating this new vehicle safety systems inspection program must be adopted by January 1, 2024. Additionally, AB 471 modified BPC section 9888.5(d) to include that these vehicle safety systems inspection licenses replace licenses issued pursuant to existing provisions—governing the licensure of brake and lamp adjusting stations and adjusters—that the bill will repeal on the effective date of the new regulations. Modifications to the current regulations are necessary to comply with the requirements of AB 471 and the BPC.

This regulatory proposal will implement, interpret, and make specific the requirements of AB 471 and the BPC, as follows: it will implement the vehicle safety systems inspection program, with a specific process for vehicles to receive certification. Through an incorporated inspection manual, the proposal will implement specific inspection criteria and standards for performing a vehicle safety systems inspection. This proposal will implement fraud prevention measures, including biometric data collection, and mid-inspection remote intervention by the Bureau if it suspects fraud. The proposal will implement a road test, as part of each inspection, to test vehicle safety systems for functionality. The proposal will implement a procedure for current brake and lamp licensees to apply for and obtain new comprehensive vehicle safety systems inspection licenses (for both stations and technicians), and make specific the applicable licensing fee and renewal process. The proposal will implement an application process for stations and technicians to obtain the new comprehensive vehicle safety systems inspection licenses, and make specific the application fee and renewal process.

Anticipated Benefits of Proposal

The Bureau has determined that this regulatory proposal will enhance public protection.

This regulatory proposal implements a more comprehensive inspection program to replace the current brake and lamp adjusting programs. The new vehicle safety systems inspection program will expand on the existing programs, which only include inspections of vehicle brakes and lamps, to include inspections of more safety systems, including passenger compartment components, tires and wheels, steering and suspension, and body structure. Furthermore, the new inspection includes a road test that will test the

vehicle safety systems for functionality. Implementing this regulatory proposal will address safety concerns by ensuring salvaged vehicles returning to the roadways are safe for consumers. Currently, the vast majority of vehicles requiring a brake and lamp certification are vehicles revived to a salvaged title after being deemed a total loss. The current brake and lamp program certifies salvaged titled vehicles returning to the roadways after inspecting only the brake and lamp systems; however, with this regulatory proposal, revived vehicles will receive a more comprehensive safety inspection, ensuring the safety of consumers on the roadways.

This regulatory proposal is intended to provide greater measures to ensure that those vehicles are safe before returning them to California roadways. Having more vehicle safety systems inspected is intended to increase vehicle safety for not only the people in these vehicles (both drivers and passengers), but also for any California resident who shares the road with these vehicles, thereby enhancing public protection.

The new vehicle safety systems inspection program will also implement security measures to prevent fraud, such as requiring technicians to use a biometric scan of their palm to log into the Bureau’s Safety Inspection System (BAR–SIS) to perform an inspection, and to issue a vehicle safety systems certificate of compliance to a vehicle found to meet the inspection requirements. This will ensure the licensed vehicle safety systems technician performed the inspection, thus guaranteeing vehicle safety and preventing unlicensed activity.

Additionally, the new vehicle safety systems inspection program will utilize a Data Acquisition Device (“DAD”), which will plug directly into the vehicle’s Diagnostic Link Connector (“DLC”) to download vehicle identifying information, including the Vehicle Identification Number (“VIN”), on model year 2000 and newer On–Board Diagnostic (“OBD”) equipped vehicles. This will help both prevent new, and detect existing, fraudulent vehicle safety systems inspections and certifications. The vehicle identifying information downloaded through the DAD will be stored in the California Vehicle Information Database (“VID”). When vehicle identifying information does not match the test record for a vehicle inspected, disciplinary action may be taken against the licensed station and technician. The new vehicle safety systems inspection program will also utilize an electronic certificate of compliance, which will be sent digitally to DMV and is required for vehicle registration. This will streamline communication between the Bureau and the DMV during the registration process, and allow the DMV to independently verify the legitimacy of a vehicle safety systems certificate of compliance, which will help prevent the use of fraudulent certificates of

compliance. These security measures will enhance public protection.

Evaluation of Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

Notice of Collection of Personal Biometric Information and Its Use (for Vehicle Safety Systems Technician Licenses) (January 2023)

Biometric Data Collection Consent Statement (for Vehicle Safety Systems Technician Licenses) (January 2023)

Vehicle Safety Systems Inspection Manual (September 2023)

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

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

The Bureau anticipates 800 existing licensed brake and lamp stations and 650 licensed brake and lamp technicians will opt to transition to the appropriate vehicle safety systems inspection license type. The Bureau estimates 120 (new) stations and 130 (new) individuals will seek initial licensure per year thereafter and 800 stations and 650 technicians renewing licensure per year ongoing.

Inspection and Licensing Workload Costs (Non–Add and New): The Bureau will inspect stations prior to initial licensure, incur workload initial and renewal licensing costs, and issue a license badge to technicians with costs including:

- 1) *Non–Add* — No change from current program costs, includes:
 - i. Inspection (station) — No additional training or site visit costs
 - ii. License (station and technician) — Initial and renewal
- 2) *New Cost* — New workload costs, includes:
 - i. Badge (one–time) — Issuance

Total inspection and licensing workload and costs (non–add and new) are projected to range from \$111,500 to \$693,035 per year and up to approximately \$5.7 million over a ten–year period.

The Bureau notes this proposal’s inspection and licensing workload is consistent with the current brake and lamp inspection program. As a result, no additional training or other operational costs are anticipated. The only additional (new) workload and costs are related to the issuance of the technician’s badge, which is not issued under the current brake and lamp inspection program.

Development Costs (One–Time — New): The Bureau estimates one–time costs related to information technology (IT) software development of \$547,000 and IT application development of \$133,000, as well as workload costs of \$44,000 to update the Vehicle Safety Systems Inspection Manual.

The Bureau indicates any costs related to this proposal will be absorbed within existing resources.

Revenues (Non–Add): The Bureau estimates initial and renewal license fees of \$22,500 in year–one of implementation and \$26,200 annually thereafter and up to \$258,300 over a ten–year period.

The Bureau will also receive Vehicle Safety Systems Inspection certificate revenues from consumers of \$1.75 million per year and up to \$17.5 million over a ten–year period.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

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

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs: None.

BUSINESS IMPACT ESTIMATES

The Bureau has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including small businesses and the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following fact that existing brake and lamp stations and technicians will be able to transition to the new license type and this proposal better aligns the Bureau’s safety inspection requirements with the modern fleet.

Additionally, any costs to comply with the proposed regulations including, licensing and exam fees, as well as vehicle safety certificate costs paid by consumers are not being increased from current levels.

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

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

Cost Impact on Representative Private Person or Business

Under this proposal, approximately 800 currently licensed brake and lamp stations and 650 currently licensed brake and lamp technicians are anticipated to apply for the corresponding vehicle safety systems inspection license type and pay the applicable fee—station (\$20 fee) or technician (\$10 fee). Of these 800 current licensees, the Bureau anticipates 140 stations will be required to purchase and install new equipment with one–time costs of \$1,500 per station.

Beginning in year two of implementation, the Bureau estimates up to 120 stations per year will apply and pay \$20 for initial licensure, of which 20 stations will be required to purchase (with each paying \$1,500) and install equipment. Additionally, each year thereafter, up to 130 individuals are projected to pay \$44 to take and pass the technician examination, as well as apply and pay \$10 for initial licensure.

The Bureau anticipates license renewals to be consistent with historical averages, with 800 stations and 650 technicians applying for annual license renewal per year and paying renewal fees of \$20 for stations and \$10 for technicians.

The Bureau anticipates the number of vehicle inspections will be consistent with historical averages, and projects up to 250,000 inspections completed per year. Under this proposal, the vehicle safety systems inspection certificate cost will not increase and will remain \$7, as it is for the current brake and lamp certificate.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Bureau has determined this regulatory proposal would have no significant statewide adverse economic impact directly affecting businesses, including small businesses and the ability of California businesses to compete with businesses in other states.

The proposed regulations establish the vehicle safety system inspection program to replace the Bureau’s existing brake and lamp inspection program to better enhance consumer safety by updating inspection requirements to address and meet the needs of the modern fleet.

The Bureau notes license, exam, and inspection certificate fees will not be increased from current levels. However, because this proposal establishes a new program, and to be thoroughly transparent, the Bureau is opting to report the full costs of the vehicle safety inspection program, with impacts identified as either:

- 1) *Non–Add* — No change from current program costs, includes:

- ii. License fees (station and technician) — Initial and renewal
 - iii. Exam fees (one–time) — Technician
 - iv. Inspection Certificate fees (consumer)
- 2) *New Cost* — New business costs of compliance, includes:
- i. Equipment (one–time)

Station and Technician Costs (Non–Add and New):

The Bureau estimates 800 existing licensed brake and lamp stations and 650 licensed brake and lamp technicians will opt to transition to the appropriate vehicle safety systems inspection license type. Stations will be required to apply and pay \$20, and technicians apply and pay \$10.

Of these 800 stations, the Bureau anticipates 140 current brake and lamp stations will be required to purchase and install new equipment with one–time costs of \$1,500 per station.

Beginning in year two of implementation, the Bureau estimates up to 120 (new) stations per year will apply and pay \$20 for initial licensure, of which 20 stations will be required to purchase (\$1,500) and install equipment. Additionally, up to 130 (new) individuals are projected to pay \$44 to take and pass the technician examination, as well as apply and pay \$10 for initial licensure per year ongoing.

The Bureau anticipates license renewals to be consistent with historical averages, with 800 stations and 650 technicians applying for annual license renewal per year, with renewal fees of \$20 for stations and \$10 for technicians.

The total costs (non–add and new) to applicants and licensees are estimated to be \$232,500 in year one of implementation and \$61,920 annually thereafter, and up to \$789,780 over a ten–year period.

The Bureau anticipates the number of automobile inspections will be consistent with historical averages and projects up to 250,000 inspections completed per year. Under this proposal, the vehicle safety systems inspection certificate will not be increased and will remain \$7, the same as the current brake and lamp certificate.

Total consumer automobile vehicle safety systems inspection costs (non–add) are estimated at \$1.75 million per year and up to \$17.5 million over a ten–year period.

Impact on Jobs/Businesses

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

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents and worker safe-

ty. This regulatory proposal does not affect the state’s environment.

The vehicle safety systems inspections program will be a more comprehensive inspection program that increases vehicle safety, thereby increasing the safety of California residents on the road and making the state’s roads safer generally. In addition, the program includes new security measures for the safety systems technicians, and vehicle identification, which will help prevent and detect unlicensed and fraudulent activity, benefiting the welfare of California residents. The program will promote safer inspection and repair methods by providing an inspection manual, and recommended additional resources, technicians should refer to during inspections, which will benefit worker safety.

Business Reporting Requirements

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

Effect on Small Business

The Bureau currently provides licensure to approximately 800 brake and lamp stations. To the extent an existing licensed brake and lamp station qualifies as a small business and opts to transition to the new vehicle safety systems license status, these small businesses may be impacted.

However, because the Bureau does not track the number of these licensees designated as a small business, it does not have an estimate at this time.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments—relevant to the above determinations—in writing to the Bureau at 10949 North Mather Boulevard, Rancho Cordova, CA 95670 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This ma-

terial is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

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

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

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

CONTACT PERSONS

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

Name: Kayla Shelton
Address: Bureau of Automotive Repair
10949 North Mather Boulevard
Rancho Cordova, CA 95670
Telephone Number: 916-403-0307
Email Address: kayla.shelton@dca.ca.gov

The backup contact person is:

Name: Mathew Gibson
Address: Bureau of Automotive Repair
10949 North Mather Boulevard
Rancho Cordova, CA 95670
Telephone Number: 916-403-8060
Email Address: mathew.gibson@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons, when completed, and modified text, if any, can be accessed through the Bureau's website at <https://bar.ca.gov/regulatory-actions>.

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

SAFER CONSUMER PRODUCTS REGULATIONS — LISTING LAUNDRY DETERGENTS CONTAINING NONYLPHENOL ETHOXYLATES AS A PRIORITY PRODUCT

REFERENCE NUMBER: 2019-01R

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to amend the California Code of Regulations, title 22, division 4.5, chapter 55, section 69511, and adopt section 69511.8. This proposed amendment pertains to identification of a Priority Product under the Safer Consumer Products (SCP) regulations, approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013 (effective date: 10/01/2013; OAL Regulatory Action Number: Z-2012-07170-04).

WRITTEN COMMENT PERIOD

The written comment period will close on 12/31/2023. Only comments received at the DTSC office or postmarked on or before that date will be considered. Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard-copy formats.

Written comments may be submitted electronically through the SCP Information Management System, CalSAFER at: <https://calsafes.dtsc.ca.gov/>. Please direct questions or concerns about CalSAFER to Michael Ernst at (916) 322-3385 or michael.ernst@dtsc.

ca.gov. While DTSC prefers that comments be submitted through the CalSAFER system, interested persons may also submit their comments in an email to: SaferConsumerProducts@dtsc.ca.gov or through the DTSC regulations email address at regs@dtsc.ca.gov. Please include the DTSC reference number for this regulation in the subject of your message. Direct hard-copy written comments to Office of Legislation and Regulatory Review, as specified below.

PUBLIC HEARING

A public hearing has not been scheduled for this rulemaking. However, DTSC will conduct a hearing if a written request for a public hearing is received from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8. Submit a written request for a public hearing in an email to SaferConsumerProducts@dtsc.ca.gov or to the Office of Legislation and Regulatory Review, as specified below.

Notice Pertaining to Accessibility and Reasonable Accommodation

All documents related to these regulations can be made available in alternate format (i.e., Braille, large print, etc.) or in another language, as requested, in accordance with State and Federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability-related reasonable accommodations and/or translator/interpreter needs, upon request. For assistance, please contact the staff person below. Note: the range of assistive series available may be limited if requests are made less than 10 business days prior a public hearing.

Office of Legislation and Regulatory Review
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812–0806
Fax Number: (916) 324–1808

TTY/TDD/Speech-to-Speech users may dial 7–1–1 for the California Relay Service.

AUTHORITY AND REFERENCE

Authority

This regulation is being adopted under the following authorities:

- Health and Safety Code (HSC) section 25252 authorizes and requires DTSC to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered a Chemical of Concern. This section also directs DTSC to reference and use available information from

various sources but does not limit DTSC to use only this information.

- HSC section 25253 authorizes and requires DTSC to adopt regulations that establish a process for evaluating Chemicals of Concern in consumer products, and their potential alternatives, to determine how best to limit exposure to or to reduce the level of hazard posed by a Chemical of Concern.
- HSC section 58012 (added by Gov. Reorg. Plan Number 1, §146, eff. July 17, 1991) grants DTSC authority to adopt regulations to execute its duties.

Reference

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

- HSC sections 25252 and 25253.

INFORMATIVE DIGEST

Policy Statement Overview:

Background and Effect of the Proposed Regulatory Action:

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

- Establishing a list of Candidate Chemicals and specifying criteria by which these may be designated Chemicals of Concern;
- Establishing a process to identify and prioritize product and Candidate Chemical combinations that may be listed as Priority Products;
- Requiring manufacturers of a product listed as a Priority Product to notify DTSC within 60 days of the listing regulation's effective date;
- Requiring manufacturers of a Priority Product to determine how best to reduce exposures to the Chemical(s) of Concern in the product;
- Allowing DTSC to identify and require implementation of Regulatory Responses following completion of an Alternatives Analysis, if needed; and
- Creating a process for persons to petition DTSC to add chemicals to the Candidate Chemicals list, add or remove Candidate Chemicals lists in their entirety, or to add or remove a product-chemical combination from the Priority Products List.

DTSC proposes to amend section 69511 and add section 69511.8 to Article 11 of the SCP regulations. The proposed action will add laundry detergents con-

taining nonylphenol ethoxylates (NPEs) as a Priority Product to the Priority Products List.

This listing applies to any product that is placed into commerce in California that contains NPEs, and that may be marketed, sold, or offered for sale as a chemical substance to clean or remove soil or unwanted deposits from laundered clothes and textile products, such as sheets and tablecloths. This includes, but is not limited to, laundry detergents of any form, including granules, liquids, powders, tabs, crystals, or pods, that are used in washing machines, for hand washing, or as part of a laundry system. Detergents intended for use as a pre-soak or pre-spotter, or with fabric or color protection properties, are also included.

Following extensive review of the scientific literature and analysis of the known hazard traits of NPEs, DTSC determined there is potential for the aquatic environment to be exposed to NPEs and their degradation products through the use of laundry detergents and there is potential for one or more exposures to cause or contribute to significant or widespread adverse impacts to aquatic organisms. NPEs and their degradation products can impair growth, development, reproduction, and survival in fish, aquatic invertebrates, and algae species. DTSC based this determination on an evaluation of available, reliable scientific information pertinent to the regulatory criteria.

Benefits of the Proposed Regulatory Action:

A primary goal of the SCP regulations is to prevent or reduce potential adverse health and environmental impacts to the State of California. By listing laundry detergents containing NPEs as a Priority Product, DTSC requires manufacturers selling these products into California to evaluate whether NPEs are necessary in laundry detergents or whether there are functionally safer alternatives that would reduce exposure to NPEs during manufacturing and use of laundry detergents. A reduction in NPEs would result in healthier aquatic ecosystems. A reduction in exposure to NPEs could assist in the conservation of threatened and endangered species, reduce wastewater treatment costs, and increase the use of recycled water.

DTSC cannot pre-determine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC's process encourages the use of alternatives of least concern and prefers those that provide the greatest level of inherent protection.

Existing Laws and Regulations:

The SCP regulations established a unique approach to regulating Chemicals of Concern in consumer products that grants DTSC authority to take actions to protect people and the environment when such actions are outside the scope of other regulatory programs. There are no equivalent federal or state regulations

that require product manufacturers to determine if the chemical in their product is necessary and whether there is a safer alternative, with the goal of protecting consumers and the environment from adverse effects associated with a product throughout its lifecycle.

DTSC has assessed all applicable state and federal laws and regulations, as well as international treaties or agreements with the force of domestic law, related to the proposed Priority Product and the Candidate Chemical in the product. DTSC has determined that no state or federal regulations overlap or conflict with this proposal to list laundry detergents containing NPEs as a Priority Product.

Related State Laws and Regulations:

No California state laws or regulations currently address the use of NPEs in laundry detergents. DTSC consulted with the California State Water Resources Control Board (State Water Board), which has regulatory responsibility for protecting water quality in California, to ensure that this rulemaking is in accordance with State Water Board regulations. DTSC has determined that no regulations overlap or conflict with the proposal to list laundry detergents containing NPEs as a Priority Product.

Comparable Federal Regulation or Statute:

These regulations are not based on, identical to, or in conflict with any federal regulations.

U.S. EPA's Limited Regulatory Actions:

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

Under the Toxic Substances Control Act (TSCA), U.S. EPA proposed a Significant New Use Rule (SNUR) for specific nonylphenols and nonylphenol ethoxylates in 2014, but has yet to finalize it. If the proposed SNUR were to be adopted, manufacturers and importers would have to report any new uses of the chemicals. Since 2015, when the public comment period closed, U.S. EPA has not released any updated information on the status of the proposed SNUR. DTSC decided to move forward with this proposed rulemaking because it is unknown when or if the U.S. EPA's proposed rule will be finalized and because the NPEs identified in the U.S. EPA's proposed rule are limited and only represent a few of the NPEs that are included in the scope of DTSC's proposal. DTSC's

proposed rule will regulate NPEs through a regulatory framework that is fundamentally different from TSCA's.

**OTHER APPLICABLE REQUIREMENTS
PRESCRIBED BY STATUTE**

**California Environmental Quality Act (CEQA)
Compliance**

DTSC has determined that this rulemaking would be exempt from CEQA (Public Resources Code Section 21000, et seq.) under the “feasibility or planning study” and “data collection” exemptions outlined in California Code of Regulations, title 14, section 15262 and 15306, respectively. The project would also be exempt under the common sense exemption. (Cal. Code Regs., title 14, § 15061, subdivision (b)(3).) A draft Notice of Exemption (NOE) is available for review during the public comment period upon request and will be filed with the State Clearinghouse if the regulation is finalized.

California Environmental Policy Council Review

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

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

Peer Review

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

**MANDATE ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

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

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

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

Costs or Savings to Any State Agency:

DTSC will absorb additional costs associated with reviewing Notifications, Abridged AA Reports, or two-stage AA Reports submitted by manufacturers of laundry detergents containing NPEs by reallocating staff to this new task. DTSC estimates that the total fiscal costs to state government for reviewing all Notifications, Abridged AA Reports, or two-stage AA reports submitted by manufacturers will range from \$362,081–\$825,302.

Local Agencies:

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

School Districts:

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

Federal Funding to the State:

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

**DETERMINATION OF NO
SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT**

DTSC determined the proposed regulatory action has no significant statewide adverse economic impact directly affecting business. Following a review of available laundry detergent market data and survey of affected manufacturers and industry organizations, DTSC determined the proposed regulation is not a major regulation and is unlikely to have a significant adverse impact on business.

Types of Businesses Affected: Manufacturers of laundry detergents containing NPEs have the principal duty to comply with the notification and reporting requirements.

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

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

The reports and forms that a manufacturer must submit depends on several factors including the Priority Products produced, the availability of viable alternatives, and business decisions made by the manufacturer.

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

DTSC has made an initial determination that the adoption of this regulation will not exert a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses

to compete with businesses in other states. DTSC has considered proposed regulatory alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DTSC relied on a variety of sources to estimate the number of manufacturers potentially impacted by this proposed regulation. DTSC searched detergent manufacturers listed in the State Water Board Stormwater Multiple Application and Report Tracking System and analyzed a list of manufacturers that was provided in Hoovers by Dun and Bradstreet (a private data vendor). DTSC then searched manufacturers’ websites and Safety Data Sheets (SDS) for laundry detergents containing NPEs.

Based on the data collected from these data sources, DTSC estimates there are 11 manufacturers of laundry detergents in California that would be potentially affected by DTSC regulation. DTSC estimates that costs could range from \$5,280 to \$10,560 for individual manufacturers to fulfill the SCP regulatory requirements to submit a Priority Product Notification and complete a Product–Chemical Replacement Intent and/or Confirmation Notification. Total estimated costs to California–based manufacturers of laundry detergents containing NPEs range from \$58,080 to \$116,160.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation of New Businesses or Elimination of Existing Businesses:

DTSC determined that it is:

- Unlikely that this proposal will eliminate or create businesses or jobs in manufacturing of laundry detergents;
- Possible that this proposal could create an unknown number of businesses to assist manufacturers of laundry detergents containing NPEs in meeting regulatory obligations including consulting services, chemical and material science

research services, and product development support;

- Possible that this proposal could create an unknown number of public or private sector jobs in consulting services, product research and design, chemical and material science research and support and marketing.

Expansion of Businesses Currently doing Business:

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

Effect on Housing Costs:

DTSC has determined that the proposed regulation will have no significant effect on housing costs.

Effect on Small Businesses:

DTSC made an initial determination that the adoption of this regulation may affect small businesses. DTSC estimates that nine of the 11 potentially impacted manufacturers are small businesses. Costs to submit Priority Product Notifications and Product–Chemical Replacement Intent and/or Confirmation Notifications are expected to be the same for all impacted businesses. Moreover, DTSC estimates that it will take each manufacturer a maximum of 176 hours at \$60/hour to complete a Priority Product Notification and Product–Chemical Replacement Intent and/or Confirmation Notification, or a total of \$10,560. These are one–time notifications and therefore, there are no ongoing costs. Manufacturers reported they anticipate replacing NPEs in their laundry detergents and do not anticipate conducting an Alternatives Analysis.

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

DTSC made an initial determination that the adoption of this regulation may positively affect the health and welfare of the State’s environment. A reduction in exposure to NPEs could benefit the health of California’s wildlife. The development of safer alternatives benefits California’s environment. DTSC cannot predetermine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC’s process encourages the use of alternatives of least concern and prefers those that provide the greatest level of inherent protection. In general, economic benefits to California workers and business owners may include expanded employment opportunities in the fields of consulting, marketing, research, and product development.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulation or CEQA documents may be directed to Michael Ernst of DTSC at 916–322–3385 or michael.ernst@dtsc.ca.gov, or if unavailable, Nancy Ostrom of DTSC at 916–445–3077, or nancy.ostrom@dtsc.ca.gov. However, such oral inquiries are not part of the rulemaking record.

A public comment period for the rulemaking has been established commencing on November 10, 2023, and closing on December 31, 2023. Statements, arguments, or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or presented orally or in writing at a public hearing, if a hearing is requested, in order for them to be considered by DTSC before it adopts, amends, or repeals these regulations.

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

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

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

After the close of the comment period, DTSC may adopt the proposed regulation. If substantial, sufficiently related changes are made to the regulatory text, the modified full text (with the changes clearly indicated) will be made available for comment for at least 15 days prior to adoption. Only persons who request

the specific proposed regulation, attend a public hearing, if a hearing is requested, or provide written comments on this specific regulation will be sent a copy of the modified text if substantial, sufficiently related changes are made.

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

ALL OTHER QUESTIONS/COMMENTS/
INQUIRIES/UPDATES

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

GENERAL PUBLIC INTEREST

BOARD OF EQUALIZATION

NOTICE OF RESCHEDULED PUBLIC
HEARING AND EXTENSION OF WRITTEN
COMMENT PERIOD

Editor’s Note: On September 8, 2023, the State Board of Equalization published a Notice of Proposed Rulemaking Action concerning Audit Selection. (Notice Register 2023, Number 36–Z, September 8, 2023.)

The Board is rescheduling its public hearing and extending its written comment period. The following is an updated version of the Board’s Notice that includes the revised, extended dates and, for sake of reference, all the other information in the previously published Notice.

NOTICE OF PROPOSED
REGULATORY ACTION

THE STATE BOARD OF EQUALIZATION
PROPOSES TO AMEND
CALIFORNIA CODE OF REGULATIONS,
TITLE 18, SECTION 192, AUDIT SELECTION

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to amend California Code of Regulations, title 18, section (Rule or Property Tax Rule) 192, *Audit Selection*. This Rule implements, interprets, and makes specific certain audit provisions provided in section 469 of the Revenue and Taxation Code.¹

PUBLIC HEARING

The Board will conduct a meeting on January 23–24, 2024, in-person and via teleconference. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. on January 23, 2024, or as soon thereafter as the matter may be heard at the Board’s January 23–24, 2024, meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendment to Property Tax Rule 192.

This notice updates a previous notice, published in the California Regulatory Notice Register on September 8, 2023, which stated that the public hearing would be held during the Board’s November meeting. As a result, the public hearing will only appear on the January Board meeting agenda as noted above.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Revenue and Taxation Code sections 106, 469, and 470.

¹ All further statutory references are to the Revenue and Taxation Code unless otherwise indicated.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Current Law

Under existing property tax law, an annual ad valorem tax is imposed on assessable property used in a trade or business. Taxpayers typically self-report the cost of such property to the local County Assessor on a “business property statement,” as provided for by section 441. The business property statement shows all taxable business property, both real and personal, which is owned, claimed, possessed, controlled, or managed by the person filing the property statement.

To encourage the accurate and proper reporting of such property, section 469 requires County Assessors to annually audit a certain number of taxpayers, with the number varying by county.

Effective January 1, 2019, Senate Bill (SB) 1498 (Stats. 2018, Chapter 467) amended section 469 to provide County Assessors flexibility in meeting annual audit requirements. Beginning with the 2019–20 fiscal year, County Assessors may meet the requirements of section 469 by completing four years’ worth of required annual audits anytime within a set four-year period.

Effects, Objectives, and Benefits of the Amendment to the Property Tax Rule

Under the authority of Government Code section 15606, subdivision (c), which authorizes the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and County Assessors when assessing, the Board adopted Property Tax Rule 192, *Audit Selection*, to implement, interpret, and make specific the audit requirements of section 469.

Following the enactment of SB 1498, an additional amendment was deemed necessary to further implement, interpret, and make specific certain provisions in section 469 (the Proposed Amendment).

The amendment to Rule 192 makes the following change:

- Subdivision (c)(4) was added. It clarifies that a County Assessor meets the section 469 requirements if they complete four years’ worth of audits anytime within a set four-year period. This subdivision also clarifies that the first four-year period begins with the 2019–2020 fiscal year.

The above amendment is reasonably necessary for the efficient and fair administration of the audit selection provisions under section 469. The Board anticipates that the Proposed Amendment will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, County Assessors, and owners of property subject to the audit selection provisions

under section 469. Portions of the Proposed Amendment may duplicate or overlap language found in section 469; however, the “nonduplication” standard found at Government Code section 11349.1, subdivision (a)(6) is met because, pursuant to Code of California Regulations, title 1, section 12, subdivision (b)(1), the duplication or overlap is necessary to satisfy the “clarity” standard of Government Code section 11349.1, subdivision (a)(3). Without the duplication or overlap, the rule would be incomplete or unclear.

The Board has performed an evaluation of whether the amendment to proposed Property Tax Rule 192 is inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Amendment is not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the amendment to the Rule. In addition, there is no comparable federal regulation or statute to Property Tax Rule 192.

NO MANDATE ON LOCAL AGENCIES AND
SCHOOL DISTRICTS

Section 64 of SB 1498 provides an optional timeline for completion of already required audits and the Proposed Amendment clarifies and implements this optional timeline. County Assessors’ offices are already required to audit a certain number of businesses annually and this optional timeline does not increase or decrease the number of required audits. As such, the Proposed Amendment is not anticipated to impose any significant costs on local agencies, i.e., the County Assessors, or school districts. Thus, they do not impose a mandate on a local agency or school district that is reimbursable under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

ONE-TIME COST TO STATE
AGENCIES, LOCAL AGENCIES, AND
SCHOOL DISTRICTS

Board staff estimated that the amendment to this rule will result in an absorbable one-time cost of \$922 for the Board to communicate with interested parties and update its website after the rule amendment is completed assuming that the average hourly compensation costs are \$57.60 per hour² and that it will take approximately 16 hours. There will be no savings. The Board has determined that the adoption of the Pro-

² Source: Hourly compensation costs are from the U.S. Bureau of Labor Statistics. Hourly compensation costs are for State and Local Government Workers. *Employer Costs for Employee Compensation — December 2022: Table 3. Employer Costs for Employee Compensation for state and local government workers by occupational and industry group*, <https://www.bls.gov/news.release/ecec.htm>.

posed Amendment will result in no other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the Proposed Amendment will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The adoption of the Proposed Amendment is not expected to affect small business.

NO AFFECTS TO SMALL BUSINESS

The adoption of the Proposed Amendment is not expected to affect small business because this regulation provides the additional option to the County Assessors to complete required audits within a set four-year period and does not increase or reduce the number of required audits over the time period.

NO COST IMPACTS TO PRIVATE
PERSONS OR BUSINESSES

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

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT REQUIRED BY
GOVERNMENT CODE SECTION 11346.3,
SUBDIVISION (b)

The Board assessed the economic impact of the Proposed Amendment to Property Tax Rule 192 on California businesses and individuals and determined that the amendment does not constitute a major regulation as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Amendment and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Amendment will neither create nor eliminate jobs in the State of California, nor

create new businesses or eliminate existing businesses within the state, nor expand businesses currently doing business in the State of California. Furthermore, the Board has determined that the adoption of the Proposed Amendment will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state’s environment. However, the Board anticipates that the Proposed Amendment will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeal boards, County Assessors, and owners of property subject to the audit selection provisions under section 469.

NO SIGNIFICANT EFFECT ON
HOUSING COSTS

The adoption of the Proposed Amendment to Property Tax Rule 192 will not have a significant effect on housing costs.

DETERMINATION
REGARDING ALTERNATIVES

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

CONTACT PERSONS

Questions regarding the substance of the Proposed Amendment should be directed to Mr. Henry Nanjo, Chief Counsel, by telephone at (916) 274-3520, by email at henry.nanjo@boe.ca.gov, or by mail at State Board of Equalization, Attention: Henry Nanjo, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121.

Written comments for the Board’s consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. David Lujan, Attorney, by telephone at (916) 274-3530, by email at david.lujan@boe.ca.gov, or by mail at State Board of Equalization, Attention: David Lujan, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121. Mr. Lujan is the designated backup contact person to Mr. Nanjo.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on January 23, 2024, or as soon thereafter as the Board holds the public hearing regarding the Proposed Amendment during the January 23–24, 2024, Board meeting. Written comments received by Mr. David Lujan at the postal address or email address provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Amendment. The Board will only consider written comments received by that time.

This notice updates a previous notice, published in the California Regulatory Notice Register on September 8, 2023, which stated that the public comment period would end when the Board holds the public hearing regarding the Proposed Amendment during the November 14–15, 2023, Board meeting. As a result, the public comment period for this Proposed Amendment will now close when the Board holds the public hearing during its January Board meeting as noted above.

AVAILABILITY OF INITIAL
STATEMENT OF REASONS AND TEXT OF
PROPOSED REGULATION

The Board has prepared a version of the Proposed Amendment to Property Tax Rule 192 illustrating the express terms of the Proposed Amendment and an initial statement of reasons for the adoption of the Proposed Amendment, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Amendment is based are available to the public upon request. The rulemaking file is available for public inspection at 160 Promenade Circle, Sacramento, California. The express terms of the Proposed Amendment and the Initial Statement of Reasons are also available on the Board's website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES
PURSUANT TO GOVERNMENT CODE
SECTION 11346.8

The Board may adopt the Proposed Amendment with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indi-

cated, available to the public for at least 15 days prior to adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the Proposed Amendment orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be made available to the public by Mr. Lujan. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL
STATEMENT OF REASONS

If the Board adopts the Proposed Amendment, the Board will prepare a final statement of reasons, which will be made available for inspection at 160 Promenade Circle, Suite 200, Sacramento, CA 95834, and available on the Board's website at www.boe.ca.gov.

DEPARTMENT OF FISH AND
WILDLIFE

HABITAT RESTORATION AND
ENHANCEMENT ACT
CONSISTENCY DETERMINATION
NUMBER 1653-2023-130-001-R1

Project: Chamberlain Creek Restoration Project
Location: Mendocino County
Applicant: Chad Smith, CAL FIRE Mendocino Unit

Background

Project Location: The Chamberlain Creek Restoration Project (Project) is located on Chamberlain Creek, tributary to the North Fork Big River, approximately 14 miles east-southeast of Fort Bragg, California; Latitude/Longitude 39.359433 N, 123.554550 W. Chamberlain Creek supports populations of coho salmon (*Oncorhynchus kisutch*), steelhead trout (*O. mykiss*), and other fish and wildlife species.

Project Description: Chad Smith (Applicant) representing CAL FIRE proposes to enhance habitat within Chamberlain Creek to provide a net conservation benefit for native species. The Project includes modifying an existing wood jam, installing large wood features, stabilizing a slide with bioengineering, and revegetation with native species. An existing log jam will be moved from mid-channel to the left bank and will be used to build an anchored large wood structure. Additionally, six other anchored wood structures will be installed to increase channel complexity and function. These additional structures will be channel spanning and comprised of multiple pieces of large wood. A substantial slide will be stabilized using bioengineer-

ing techniques and materials such as large rock, native streambed materials, willows (*Salix spp.*), native soil, and choir matting. Finally, coast redwood (*Sequoia sempervirens*) and Douglas fir (*Pseudotsuga menziesii*) will be planted in the riparian area to provide future sources of shade and large wood.

Project Size: The total area of ground disturbance associated with the Project is approximately 0.39 acres and 462 linear feet. The Applicant has included project size calculations that were used to determine the total size of the Project. The proposed Project complies with the General 401 Certification for Small Habitat Restoration Projects and associated categorical exemption from the California Environmental Quality Act (Cal. Code Regs., title 14, § 15333).

Project Associated Discharge: Discharge of materials into Waters of the State, as defined by Water Code section 13050 subdivision (e), resulting from the Project include those associated with the following: (1) 71 pieces of large wood, ranging from 2 to 5 feet in diameter, (2) 300 cubic yards of rock slope protection, (3) anchoring bolts and cables, (4) geotextile fabric, (5) willow cuttings, (6) planting tubes, (7) 1 cubic yard of compost soil, and (8) coast redwood and Douglas fir plantings.

Project Timeframes: Start date: October 16, 2023.

Completion date: October 31, 2024.

Work window: September 16 to October 31, with an option for variance or extension with written approval from the North Coast Regional Water Quality Control Board and the California Department of Fish and Wildlife.

Water Quality Certification Background: Because the Project's primary purpose is habitat restoration intended to improve the quality of waters in California, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN (Order) (Waste Discharge Identification (WDID) Number 1B23146WNME, Electronic Content Management Identification (ECM PIN) Number CW-890474 for the Project. The NOA describes the Project and requires the Applicant to comply with terms of the Order. Additionally, the Applicant has provided a supplemental document that sets forth measures to avoid and minimize impacts to coho salmon, steelhead trout, and other fish and wildlife species.

Receiving Water: Chamberlain Creek, tributary to the North Fork Big River.

Filled or Excavated Area: Permanent area impacted: 0 acres.

Temporary area impacted: 0.39 acres.

Length permanently impacted: 0 linear feet.

Length temporarily impacted: 462 linear feet.

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

Noticing: On October 23, 2023, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from the Applicant requesting a determination pursuant to Fish and Game Code Section 1653 that the NOA, NOI, and related species protection measures are consistent with the Habitat Restoration and Enhancement Act (HREA) with respect to the Project.

Pursuant to Fish and Game Code section 1653 subdivision (c), CDFW filed an initial notice with the Office of Administrative Law on October 23, 2023, for publishing in the General Public Interest section of the California Regulatory Notice Register (Cal. Reg. Notice File Number Z-2023-1023-02) on November 3, 2023. Upon approval, CDFW will file a final notice pursuant to Fish and Game Code section 1653 subdivision (f).

Determination

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

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

Avoidance and Minimization Measures

The avoidance and minimization measures for the Project, as required by Fish and Game Code section 1653, subdivision (b)(4), were included in an attachment to the NOI, which contains the following categories: (1) Construction-period Water Quality Protection and Erosion and Sedimentation Control Measures; (2) Post-construction and Sediment Control and Water Quality Protection Requirements; (3) General Program Conditions for Vegetation Management; and (4) General Measures to Avoid Impacts on Biological Resources. The specific avoidance and minimization requirements are found in an attachment to the NOI, *CDFW Chamberlain Creek Recommendations*.

Monitoring and Reporting

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

Notice of Completion

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

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

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

Project Authorization

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

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

DEPARTMENT OF FISH AND WILDLIFE

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
KELT RESERVOIRS PROJECT
2080–2023–017–05
SANTA BARBARA COUNTY**

The California Department of Fish and Wildlife (CDFW) received a notice on October 24, 2023 that Golden State Water Company proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves general purpose of project. Proposed activities will include, but are not limited to, list activities. The proposed project will occur list location.

The U.S. Fish and Wildlife Service (Service) (or NMFS) issued a federal biological opinion (BO) (Service Ref. Number 81420–2008–F–1481–15) in a memorandum to the U.S. Bureau of Reclamation on September 26, 2017, which considered the effects of the proposed project on state endangered/threatened and federally endangered/threatened species common name (*Scientific Name*).

Pursuant to California Fish and Game Code section 2080.1, applicant name is requesting a determination that the Incidental Take Statement (ITS) and its associated BO are consistent with CESA for purposes of the proposed project. If CDFW determines the ITS and associated BO are consistent with CESA for the proposed project, applicant name will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

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.

Department of Fish and Wildlife
 File # 2023–1020–01
 Recreational Quillback Rockfish Fishery

This emergency rulemaking action prohibits the take of quillback rockfish statewide, sets up a near-shore fishery closure shoreward of the 50–fathom line in management areas north of Point Conception, and authorizes use of hoop nets, crab traps and dip nets, when legally taken groundfish are aboard in closed areas.

Title 14
 Amend: 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 28.55
 Filed 10/30/2023
 Effective 10/30/2023
 Agency Contact: Ona Alminas (916) 902–9222

Department of Insurance
 File # 2023–1020–04
 CAARP Simplified Rules and Rates Manual

This action increases financial liability limits in the Simplified Rules and Rates Manual (SRRM), within the California Automobile Assigned Risk Plan (CAARP), for owners of private vehicles and vehicles used for commercial purposes that are not subject to regulation by the Public Utilities Commission. The liability limit increases in the SRRM bring these limits into compliance with the liability limit increases established by Senate Bill 1170 (Stats. 2022, Chapter 717). Pursuant to Insurance Code section 11620(c), this action is not subject to the requirements of the Administrative Procedure Act.

Title 10
 Amend: 2498.5
 Filed 10/30/2023
 Effective 10/30/2023
 Agency Contact: Michael Riordan (415) 798–4245

Board of Registered Nursing
 File # 2023–0915–04
 Application for Approval

In this change without regulatory effect, the Board amends its regulations to update a document incorporated by reference, the Instructions for Institutions Seeking Approval of New Prelicensure Registered Nursing Program or Addition of a New Campus or Location for a Currently Approved Nursing Program (EDP–I–01). The amendments include changing the agency’s logo in the heading of the document, updating the name of the current governor, specifying the location of a form in the EDP–I–01 document, and making some grammatical changes.

Title 16
 Amend: 1421, 1423
 Filed 10/26/2023
 Agency Contact: Marissa Clark (916) 574–7438

California Department of Tax and Fee Administration
 File # 2023–0915–05
 Review of a Petition, Action on Claim for Refund, Public Record

This action without regulatory effect conforms sections of title 18 of the California Code of Regulations to changes made to the implemented statutes by Senate Bill 1496 (Stats. 2022, Chapter 474).

Title 18
 Amend: 35017, 35042, 35067
 Filed 10/27/2023
 Agency Contact: Kim DeArte (916) 309–5227

Department of Fish and Wildlife
 File # 2023–0925–02
 Fees for Lake and Streambed Alteration Agreements

As changes without regulatory effect, the Department of Fish and Wildlife is amending fees for lake and streambed alteration agreements. Annual changes to the fees are required by Fish and Game Code section 1609 by applying the index to determine an increase or decrease in the fees as specified in Fish and Game Code section 713. The amended fees will become effective on January 1, 2024.

Title 14
 Amend: 699.5
 Filed 11/01/2023
 Effective 01/01/2024
 Agency Contact: Juan Torres (916) 247–0327

Office of Energy Infrastructure Safety
 File # 2023–0915–03
 Technical Updates

This action without regulatory effect by the Office of Energy Infrastructure Safety (“OEIS”) makes technical amendments to regulations promulgated pursuant to the Dig Safe Act of 2016 (“the Act”), Senate Bill Number 661 (Stats. 2016, c. 809), including updating references to an outdated website address, references to an outdated physical address for which payments are to be received, and the insignia and regulation references in incorporated forms.

Title 19
 Amend: 4000, 4002, 4100, 4252, 4253, 4256, 4351, 4361
 Filed 10/25/2023
 Agency Contact: Robin Harrington(279) 336–1739

Air Resources Board
File # 2023–0915–01
EV Conversions Regulation

In this rulemaking action, the California Air Resources Board (CARB) promulgates regulations which amend the Electric Vehicle (EV) Conversion Kit after market parts exemption application procedures.

Title 13
Amend: 2222, 2224
Filed 10/26/2023
Effective 10/26/2023
Agency Contact: Bradley Bechtold (916) 322–6533

California Highway Patrol
File # 2023–0918–01
Electronic Logging Devices for Intrastate Motor Carriers and Drivers

This action adopts and incorporates by reference the Federal Motor Carrier Safety Regulations (FMCSR) at 49 C.F.R. Part 395, Subpart B, to require a qualifying motor carrier to use an Electronic Logging Device (ELD) to record an intrastate driver’s record of duty status (RODS) and hours of service (HOS).

Title 13
Adopt: 1213.3
Amend: 1213, 1234
Filed 10/30/2023
Effective 01/01/2024
Agency Contact: David Kelly (916) 843–3400

Department of Health Care Access and Information
File # 2023–0920–03
Hospital Financial Assistance and Bill Complaints

This action implements regulations that codify the Department of Health Care Access and Information’s new processes for collection and review of hospital fair pricing policies and applications, receipt and review of patient complaints, assessment of penalties, and the hospital appeal process. The regulations further implement the goals of Assembly Bill 1020 (Chapter 473, Stats. 2021) by clarifying requirements related to accessibility, patient eligibility, patient notice, and hospital oversight.

Title 22
Adopt: 96051, 96051.1, 96051.2, 96051.3, 96051.4, 96051.5, 96051.6, 96051.7, 96051.8, 96051.9, 96051.10, 96051.11, 96051.12, 96051.13, 96051.14, 96051.15, 96051.16, 96051.17, 96051.18, 96051.19, 96051.20, 96051.21, 96051.22, 96051.23, 96051.24, 96051.25, 96051.26, 96051.27, 96051.28, 96051.29, 96051.30, 96051.31, 96051.32, 96051.33, 96051.34, 96051.35, 96051.36, 96051.37
Repeal: 96040, 96041, 96042, 96043, 96044, 96045, 96046, 96050
Filed 11/01/2023
Effective 01/01/2024
Agency Contact:
Melissa Ferkovich (279) 220–2079

Air Resources Board
File # 2023–0915–02
In–Use Locomotive

This action adopts the In–Use Locomotive regulations to begin the transition of diesel–powered locomotives to Zero Emission (ZE) technology consistent with Executive Order N–79–20 (September 23, 2020), which set a goal of 100 percent Zero Emission off–road vehicles and equipment by 2035. Additional Information. These regulations apply to freight, switch, industrial, passenger, and historic locomotives. They don’t apply to small locomotives or those used by schools. The regulations require operators to create and fund a spending account, based on the amount of their emissions, which they must use to purchase ZE locomotives. The regulations phase out 23–year–old or older locomotives beginning in 2030. The regulations have processes to apply for Alternative Compliance Plans and Alternative Fleet Milestone Options. There are four compliance extensions for which locomotive operators may apply: 1) temporary operating extension, extension for manufacturing delays, extension for installation delays, and unavailability extensions. There is also a Small Business Hardship compliance extension application process. There’s an exemption for Historic Railroad low–use locomotives. The regulations prohibit idling for more than 30 minutes. The regulations also contain registration reporting, and recordkeeping re-

quirements. Finally, these regulations contain non-compliance penalties, a right-of-entry section, and a severability section.

Title 13

Adopt: 2478, 2478.1, 2478.2, 2478.3, 2478.4,
2478.5, 2478.6, 2478.7, 2478.8, 2478.9, 2478.10,
2478.11, 2478.12, 2478.13, 2478.14, 2478.15,
2478.16, 2478.17

Filed 10/27/2023

Effective 01/01/2024

Agency Contact: Bradley Bechtold (916) 322–6533

**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.