



California Regulatory Notice Register

REGISTER 2023, NUMBER 48-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

DECEMBER 1, 2023

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

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

**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Central Sierra Child Support Agency

STATE AGENCY: Office of State Treasurer

A written comment period has been established commencing on December 1, 2023 and closing on January 16, 2024. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

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

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

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

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest codes. Any written comments must be received no later than January 16, 2024. 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 Com-

mission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 323–9103.

TITLE 2. CIVIL RIGHTS DEPARTMENT

PROCEDURES OF COMMUNITY CONFLICT RESOLUTION

The Civil Rights Department (“Department”) proposes to add sections 10300 *et seq.* to Title 2 of the California Code of Regulations in order to further implement Government Code sections 12931–12933 after considering all comments, objections, and recommendations regarding the proposed action. The Department further proposes to modify the title of Chapter 1 of Division 4.1 of Title 2 of the Government Code to reflect the Department’s current name.

PUBLIC HEARING

The Department has not scheduled a public hearing on this matter. However, any interested person, or their authorized representative, may request, no later than 15 days prior to the close of the below comment period, a public hearing pursuant to Government Code section 11346.8.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes on **Friday, January 19, 2024, at 5:00 p.m.** The Department will consider only comments received by the end of that day. Written comments can be mailed to:

Civil Rights Department
Attention: Rachael Langston
555 12th Street — Suite 2050
Oakland, CA 94607
Telephone: 916–809–4371

Comments may also be submitted by email to rachael.langston@calcivilrights.ca.gov. *Although not required, comment submission via email is strongly preferred.*

AUTHORITY AND REFERENCE

Government Code section 12930(e) authorizes the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Government Code sections 12931 through

12933, as well as SB 189 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2022).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law authorizes the California Civil Rights Department (“Department”) to provide community conflict resolution assistance to communities experiencing disputes, disagreements, or difficulties arising from discriminatory practices that impair the rights of persons therein and threaten peaceful community relations (Gov. Code sections 12931–12932).

In Fiscal Year 2022–2023, the Department received funding to establish a new Community Conflict Resolution Unit to provide community conflict resolution conciliation assistance to eligible communities and persons. This rulemaking will adopt suitable procedural rules and regulations to carry out the Department’s community conflict resolution functions as well as other functions and duties of the Community Conflict Resolution Unit.

The proposed regulations would also further implement SB 189 (Chapter 48, Stats. 2021–2022) by updating references to the Department’s former name. SB 189, in pertinent part, effectuated the Department’s name change from the “Department of Fair Employment and Housing” to the “Civil Rights Department.”

The Department has determined that the proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the Department’s community conflict resolution procedures.

These proposed regulations will benefit communities and persons by providing a low-cost means to resolve conflict related to discrimination.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: No additional mandate beyond that imposed by existing law.

Cost or savings to any state agency: No additional costs or savings beyond those imposed by existing law.

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

Other nondiscretionary cost or savings imposed on local agencies: No additional costs or savings beyond those imposed by existing law.

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

Cost impacts on a representative private person or businesses: No additional costs or savings beyond those imposed by existing law. Therefore, 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.

Results of the economic impact assessment/analysis: The Department anticipates that the adoption of the regulations will not impact the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses within the state, or the expansion of businesses currently doing business within the state. To the contrary, adoption of the proposed regulations is anticipated to benefit the health and welfare of California residents and communities, providing a means to resolve disputes relating to civil rights violations that does not involve litigation. The proposed regulations would also make it easier to understand respective rights and obligations as well as reduce litigation costs. These regulations would not affect worker safety or the state’s environment.

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

Significant effect on housing costs: None.

Small Business Determination: The proposed regulations may affect small businesses to the extent that they would provide guidance to small businesses that could benefit from the Department’s community conflict resolution services.

Business Report: The Department has determined that the proposed regulations do not require a report to be made.

CONSIDERATION OF ALTERNATIVES

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

The Department has thus far not become aware of a better alternative and invites interested persons to present statements or arguments with respect to alter-

natives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Rachael Langston, Assistant Chief Counsel
Civil Rights Department
555 12th Street — Suite 2050
Oakland, CA 94607
Telephone: (916) 478–7251
Email: rachael.langston@calcivilrights.ca.gov

The backup contact person for these inquiries is:

Adam Romero, Deputy Director
Civil Rights Department
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
Telephone: (916) 478–7251
Email: adam.romero@calcivilrights.ca.gov

Please direct requests for copies of the proposed text (express terms) of the regulations, the Initial Statement of Reasons, any modified text of the proposed regulations, or other information upon which the rulemaking is based, should other sources be used in the future, to Rachael Langston at the above address.

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

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above Oakland address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Rachael Langston at the address, email, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Rachael Langston at the address,

email, or phone number listed above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available on the Department's website at <https://calcivilrights.ca.gov/>.

Copies also may be obtained by contacting Rachael Langston at the address, email, or phone number listed.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations, any modified texts, and the Final Statement of Reasons can be accessed through the Department's website at <https://calcivilrights.ca.gov/>.

TITLE 2. SECRETARY OF STATE

SAFE AT HOME PROGRAM

The Secretary of State Safe at Home Program (hereafter referred to as Safe at Home) proposes to amend and adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed actions. The Secretary of State intends to amend sections 22100 through 22101.5 of the California Code of Regulations.

PUBLIC HEARING

No hearing date scheduled. A public hearing will be held if any interested person, or their duly authorized representative, submits a written request for a public hearing to the contact person listed below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Safe at Home Program administration. The written comment period closes at 5:00 p.m. on January 16, 2024. The administration must receive all comments by that time. Submit comments to:

Liz Hall, Program Director
Safe at Home
P.O. Box 846
Sacramento, CA 95812
Telephone 1-877-322-5227
Email: safeathome@sos.ca.gov

AUTHORITY AND REFERENCE

Government Code sections 6209 and 6215.9 authorize the Secretary of State to amend and/or adopt these proposed regulations. The regulations implement, interpret, and make specific Government Code sections 6205 through 6210, and sections 6215 through 6216.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the administrative requirements and activities of the Safe at Home Program. The passing of SB 1131, that was signed into law on September 26, 2022, added an entire new list of individuals eligible to participate in Safe at Home. This created a more urgent need to amend the current regulations to include these individuals and provide guidance on responsibilities and procedures, both internally and externally. Most of the amendments and additions are made to incorporate the new bill into regulations. Safe at Home is also using this opportunity to clarify, organize, and correct procedures, code and form references, grammatical errors, and understanding.

Government Code section 6205 et seq. enables state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence, stalking, sexual assault, human trafficking, and elder/dependent adult abuse, to enable interagency cooperation with the Secretary of State in providing name and address confidentiality for victims and their household members, and to enable state and local agencies to accept a program participant's use of an address designated by the Secretary of State as a substitute mailing address. Section 6215 et seq. enables a very similar program for reproductive healthcare service providers, employees, volunteers and patients, and other individuals who face threats or violence because of work for a public entity.

The broad objective of the proposed rulemaking actions would clarify how basic services will be provided for both programs and help specify how the services may differ between the two programs. Another key objective is to amend the regulations in a way that is best suited for Safe at Home, enrolling agencies, and program participants. With the program's exponential growth over the last two years, some procedures have

been found to be infeasible, while others have been found to be burdensome to participants and/or enrolling agencies. An additional change throughout the regulations is the updated gender-neutral language. This is consistent with California’s legislative intent to update state laws and documents with gender-neutral terms. The benefits anticipated from the regulation amendments are increased protection for participants, better interagency cooperation, more up to date and accurate advocacy through our enrolling agencies, continued growth, compliance with statutes, and the promotion of inclusion and diversity of all people.

The Secretary of State has conducted a search and determined that these are the only regulations concerning the Safe at Home program. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

Material Incorporated by Reference

The following documents are incorporated by reference into the proposed new regulations:

Safe at Home Enrolling Agency Designation Agreement, revised 10/2023

Safe at Home Enrollment Application, revised 10/2023

Safe at Home Declaration Confirming Court Orders, revised 6/2019

Safe at Home Supplemental Guardianship/Conservatorship, revised 6/2019

Safe at Home Notice of Renewal, revised 10/2023

Safe at Home Confidential Notice of Intent of Name Change Form, revised 10/2023

DISCLOSURES REGARDING THE PROPOSED ACTION

Safe at Home has made the following initial determinations:

Cost or savings to any state agency: Safe at Home anticipates negligible, if any, cost or savings to any state agency will result from these new or amended regulations. Additionally, some state agencies who have a bona fide need to know the residential address of a participant to provide services may incur costs associated with the process Safe at Home has created for determining whether or not that agency receives an exemption pursuant to Government Code section 6207(a).

Mandate on local agencies and school districts: None.

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

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

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

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

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

Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

The Board concludes that it is 1) unlikely that the amendments will eliminate any jobs, 2) possible that the amendments will create an unknown number of jobs for enrolling agencies and/or Safe at Home staff, 3) unlikely that the amendments will create new businesses, and 4) unlikely that the amendments will eliminate any existing businesses.

The proposed regulations are not expected to affect worker safety or the state’s environment.

Safe at Home has determined the proposed regulation does not affect small businesses because the program does not require anything from private entities generally. Benefits of the Proposed Action: The regulations may benefit the public of California by giving people more explanation about the services provided by Safe at Home and how, specifically, to obtain those services as a participant resulting in increased safety in the community. There will be benefits to agencies and organizations that want to become designated Safe at Home Enrolling Agencies because it will be clear how to become an Enrolling Agency.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), Safe at Home must determine that no reasonable alternative it considered to the regulations 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 or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments relevant to the above determinations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Liz Hall, Program Director
Safe at Home Administration
P.O. Box 846
Sacramento, CA 95812
1-877-322-5227

Or to: safeathome@sos.ca.gov

The backup contact person for these inquiries is:

Alicia Morales, Analyst
Safe at Home Administration
P.O. Box 846
Sacramento, CA 95812
1-877-322-5227

Or to: safeathome@sos.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 regulations, if any, or other information upon which the rulemaking is based to Ms. Morales at the above address.

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

Safe at Home 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 Notice of Register, the rulemaking file consists of this Notice of Proposed Action, the proposed Express Terms of the new and amended regulations, the Initial Statement of Reasons, Form 399 (Economic Impact Statement) and Form 400 (Notice Publication/Regulation Submission). Copies may be obtained by contacting Ms. Morales at the address or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments received, Safe at Home may adopt the proposed regulations substantially as described in this notice. If the administration makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the administration adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Alicia Morales at the address indicated above. The administration will accept writ-

ten 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 Ms. Morales at the above address.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at <https://www.sos.ca.gov/registries/safe-home/governing-laws>.

**TITLE 8. OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

CONSTRUCTION SAFETY ORDERS
SECTIONS 1671.1, 1716.2, 1730 AND 1731

FALL PROTECTION IN
RESIDENTIAL CONSTRUCTION

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **January 18, 2024** in the **East Theater of the California State Railroad Museum, 111 I Street, Sacramento, California** as well as via the following.

- Video-conference at www.webex.com (meeting ID 1469 63 6425)
- Teleconference at (844) 992-4726 (Access code 1469 63 6425)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board’s office. The written comment period commences on **December 1, 2023** and closes at 5:00 p.m. on **January 18, 2024**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments are to be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, or

by email sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health standards.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Federal Occupational Safety and Health Administration (Fed–OSHA) fall protection requirements for the construction industry are set forth in subpart M of title 29 Code of Federal Regulations (29 CFR) part 1926 published on August 9, 1994. Fed–OSHA residential fall protection standards are contained in subpart M at 29 CFR section 1926.501(b)(13) and require fall protection (usually conventional fall protection, i.e. guardrail systems, safety net systems or personal fall arrest systems, fall restraint and fall positioning systems) for work six feet or more above lower levels, except where employers can demonstrate that such fall protection systems are infeasible or would create a greater hazard. The comparable California standard contained in Construction Safety Orders (CSO) section 1716.2 establishes a fall protection trigger height at 15 feet for residential and light commercial framing. Title 8 residential roofing standards specify trigger heights varying from zero to 20 feet depending on the type and slope of the roof.

After Fed–OSHA promulgated subpart M in 1994, representatives of the residential construction industry argued that they needed more compliance flexibility than the standard allowed. As a result, Fed–OSHA is-

sued Standard Instruction 3.1¹ on December 8, 1995, which established an interim compliance policy that permitted employers engaged in certain residential construction activities to use specified alternative procedures instead of conventional fall protection. These alternative procedures could be used without a prior showing of infeasibility or greater hazard and without a written, site specific fall protection plan. On June 18, 1999, Fed–OSHA issued Standards Directive (STD) 3–0.1A², re–designated as STD 03–00–001 a plain language replacement for Standard Instruction 3.1. California did not adopt either of the Fed–OSHA directives and continued to enforce its established residential framing and roofing industry fall protection standards which emphasized the use of positive fall protection means, albeit at higher trigger heights than Fed–OSHA, together with employee training.

On December 16, 2010, Fed–OSHA published another instruction designated STD 03–11–002³ which rescinded STD 03–00–001. In this new compliance guidance, employers engaged in residential construction must comply with 29 CFR section 1926.501(b)(13) requiring workers engaged in residential construction six feet or more above lower levels to be protected from falls by conventional fall protection. The new guidance also stipulated that if employers are able to demonstrate that the use of such measures is infeasible or presents a greater hazard, they may implement a written, site–specific fall protection plan. As a result of the December 16, 2010 compliance guidance, Fed–OSHA began the process of reviewing all corresponding state plan standards, policies and procedures covering fall protection in residential construction. This process was performed to ensure that state plan residential fall protection standards conformed to their counterpart Fed–OSHA construction fall protection standards.

In a letter to the Division of Occupational Safety and Health (Cal/OSHA) dated May 28, 2013⁴, Fed–OSHA expressed concern over the non–conformity of California’s residential fall protection standards with those of Fed–OSHA and asserted that California’s 15 foot trigger heights for residential construction, and

¹ Federal Occupational Safety and Health Administration (Fed–OSHA). Interim Fall Protection Compliance Guidelines for Residential Construction. <https://www.osha.gov/enforcement/directives/std-31>.

² Fed–OSHA. Plain Language Revision of OSHA Instruction STD 3.1, Interim Fall Protection Compliance Guidelines for Residential Construction. <https://www.osha.gov/enforcement/directives/std-03-00-001>.

³ Fed–OSHA. Compliance Guidance for Residential Construction. <https://www.osha.gov/enforcement/directives/std-03-11-002>.

⁴ Letter from Fed–OSHA to Cal/OSHA Chief, dated May 28, 2013. <https://www.dir.ca.gov/oshsb/documents/Federal-Fall-Protection-Trigger-Heights-for-Residential-Construction-AC-Letter-5-28-13.pdf>.

varying trigger heights for residential roofing operations, did not provide California workers with protection from falls equal to that provided by Fed-OSHA standards specifying a six foot trigger height. Hence the necessity for California to lower its residential construction fall protection trigger height from their present trigger heights to six feet.

In response to Fed-OSHA concerns, the Board staff convened an advisory committee meeting on November 3 and 4, 2015, to discuss California versus Fed-OSHA residential fall protections standards in terms of their effectiveness and the necessity to address any issues that may merit amendments to title 8 residential fall protection standards. Findings from this meeting were presented to the Board at their January 21, 2016 Business meeting in Costa Mesa, California. At that time the Board concluded that action to address the trigger height issue in residential construction was needed and directed staff to “...*treat as high priority and work expeditiously with stakeholder involvement, to assure California’s regulatory compliance with Federal construction industry fall protection standards.*”

In response to the Board’s directive, Board staff convened an advisory committee on April 11, 2016, which reached consensus with Cal/OSHA and Fed-OSHA participation on proposed amendments to CSO sections 1671.1, 1716.2, 1730 and 1731. This rulemaking proposal reflects the committee’s consensus and addresses the central issue, consisting of a reduction in the fall protection trigger heights for residential construction and residential roofing from their present trigger heights to six feet consistent with the Fed-OSHA standard. The proposal also addresses new and amended residential framing and roofing definitions and a reorganization/clarification of the roofing standards with regard to roof slope and required fall protection. The proposal expands its scope to include custom home construction as well as production style housing, roofing and re-roofing operations. Furthermore, the proposal addresses Fed-OSHA’s concern over the non-conformity of California’s residential fall protection plan, namely that it should clarify to employers that they must be able to demonstrate that the use of conventional fall protection measures is infeasible or presents a greater hazard, before implementing a site-specific fall protection plan.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code that the

State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Board).

The Board has evaluated the comparable federally-mandated standards [Federal Register, Volume 59, Number 152, beginning on page 40,672, Safety Standards for Fall Protection in the Construction Industry, August 9, 1994] and has found no substantial difference from existing federal rules (See California Government Code 11346.5(a)(3)(D)).

Anticipated Benefits

- California will continue to meet its statutory obligation set forth in Labor Code section 142.3(a)(2) to adopt standards that are at least as effective as those promulgated by Fed-OSHA for all occupational safety and health issues addressed by Fed-OSHA standards.
- The Cal/OSHA program will avoid the possibility of Fed-OSHA imposing concurrent jurisdiction and enforcing the Federal standard upon California employers, thus creating regulatory and enforcement liability confusion.
- This proposal is expected to generate both benefits in terms of improved worker safety, as well as benefits for residential roofing and framing contractors. The benefits of the proposed regulation are the reduction in fatalities and injuries at heights below the current trigger height and above the proposed six foot trigger height. Roofing and framing workers would be the primary beneficiaries of this proposed regulatory change.
- A safer residential construction workplace contributes to improved worker health, morale, and may increase productivity.
- The proposed amendments are also anticipated to provide benefits to businesses by a reduction in accident/fatality rates as well as a reduction in health care expenditures and lower workers’ compensation (WC) rates.
- Incentives to innovate new products, materials or processes could help businesses find more innovative ways to meet the standards at lower costs, thus slightly reshaping how framing and roofing activities under 15 feet are conducted.

The specific changes are as follows:

Section 1671.1. Fall Protection Plan.

This section contains requirements which pertain to the development and administration of fall protection plans at construction jobsites. Subsection (a) is essentially a scope and application subsection and explains the circumstances when a fall protection plan may be used in lieu of conventional fall protection methods. Amendments are proposed to clarify, consistent with Fed-OSHA standards, when a fall protection plan

may be used; and make clear that the employer has to demonstrate that the use of conventional fall protection systems is infeasible as opposed to impractical as currently worded. This is necessary to address Fed–OSHA’s concern and ensure that section 1671.1 will be commensurate with the Fed–OSHA standard, as required by Labor Code section 142.3.

In addition, an informative Note is proposed, which is verbatim of Fed–OSHA fall protection plan language⁵, to clarify that the employer has the burden of establishing that conventional fall protection methods are not feasible or create a greater hazard, prior to implementing a fall protection plan. These proposed amendments will ensure complete protection for employees engaged in construction activities and render California standards commensurate with those of Fed–OSHA.

The proposal follows the existing title 8, CSO format and organization as far as how the State’s fall protection standards are displayed. Residential framing is contained within section 1716.2 and residential roofing standards are contained within sections 1730 and 1731. The most profound amendments in this proposal are the elimination of the 15 and 20 foot residential construction fall protection trigger heights in favor of the federal six foot trigger height.

Section 1716.2. Wood and Light Gage Steel Frame Construction, Residential/Light Commercial.

This existing section addresses standards pertaining to the framing of residential and light commercial structures which include but are not limited to: scope and application, definitions, construction methods during various stages of construction such as raising walls, stabilization of structures, working on floors and walking/working surfaces and the use of fall protection at elevations 15 feet above the level below.

Amendments are proposed to change the section title to delete the words “Residential/Light Commercial” at the end of the title for replacement by the words “Residential–type Framing Activities” at the beginning of the title consistent with the amended content of section 1716.2.

An editorial amendment is proposed for subsection (a) adding the words “and light commercial” to the scope and application, consistent with the intent and content of section 1716.2. The proposed amendments will aid the regulated public in understanding that this standard also applies to framing activities associated with light commercial structures. Light commercial framing involves wood frame construction

materials and methods identical to residential–type construction.

Further amendments are proposed to the definition of residential–type framing activities in subsection (b)(7) to add Fed–OSHA language from STD 03–11–002 defining residential–type construction in terms of the use of structural steel and clarifying that residential–type framing activities include commercial structures that use wood frame construction materials and methods. The definition will aid the regulated public in understanding the scope of the regulation and will ensure clarity and consistency with Fed–OSHA residential construction enforcement policy.

It is also proposed to delete subsection (b)(10) which defines slide guards, as the use of such devices as a means of fall protection is not permitted by Fed–OSHA standards. Additionally, it is proposed to renumber the remaining Definitions subsections for title 8 format consistency. The former proposed change will ensure California’s framing standards are commensurate with comparable federal standards and the latter is editorial in nature.

Amendments are proposed for subsection (e)(1) with regard to lowering the fall protection trigger height from 15 feet to six feet for employees working on top plate, joists and roof structure during framing. The proposed amendment will require employers to provide positive fall protection when employees work above the lower, six foot, trigger height, consistent with what is required by Fed–OSHA in 29 CFR section 1926.501(b)(13). In addition, amendments are proposed to list each type of permissible fall protection method to help employers understand what is explicitly required, yet give employer choices on how to ensure compliance. Additional language is proposed to clarify to the employer that the use of fall protection plans is permitted only when the employer has demonstrated that the use of conventional fall protection methods is infeasible. It is proposed to remove the phrase that cites CSO article 24, to address Fed–OSHA’s concern of referencing less protective fall protection measures. These proposed amendments will ensure complete protection for employees engaged in residential framing and render California standards commensurate with those of Fed–OSHA.

Amendments are proposed to delete subsection (A) of the exception to (e)(1) pertaining to walking/working on joists, rafters or roof trusses, to address Fed–OSHA’s concern and to ensure that the use of conventional fall protection methods will be explicitly required. The deletion of this exception will ensure California’s framing standards are commensurate with Fed–OSHA standards and the requirement to use fall protection.

Further amendments are proposed to delete subsection (B) of the exception to (e)(1) pertaining to joists

⁵ Federal Register, Volume 59, Issue Number 152, Tuesday, August 9, 1994, Safety Standards for Fall Protection in the Construction Industry (120 pages). <https://www.govinfo.gov/content/pkg/FR-1994-08-09/html/94-19000.htm>.

laid upon top plates, to address Fed-OSHA's concern and to ensure that the use of conventional fall protection methods will be explicitly required. The deletion of this exception will ensure California's framing standards are commensurate with federal standards and the requirement to use fall protection.

Amendments are proposed for subsection (f) to lower the fall protection trigger height from 15 feet to six feet for floor work and other walking surfaces to ensure California fall protection standards conform to counterpart federal residential construction language. The proposed amendment will require the employer to implement a method of positive fall protection at a reduced working elevation. Amendments are also proposed to relocate the phrase "the surrounding grade or floor level below" earlier in the subsection for clarity. In addition, amendments are proposed to list each type of conventional fall protection method to help employers understand what is explicitly required, yet give employers choices on how to ensure compliance. Additional language is proposed to clarify to the employer that the use of fall protection plans is permitted only when the employer has demonstrated that the use of conventional fall protection methods is infeasible. It is proposed to remove the phrase that cites CSO article 24, to address Fed-OSHA's concern of referencing less protective fall protection measures. These proposed amendments will ensure complete protection for employees engaged in residential framing and render California standards commensurate with those of Fed-OSHA.

A new subsection is proposed to be added following subsection (f) to clarify to the employer that fall protection requirements for work around floor, roof or wall openings are found in CSO section 1632. Proposed subsection (f)(1) will aid the regulated public in understanding that employees need to be protected against falls from temporary floor and roof openings and will ensure that the employer knows which types of fall protection measures must be utilized. This proposed change is to provide consistency with existing title 8 regulations.

Amendments are proposed for subsection (g)(1) pertaining to work on starter board, roof sheathing and fascia board, to clarify to the employer that the employees are to be protected at all times from falls to the surrounding grade or level below when working at elevations above six feet. In addition, amendments are proposed to list each type of conventional fall protection method to help employers understand what is explicitly required, yet give employers choices on how to ensure compliance. Additional language is proposed to clarify to the employer that the use of fall protection plans is permitted only when the employer has demonstrated that the use of conventional fall protection methods is infeasible. It is also proposed to

remove the phrase that cites CSO article 24, to address Fed-OSHA's concern of referencing less protective fall protection measures. These proposed amendments will ensure complete protection for employees engaged in residential framing and render California standards commensurate with those of Fed-OSHA.

Further amendments are proposed to delete subsection (g)(1)(A) relating to a 15 foot trigger height, (g)(1)(B) which refers to sloped roofs greater than 7:12, and an exception to (g)(1)(B) which permits the use of slide guards in lieu of fall protection. These proposed deletions will ensure complete protection for employees engaged in residential framing and render California standards commensurate with those of Fed-OSHA. These proposed modifications will also ensure consistency with the other changes proposed in these amendments associated with the trigger height, roofing and the use of slide guards.

It is also proposed to delete subsection (g)(2) as this is not a conventional means of fall protection and is therefore not commensurate with Fed-OSHA standards. This deletion will ensure California's framing standards are commensurate with Fed-OSHA standards and the requirement to use fall protection.

Existing subsection (g)(3) is editorially renumbered as (g)(2) consistent with title 8 format. Additional revisions are proposed to add language in the new (g)(2) to address the requirement to use conventional means of fall protection to protect employees working at six feet or more above the surrounding grade or floor level below, and to list each type of conventional fall protection method allowed. Additional amendments are proposed to clarify to the employer that the use of fall protection plans is permitted only when the employer has demonstrated that the use of conventional methods is infeasible. It is also proposed to remove the phrase that cites CSO article 24, to address Fed-OSHA's concern of referencing less protective fall protection measures. These proposed amendments will ensure complete protection for employees engaged in residential framing and render California standards commensurate with those of Fed-OSHA.

The exception to existing (g)(3) is proposed to be deleted as it is inconsistent with federal residential fall protection standards which do not contain such an exception. California proposes to not allow employers to bypass residential fall protection requirements for employees working at or above six feet by use of the short duration exception. This deletion will ensure California's framing standards are commensurate with Fed-OSHA standards and the requirement to use fall protection.

Amendments are proposed for subsection (i) which contains requirements for the use of scaffolds during residential-type construction. Subsection (i)(2) pertains to the use of scaffolds and permits the omission

of the interior railing when the scaffold is placed next to a wall (on the wall side of the scaffold) to install joists, rafters or trusses under certain specified conditions relating to scaffold platforms that are 15 feet or less from the interior floor below. It is proposed that the 15 foot trigger height be changed to six feet. The proposed amendment will avert confusion and ensure that subsection (i)(2) is consistent with the rest of section 1716.2 which is proposed to be based upon a six foot fall protection trigger height rather than 15 feet. The proposed amendments will also ensure that employees are protected from a fall whenever they work at elevations at six feet or higher.

Section 1730. Roof Hazards.

This section contains standards that address roof hazards associated with the roofing and non-residential structures which include but are not limited to: fall protection methods as a function of roof slope and the hazards associated with the use of equipment on the roof.

Subsection (a) refers the employer to sections 1509 and 1510, regarding accident and injury prevention. A sentence for (a) is added to inform the employer that section 1730 does not apply to residential-type roofing activities defined in section 1731. This amendment will clarify and differentiate to the employer the scope and application of the two title 8 roofing safety orders; one commercial, one residential.

Further amendments are proposed to convert the Note found after subsection (f), which determines how the employee’s working measurement is to be taken, into a new subsection (g). This proposed revision makes clear to employers how the employee’s height working measurement is to be taken, and deletes the words “lowest edge of the roof or eaves”, which could cause misunderstandings. The proposed amendments are necessary to clarify to the employer how this critical measurement is to be taken, and fall protection is to be implemented, consistent with the comparable Fed–OSHA standard.

It is also proposed to delete the exception to section 1730, which follows revised subsection (g), since this clarification has been incorporated into the proposed amendments of subsection (a). This deletion will ensure consistency with other amendments in this proposal and compliance with Fed–OSHA fall protection standards.

Section 1731. Roof Hazards — New Production-Type Residential Construction.

This section contains safety standards addressing hazards associated with residential construction. To be consistent with the proposed amendments described below which would address both new residential and existing residential roofing operations, it is proposed that the section title be reworded to simply read: “Residential-type Roofing Activities” for consistency with

the section 1716.1 title which refers to residential-type framing activities.

Subsection (a) pertains to Scope and Application. Subsection (a)(1) applies to work on new production-type residential construction with roof slopes 3:12 or greater. Amendments are proposed to reword existing subsection (a)(1) to read that it pertains to residential-type roofing activities regardless of roof slope and whether it is new production type residential construction. Amendments are also proposed to delete subsection (a)(1) and make the proposed text part of subsection (a). The proposed amendment is necessary to ensure the California standard conforms with the Fed–OSHA standard which pertains to all types of residential roofing operations: new, existing and regardless of roof slope.

It is further proposed to delete existing subsection (a)(2), which states that “this section does not apply to custom-built homes, re-roofing operations, roofing replacements or additions on existing dwelling units”, since the comparable Fed–OSHA standards have no such limitations. The proposed amendments will ensure that the California standard conforms to Fed–OSHA standards.

The Note following existing subsection (a)(2) is also proposed for deletion to ensure employers are clear about the amended scope applying to all forms of residential roofing activities without regard to slope as the amended section 1731 standards would apply to all residential roofing activities.

Subsection (b) Definitions.

Existing subsection (b) contains six definitions for terms used in section 1731. The definitions for “custom-built home”, “eaves”, “production-type residential construction”, and “roof work” are proposed to be deleted. Deletion of the terms custom-built home and production-type residential construction are necessary to ensure that it is clear to the employer that the amended section 1731 applies to all types of residential construction activities. The definition of “eaves” is proposed to be deleted since the term is no longer used in this section. The definition of “roof work” is proposed to be deleted but consolidated under the new proposed definition of “residential-type roofing activities” a new term proposed for subsection (b) which defines roofing and re-roofing work for various types of residential habitation as well as the other structures called out in section 1716.2. The proposed definition includes various other residential roofing operations including, but not limited to, loading and installation of roofing materials. These proposed amendments will ensure that California’s residential roofing standards are inclusive and hence commensurate with the comparable Fed–OSHA standard.

Subsection (c) Fall protection for roofing work.

Existing subsection (c) contains standards segregated into two subsections (c)(1) and (c)(2) that are designed to prevent falls from heights during roofing activities. They are based upon the slope (steepness) of the roof and the working elevation above the grade or level below. The slope of the roof determines the actions employers are to take to protect their employees from a fall when they work at elevations above 15 feet which include, but are not limited to: personal fall protection, guardrails and scaffolds. Amendments are proposed to create a new subsection (c)(1) to address protecting employees against falling from roofs with slopes 0:12 up to and including 7:12, and reduce the trigger height to when the employee fall distance is six feet or more above the grade or level below. In addition, amendments are proposed to list each type of conventional fall protection method to help employers understand what is explicitly required, yet give employers choices on how to ensure compliance. Additional language is proposed to clarify to the employer that the use of fall protection plans is permitted only when the employer has demonstrated that the use of conventional methods is infeasible. These proposed amendments will ensure complete protection for employees engaged in residential roofing activities and render California standards commensurate with those of Fed–OSHA.

Further amendments are proposed to delete existing subsection (c)(1)(A) through (c)(1)(F) pertaining to the types of fall protection to be used according to a roof slope greater than 3:12, which is no longer needed given the proposed amendments to subsection (c)(1) which addresses fall protection and roof slopes from 0:12 to 7:12 (inclusive of 3:12). These proposed amendments will improve clarity and ensure title 8 residential roofing standards are commensurate with Fed–OSHA standards in terms of the use of conventional fall protection and fall protection plans.

Subsection (c)(2) addresses roof slopes greater than 7:12. Amendments are proposed to replace the term “steeper” with “greater”, and clarify that this paragraph addresses roof slopes greater than 7:12. Further amendments are proposed to clarify that personal fall protection is to be used as prescribed in subsection (c)(1) regardless of height (essentially a zero trigger height).

These proposed amendments will continue to permit the employer selective discretion as far as which fall protection method(s) to use per their site and construction circumstances, thereby ensuring that the most effective method is utilized or combination of methods to prevent employee falls. Reorganizing the slope ranges into two distinct groups conforms to the recommendation of the advisory committee and will simplify the proposed standard by aiding the employer

in recognizing when and what types of fall protection actions need to be taken according to their situation and provide conformity with Fed–OSHA standards.

Subsection (e).

Amendments are proposed to add a new subsection (e) following subsection (d), which explains and clarifies to the employer how the roof–to–ground measurement is to be taken. These proposed amendments will also clarify that the height of parapets shall not be included in the roof height measurement. These proposed amendments will aid the regulated public in understanding how this critical measurement is to be taken and how fall protection is to be implemented, consistent with California standards, proposed amendments in section 1730, and comparable Fed–OSHA standards.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies or School Districts: None.

Cost or Savings to State Agencies: None.

The proposed regulations are not expected to have a significant fiscal impact on state and local governments. However, there are several areas where minor fiscal impacts could occur. For example, state and local governments both own and develop property for administrative use. If any new properties are constructed that meet the definition of residential construction in the proposed regulation, then the framing and roofing costs of such projects would increase by the incremental amount outlined in the direct cost section. This could apply to any single–story residences constructed by state and local governments, or the first–story of any multi–story residential dwellings. Data was not available to complete a detailed quantitative assessment of these impacts; however, after consultation with the Department of General Services (DGS), there are not expected to be many units built by the State that would be subject to the lower trigger height.

Cost to any Local Government or School District which must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

The proposed regulations are not expected to have a significant fiscal impact on local agencies.

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

Cost Impacts on a Representative Private Person or Business:

The proposed amendments are expected to primarily affect residential framing operations (North America Industry Classification System (NAICS) code 238130), and roofing/re–roofing operations (NAICS

code 238160) in California. These businesses will be required to provide fall protection to all employees working at heights greater than six feet above the surrounding level, in conformance with Fed–OSHA’s residential construction regulations. The current California standards require fall protection only for heights of 15 feet and above.

The additional compliance costs are the incremental costs necessary to provide workers additional fall safety protections, including the costs of harness systems, scaffolding, and fall protection plans. These costs are expected to ultimately be passed along to consumers, and roofing and framing businesses are likely to raise their prices for services marginally.

The California legislature defines small businesses as businesses that have fewer than 100 employees, are not dominant in their field, and are independently owned and operated. Both of the roofing and framing businesses are predominately comprised of small businesses. According to U.S. Census Bureau data, in 2015 95.3% of framing contractors and 99.1% of roofing contractors, respectively, had fewer than 100 employees. This suggests that small businesses will bear nearly all of the compliance costs of the proposed regulation.

Direct compliance costs identified in the 2019 SRIA were revised to account for inflation (using the Department of Finance (DOF) Consumer Price Index for All Urban Consumers (CPI–U) forecast and long term projections values) and are estimated to be on average \$84 million per year for 2023 and \$104 million per year for 2030. Compliance costs for residential framers are expected to range from \$54–\$66 million per year. Compliance costs for residential roofers are expected to range from \$30.5–\$38 million per year.

Direct benefits for workers in residential framing and roofing are estimated to total approximately \$84 million per year once these amendments are fully implemented. Avoided mortality is expected to account for 39% of these benefits (\$32.6 million) and avoided injuries account for 61% of the benefits (\$51.2 million). Roofing and framing workers would be the primary beneficiaries of this proposed regulatory change.

The Board also expects that the proposed amendments will provide benefits to businesses by a reduction in accident/fatality rates, a reduction in health care expenditures and lower WC rates.

While there are no direct impacts on housing costs expected, there is a potential for indirect impacts to the extent that developers choose to pass on compliance costs to their customers. If developers pass on all costs to their customers, the impact would be the

equivalent of about \$536 per housing unit, or 0.1% of the July 2023 median home sales price of \$832,340.⁶

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:

The proposed amendments will require that businesses engaged in residential roofing and framing activities provide fall protection to all employees working at heights of six feet or greater, in conformance with Fed–OSHA’s residential construction regulations. The proposed amendments are based on performance standards rather than prescriptive standards and California Labor Code section 142.3 requires California occupational safety and health regulations to be at least as effective as Fed–OSHA standards. The current California standards require fall protection for heights of 15 feet and above, thus, the Board has determined that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses and individuals.

The Board does not anticipate that California businesses will be at a competitive disadvantage with framing or roofing businesses outside of the state, because the six feet trigger height is based on existing Fed–OSHA performance standards and California Labor Code section 142.3 requires California occupational safety and health regulations to be at least as effective as Fed–OSHA standards. Likewise, companies seeking to do business in California are likely to incur, on average, identical costs.

Significant Effect on Housing Costs:

The compliance costs discussed in the 2019 SRIA are the incremental costs of compliance for roofing and framing activities conducted at heights between six feet and 15 feet, and will primarily affect single-story residential housing units, since work done at heights 15 feet and above are already covered under the current California rules. These incremental costs include the costs of harness systems, scaffolding, and fall protection plans.

The 2019 SRIA analysis assumed that complying with the lower trigger height would result in an additional compliance cost for providing scaffolding for re-roofing projects to be on average \$320 per dwelling. For roofing projects, the 2019 SRIA estimated an incremental unit cost for providing fall protection with scaffolding systems to be on average of \$500 per unit/dwelling. The average incremental cost for providing scaffolding for framers working on single-story, single-family units is \$1,176 per unit. For the first story of multi-story, single-family units, the incremental cost is on average \$1,279 per unit. The incremental cost of providing scaffolding for multi-family homes

⁶ Source: California Association of Realtors (July 2023 median home sales price).

is expected to be approximately \$125 per unit. This cost is considerably lower because of the higher dwelling density and the lower number of exterior walls that require framing.

While there are no direct impacts on housing costs expected, there is a potential for indirect impacts to the extent that developers choose to pass on compliance costs to their customers. If developers pass on all costs to their customers, the impact would be the equivalent of about \$536 per housing unit, or 0.1% of the July 2023 median home sales price of \$832,340.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendments may affect small businesses, primarily independent residential framers and roofers, and there will be a cost impact attributable to the reduction in fall protection trigger heights from their present thresholds.

Direct compliance costs identified in the 2019 SRIA were revised to account for inflation (using CPI–U forecast and long term projection values) and are estimated to be on average \$84 million per year for 2023 and \$104 million per year for 2030. Compliance costs for residential framers are expected to range from \$54–\$66 million per year. Compliance costs for residential roofers are expected to range from \$30.5–\$38 million per year. Costs vary primarily due to differences in assumed growth rates of the residential construction sector. These slight adverse economic impacts assume that the incremental fall protection costs in residential construction are passed along to consumers and thus raise the prices of framing and roofing operation services marginally.

The proposed amendments are also anticipated to provide benefits to businesses by a reduction in accident/fatality rates as well as a reduction in health care expenditures and lower WC rates.

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA)

California Labor Code section 142.3 requires California occupational safety and health regulations to be at least as effective as Fed–OSHA standards. The Board is proposing to amend fall protection rules for residential construction activities. The proposed changes would lower the height at which fall protection is required for residential framing from 15 feet to six feet and for residential roofing from 15 feet to six feet to conform to Fed–OSHA’s six foot trigger height for residential construction.

The 2019 SRIA conducted by Berkeley Economic Advising and Research (BEAR) LLC provides an economic analysis of the Board’s proposed revisions to the residential framing and roofing fall protection

standards. The analysis identifies the affected industries, potential direct compliance costs for each industry, and expected direct benefits from improved worker safety.

The proposed regulation is expected to primarily affect businesses and employees in two industries: residential framing and residential roofing. Under current regulations, for most residential framing and roofing activities, employees working on a single–story dwelling, or the first story of a multi–story dwelling, are not required to have fall protection. The compliance costs discussed in the 2019 SRIA are the incremental costs of compliance for roofing and framing activities conducted at heights between six feet and 15 feet, since work done at heights 15 feet and above are already covered under the current California rules. Residential framing and roofing businesses would be affected primarily by incurring increased compliance costs. Direct compliance costs identified in the 2019 SRIA were revised to account for inflation (using the CPI–U forecast and long term projections values) and are estimated to be on average \$84 million per year for 2023 and \$104 million per year for 2030. The updated direct benefits are estimated to be approximately \$84 million per year.

The Creation or Elimination of Jobs in the State.

The proposed regulation is expected to primarily affect businesses and employees in two industries: residential framing and residential roofing. Businesses engaged in residential roofing and framing activities will be required to provide fall protection to all employees working at heights greater than six feet above the surrounding level, in conformance with Fed–OSHA’s residential construction regulations. According to Fed–OSHA, California is the only state in the nation currently not complying with the mandate to provide fall protection at heights greater than six feet. The current California standards require fall protection only for heights of 15 feet and above. No jobs creation or elimination is expected among employees working in roofing and framing activities due to decreasing the trigger height for providing fall protection from 15 feet down to six feet. While the point estimate of jobs lost is zero, the range is up to 84 full–time equivalent (FTE) lost economy wide (or 0.0005% of total nonfarm jobs) if all 84 FTE translate to full–time jobs lost. However, businesses may instead reduce hours of employees without layoffs.

Workers in the residential framing and roofing industry would be affected primarily through the reduction in fall–related fatalities and non–fatal injuries.

The Creation of New Businesses or the Elimination of Existing Businesses in the State.

Although the proposed amendments to the fall safety standards will apply to residential framing operations (NAICS code 238130), and roofing/re–roofing

operations (NAICS code 238160) in California, no business loss or creation is expected from lowering the requirement to six feet. The amendments will provide safety equivalent to that provided by the comparable Fed–OSHA regulation as it applies to residential construction and related roofing operations.

According to the 2019 SRIA, compliance costs in the residential construction sector are expected to have a negligible impact on the California economy.

The Expansion of Businesses Currently Doing Business in the State.

Businesses engaged in residential roofing and framing activities are already required to provide fall protection. The proposed regulation could create new demand for scaffolding and harness systems, however, existing firms are likely to absorb any new demand.

The Competitive Advantages or Disadvantages for Businesses Currently Doing Business in the State.

The proposed amendments will require that businesses engaged in residential roofing and framing activities provide fall protection to all employees working at heights of six feet or greater, in conformance with Fed–OSHA’s residential construction regulations. In addition, the current Cal/OSHA standards require fall protection for heights of 15 feet and above.

Since all residential roofing and framing activities in the state are covered by the proposed amendments, the Board does not expect the proposed regulation to put California businesses at a competitive disadvantage relative to framing and roofing businesses outside of the state. All companies seeking to do business in California would incur, on average, identical costs.

Additionally, the slight adverse macroeconomic impacts observed in the 2019 SRIA assume that the incremental fall protection costs in residential construction are passed along to consumers and thus raise the prices of these services marginally.

The Increase or Decrease of Investment in the State.

The proposed amendments will require that businesses engaged in residential roofing and framing activities provide fall protection to all employees working at heights of six feet or greater, in conformance with Fed–OSHA’s residential construction regulations. The current Cal/OSHA standards require fall protection for heights of 15 feet and above, so the proposed regulation is not expected to have a considerable impact on the increase or decrease of investment in the state.

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

The proposed regulation is not expected to have a considerable impact on innovation in the state. It is plausible that businesses will find more innovative ways to meet the standards at lower costs, thus slightly reshaping how framing and roofing activities under 15 feet are conducted. It is also plausible that the

increased demand for fall protection equipment (both scaffolding and harness systems) could induce some innovation in those fields, but it is difficult to predict a priori what the innovation, if any, would look like. It is also impossible to say if such innovations would actually represent an enhancement to worker safety and be found to be acceptable for use as a true fall protection method by Cal/OSHA.

Another possible incentive would be a reduction in the employer’s WC rates. All employers are required under the California Labor Code to purchase WC insurance for their employees. WC rates are influenced by metrics such as the experience modification or x–mod (the x–mod is a loss–based comparison of a given employer’s WC claims experience to other employers of a similar size operating in the same business and is used to tailor insurance costs to the characteristics of a given business). Any reduction brought about by the proposal resulting in a reduction in accident/fatality rates would have the effect of lowering the employer’s x–mod and the employer’s WC premium.

A safer residential construction workplace contributes to improved worker health, morale, and may increase productivity. The economic implications of a fall, injury or fatality upon a California residential framing and roofing business can be very significant. The avoidance of fatalities and severe injuries due to falls will save money, which will in turn benefit California businesses and residents.

Costs to Employers to Comply with Proposed Regulations.

The proposed regulation is expected to primarily affect businesses and employees in two industries: residential framing and residential roofing. Under current regulations, for most residential framing and roofing activities, workers working on a single–story dwelling, or the first story of a multi–story dwelling, are not required to have fall protection. The compliance costs discussed in the 2019 SRIA are the incremental costs of compliance for roofing and framing activities conducted at heights between six feet and 15 feet, since work done at heights 15 feet and above are already covered under the current Cal/OSHA rules. These estimates include costs necessary to provide workers additional fall safety protections, including the costs of harness systems, scaffolding, and fall protection plans.

The California legislature defines small businesses as businesses that have fewer than 100 employees, are not dominant in their field, and are independently owned and operated. The proposed amendments to the residential fall protection standards are expected to primarily affect residential framing operations (NAICS code 238130), and roofing/re–roofing operations (NAICS code 238160) in California. Both of the industries are predominately comprised of small businesses. According to U.S. Census Bureau data,

in 2015 95.3% of framing contractors and 99.1% of roofing contractors, respectively, had fewer than 100 employees. This suggests that small businesses will bear nearly all of the compliance costs of the proposed regulation.

Direct compliance costs identified in the 2019 SRIA were revised to account for inflation (using CPI–U forecast and long term projections values) and are estimated to be on average \$84 million per year for 2023 and \$104 million per year for 2030. Compliance costs for residential framers are expected to range from \$54–\$66 million per year. Compliance costs for residential roofers are expected to range from \$30.5–\$38 million per year. Costs vary primarily due to differences in assumed growth rates of the residential construction sector.

Fiscal Impacts to Local and State Government.

The proposed regulations are not expected to have a fiscal impact on state and local governments. State and local governments both own and develop property for administrative use. However, these new properties are neither directly built nor overseen/managed by local and state government while being built. Representatives from California Department of General Services (DGS) Real Estate Division — Project Management Development Branch and California Department of Housing and Community Development (HCD) stated that they either go through a bidding process to hire a contractor or third party inspectors to develop the property or check for code violations.

Enforcement Costs.

Under current conditions there is no reason to expect that the proposed regulations will have a fiscal impact on the implementing agency. Cal/OSHA will implement the proposed regulations using currently approved resources and staffing levels.

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

The Board’s proposal to lower the trigger height at which fall protection is required for residential construction is expected to generate both benefits in terms of improved worker health, safety, and welfare, as well as benefits for residential roofing and framing contractors. The benefits of the proposed regulation are the reduction in fatalities and injuries at heights below the current trigger height and above the proposed six foot trigger height. Roofing and framing workers would be the primary beneficiaries of this proposed regulatory change.

The proposed amendments are also anticipated to provide benefits to businesses by a reduction in acci-

dent/fatality rates as well as a reduction in health care expenditures and lower WC rates.

The proposed amendments will also allow the state of California to comply with Labor Code section 142.3, which requires that California have a system of occupational safety and health regulations that at least mirror the equivalent Fed–OSHA regulations, and avoid Fed–OSHA imposing concurrent jurisdiction (as the State of Arizona faced in 2015)⁷.

The additional compliance costs are the incremental costs necessary to provide workers additional fall safety protections, including the costs of harness systems, scaffolding, and fall protection plans. These costs are expected to accrue to framing and roofing contractors, and ultimately would be passed along to consumers.

Incentives to innovate new products, materials or processes could help businesses find more innovative ways to meet the standards at lower costs, thus slightly reshaping how framing and roofing activities under 15 feet are conducted.

A safer residential construction workplace contributes to improved worker health, morale, quality of life, and may increase productivity. The economic implications of a fall, injury or fatality upon a California residential framing and roofing business can be very significant. The avoidance of fatalities and severe injuries due to fall, will save money, which will in turn benefit California residents. No significant environmental impact is anticipated from the proposed action.

Department of Finance (DOF) Comments on 2019 SRIA and Occupational Safety and Health Standard Board (Board) Responses.

There were two concerns raised in DOF’s comments on the 2019 SRIA.

DOF Comment 1. *“First, the benefits from avoided incidents should also increase over time in conjunction with increased permits. The estimates of costs are appropriately scaled by the amount of construction, but the benefits are assumed to be static.”*

Board Response to DOF Comment 1. The benefits reflected in Table 6 (page 16 of the 2019 SRIA) have been revised to be scaled by the amount of actual construction, to account for inflation (using DOF CPI–U forecast and long term projections), to reflect the COVID–19 Recession, and take into account DOF’s recent projections. For the revision, OSHSB utilized the *DOF California Economic Forecast — Annual & Quarterly*, and the *DOF Consumer Price Index Forecast*. Updated information from Table 6. Summary of Expected Benefits (Revised) is listed below:

⁷ Fed–OSHA. Federal Register, Volume 80. Issue Number 25. Friday February 6, 2015. Rejection of Arizona’s Standard for Fall Protection in residential construction. <https://www.osha.gov/laws-regs/federalregister/2015-02-06>.

Avoided Mortality Benefits (in millions)

Original Estimates = \$24.72
 2023 Estimates (revised to account for inflation) = \$32.58
 2030 Estimates (revised to account for inflation) = \$40.43

Avoided Injuries Benefits (in millions)

Original Estimate = \$38.87
 2023 Estimates (revised to account for inflation) = \$51.22
 2030 Estimates (revised to account for inflation) = \$63.58

Total Benefits (in millions)

Original Estimates = \$63.59
 2023 Estimates (revised to account for inflation) = \$83.80
 2030 Estimates (revised to account for inflation) = \$104.01

DOF Comment 2. *“Second, the SRIA must add and analyze a second alternative to the proposed standards, as a “no change” alternative is merely the baseline.”*

Board Response to DOF Comment 2. Table 13 (page 26 of the 2019 SRIA) has been revised to detail the second alternative that the OSHSB identified. Fall protection plans, a cheaper and less stringent alternative was considered. This alternative was originally rejected by the Board because fatalities and injuries would remain high and worker safety benefits would not be realized, and because fall protection plans are not at least as effective as the federal standard, as required by Labor Code 142.3. [The SRIA’s initial costs in 2015 dollar values were converted to 2023 dollar values by multiplying the initial cost by the ratio of CPI–U 2023 to CPI–U 2015. For example, 2023 value = (2015 value)*(CPI for 2023 / CPI for 2015).] Updated information from Table 13. Compliance Costs by Sector for the Proposed Regulation, More Stringent and Less Stringent Alternatives (in millions) is listed below:

Sector: New Roofs (revised dollar values in millions)

- a) Proposed Regulation (2023) = \$5.26; (2030) = \$6.53
- b) Stricter Alternative (2023) = \$11.73; (2030) = \$14.56
- c) Less Stringent Alternative (2023) = \$0.32; (2030) = \$0.40

Sector: Re–Roofing (revised dollar values in millions)

- a) Proposed Regulation (2023) = \$25.25; (2030) = \$31.34
- b) Stricter Alternative (2023) = \$61.59; (2030) = \$76.45

- c) Less Stringent Alternative (2023) = \$0.76; (2030) = \$0.94

Sector: Framing (revised dollar values in millions)

- a) Proposed Regulation (2023) = \$53.54; (2030) = \$66.45
- b) Stricter Alternative (2023) = \$128.97; (2030) = \$160.08
- c) Less Stringent Alternative (2023) = \$0.55; (2030) = \$0.68

Total for All Sectors (revised dollar values in millions)

- a) Proposed Regulation (2023) = \$84.05; (2030) = \$104.32
- b) Stricter Alternative (2023) = \$202.30; (2030) = \$251.10
- c) Less Stringent Alternative (2023) = \$1.63; (2030) = \$2.02

CONSIDERATION OF ALTERNATIVES

The Board considered two regulatory alternatives, a less stringent alternative and a more stringent alternative.

First, a more stringent regulatory alternative (stricter) considers an alternate approach to mandating the trigger height requirement. Instead of allowing framing and roofing contractors the option to utilize either scaffolding or personal fall protection equipment, the stricter approach would mandate scaffolding for all work that would be covered under the new regulations. Therefore, the 2019 SRIA assumed that employers would comply with the lower trigger height requirement by using more expensive scaffolding systems rather than personal fall protection systems (i.e., harness systems).

The Board rejected the stricter alternative because the benefits would be similar to those estimated under the proposed regulation, suggesting that the regulatory alternative was not a cost–effective approach.

Second, a less stringent regulatory alternative was analyzed, where it was assumed that employers would use fall protection plans. However, this alternative was rejected because: fall protection plans do not provide a physical or positive means of protection against falls; fatalities and injuries would remain high; and worker safety benefits would not be realized. Similarly, fall protection plans would not comply with California Labor Code section 142.3(a)(2), which requires the Board to adopt regulations that are at least as effective as Fed–OSHA standards.

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out

the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice (see also Reasonable Alternatives to the Proposal and the Board's Reasons for Rejecting Those Alternatives, contained in the Initial Statement of Reasons).

The Board considered proposed alternatives that would lessen any adverse economic impact on business and invites interested persons to submit proposals at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Autumn Gonzalez (Chief Counsel) or the back-up contact person, Amalia Neidhardt (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

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

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process BY APPOINTMENT Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at oshsb@dir.ca.gov or by calling (916) 274-5721. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, the Initial Statement of Reasons and supporting documents. Copies may be obtained by contacting Autumn Gonzalez or Amalia Neidhardt at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Autumn Gonzalez or Amalia Neidhardt

at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 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 Autumn Gonzalez or Amalia Neidhardt at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed action and the Initial Statement of Reasons can be accessed through the Board's website at <http://www.dir.ca.gov/oshsb/proposedregulations.html>.

TITLE 10. HEALTH BENEFIT EXCHANGE

HARDSHIP AND RELIGIOUS CONSCIENCE EXEMPTIONS PROCESS THROUGH THE EXCHANGE: ADOPTION OF SECTIONS 6910, 6912, 6914, 6916, 6918, 6920, 6922

The California Health Benefit Exchange/Covered California (the Exchange) Board proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Exchange has not scheduled a public hearing on this proposed action. However, the Exchange 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 Exchange. The written comment period closes at **5:00 p.m. on January 16, 2024 (45 days after the published date)**. The Exchange will consider only comments received at the

Exchange’s office by that time. Submit written comments to:

Faviola Adams
 Regulations Coordinator
 California Health Benefit Exchange (Covered California)
 1601 Exposition Blvd.
 Sacramento, CA 95815

Comments may also be submitted by facsimile (FAX) at 916–403–4468 or by email to regulations@covered.ca.gov.

AUTHORITY AND REFERENCE

Government Code sections 100725(a) and 100504(a)(6) authorize the Exchange Board to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific sections 100700 and following and 100502(h) of the Government Code; The Patient Protection and Affordable Care Act of 2010 (Pub. Law 111–148), as amended by the federal Health Care and Education Reconciliation Act (Pub. L. 111–152); and Title 45, Code of Federal Regulations (CFR) section 155.600 and following.

CONSULTATION REQUIREMENT

The Exchange complied with the consultation requirement specified in Government Code section 100725, which requires the Exchange to consult with the Franchise Tax Board when promulgating regulations to implement Title 24 of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Effect of the Proposed Regulations

In March 2010, President Obama signed federal healthcare reform legislation called the Patient Protection and Affordable Care Act (ACA). It created the opportunity for each state to establish a state-based health insurance exchange to implement the ACA. California chose to operate an exchange that is commonly known as “Covered California.” For purposes of this Notice, Covered California will be referred to as the “Exchange.” The Exchange’s mission is to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose their health plan.

State law also specifies the powers and duties of the executive board of the Exchange. Government Code section 100504(a) authorizes the Exchange’s Board of Directors to adopt rules and regulations, as necessary.

Additionally, Government Code section 100725, subdivision (a) authorizes the Exchange’s Board of Directors to adopt rules and regulations to implement title 24 (commencing with section 100700) of the Government Code.

Section 1311(d)(4)(H) of the ACA (codified at 42 U.S.C. § 18031) requires the Exchange to determine eligibility and issue certificates of exemption for hardship and religious conscience exemptions from the federal individual responsibility penalty under section 5000A of the Internal Revenue Code to qualified individuals over the age of 30 who wish to enroll in a catastrophic plan pursuant to section 18022(e)(2) of title 42 of the United States Code. Federal regulations establish a process for determining eligibility for a hardship or religious conscience exemption and issuing a certificate of exemption to eligible individuals. (45 C.F.R. § 155.600 et seq.)

Chapter 38 of the Statutes of 2019 (SB 78) created the Minimum Essential Coverage Individual Mandate (Mandate), a program similar to the federal individual shared responsibility penalty under the ACA administered by the Internal Revenue Service. Beginning January 1, 2020, California residents and their dependents are required to obtain and maintain minimum essential coverage, unless they qualify for an exemption from the mandate. Pursuant to title 24 (commencing with section 100700) of the Government Code, if an individual that is required to obtain minimum essential coverage under the mandate does not obtain and maintain health care coverage or obtain an exemption, an Individual Shared Responsibility Penalty will be imposed pursuant to Part 32 (commencing with section 61000) of the Revenue and Taxation Code.

Government Code section 100715, subdivisions (a) and (b) direct the Exchange to grant exemptions for hardship and religious conscience from the mandate. The Exchange is required under Government Code section 100715, subdivision (c) to establish a process for determining whether an individual is entitled to a hardship or religious conscience exemption and for issuing a certificate of exemption to qualified individuals. State law also incorporates the federal regulations promulgated under section 5000A of the Internal Revenue Code as of December 15, 2017 to the extent that those regulations do not conflict with state law or regulations. (Gov. Code § 100725, subdivision (d).)

The regulations proposed in this rulemaking action would establish the Exchange’s policies and procedures for determining eligibility for religious conscience and hardship exemptions and issuing a certificate of exemption to eligible individuals. Currently, there are emergency regulations that establish the eligibility standards and specify the eligibility process, notice requirements, the verification process, eligibility redetermination process, and the right to appeal

for the hardship and religious conscience exemptions. The Exchange is now proposing to make permanent those emergency regulations at California Code of Regulations, title 10, sections 6910, 6912, 6914, 6916, 6918, 6920, and 6922 with modifications to sections 6912 and 6914.

Objectives and Anticipated Benefits of the Proposed Regulation

The broad objectives of this proposed regulatory action are to; (1) provide the public with clear standards and eligibility requirements to qualify for hardship and religious conscience exemptions through the Exchange; (2) establish a process for accepting applications, making determinations and issuing certificates of exemption for hardship and religious conscience exemptions through the Exchange; (3) complete Certificate of Compliance requirements for sections 6910, 6912, 6914, 6916, 6918, 6920, and 6922; and (4) make minor modifications to reduce the information collected from applicants and clarify circumstances which qualify applicants for the hardship exemption.

Anticipated benefits include providing the public with clear standards and eligibility requirements to qualify for hardship and religious conscience exemptions through the Exchange, increasing access to affordable health coverage for individuals who are unable to afford employer-sponsored or subsidized Exchange coverage, relieving eligible individuals of the financial penalty associated with failing to maintain minimum essential coverage, and aligning California's regulations with federal and state law.

Evaluation of Consistency and Compatibility with Existing State Regulations

After an evaluation of current regulations, the Exchange determined that these proposed regulations are not inconsistent or incompatible with any existing state regulations. California Code of Regulations, title 18, section 26000.61000 et seq. were reviewed. The Exchange has made its best effort to conform its regulations to State law and does not know of any State statutes or regulations conflicting with these proposed regulations.

**DOCUMENTS TO BE INCORPORATED
BY REFERENCE**

26 C.F.R. Section 1.5000A-1(d)(10) (December 26, 2013)

45 C.F.R. Section 156.145 (February 27, 2015)

42 C.F.R. Section 447.51 (January 1, 2014)

26 C.F.R. Section 54.9802-1(f) (February 24, 2014)

All documents were also incorporated by reference in the emergency regulations.

JUSTIFICATION FOR DUPLICATION

These proposed regulations were developed with significant stakeholder engagement to implement and clarify the mandates of the ACA and the requirements of the federal regulations. These regulations duplicate texts from the U.S. Department of Health and Human Services' (HHS) regulations in 45 C.F.R. Part 155, Subpart G related to Exchange eligibility determinations for religious conscience and hardship exemptions under the ACA. This duplication is necessary to provide clarity, to avoid consumer's confusion, and to put all applicable requirements in one place. (1 C.C.R. section 12(b)(1).)

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

The Executive Director of the California Health Benefit Exchange has made the following initial determinations:

Matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations: None.

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The proposal results in additional costs to the California Health Benefit Exchange, which is currently financially self-sustaining. The proposal does not result in any costs or savings to any other state agency.

Cost to any local agency or school district which must be reimbursed pursuant to Government Code sections 17500 et seq.: None.

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

Costs or savings in federal funding to the state: The proposal results in additional costs to the California Health Benefit Exchange, which is currently financially self-sustaining and is not funded by federal grant money. There is no other impact on federal funding to the state as a result of these regulations.

Significant effect on housing costs: None.

Effect on small business: These proposed regulations are not expected to create or expand small business within the State of California. The proposed regulations do not create or expand the operations of any small businesses.

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

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

Business Reporting Requirement: None.

**RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

**Results of the Economic Impact Assessment/
Analysis**

The Exchange concludes regarding the proposed regulations that it is:

- (1) **unlikely** to create or eliminate any jobs in the State;
- (2) **unlikely** to create or eliminate businesses within the State;
- (3) **unlikely** to impact the expansion of businesses currently doing business in California;
- (4) **likely** to provide benefits to the health and welfare of California residents; and
- (5) **unlikely** to provide benefits to worker safety and the state’s environment.

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 regulations will benefit California residents by providing clear guidelines for obtaining a religious conscience or hardship exemption through the Exchange. It will provide the public with clear standards and eligibility requirements to qualify for religious conscience and hardship exemptions through the Exchange. The proposed regulations will increase access to affordable health coverage for individuals who are unable to afford employer–sponsored or subsidized Exchange coverage which will help save lives and increase the health of the public in California. The proposed regulations will benefit Californians by relieving eligible individuals of the financial penalty associated with failing to maintain minimum essential coverage.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Exchange must determine that no reasonable alternative considered or otherwise identified and brought to the attention of the Exchange 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 Exchange invites interested persons to present statements or arguments with respect to alternatives

to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Faviola Adams
California Health Benefit Exchange (Covered California)
1601 Exposition Blvd.
Sacramento, CA 95815
Telephone: (916) 228–8668

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

Crystal Hirst
California Health Benefit Exchange (Covered California)
1601 Exposition Blvd.
Sacramento, CA 95815
Telephone: (916) 228–8313

Please direct copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Crystal Hirst at the above contact information.

AVAILABILITY OF DOCUMENTS

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

The Exchange 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 of this notice is published in the Notice Register, the rulemaking file will consist of this notice, the proposed text of the regulation and the Initial Statement of Reasons. There is currently no other information upon which the proposed rulemaking is based. Copies may be obtained by contacting Crystal Hirst at the address or phone number listed above.

Availability of Changed or Modified Text

After holding a hearing, if requested, and considering all timely and relevant comments received, the Exchange may adopt the proposed regulations substantially as described in this notice. If the Exchange makes modifications which are sufficiently related to the originally proposed text, it will make the modified text to the public at least 15 days before the Exchange adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Crystal Hirst at the address indicated above. The Exchange will accept written comments on the mod-

ified 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 Crystal Hirst at the above address.

Availability of Documents on the Internet

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons and the proposed text of the regulations in underline and strikeout can be accessed through our website at www.hbex.coveredca.com/regulations.

TITLE 13. AIR RESOURCES BOARD

AMENDMENTS TO ON–ROAD
MOTORCYCLE EMISSION STANDARDS
AND TEST PROCEDURES AND
ADOPTION OF NEW ON–BOARD
DIAGNOSTICS AND ZERO–EMISSION
MOTORCYCLE REQUIREMENTS

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption the proposed amendments to the On–Road Motorcycle (ONMC) emission standards and test procedures and adoption of new provisions relating to ONMCs under Division 3, Chapter 1, Article 2 (Approval of Motor Vehicle Pollution Control Devices) under Title 13, California Code of Regulations (collectively “Proposed Regulatory Action”).

Date: January 25, 2024

Time: 9:00 a.m.

In–Person Location:

California Air Resources Board
Byron Sher Auditorium
1001 I Street, Sacramento, CA 95814

Remote Option: Zoom

This public meeting may continue at 8:30 a.m., on January 26, 2024. Please consult the public agenda, which will be posted ten days before the January 25, 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 December 1, 2023. Written comments not submitted during the hearing must be submitted on or after December 1, 2023, and received **no later than January 16, 2024**. 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, CA 95814

Electronic submittal:

<https://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 7920.000 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 38501, 38505, 38510, 38560, 39010, 39600, 39601, 39602.5, 39667, 43013, 43018, 43019, 43019.1, 43100, 43101, 43104, 43105, 43105.5, 43106, 43107, 43202.6 and 43806; and California Vehicle Code, section 28114. This action is proposed to implement, interpret, and make specific sections California Health and Safety Code, sections 38501, 38505, 38510, 38560, 38562, 39002, 39003, 39010, 39018, 39500, 39600, 39601, 39602.5, 43000, 43000.5, 43009.5, 43013, 43016, 43018, 43018.5, 43019, 43019.1, 43100, 43101, 43101.5, 43102, 43104, 43105, 43105.5, 43106, 43107, 43151, 43152, 43153, 43154, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213, 43806,

44004, 44010, 44011, 44012, 44015 and 44017; and California Vehicle Code, section 28114.

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

Existing statutes declare that emissions from motor vehicles with internal combustion engines are a significant public health threat. Existing statutes direct the Board to “endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources to accomplish the attainment of the state [ambient air quality] standards [for air pollution] at the earliest practicable date.”

The Board has adopted numerous regulations to reduce harmful emissions from motor vehicles and ONMCs. These existing regulations establish emission standards for ONMC exhaust and evaporative emissions from ONMCs with internal combustion engines.

The Proposed Regulatory Action will amend and extend these existing regulations, identified below under Sections Affected, to further reduce harmful pollution from ONMCs.

The Proposed Regulatory Action will increase the stringency of existing regulations to ensure emissions are reduced under a wider range of conditions under which vehicles are used and will transition new ONMC sales in California to 50% zero-emission by 2035.

Sections Affected:

Proposed adoption to the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 2, Sections 1958.1 through 1958.7.

Proposed amendment to the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 2, Sections 1958, and 1976; Article 6, Section 2036; Chapter 2, Article 2.1, Section 2112; and Chapter 16, Article 2, Sections 2903, and 2904.

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

The following documents and test methods are incorporated in the regulation by reference as specified by section:

- The following sections of Subparts E and F, Part 86, Title 40, Code of Federal Regulations (CFR), as they existed on April 15, 1978, in section 1958, subsection (c). These CFR sections were adopted on January 5, 1977¹, and several specified sections were amended on October 28, 1977.²
 - Subpart E, Part 86, Title 40, CFR

- The following sections of Subpart E, Part 86, Title 40, CFR that are incorporated by reference in section 1958, (c) “as they existed on April 15, 1978” were adopted January 5, 1977 and do not include any subsequent amendments: 86.401–78, 86.403–78, 86.404–78, 86.405–18, 86.406–78, 86.407–78, 86.408–78, 86.409–78, 86.410–78, 86.410–80, 86.411–78, 86.412–78, 86.414–78, 86.415–78, 86.417–78, 86.418–78, 86.419–78, 86.420–78, 86.421–78, 86.422–78, 86.423–78, 86.424–78, 86.425–78, 86.427–78, 86.428–80, 86.429–78, 86.430–78, 86.431–78, 86.433–78, 86.434–78, 86.435–78, 86.438–78, 86.439–78, 86.441–78, 86.443–78, 86.444–78.
- The following sections of Subpart E, Part 86, Title 40, CFR that are incorporated by reference in section 1958, (c) “as they existed on April 15, 1978” were adopted January 5, 1977 and amended October 28, 1977: 86.402–78, 86.413–78, 86.416–78, 86.416–80 (new section), 86.426–78, 86.428–78, 86.432–78, 86.436–78, 86.437–78, 86.440–78, 86.442–78.
- Subpart F, Part 86, Title 40, CFR
 - The following sections of Subpart F, Part 86, Title 40, CFR that are incorporated by reference in section 1958, (c) “as they existed on April 15, 1978” were adopted January 5, 1977 and do not include any subsequent amendments: 86.501–78, 86.502–78, 86.503–78, 86.504–78, 86.505–78, 86.506, 86.507, 86.509–78, 86.510, 86.511–78, 86.512, 86.514–78, 86.515–78, 86.516–78, 86.517, 86.518–78, 86.520, 86.521–78, 86.522–78, 86.523–78, 86.524–78, 86.525, 86.526–78, 86.527–78, 86.528–78, 86.529–78, 86.530–78, 86.531–78, 86.532–78, 86.533, 86.534, 86.536–78, 86.538, 86.539, 86.541, 86.543.
 - The following sections of Subpart F, Part 86, Title 40, CFR that are incorporated by reference in section 1958, (c) “as they existed on April 15, 1978” were adopted January 5, 1977 and amended October 28, 1977: Sections 86.508–78, 86.513–78, 86.519–78, 86.535–78, 86.537–78, 86.540–78, 86.542–78, 86.544–78.

¹ 42 Fed. Reg. 1121–1161 (January 5, 1977).

² 42 Fed. Reg. 56729–56748 (October 28, 1977).

- The following sections of Subparts E and F, Part 86, Title 40, CFR, as they existed on July 7, 1986³, in section 1958, (c), as adopted or as last amended on the dates shown below.
 - Subpart E, Part 86, Title 40, CFR
 - § 86.401–78, January 5, 1977
 - § 86.402–78, December 10, 1984
 - § 86.403–78, January 5, 1977
 - § 86.404–78, January 5, 1977
 - § 86.405–78, January 5, 1977
 - § 86.406–78, January 5, 1977
 - § 86.407–78, January 5, 1977
 - § 86.408–78, January 5, 1977
 - § 86.409–78, January 5, 1977
 - § 86.410–80, December 10, 1984
 - § 86.411–78, January 5, 1977
 - § 86.412–78, January 5, 1977
 - § 86.413–78, October 28, 1977
 - § 86.414–78, January 5, 1977
 - § 86.415–78, December 10, 1984
 - § 86.416–80, December 10, 1984
 - § 86.417–78, January 5, 1977
 - § 86.418–78, January 5, 1977
 - § 86.419–78, January 5, 1977
 - § 86.420–78, August 17, 1979
 - § 86.421–78, January 5, 1977
 - § 86.422–78, January 5, 1977
 - § 86.423–78, December 10, 1984
 - § 86.425–78, January 5, 1977
 - § 86.426–78, October 28, 1977
 - § 86.427–78, December 10, 1984
 - § 86.428–80, January 5, 1977
 - § 86.429–78, January 5, 1977
 - § 86.430–78, December 10, 1984
 - § 86.431–78, December 10, 1984
 - § 86.432–78, December 10, 1984
 - § 86.434–78, December 10, 1984
 - § 86.435–78, December 10, 1984
 - § 86.436–78, December 10, 1984
 - § 86.437–78, November 2, 1982
 - § 86.438–78, January 5, 1977
 - § 86.439–78, December 10, 1984
 - § 86.440–78, December 10, 1984
 - § 86.441–78, January 5, 1977
 - § 86.442–78, October 28, 1977
 - § 86.443–78, January 5, 1977
 - § 86.444–78, January 5, 1977
 - Subpart F, Part 86, Title 40, CFR
 - § 86.501–78, January 5, 1977
 - § 86.502–78, January 5, 1977
 - § 86.503–78, January 5, 1977
 - § 86.504–78, January 5, 1977
 - § 86.505–78, January 5, 1977
 - § 86.508–78, October 28, 1977
 - § 86.509–78, January 5, 1977
 - § 86.511–78, January 5, 1977
 - § 86.513–82, November 2, 1982
 - § 86.514–78, January 5, 1977
 - § 86.515–78, January 5, 1977
 - § 86.516–78, January 5, 1977
 - § 86.518–78, January 5, 1977
 - § 86.519–78, October 28, 1977
 - § 86.521–78, January 5, 1977
 - § 86.522–78, January 5, 1977
 - § 86.523–78, January 5, 1977
 - § 86.524–78, January 5, 1977
 - § 86.526–78, January 5, 1977
 - § 86.527–78, January 5, 1977
 - § 86.528–78, January 5, 1977
 - § 86.529–78, January 5, 1977
 - § 86.530–78, January 5, 1977
 - § 86.531–78, January 5, 1977
 - § 86.532–78, January 5, 1977
 - § 86.535–78, October 28, 1977
 - § 86.536–78, January 5, 1977
 - § 86.537–78, December 10, 1984
 - § 86.540–78, October 28, 1977
 - § 86.542–78, October 28, 1977
 - § 86.544–78, November 16, 1983
- “California 2028 and Subsequent Model Year Exhaust Emission Standards and Test Procedures for On–Road Motorcycles,” adopted [INSERT ADOPTION DATE], State of California, Air Resources Board, in section 1958, (h)(4)
- “Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two– or three–wheel vehicles and quadricycles, 02013R0168–EN–14.11.2020,” in sections 1958, (i); 1958.2, (b)(1) and 1958.3, (a)(3)
- “Commission Implementing Regulation (EU) No 901/2014 of 18 July 2014 Implementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the administrative requirements for the approval and market surveillance of two– or three–wheel vehicles

³ 40 CFR §§ 86.401–86.444 & 86.501–86.544 (July 1, 1986).

- and quadricycles, 02014R0901–EN–12.03.2020,” in sections 1958, (i) and 1958.2, (d)(1)
- “Commission Delegated Regulation (EU) No 44/2014 of 21 November 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the vehicle construction and general requirements for the approval of two– or three–wheel vehicles and quadricycles, 02014R0044–EN–20.03.2018,” in sections 1958.2, (b)(1) and 1958.3, (a)(3)
 - “Commission Delegated Regulation No 134/2014 of 16 December 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to environmental and propulsion unit performance requirements and amending Annex V thereof, 02014R0134–EN – 20.03.2018,” in sections 1958.2, (c)(1)(A); 1958.3, (a)(3); and 1958.4, (e)
 - SAE International (SAE), J1978 “OBD II Scan Tool — Equivalent to ISO/DIS 15031–4: December 14, 2001”, April 2002, in section 1958.2, (b)(3)
 - SAE International (SAE), J1979 “E/E Diagnostic Test Modes,” May 2007 (SAE J1979), in section 1958.2, (b)(3)
 - SAE International (SAE), “J1979–2 E/E — Diagnostic Test Modes:OBDonUDS,” April 22, 2021, in section 1958.2, (b)(3)
 - ISO 15765–4:2016 “Road Vehicles–Diagnostic communication over Controller Area Network (DoCAN) — Part 4: Requirements for emissions–related systems,” April 2016, In section 1958.2, (h)(1)(A)
 - SAE International (SAE), “J2982_202210 — Riding Range Test Procedure for On–Highway Electric Motorcycles,” revised 10–13–2022, in section 1958.4, (e)(1)
 - SAE International (SAE), “J2572_201410 — Recommended Practice for Measuring Fuel Consumption and Range of Fuel Cell and Hybrid Fuel Cell Vehicles Fueled by Compressed Gaseous Hydrogen,” revised 10–16–2014, in section 1958.4, (e)(2)
 - SAE International (SAE), “Surface Vehicle Recommended Practice SAE J1772, SAE Electric Vehicle and Plug in Hybrid Electric Vehicle Conductive Charger Coupler,” 10–13–2017, in section 1958.5, (c)(1)(A)
 - “TP–934 Test Procedure for Determining Evaporative Emissions from Model Year 2028 and Subsequent On–Road Motorcycles,” adopted [INSERT ADOPTION DATE], State of California, Air Resources Board, in section 1976, (c)(4)
 - “California 2026 and Subsequent Model Year Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light–Duty Trucks, and Medium–Duty Vehicles,” adopted August 25, 2022, California Environmental Protection Agency, Air Resources Board, in section 1958.2, (c)(1)(A)(1.)
 - “California Evaporative Emission Standards and Test Procedures for 2001 through 2025 Model Year Passenger Cars, Light–Duty Trucks, Medium–Duty Vehicles, and Heavy–Duty Vehicles and 2001 through 2027 Model Year Motorcycles,” adopted August 5, 1999, amended [INSERT DATE], State of California, Air Resources Board, in section 1976, (c)(2)
- The following documents are incorporated by reference in the “California 2028 and Subsequent Model Year Exhaust Emission Standards and Test Procedures for On–Road Motorcycles”:
- “California 2026 and Subsequent Model Year Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light–Duty Trucks, and Medium–Duty Vehicles,” adopted August 25, 2022, California Environmental Protection Agency, Air Resources Board
 - “TP–934 Test Procedure for Determining Evaporative Emissions from Model Year 2028 and Subsequent On–Road Motorcycles,” adopted [INSERT ADOPTION DATE], State of California, Air Resources Board
 - The following sections of Subparts E and F, Part 86, Title 40, CFR, as adopted or as last amended on the dates shown below
 - Subpart E, Part 86, Title 40, CFR
 - § 86.401–2006, January 15, 2004
 - § 86.402–78, October 25, 2016
 - § 86.402–98, January 15, 2004
 - § 86.403–78, October 30, 2009
 - § 86.404–78, January 5, 1977
 - § 86.405–78, January 5, 1977
 - § 86.406–78, March 11, 1998
 - § 86.407–78, January 15, 2004
 - § 86.408–78, June 29, 2021
 - § 86.409–78, January 5, 1977
 - § 86.410–90, September 21, 1994
 - § 86.410–2006, October 25, 2016
 - § 86.411–78, January 5, 1977
 - § 86.412–78, January 5, 1977
 - § 86.413–2006, July 13, 2005
 - § 86.414–78, January 5, 1977
 - § 86.415–78, April 30, 2010
 - § 86.416–80, August 30, 2006

- § 86.417–78, January 5, 1977
 - § 86.418–78, January 5, 1977
 - § 86.419–2006, June 29, 2021
 - § 86.420–78, August 17, 1979
 - § 86.421–78, January 5, 1977
 - § 86.422–78, January 5, 1977
 - § 86.423–78, December 10, 1984
 - § 86.425–78, January 5, 1977
 - § 86.426–78, October 28, 1977
 - § 86.427–78, June 29, 2021
 - § 86.428–80, January 5, 1977
 - § 86.429–78, January 5, 1977
 - § 86.430–78, December 10, 1984
 - § 86.431–78, October 30, 2009
 - § 86.432–78, October 25, 2016
 - § 86.434–78, December 10, 1984
 - § 86.435–78, June 29, 2021
 - § 86.436–78, June 29, 2021
 - § 86.437–78, August 30, 2006
 - § 86.438–78, January 5, 1977
 - § 86.439–78, December 10, 1984
 - § 86.440–78, December 10, 1984
 - § 86.441–78, January 5, 1977
 - § 86.442–78, October 28, 1977
 - § 86.443–78, October 25, 2016
 - § 86.444–78, October 25, 2016
 - § 86.445–2006, January 15, 2004
 - § 86.446–2006, January 15, 2004
 - § 86.447–2006, July 13, 2005
 - § 86.448–2006, July 13, 2005
 - § 86.449, January 15, 2004
 - § 86.450, January 24, 2023
 - Subpart F, Part 86, Title 40, CFR
 - § 86.501–78, January 5, 1977
 - § 86.502–78, January 5, 1977
 - § 86.503–78, January 5, 1977
 - § 86.504–78, January 5, 1977
 - § 86.505–2004, January 15, 2004
 - § 86.508–78, October 28, 1977
 - § 86.509–90, June 30, 1995
 - § 86.511–90, April 11, 1989
 - § 86.513, June 29, 2021
 - § 86.514–78, June 30, 1995
 - § 86.515–78, April 28, 2014
 - § 86.516–90, June 30, 1995
 - § 86.518–78, March 11, 1998
 - § 86.519–90, June 30, 1995
 - § 86.521–90, June 30, 1995
 - § 86.522–78, January 5, 1977
 - § 86.523–78, June 30, 1995
 - § 86.524–78, January 5, 1977
 - § 86.526–90, April 11, 1989
 - § 86.527–90, June 30, 1995
 - § 86.528–78, January 5, 1977
 - § 86.529–98, February 19, 2015
 - § 86.530–78, January 5, 1977
 - § 86.531–78, June 29, 2021
 - § 86.532–78, January 5, 1977
 - § 86.535–90, April 11, 1989
 - § 86.536–78, January 5, 1977
 - § 86.537–90, June 30, 1995
 - § 86.540–90, June 30, 1995
 - § 86.542–90, June 30, 1995
 - § 86.544–90, October 25, 2016
 - “Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two– or three–wheel vehicles and quadricycles, 02013R0168–EN–14.11.2020”
 - “Commission Delegated Regulation No 134/2014 of 16 December 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to environmental and propulsion unit performance requirements and amending Annex V thereof, 02014R0134–EN–20.03.2018”
 - “Commission Implementing Regulation (EU) No 901/2014 of 18 July 2014 Implementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the administrative requirements for the approval and market surveillance of two– or three–wheel vehicles and quadricycles, 02014R0901–EN–12.03.2020”
- The following documents are incorporated by reference in “TP–934 Test Procedure for Determining Evaporative Emissions from Model Year 2028 and Subsequent On–Road Motorcycles”:
- “California 2026 and Subsequent Model Year Criteria Pollutant Exhaust Emission Standards and Test Procedures for Passenger Cars, Light–Duty Trucks, and Medium–Duty Vehicles,” adopted August 25, 2022, California Environmental Protection Agency, Air Resources Board
 - “California 2015 through 2025 Model Year Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Year Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light–Duty Trucks, and Medium–Duty Vehicles,” adopted March 22, 2012, amended August

25, 2022, California Environmental Protection Agency, Air Resources Board

- “Small Off-Road Engine Evaporative Emissions Test Procedure TP-901 Test Procedure for Determining Permeation Emissions from Small Off-Road Engine Fuel Tanks,” adopted July 26, 2004, amended May 6, 2019, California Environmental Protection Agency, Air Resources Board
- “California Evaporative Emission Standards and Test Procedures for 2001 through 2025 Model Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Heavy-Duty Vehicles and 2001 through 2027 Model Year Motorcycles,” adopted August 5, 1999, amended [INSERT DATE], State of California, Air Resources Board,
- “Commission Delegated Regulation No 134/2014 of 16 December 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to environmental and propulsion unit performance requirements and amending Annex V thereof, 02014R0134-EN-20.03.2018”
- Japanese Standards Association. “Japanese Industrial Standard. JIS Z 8901:1995 — Test Powders and Test Particles,” published June 2001
- Title 40, CFR, Part 86, sections: 86.107–96 (April 28, 2014), 86.108–00 (October 22, 1996), 86.130–96 (June 29, 2021), 86.133–96 (August 23, 1995), 86.138–96 (April 30, 2010), 86.143–96 (January 24, 2023), 86.508–78 (October 28, 1977), and 86.515–78 (April 28, 2014)
- Title 40, CFR, Part 1051, section: 1051.515 (January 24, 2023)
- Title 40, CFR, Part 1060, section: 1060.520 (January 24, 2023)
- Title 40, CFR, Part 1066, sections: 1066.210 (June 29, 2021), 1066.925 (April 28, 2014), 1066.955 (April 28, 2014), and 1066.965 (April 28, 2014)

Background and Effect of the Proposed Regulatory Action:

The California 2020 Mobile Source Strategy shows mobile sources, including ONMCs contribute a significant amount of smog-forming NOx and the largest portion of greenhouse gas (GHG) emissions in California.⁴ While ONMCs are a small portion of on-road emissions, they are a disproportionately large contributor of non-GHG emissions. Statewide ONMCs account for 0.4% of vehicle miles traveled (VMT) of all on-road sources, yet they contribute 0.6% of oxides of nitrogen (NOx), 6.3% of reactive organic gases (ROG), and 3.6% of carbon monoxide (CO). Without action,

⁴ CARB, 2020 Mobile Source Strategy. October 28, 2021.

ONMC emissions will continue to grow in relation to emissions from other mobile sources that are subject to increasingly stringent emissions control requirements, including zero-emission vehicle requirements. The Proposed Regulatory Action is a draft measure in the 2022 State Strategy for the State Implementation Plan (SIP) and a significant part of CARB’s comprehensive effort to meet air quality standards.⁵

The Proposed Regulatory Action would create a legally binding framework to significantly transition toward zero-emission motorcycle (ZEM) ONMC sales in California while also reducing emissions from remaining internal combustion-powered vehicle sales by greatly harmonizing with more stringent European Union 5 (Euro 5) exhaust emissions standards, imposing more stringent evaporative emissions standards, and adopting additional on-board diagnostic (OBD) requirements beyond Euro 5. Further, new ONMCs sales that are under 50 cubic centimeters (cc) of engine displacement will be required to be fully transitioned to ZEMs by 2028. The proposal will drive the sales of ZEMs to 50 percent in California by the 2035 model year, thereby reducing GHG and smog forming emissions, while also reducing smog-forming emissions from newer internal combustion engine (ICE) motorcycles. Doing so is critical to meeting California’s public health goals, including its climate and state and federal air quality targets. This is because mobile sources are the greatest contributor to emissions of criteria pollutants and GHG in California, accounting for about 80% of ozone precursor emissions (e.g., NOx) and approximately 40% of statewide GHG emissions, when accounting for transportation fuel production and delivery.⁶ In 2020 ONMCs accounted for a disproportionately high 2.6% of all NOx and ROG (NOx + ROG) emitted from mobile sources in California while only accounting for 0.4% of VMT. NOx is a precursor to ozone and secondary particulate matter (PM) formation. Exposure to ozone and PM2.5 is associated with increased premature death, hospitalizations, visits to doctors, use of medication, and emergency room visits due to exacerbation of chronic heart and lung diseases and other adverse health conditions.

Objectives and Benefits of the Proposed Regulatory Action:

The objective of the Proposed Regulatory Action is to transition new ONMCs sold in California significantly toward ZEMs while also providing cleaner gasoline-powered ONMC options to consumers in order to provide much needed emissions reductions to the state of California addressing the goals of the 2022

⁵ CARB, Draft 2022 State Strategy for the State Implementation Plan January 31, 2022.

⁶ CARB, 2020 Mobile Source Strategy. 2021.

SIP Strategy and Governor Gavin Newsom's Executive Order N-79-20 requiring more ZEM sales of on-road vehicles.

Staff's proposal aims to curb emissions through increased ONMC program stringency, requirements to ensure emissions are reduced under real-world operating conditions that are not adequately addressed by existing test procedures, and by transition to ZEMs beginning with the 2035 model year.

Staff's proposal builds upon many decades of CARB regulations seeking to reduce emissions from ONMCs. Transitioning to zero-emission technology for every on- and off-road mobile sector is essential for meeting near and long-term emission reduction goals mandated by statute, with regard to both ambient air quality and climate requirements. This has been affirmed by every planning document released by CARB in the last 10 years. Not only is zero-emission technology needed to reduce smog-forming emissions from mobile sources, it is also the key strategy for reducing GHGs.

The Proposed Regulatory Action would require new vehicle sales of ZEMs and reduce emissions from the remaining new internal combustion ONMCs sold. Increased use of ZEMs penetrating the California fleet will reduce emissions from every stage of the use of conventional combustion fuels for transportation. These are upstream emissions from petroleum extraction, transportation, refining, and distribution, called well-to-tank (WTT), and downstream, or tank-to-wheel (TTW) vehicle emissions from tailpipes and evaporative emissions from fuel systems. Together, these emissions are called well-to-wheel, or WTW.

Transitioning new ONMC sales to zero emission will produce real public benefits. By 2040, the proposal will result in approximately 281,554 cumulative ZEMs sold statewide over baseline. From this, staff expects a reduction in cumulative carbon dioxide (CO₂) emissions by an estimated 0.58 million metric tons (MMT) relative to the baseline by 2045. The cumulative total emissions reductions by 2045 are estimated to be 16,536 tons of ROG, 4,805 tons of NO_x, and 28 tons of fine particulate matter (PM_{2.5}) relative to the baseline leading to an estimated 42 lives saved and other avoided hospital visits. These estimates account for only downstream (TTW) emissions, and any additional reduction in upstream emissions (WTT) will increase overall benefits of the Proposed Regulatory Action. ZEMs are currently more expensive than the comparable equivalent internal combustion motorcycle. However, for the individual vehicle owner, operational savings from ZEM use will offset any incremental costs over time as described later under direct costs. The incremental cost difference of ZEMs compared to gasoline-powered internal combustion vehi-

cles is expected to decrease over time as zero emission technologies reach economies of scale. Staff estimates that by the 2036 model year, it is expected that operational savings of a ZEM would offset the higher retail cost difference in less than ten years of ownership.

Comparable Federal Regulations:

The Proposed Regulatory Action addresses two aspects of motor vehicle emissions, one for exhaust and evaporative emissions from gasoline-powered motorcycles and another for ZEMs. There are no comparable federal ZEM regulations, and the regulations for gasoline-powered motorcycles do not duplicate or conflict with federal regulations that address the same issues. To the extent they are different from existing federal regulations they are authorized by law and are justified by their substantial additional benefits to human health, public welfare, and the environment described throughout this Notice, the Staff Report: Initial Statement of Reasons (ISOR), and other supporting material.

Currently, California's⁷ and the U.S. Environmental Protection Agency's (U.S. EPA)⁸ motorcycle exhaust emission standards and test procedures have largely been harmonized, to enable the regulated industry to design and produce a single product line of vehicles that can be certified to both U.S. EPA and CARB emission standards and sold in all 50 states. However, as discussed in Section B of the ISOR, California needs additional reductions of smog-forming pollutants in order to meet federal ambient air quality standards. The proposed regulation would reduce emission from motorcycles by imposing more stringent evaporative and exhaust emissions limits and test procedures for gasoline-powered motorcycles and requiring an increasing percentage of ZEMs as a portion of the overall statewide motorcycle sales between model years 2028 and 2035, reaching 50% ZEMs in 2035 and beyond.

CARB has authority under state and federal law to set California's own standards to reduce emissions from motor vehicles to meet federal and state ambient air quality standards. It also has authority to require additional and separate reporting than required under federal law. California has plenary authority under the state and federal constitutions to protect public health and welfare. The California Health and Safety Code directs CARB to exercise this authority to reduce and eliminate harmful emissions from motor vehicles. These statutory obligations are identified in the authority citations for the Proposed Regulatory Action. The federal Clean Air Act directs the Administrator of the U.S. EPA to waive federal preemption of California's motor vehicle emission standards when they

⁷ Cal. Code Regs. title 13, CCR, §1958.

⁸ 40 CFR Subparts E and F, Part 86.

meet the listed criteria, which have been met here. As shown in this notice and accompanying ISOR and analyses, the cost of the state regulations is justified by the benefit to human health, public welfare, and the environment. The Proposed Regulatory Action will provide significant benefits for all these factors. They will reduce emissions harmful to human health and the environment. The value of the benefits outweighs the costs, and the regulations will reduce overall costs for transportation. These improvements and savings will improve the public welfare.

The Proposed Regulatory Action will control emissions of criteria pollutants from the exhaust and fuel systems of motorcycles starting with model year 2028. They are more stringent than the existing federal standards for the same pollutants that were set by the U.S. EPA.⁹ Thus, vehicles that comply with CARB’s proposed standards will comply with federal emission standards. This does not present a conflict with federal regulations because CARB’s standards may be more stringent than federal standards, under a provision in the Clean Air Act that directs U.S. EPA to waive federal preemption of California’s motor vehicle emission standards except under limited circumstances not present here.¹⁰

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. They build upon, amend, and further existing state regulations of the same emission sources to reduce emissions beyond existing regulations.

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

Not applicable.

Other Statutory Requirements (Gov. Code, § 11346.5 subdivision (a)(4))

None.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

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

The determinations of the Board’s Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reason-

able 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, through the purchase of new motorcycles meeting the proposed standards, would create costs or savings to any State agency (although not in the current fiscal year), 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 (although not in the current fiscal year), 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.:

The costs of the regulation, as passed through to local government through the purchase of new motorcycles, are not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500) for several reasons. To the extent they impose costs at the time of purchase, the proposed regulations apply generally to private and public entities, so they do not impose unique new requirements on the state and local agencies and are not a reimbursable mandate. Further, they do not mandate a new program or a higher level of service of an existing program on local agencies or school districts. Public agencies are not required by the regulation to purchase new motorcycles. They do so at their own option. Therefore, the Proposed Regulatory Action does not impose “costs mandated by the state” under section 17514 of the California Government Code. Costs are also not reimbursable when they may be fully financed by local agencies raising their own fees. Local government may raise fees, if needed, to address the costs of this regulation. Therefore, this is not a reimbursable mandate.

The State, counties, and cities could see some changes to revenue due to the Proposed Regulatory Action. Many cities and counties in California levy a Utility Users Tax on electricity. By increasing the amount of electricity used, there will be an increase in the amount of utility user tax revenue collected. Fuel taxes on gasoline fund transportation improvements at the State, county, and local levels. Displacing gasoline fuel with electricity will decrease the amount of gasoline dispensed in the State, resulting in a reduction in fuel tax revenue.

Cost or Savings for State Agencies:

From 2028 to 2045, the net cumulative impact of the Proposed Regulatory Action to State Agencies is a net gain of \$2.7 million. This consists of \$3.0 million increase in revenue driven mainly by increased

⁹ 40 CFR § 86.410–2006.

¹⁰ Clean Air Act, § 209(b); 42 U.S.C. § 7543(b).

retail sales tax and registration of ZEM ONMCs due to higher earlier cost differentials with ICE ONMC. There is a minor net offset in State ONMC fleet costs of \$226 thousand.

Other Non–Discretionary Costs or Savings on Local Agencies:

From 2028 to 2040, the net impact of the Proposed Regulatory Action on local government is a cumulative net cost of \$2.7 million. This is primarily driven by a net decrease in revenue of \$1.3 million mostly from local vehicle sales tax of ZEM ONMCs due to higher earlier cost differentials with ICE ONMC along with an increase in local government fleet costs of \$1.4 million.

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. It is anticipated the industries that manufacture ZEMs and related components will grow in California under the proposal. While staff is not aware of any evidence of the extent to which this is occurring under existing requirements, automakers that are already producing ZEMs may have an advantage in growing market share over manufacturers that have not yet come to market with a widely available product. Though some consumers may be holding out for a specific manufacturer’s product, many consumers will purchase products that have wide distribution networks. As the ZEM sales requirement becomes more stringent, this advantage may decline as every ONMC maker invests in ZEM technology and products at a wide scale.

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

In July 2022, CARB submitted a Standardized Regulatory Impact Analysis (SRIA) to the Department of Finance (DOF) for its review. CARB has updated several aspects of the proposal since the original submittal. The revisions are discussed below and in the ISOR, Appendix C.

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

The Proposed Regulatory Action is estimated to have a marginally negative impact on statewide employment starting 2028. The negative impact increases overtime as the proposal becomes more stringent. The results suggest that the estimated negative employment impact primarily results from the increased in upfront vehicle costs and changes in consumer spending induced by the proposal; as more is expended on new vehicles, consumers will spend less on other goods and services within the economy. Overall, the change in total employment is anticipated to be small, relative to the baseline employment for the California economy. The average annual job loss estimated to be caused by the Proposal is approximately 334.

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

The Proposal does not directly result in business creation or elimination and the Regional Economic Models, Inc. (REMI) model cannot directly estimate the creation or elimination of businesses. However, changes in the jobs and output for California can be used to understand some of the potential impacts. Reductions in output could indicate elimination of businesses. Conversely, increased output within an industry could signal the potential for additional business creation if existing businesses cannot accommodate all future demand. There is no threshold that identifies the creation or elimination of business.

The trend of increasing demand for electricity in the electric power sector sees slight increases in sales starting from 2033, but its services are provided primarily by existing utilities. New utilities are not expected to be created to meet this relatively small increased demand. The decreasing trend in demand for gasoline has only slight potential to result in the elimination of businesses in this industry and downstream industries, such as gasoline stations and vehicle repair businesses, as ONMCs are a very small portion of on–road gasoline consuming vehicles. As described above, the vehicle repair and maintenance service industry is estimated to see negative impacts as ZEMs become a greater portion of the ONMC fleet. This trend would suggest that the number of businesses providing the services may decrease along with the reduced demand.

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

Staff analysis of the California Department of Motor Vehicle (DMV) database through model year 2020 found the approximate number of ONMC manufacturers that would have to meet ZEM sales requirements, which is the most substantial burden of the regula-

tion, to be 13 based upon manufacturers exceeding minimum threshold new sales of 750 ONMCs. ZEM only manufacturers are not affected negatively by the proposal as they are not required to participate but may choose to participate for the purpose of selling ZEM credits corresponding to California sales of their ZEMs. Of all these ONMC manufacturers, staff is only aware one ZEM manufacturer that is located within California.

(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 proposal show a decreasing trend. The highest decrease is estimated to be about \$28 million in both 2034 and 2035. In any given year this represents changes of no larger than 0.004% of baseline investment.

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

The Proposed Regulatory Action will further reduce emissions from ONMCs operating in California by harmonizing the exhaust requirements and the OBD system with the Euro 5 standard. In addition, the proposal will introduce new CARB evaporative emissions testing standards and require the phase-in of ZEMs. CARB will lead in developing new cutting-edge evaporative emissions testing standards under the proposal. The ZEM certification and quality assurance requirements and the tradeable credit program under the proposal will provide flexibilities and give manufacturers the incentive to innovate and identify lower cost strategies for achieving the ZEM sales requirement. Innovations leading to lower cost ZEM models likely will result in increased sales within the mass market. In addition, manufacturers are incentivized to innovate and bring ZEM models to secure their place in the growing ZEM segment in California.

(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.

Gasoline-powered ICE ONMCs emit harmful pollutants, which this proposal would help to reduce or eliminate. These pollutants include NO_x and PM_{2.5}. ROG and NO_x are precursors to ozone and secondary PM formation. Exposure to ozone and to PM_{2.5}, which are inhalable particles with diameters that are generally 2.5 micrometers and smaller, is associated

with increases in premature death, hospitalizations, visits to doctors, use of prescription medication, and emergency room visits due to exacerbation of chronic heart and lung diseases and other adverse health conditions. California's South Coast air basin has the highest ozone pollution levels in the nation. The San Joaquin Valley has some of the highest levels of PM_{2.5} in the nation. Reducing this pollution would benefit Californians by reducing emergency room and doctor's office visits for asthma, hospitalizations for heart diseases, and premature deaths. This in turn would result in reduced asthma-related school absences, sick days off from work, health care costs and increased economic productivity.

(G) Department of Finance comments and responses.

As required by Government Code section 11346.5, subdivision (a)(10), CARB has prepared responses to the comments of DOF on the SRIA for the Proposed Regulatory Action.

The California Air Resources Board (CARB) responds as follows to the comments of the Department of Finance (DOF) on the Standardized Regulatory Impacts Analysis (SRIA) prepared for the proposed regulations, as required by Government Code section 11346.5, subdivision (a)(10).

DOF Comment:

The SRIA assumes that charging infrastructure will accelerate as the private sector continues its rollout of zero-emission vehicles. However, slower adoption of charging infrastructure may hinder consumers' willingness to purchase zero emission vehicles (ZEVs) and faster adoption may accelerate the rate at which benefits are realized. The SRIA should include a sensitivity analysis to show how impacts may vary under different infrastructure adoption scenarios or justify the current adoption rate assumptions.

Staff Response:

Because zero emission motorcycles (ZEMs) have smaller batteries and different rider demands than other ZEVs, the charging needs are different than they are for ZEVs. Staff has characterized riders into two different cohorts based upon usage: recreational and nonrecreational riders. For nonrecreational riders who are commuting short distances back and forth to work and running errands within the city, battery sizes are more than adequate to cover the riding in a typical day, with ranges easily exceeding 100 miles. Many of these ZEMs can easily access existing level 1 level 2 charging. In fact, the small size of ZEMs and their batteries makes them more amenable to parking inside a home or garage to access ubiquitous level 1 charging. Further, in many cases these batteries are small enough to remove from the ZEM. We are seeing some manufacturers specifically design around

this for the purpose of charging the battery off of the vehicle, making these much more amenable to overnight charging for people who otherwise might have a hard time charging a vehicle, such as apartment residents. Therefore, for this type of rider, staff anticipates very little impact from limited availability of public charging stations.

However, for recreational riders, access to public chargers in remote areas capable of fast charging is critically important for public adoption of ZEM technology. Recreational riders represent a very large portion of the on-road motorcycle (ONMC) market as shown in a 2011 survey by the Institute for Social Research at California State University Sacramento (CSUS) in which they found that 56 percent of riders characterized their riding as recreational only and an additional 34 percent characterized their riding as both recreational and commuting.¹ Recreational riders include riders who do their riding as touring over long distances in remote areas, riders who prefer the aesthetics of classic ONMC designs with pronounced exhaust features, and riders who prefer the performance characteristics of ICE ONMCs. Often recreational riding is done at freeway speeds which coincides with the most restricted range of ZEMs, currently less than 100 miles. This limited freeway speed range is most constraining when riding in remote areas with limited ability for ZEM riders to recharge their vehicles as charge times may take as much as two hours under level 2 charging conditions. Level 3 charging capability might address some of this need, but currently level 3 charging is not offered on most ZEMs and level 3 charging stations are much less common than level 1 and 2 charging stations. Although there are many ZEM offerings available that can satisfy many rider's needs for city riding and commuting, ultimately it is a challenge for ZEM manufacturers to meet the wide range of recreational rider's needs and desires. If many riders are left with no new ONMC purchase options in California to satisfy their needs, they may ultimately be pushed to buy higher emitting used ONMCs from out of state, with the net effect of bringing more emissions into California while at the same time hurting the California economy by driving sales to other states. The Proposal ultimately tries to address this problem by allowing for a sales mix of ZEMs and state-of-the-art low emitting ICE ONMCs that can satisfy all riders needs and desires.

In either case of recreational and nonrecreational riders, it is unlikely that simply increasing the number of charging stations will have much impact on ZEM ridership.

DOF Comment:

The regulation is implementing a voluntary tradeable ZEM credit program to incentivize manufacturers to begin early compliance with the target ZEM sales.

The SRIA must disclose any administrative costs that may be incurred from tracking the generation or trading of ZEM credits or clarify why there is no expected change in administrative costs to implement and track the program.

Staff Response:

It is assumed that Staff will shift responsibilities coinciding with shifting the statewide ONMC fleet away from ICE and towards electric. Therefore, it is not likely that additional staff will be needed for this Proposal. Further, because the number of participants holding ZEM credits is limited to a small number of manufacturers, likely less than 20 when considering both ICE and ZEM manufacturers, staff does not anticipate tracking ZEM credits will be very burdensome.

DOF Comment:

The SRIA must include comprehensive estimates of disparate impacts. Finance acknowledges the SRIA broadly discusses state and local government programs that will be impacted by the reduction in tax revenue. However, the SRIA currently reports statewide costs for state and local government but does not include estimates for any government program(s) that are expected to be disproportionately impacted. Similarly, some state and/or local agencies such as police motorcycle fleets, as mentioned in the SRIA, own a larger share of the government fleet, and are expected to bear a disproportionate share of the government ownership costs.

Staff Response:

There is not sufficient data to disaggregate effect on local government. The only State-owned fleet which Staff obtained information on was the California Highway Patrol (CHP), which staff was informed from CHP fleet management was just over 400 ONMCs. It is very unlikely that this fleet would be able to be replaced by ZEMs due to range limitations of less than 100 miles at freeway speeds. As a rough approximation, the average estimated cost increase per ICE ONMC from 2028 to 2045 is approximately \$285 per ONMC. Including sales tax, this is \$310 per ONMC. Because CHP currently prefers ICE ONMCs for range and performance issues, there would be no change in fueling and maintenance cost from their current fleet from current ICE ONMCs. If we assume that only 10 percent of the fleet is replaced every year (40 ONMC), the annualized cost would be approximately \$12,404 to the CHP.

DOF Comment:

The SRIA does not discuss the potential disparate impacts of mandating incrementally higher-priced vehicles and the consequent need for electrical charging on lower income individuals or the potential for higher used motorcycle prices as the more expensive cleaner motorcycles cycle into the used motorcycle market and

as the stock of cheaper conventional motorcycles is being gradually depleted.

Staff Response:

In the early years of the Proposal, ICE ONMCs would likely have modest price increases of several hundred dollars due to improved emissions control technology and ZEMs are expected to cost more than comparable ICE ONMCs. However, in the long run it is anticipated that consumers will experience a net savings due to falling battery prices along with fuel and maintenance savings.

Nonrecreational ZEM users, whose primary purpose is commuting and errands, will not likely be impacted by the number of available charging stations due to the ability of ubiquitous level 1 charging to satisfy most charging needs of these ZEM owners. Due to the small size of the ZEMs and their batteries they are more amenable to parking inside a home or garage to access level 1 charging. Further, in many cases these batteries are small enough to remove from the ZEM for charging the battery off of the vehicle, making these much more amenable to overnight charging for people who otherwise might have a hard time charging a vehicle, such as apartment residents.

For purchasers of used vehicles, the pool of used conventional ONMCs in California will not become completely depleted as this regulation only requires a maximum of 50 percent ZEM sales by 2035. The price of California used ICE ONMCs is expected to be checked by the availability of used ICE ONMCs sold in other nearby states, as no regulatory changes are expected in the near term for any of the other 49 states. Nothing prevents a California rider from purchasing and registering a used ONMC that continues to be sold in other states so long as they have at least 7,500 miles on them at the time of registration.

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. Staff does not anticipate the proposal to result in any additional reporting requirements and manufacturers already must report for current certification requirements. Any new ZEM reporting requirements will likely displace some current ICE ONMC reporting requirements as production shifts.

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 represen-

tative private persons or businesses. These impacts are described more fully in the accompanying Economic and Fiscal Impact Statement, Form 399, for the proposed regulations.

ONMC manufacturers are the typical large businesses that will be affected by the proposal because they are entities directly regulated and required to comply. The proposal allows for a gradual ramp up of costs due to incremental compliance requirements on ZEM along with early adoption multipliers on ZEM credits and ZEM credit banking.

The proposal will impose a wide range of costs on ONMC manufacturers depending upon many factors, but most prominently on whether they are focused on building ZEMs or ICE ONMCs and whether they take advantage of building Tier II and III ZEMs in the early years of the regulation where the ZEM credit multipliers are the highest, as shown in the “Background, Specific Proposal Requirements” section. Further, it should also be noted that manufacturers who only make ZEMs have no compliance obligation and only must certify with CARB for the purpose of earning tradeable credits if they choose.

It is estimated that there are 13 manufacturers that would be subject to ZEM credit obligations and increased ICE ONMC production costs associated with meeting more stringent exhaust and evaporative emissions standards. None of these 13 subject manufacturers are California businesses. Initially in 2028, manufacturers will experience cost of less than \$0.4 million due to only needing to comply with the initial phase in of ICE ONMC requirements. In 2028, when manufacturers will have compliance requirements for both ZEM and ICE ONMCs, individual manufacturers will incur an average cost of \$1.5 million annually from 2028 to 2045. Upon full ZEM sales compliance requirements of 50 percent in 2035, the peak compliance cost a manufacturer will face is estimated at \$2.4 million. No manufacturers with a compliance requirement are located in California. It is assumed the direct costs imposed on these manufacturers by the Proposed Regulatory Action would be passed on through higher vehicle prices to end-users in California, although much of this will be offset by fueling and maintenance savings.

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

The Executive Officer has determined under California Code of Regulations, title 1, section 4, that the Proposed Regulatory Action would not affect small businesses. It is assumed that some small businesses employing motorcycles and individuals will experience both indirect costs and savings due to the regulation, however, the direct impact to these entities is zero. Some small businesses employing ZEMs for delivery and transport would experience increased ve-

hicle prices in the early years of the regulation along with offsetting decreased maintenance and fuel savings over the life of the vehicle.

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.

**STATE IMPLEMENTATION
PLAN REVISION**

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

ENVIRONMENTAL ANALYSIS

The Proposed Regulatory Action implements a measure previously included within CARB’s 2022 State Strategy for the State Implementation Plan (2022 State SIP Strategy), in the “On-Road Motorcycle New Emissions Standards” section. When the 2022 State SIP Strategy was proposed in 2022, CARB prepared an environmental analysis (EA) under its certified regulatory program (Cal. Code of Regs., title 17, §§ 60000–60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code § 21080.5). The EA, entitled *Final Environmental Analysis for the Proposed 2022 State Strategy for the State Implementation Plan*, (CARB 2022d), determined that the proposal would not result in any significant adverse impacts on the environment. Staff has determined that no additional environmental review is required for the current Proposed Regulatory Action because there are no changes that involve new significant environmental effects. The basis for reaching this conclusion is provided in Section VIII. of the Staff Report.

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, Jason McPhee, P.E., Air Resource Engineer, Engineering and Regulation Development Section, at (279) 208–7023 or (designated back-up contact) Scott Bacon, Air Resource Supervisor, Engineering and Regulation Development Section, at (279) 842–9122.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the Proposed Regulatory Action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: “Public Hearing to Consider the Proposed Amendments to On-Road Motorcycle Emissions Standards and Test Procedures and Adoption of New On-Board Diagnostics and Zero-Emission Motorcycle Requirements.”

Copies of the ISOR and the full text of the proposed regulatory language, may be accessed on CARB’s website listed below, on November 28, 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/2024/on-roadmotorcyclesregulation>.

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, 205, 355, 1050, 1526, 1530, 1580, 1581, 1583, 1587, 1745, 1764, 1765, 3003.1, 3004.5, 3039, 4001, 4004, 4150 and 10504 of the Fish and Game Code and to implement, interpret or make specific sections 355, 711, 713, 1050, 1055.3, 1301, 1526, 1528, 1530, 1580, 1581, 1582, 1583, 1584, 1585, 1745, 1761, 1764, 1765, 1907, 2006 and 10504 of the Fish and Game Code, sections 5003 and 5010 of the Public Resources Code, and sections 25455, 26150 and 26155 of the Penal Code, proposes to add Section 540 and amend sections 550, 551 and 630, Title 14, California Code of Regulations, relating to California Department of Fish and Wildlife (Department) lands.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Note: All section references in this document are to Title 14, California Code of Regulations (CCR), unless otherwise indicated.

Current regulations in sections 550, 551, and 630 provide the regulatory framework for the public use of lands owned, managed and/or administered by the Department, including wildlife areas and ecological reserves.

The proposed regulation changes would:

- Improve the clarity and consistency of the regulations that govern public use of lands owned and/or managed by the Department (Section 550).
- Designate land the Department has recently acquired, one as a wildlife area and one as an ecological reserve (subsections 551(b) and 630(b) respectively).
- Make site–specific regulation changes for certain properties to improve public safety, increase recreational opportunities, provide resource protection, and manage staff resources (subsections 551(i) through (z) and 630(d) through (h)).
- Add new Section 540 to prohibit use of neonicotinoid pesticides on Department lands.

The principal purposes of Department managed lands are to conserve wildlife and its associated hab-

itats and to allow for compatible recreation. The primary uses of wildlife areas include hunting, fishing, wildlife viewing, photography, environmental education, and research. The primary purposes of ecological reserves are to conserve threatened or endangered plants and/or animals and/or specialized habitat types, provide opportunities for the public to observe native plants and wildlife, and provide opportunities for environmental research. Recreation on ecological reserves must be compatible with the conservation of the property's biological resources.

The proposed regulations package includes the following changes:

- Add Section 540: Neonicotinoid use is prohibited on Department lands.
 - Prohibit the use of neonicotinoid pesticides.
- Amend Section 550: General Regulations for Public Use on All Department of Fish and Wildlife Lands.
 - Sets a 3:00 p.m. deadline for waterfowl and pheasant season hunters to obtain their entry permit.
 - Prohibits electric bicycles on all lands except where posted as allowed.
 - Adds drones and other unmanned aircraft to the list of devices prohibited without a Special Use Permit issued by the Department.
 - Prohibits woodcutting on all Department lands.
- Amend Section 551: Additional Visitor Use Regulations on Department Lands Designated as Wildlife Areas.
 - Add El Dorado Wildlife Area, El Dorado County.
 - Amend site-specific regulations regarding permitted uses on wildlife areas affecting dog training and dog trials, bicycles, off-highway vehicles, boats, horse and pack stock, camping, fires, closure and restriction, hunt requirements, firearms, species, and reservations.
- Amend Section 630, Additional Visitor Use Regulations on Department Lands Designated as Ecological Reserves.
 - Add Peace Valley Ecological Reserve, Los Angeles County.
 - Amend site-specific regulations regarding permitted uses on ecological reserves affecting fishing, swimming, boating, bicycles, horse and pack stock, closures and restrictions, hunting opportunities and restrictions.
- Minor editorial changes are also proposed to clarify the regulations.

The proposed regulations will allow the Department to pursue its mission to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public. The Commission anticipates general benefits to the health and welfare of California residents, no impacts to worker safety, and benefits to the state's environment.

EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS

The Commission has reviewed its regulations and conducted a search for other regulations on this topic and has concluded that the proposed amendments are neither inconsistent nor incompatible with existing state regulations. No other state agency has the authority to promulgate regulations concerning the public use and conservation of wildlife areas and ecological reserves.

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 at the Handlery Hotel San Diego, 950 Hotel Circle North, San Diego, California, which will commence at 8:30 a.m. on Wednesday, December 13, 2023, and may continue at 8:30 a.m., on Thursday, December 14, 2023. 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.

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 the Natural Resources Headquarters Building, Second Floor, 715 P Street, Sacramento, California, which will commence at 8:30 a.m. on Wednesday, February

14, 2024, and may continue at 8:30 a.m. on Thursday, February 15, 2024. 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, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or Sherrie Fonbuena at FGC@fgc.ca.gov or at the preceding address or phone number. **Kristi Cripe, Senior Environmental Scientist, Department of Fish and Wildlife, telephone (916) 834–3763 or email Kristi.Cripe@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. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

IMPACT OF REGULATORY ACTION/
RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

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

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

The Commission does not anticipate significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed regulation is largely administrative in nature to improve the clarity and consistency of the regulations that govern public use of Department lands and is not anticipated to affect the demand for goods and services related to outdoor recreation in California.

(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 because the proposed regulation is largely administrative in nature to improve the clarity and consistency of the regulations that govern public use of Department lands and is not anticipated to affect the demand for goods and services related to outdoor recreation in California. The Commission anticipates general benefits to the health and welfare of California residents, no impacts to worker safety, and benefits to the state’s environment.

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

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

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

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

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

None.

(g) Costs Imposed on any Local Agency or School District that 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 200 and 205 of the Fish and Game Code and to implement, interpret or make specific sections 200 and 205, of said Code, proposes to amend Section 29.06, Title 14, California Code of Regulations (CCR), relating recreational sea urchin bag limit exemption.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

Current recreational urchin regulations in Section 29.06 specify bag and possession limits and methods of harvest for purple sea urchins. Subsection (d) provides specific exemptions to allow unlimited recreational take of purple sea urchin in Caspar Cove, Mendocino County, and at Tanker Reef, Monterey County, as well as red sea urchin at Tanker Reef, until April 1, 2024.

Culling efforts at Caspar Cove were initiated by the public in July 2020. Due to the COVID–19 pandemic, mobilization of recreational effort has been more challenging than originally anticipated, and removal and monitoring efforts were significantly disrupted. Allowing for continued restoration efforts at Caspar Cove for another five years will provide essential data to inform whether urchin removal by recreational divers on the North Coast represents a viable option for bull kelp restoration.

Culling efforts at Tanker Reef were initiated by the public in April 2021. Unlike Caspar Cove, removals and monitoring efforts at Tanker Reef have been continuous and extensive. The focused restoration area at Tanker Reef has seen an initial detectable kelp response following urchin removal. Sunsetting the regulations and culling efforts at Tanker Reef in April 2024 will allow for completion of the post–restoration monitoring phase and production of a final report, detailing the restoration methods and results which will inform the development of the statewide Kelp Restoration and Management Plan (KRMP) and any potential future kelp restoration actions for the central coast. There is still some public interest to continue the work at Tanker Reef, however, and allowing the provision to sunset as originally intended would lead to dissatisfaction by participants who have contributed time and effort to the activities at Tanker Reef.

This regulatory proposal would amend Section 29.06 to extend the sunset date by five years at Caspar Cove (to 2029) to allow the continued evaluation of whether *in situ* urchin removals by recreational divers can serve as a potential bull kelp restoration tool. This proposal also includes an option to extend a portion of the Tanker Reef area based on stakeholder requests in two regulatory options, as follows:

- Option 1: Extend sunset date by five years (to April 1, 2029) at Caspar Cove only
- Option 2: Extend sunset date by five years (to April 1, 2029) at Caspar Cove and in a portion of the existing Tanker Reef area

Benefit of the Regulations

The policy of this state is “to ensure the conservation, sustainable use, and, where feasible, restoration of California’s marine living resources for the benefit of all the citizens of the State” (Fish and Game Code Section 7050(b)). The proposed regulation change would allow five more years to continue the sea urchin removal efforts and associated monitoring assessments at Caspar Cove. The primary goal of the extension is to ensure there is adequate time by the recreational divers to continue their sea urchin removal efforts to better understand the effects urchin removal has on barren reefs and kelp recruitment and growth. These urchin removal efforts are intended to explore the efficacy of restoration tools for statewide restoration of kelp forests in California, which are valuable ecosystems that support our native unique marine species and are economically, and culturally important in California. For instance, kelp supports critical ecosystem services such as recreational and commercial fisheries and eco–tourism, which contribute significantly to the state’s \$44 billion ocean economy. Additionally, California’s Native American tribes, who have inhabited and stewarded the coast since time immemorial, also

rely on kelp forest ecosystems for food, medicine, and ceremony. Restoration of kelp could also support species such as abalone, which are vulnerable and are no longer able to support a culturally and economically valuable fishery. Finally, this will also inform possible options for the Department’s KRMP, which is currently under development.

For Tanker Reef, two regulatory options have been identified for the Commission, each with their own goals and benefits. Option 1 would allow the existing regulation to sunset, as originally intended. The principal goal and benefit of this option would be to initiate the post restoration monitoring phase in a timelier manner to better inform management of using recreational divers as a tool for kelp restoration. Option 2 would also allow the post restoration monitoring to begin in 2024 following the April sunset date, while keeping a portion of the reef open to the public for continued urchin removals for another five years, as requested by some members of the public.

Consistency and Compatibility with Existing Regulations

The Legislature has delegated authority to the Commission to promulgate recreational fishing regulations (Fish and Game Code, sections 200 and 205); no other state agency has the authority to promulgate such regulations. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of fishing regulations and has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulation.

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 at the Handlery Hotel San Diego, 950 Hotel Circle North, San Diego, California, which will commence at 8:30 a.m. on Wednesday December 13, 2023 and may continue at 8:30 a.m., on December 14, 2023. 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.

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 the Natural Resources Headquarters Building, Second Floor, 715 P Street 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. 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, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above–mentioned documents and inquiries concerning the regulatory process to Melissa Miller–Henson or Jenn Bacon at FGC@fgc.ca.gov or at the preceding address or phone number. **Brian Owens, Senior Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Mr. Owens can be reached at (562) 370–4770 or kelp@wildlife.ca.gov.**

AVAILABILITY OF MODIFIED TEXT

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

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

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

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

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

The proposed action will not have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action will not introduce compliance costs nor curtail economic activity within the state. The proposal aims to continue an existing exemption for a program run by volunteers that seeks to restore and promote the long-term sustainability of kelp forest communities that are a vital component of recreational and commercial fisheries ecosystems and future marine resource-based economic activity.

(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 within the state, the creation of new businesses, the elimination of existing businesses or expansion of businesses. The Commission anticipates generalized benefits to the health and welfare of California residents and benefits to the state's environment. The proposed action continues an existing exemption designed to ensure the long-term sustainability and quality of kelp forest communities by removing a species (sea urchin) that when overpopulated, can have adverse impacts on kelp recruitment and growth. The long-term sustainability of kelp forest communities are a vital component of recreational and commercial fisheries ecosystems and future resource-based economic activity. The proposed regulations are not expected to affect worker safety.

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

The Commission is not aware of any cost impacts that a representative or 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:

No costs or savings to state agencies or impacts to federal funding are anticipated. No change in administration or enforcement costs or savings are anticipated by the Department or other state agencies. Consideration was given to keep administrative and enforcement costs within existing budgets. The Department may experience a continued small increase in license revenue as divers who choose to participate in urchin removal would need to purchase a sportfishing license if they do not already possess one, but the cost of a license is not specifically due to this proposed regulatory change. The requirement to hold a sportfishing license to engage in recreational fishing is established in an existing regulation (pursuant to FGC Section 7145). Sportfishing licenses or 1-Day or 2-Day licenses, etc. are sold at various price points depending on state residence, age, veteran status, disabilities, and other considerations.

(e) Nondiscretionary Costs/Savings to Local Agencies:

No nondiscretionary costs or savings to local agencies are anticipated. However, continued positive tax revenue impacts are expected depending on the regulatory option that would be selected. Recreational urchin diving expenditures in the retail, food and accommodations, automotive service and fuel, outdoor recreational merchandise sales/rent/lease, and recreational services sectors generate local sales and transient occupancy tax for local governments throughout California (See STD399 and Addendum). Overall, if the sunset date is extended in both sites, the continuation of the slightly elevated number of dive visits per year are projected to continue to contribute to local economies in Mendocino and Monterey counties. Only if the sunset for the existing Tanker Reef regulation is not extended could a small reduction in dive visits be expected.

(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

The Commission does not anticipate any adverse impacts that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

CONSIDERATION OF ALTERNATIVES

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

TITLE 15. BOARD OF PAROLE HEARINGS

BPH RN 23–01: UPDATED NOTICE REQUIREMENTS FOR IN–PERSON AND VIDEOCONFERENCE PROCEEDINGS

NOTICE IS HEREBY GIVEN that the Executive Officer of the Board of Parole Hearings (Board), under the authority granted by Government Code section 12838.4 and Penal Code sections 3052 and 5076.2, authorizes the Board to amend sections 2056, 2057, 2058, and 2063 of the California Code of Regulations, Title 15, Division 2, concerning notice requirements for in–person and videoconference proceedings.

PUBLIC COMMENT PERIOD

The public comment period begins **December 1, 2023**, and closes on **January 16, 2024**. Any person may submit written comments relevant to the proposed regulations to the Board by mail or email to the contact person listed below. For comments to be considered by the Board, they must be submitted in writing before the close of the comment period. When submitting a comment or inquiry, please identify the action by using the Board’s regulation rulemaking number **BPH RN 23–01**.

PRIMARY CONTACT PERSON:

Mina Y. Choi, Senior Staff Attorney
 Board of Parole Hearings, Legal Division
 P.O. Box 4036
 Sacramento, CA 95812–4036
 Phone: (916) 445–4072
 Email: BPH.Regulations@cdcr.ca.gov

SECONDARY CONTACT PERSON:

Christopher Hoefft, Senior Staff Attorney
 Board of Parole Hearings, Legal Division
 P.O. Box 4036
 Sacramento, CA 95812–4036
 Phone: (916) 445–4072
 Email: BPH.Regulations@cdcr.ca.gov

NO PUBLIC HEARING SCHEDULED

The Board has not scheduled a public hearing on this proposed rulemaking action. The Board, however, will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period. Written comments submitted during the prescribed comment period have the same significance and influence as written or oral comments presented at a public hearing.

If scheduled, the purpose of a public hearing would be to receive written or oral comments about the proposed regulations. It would not be a forum to debate the proposed regulations, and no decision regarding the permanent adoption of the proposed regulations would be rendered at a public hearing. The members of the Board would not necessarily be present at a public hearing.

AUTHORITY AND REFERENCE

Government Code section 12838.4 vests the Board with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Prison Terms and Narcotic Addict Evaluation Authority, which no longer exist.

Penal Code section 3052 generally vests the Board with the authority to establish and enforce rules and regulations under which incarcerated persons committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code section 5076.2 requires the Board to promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

Penal Code section 3041.6 authorizes the Board to conduct parole hearings by videoconference.

Penal Code section 3043 provides that any person entitled to attend a parole hearing other than the victim shall inform the Board of their intention to attend a parole hearing no later than 30 days before the date of the hearing. Effective January 1, 2024, victims, victim's next of kin, members of the victim's family, victim's representative, counsel representing any of these persons, and victim's support persons may inform the Board of their intention to attend a parole hearing no later than *15 days* before the date of the hearing.

SPECIFIC AGENCY STATUTORY REQUIREMENTS

There are no other statutory requirements specific to the Board or to any specific regulation or class of regulations promulgated by the Board.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code section 3043 currently requires any person entitled to attend a parole hearing *other than the living victim* to inform the Board of their intention to attend the hearing at least 30 days before the date of the hearing. This means victim's next of kin, victim's family members, victim's representatives, counsel representing any of these persons, and victim's support persons shall inform the Board of their intention to attend the hearing at least 30 days before the hearing. The living victim, according to existing regulations, shall inform the Board at least 15 days before the hearing.

Assembly Bill 88, which was chaptered on October 13, 2023, and Senate Bill 412, which was chaptered on October 10, 2023, limit the amount of notice the Board may require from a victim's next of kin, victim's family members, victim's representatives, counsel representing any of these persons, and victim's support persons to no more than 15 days before the date of the hearing.

Assembly Bill 88 and Senate Bill 412 will go into effect on January 1, 2024. This proposed rulemaking action seeks to bring the Board's existing regulations regarding notice for hearing participation in line with Assembly Bill 88 and Senate Bill 412. Specifically, this rulemaking action provides one uniform 15-day deadline for all victims, victim's next of kin, and victim's family members, and their counsel, representatives, and support persons. This rulemaking action also allows institution victim service representatives to attend parole hearings to provide support services to victims and their families. Lastly, this rulemaking action makes minor technical changes to terminology for consistency and clarity.

DOCUMENTS INCORPORATED BY REFERENCE

None.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The proposed rulemaking will bring the Board's regulations into compliance with Penal Code section 3043, as amended by Senate Bill 412 and Assembly Bill 88. Under existing regulations, living victims must give 15 days' notice of their intention to attend a parole hearing, and victim's next of kin, victim's family members, and their representatives and support persons must give 30 days' notice. The proposed regulations will create a single 15-day deadline for the aforementioned people, which reduces confusion as to who is subject to the 15 days' or 30 days' notice deadline. It will also provide victim's next of kin and their family members more time to decide whether to attend a parole hearing and to notify the California Department of Corrections and Rehabilitation's Office of Victim & Survivor Rights & Services (OVSRS) of their intention to attend the hearing. Additionally, having one deadline will simplify administrative procedures for the Board and OVSRS.

EVALUATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING STATE REGULATIONS, STATE STATUTES, OR FEDERAL STATUTES

Pursuant to Government Code section 11346.5, subdivision (a)(3)(D), the Board has determined the proposed regulations are not inconsistent or incompatible with existing state regulations, state statutes, or federal statutes.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

This rulemaking action does not impose a mandate on local agencies or school districts, or a mandate requiring reimbursement of costs or savings pursuant to Government Code sections 17500 through 17630.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: NONE.
- Cost to any local agency or school district that is required to be reimbursed: NONE.
- Other nondiscretionary cost or savings imposed on local agencies: NONE.
- Cost or savings in federal funding to the state: NONE.

EFFECT ON HOUSING COSTS

The Board has determined that the proposed action will have no effect on housing costs.

COST IMPACTS ON REPRESENTATIVE 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.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

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

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed regulations do not have a significant adverse economic impact on small businesses because this action places no obligations or requirements on any business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed regulations do not have a significant impact on the following: (1) elimination of any jobs, (2) creation of any jobs, (3) creation of any new businesses, (4) elimination of any existing businesses, or (5) expansion of businesses currently doing business within California. The Board has also determined that the proposed regulations will have no effect on worker safety or the state's environment. These regulations may benefit the welfare of California residents by eliminating potential confusion from multiple deadlines by which victims and their family members must notify the Board of their intention to attend a parole hearing.

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action, or would be more cost-effective to affected private persons and equally ef-

fective 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 proposed regulations during the written public comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Board will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all the information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Board's contact person identified in this Notice. The proposed text, ISOR, and this Notice will be made available on the Board's website at <https://www.cdcr.ca.gov/bph/statutes/reg-revisions/>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the Board's contact person identified in this Notice or by visiting the Board's website at <https://www.cdcr.ca.gov/bph/statutes/reg-revisions/>.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts, amends, or repeals the regulations as revised. Please send requests for copies of any modified regulation text to the attention of the contact person identified in this Notice. The modified text will also be made available on the Board's website at <https://www.cdcr.ca.gov/bph/statutes/reg-revisions/>. If the Board makes modifications, the Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 17. AIR RESOURCES BOARD

**2023 AMENDMENTS TO AREA
DESIGNATIONS FOR STATE AMBIENT AIR
QUALITY STANDARDS**

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption the proposed 2023 Amendments to Area Designations for State Ambient Air Quality Standards.

Date: January 25, 2024

Time: 9:00 a.m.

In–Person Location:

California Air Resources Board
Byron Sher Auditorium
1001 I Street, Sacramento, CA 95814

Remote Option: Zoom

This public meeting may continue at 9:00 a.m., on January 26, 2024. Please consult the public agenda, which will be posted ten days before the January 25, 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 December 1, 2023. Written comments not submitted during the hearing must be submitted on or after December 1, 2023, and received **no later than January 16, 2024**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

Clerks’ Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal:

<https://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39600, 39601, 39608, 40718, and 40925.5. This action is proposed to implement, interpret, and make specific sections 39608, 40718, and 40925.5.

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

Sections Affected:

Proposed amendment to California Code of Regulations (CCR), title 17, sections 60201, 60208, and 60210.

Background and Effect of the Proposed Regulatory Action:

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

CARB may also consider other changes to the sections affected, as listed on page 3 of this notice, or other sections within the scope of this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

During the annual review, CARB determines whether changes to the existing area designations are warranted based on an evaluation of recent air quality data. The proposed amendments to the area designations classify the air quality in communities as to

whether it meets the State standards. Depending on the proposed changes to an area’s designation, the local air quality management district or air pollution control district (district) may be required to adopt and submit a plan to correct for deficiencies in meeting the State standards for ozone, carbon monoxide, nitrogen dioxide, and sulfur dioxide. Districts may modify the emissions reduction strategy or alternative measure of progress in the plan if the district demonstrates to CARB’s satisfaction that the modified strategy is at least as effective in improving air quality as the strategy in the plan.

The annual review and update of the area designations gives the public, businesses, and government an indication of whether the health-based standards are being met. This information allows the public to make more educated decisions regarding personal health and residency, as well as participation in outdoor activities. In addition, businesses and government are given the opportunity to make informed decisions regarding worker health and safety.

Objectives

This year’s review of the area designations is based on air quality data from 2020 through 2022. The proposed amendments provide for the changes described below.

Ozone Area Designations (section 60201):

- Redesignate Lake Tahoe Air Basin as nonattainment–transitional.
- Redesignate Amador County in the Mountain Counties Air Basin as nonattainment–transitional.
- Redesignate Calaveras County in the Mountain Counties Air Basin as nonattainment–transitional.
- Redesignate Placer County in the Mountain Counties Air Basin as nonattainment–transitional.
- Redesignate Butte County in the Sacramento Valley Air Basin as nonattainment–transitional.
- Redesignate Sutter Buttes — Sutter County in the Sacramento Valley Air Basin as nonattainment–transitional.
- Redesignate the remainder of Sutter County and Yuba County in the Sacramento Valley Air Basin as nonattainment–transitional.
- Redesignate the San Francisco Bay Area Air Basin as nonattainment–transitional.

Hydrogen Sulfide Area Designations (section 60208):

- Redesignate Riverside County in the Salton Sea Air Basin as nonattainment.

Fine Particulate Matter (PM_{2.5}) Area Designations (section 60210):

- Redesignate Butte County in the Sacramento Valley Air Basin as attainment.

Benefits

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

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

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

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

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

Comparable Federal Regulations:

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

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

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

In proposing the designation changes, CARB has considered the data for record (defined in CCR, title 17, section 70301(a)),¹ which meet the representativeness and completeness criteria. The representativeness criteria are set forth in Appendix B to the Initial Statement of Reasons and in the CCR, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 1. The completeness criteria are also set forth in Appendix B to the Initial Statement of Reasons and in the CCR, title 17, Division 3, Chapter 1, Subchapter 1.5, Article 3, Appendix 3.

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

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

DISCLOSURES REGARDING THE PROPOSED REGULATION

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

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

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

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 not create costs or savings to any State agency, would not create costs or savings in federal funding to the State, and would not create costs or mandate to any local agency or school district. The proposed regulatory action would trigger reporting requirements under the Health and Safety Code sections 40910–40930 and may potentially create costs to seven local districts, which is not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500).

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

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

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

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

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

Non–Major Regulation: Statement of the Results of the Economic Impact Assessment (EIA):

Effect on Jobs/Businesses:

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

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

trict to identify the most cost-effective and efficient approach to achieve the ambient air quality standards.

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

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to review and update the area designations which give the public, businesses, and government, an indication of whether the health-based air quality standards are being met.

For a summary of these benefits is provided, please refer to the "Objectives and Benefits" discussion, under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code section 11346.5, subdivision (a)(3), on page 2.

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

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

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

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.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the proposed regulation and concluded that this is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed action may result in significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Environmental Analysis Section of the ISOR.

SPECIAL ACCOMMODATION REQUEST

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

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

To request these special accommodations or language needs, please contact the Clerks' Office at cotb@arb.ca.gov or (916) 322-5594 as soon as possible, but no later than ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al cotb@arb.ca.gov o (916) 322-5594 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Jenette Kwong, Air Resources Engineer, Air Quality Analysis Section, at (279) 208-7626 or (designated back-up contact) Theresa Najita, Air Pollution Specialist, Central Valley Air Quality Planning Section, at (279) 842-9813.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Proposed 2023 Amendments to Area Designations for State Ambient Air Quality Standards.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, on November 28, 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, California 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/2024/2023-state-area-designations-regulation>.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

CLINICAL LABORATORY PERSONNEL STANDARDS (DPH-20-007)

Notice is hereby given that the California Department of Public Health (Department) is proposing the regulation described below. This notice of proposed rulemaking commences a rulemaking to make the regulations permanent after considering all comments, objections, and recommendations regarding the regulation.

PUBLIC PROCEEDINGS

The Department is conducting a 45-day written public proceeding during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in the Informative Digest/Policy Statement Overview section of this notice.

To request copies of the regulatory proposal in an alternate format, please write or call: Veronica Rol-

lin, Office of Regulations, 1415 L Street Suite 500, Sacramento, CA 95814, at (279) 217–0836, email to veronica.rollin@cdph.ca.gov or use the California Relay Service by dialing 711.

PUBLIC HEARING

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

Assistive Services:

For individuals with disabilities, the Department will provide assistive services such as conversion of written materials into Braille, large print, audiocassette, and computer disk. To request these assistive services, please call (916) 558–1710 or (California Relay at 711 or 1–800–735–2929), email regulations@cdph.ca.gov or write to the Office of Regulations at the address noted above.

WRITTEN COMMENT PERIOD

Written comments pertaining to this proposal, regardless of the method of transmittal, must be received by Office of Regulations by January 20, 2024, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written comments must be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier “DPH–20–007” in the subject line; to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 636–6220;
3. By postal service or hand delivered to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814.

All comments, including email or fax transmissions, should include the regulation package identifier, DPH–20–007 “Clinical Laboratory Personnel Standards,” along with your name and your mailing address or email address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

AUTHORITY AND REFERENCE

The Department proposes to amend the regulation sections identified under the authority provided in sections 1208, 1222.5, 1224, 1263, and 1264 of the Business and Professions Code (BPC); 100275 and 131200 of the Health and Safety Code (HSC); and 14105 of the Welfare and Institutions Code (WIC). This proposal implements, interprets, or makes specific, sections: 23.7, 1202.5, 1203, 1204, 1205, 1206, 1206.5, 1207, 1208, 1209, 1209.1, 1210, 1212, 1213, 1220, 1222, 1222.5, 1223, 1224, 1225, 1227, 1241, 1242, 1242.5, 1242.6, 1243, 1244, 1246, 1246.5, 1260, 1260.1, 1260.3, 1261, 1261.5, 1262, 1263, 1264, 1265, 1267, 1269, 1269.3, 1270, 1275, 1280, 1281, 1282, 1282.2, 1285, 1286, 1289, 1300, 1301, 1301.1, 1310, and 1320 of the BPC; sections 100275 and 120580 of the HSC; section 14123 of the WIC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Proposal

The California Department of Public Health (Department) intends to adopt, amend, and repeal sections of the license and certification standards for clinical laboratory personnel regulated by the Department as specified in the Clinical Laboratory Regulations in the California Code of Regulations (CCR), title 17, sections 1029–1035.3. These changes specify requirements for education, training, experience, and examinations leading to licensure and certification and specify scope of work. The purpose of these regulations is to:

- Facilitate licensure and certification of qualified laboratory personnel for employment in California.
- Standardize licensing and certification regulations for associate–level and baccalaureate–level license categories.
- Set updated requirements for academic coursework and degrees, practical training and experience, and examinations for licensure of clinical laboratory trainees, medical laboratory technicians, and clinical laboratory scientists.
- Repeal redundant or outdated standards, replace them with more relevant standards, and create new definitions as necessary.
- Modernize existing regulations to reflect changes in technology and the needs of current industry practice.
- Clarify and adopt terms used in the industry, terms mandated through statutory language, and terms defined under federal law.

- Create new requirements for education and training of qualified persons seeking licensure or certification that reflect changes in technology and education.

This proposal consists of portions of Article 1, sections 1029 (Definitions), Article 1.5, sections 1030 through 1032.5 (Licensure of Clinical Laboratory Personnel), Article 1.8, section 1034 (Examinations for Licensure and Certification and Certifying Organizations), and Article 2, sections 1035.1 through 1035.3 (Training Programs).

Background

The Department (through its Laboratory Field Services branch) is charged with ensuring the qualifications of personnel working in clinical laboratories by administering a licensure and certification program. California has one of the most extensive personnel licensure and certification programs in the nation. The Department monitors education, training, and experience of applicants, administers examinations, and oversees continuing education compliance to ensure that only qualified persons perform clinical laboratory testing. The Department also has authority to deny, suspend, and revoke licenses and certificates for failure to comply with California licensure and certification standards for quality assurance.

All clinical laboratory personnel must be qualified to perform clinical laboratory tests or examinations, pursuant to chapter 3 of the BPC. The validity of a person's qualifications is demonstrated by meeting licensing and certification standards specified in departmental regulations. These standards include requirements for education, training, experience, and examination that must be met to qualify for licensure or certification. Maintenance of current and valid licensure and certification requires completion of continuing education and payment of a renewal fee. Testing personnel must be licensed or otherwise authorized to do testing. The work scope of a licensed or certified person is limited to that defined by the person's license or certificate category. Failure to comply with personnel licensing and certification standards may result in sanctions such as revocation or suspension of licensure or certification.

The Department is responsible for administering initial issuance and renewal of licenses or certificates for 32 categories. The Department currently administers over 62,000 active clinical laboratory personnel licenses and certificates in California. Out of the estimated 62,000 total, 35 percent are licensed, and the remaining 65 percent are certified. The Department also has oversight of about 202 training programs and schools as well as accrediting agencies that provide continuing education offered to clinical laboratory personnel.

In August 2009, the Department held a stakeholder meeting in Richmond, California. At this meeting, LFS discussed 14 specific clinical laboratory personnel regulation issues related to existing law and potential changes. In 2010, the Department submitted a proposal to adopt, amend, or repeal sections of the license and certification standards for clinical laboratory personnel. That regulatory proposal (DPH–08–001) was withdrawn due to the high volume of public inquiries and comments received during the 45–day comment period, and the inability of the Department to respond to the volume of comments within the time constraints of the rulemaking process.

Due to the high volume of comments received in the past regarding proposal DPH–08–001, the proposed Clinical Laboratory Personnel regulations will be submitted in separate regulatory proposals to allow time for public review, submission of comments, and departmental response within the time constraints of the rulemaking process. This package is a subpart of the package pertaining to Clinical Laboratory Personnel. The following is the list:

Proposed regulatory package DPH–11–012 was codified and effective January 1, 2021. It pertained to portions of Article 1, Definitions and Article 5.3, Blood Electrolyte Analysis by Respiratory Care Practitioners.

Proposed regulatory package DPH–16–019, Clinical Laboratory Personnel Standards: Phlebotomists.

Proposed regulatory package DPH–16–020 Clinical Laboratory Personnel Standards: Applications/Renewal & Clean-up.

Proposed regulatory package DPH–18–017, Clinical Laboratory Personnel Standards: Unlicensed Personnel.

Proposed regulatory package DPH–19–009, Clinical Laboratory Personnel Standards: Clinical Laboratory Geneticists and Clinical Reproductive Biologists.

Proposed regulatory package DPH–20–005, Clinical Laboratory Personnel Standards: Bioanalysts and Master's & Doctoral Degree Specialists.

Proposed regulatory package DPH–20–006, Clinical Laboratory Personnel Standards: Clinical Laboratory Scientists and CLS Training Programs.

Proposed regulatory package DPH–20–007, Clinical Laboratory Personnel Standards: Trainees, MLT, and CLS Who Meet Requirements for MLT Licensure.

Future packages, DPH–20–005, DPH–20–006, DPH 18–017, DPH 16–019, DPH 16–020, and DPH–19–009, which will be submitted at a later date, consist of (1) portions of Article 1, Definitions (mostly

regarding licensed laboratory personnel) (2) portions of Article 1.5, Licensure of Clinical Laboratory Personnel (mainly licensure requirements and work scope of licensed laboratory personnel), (3) proposed Article 1.6, Unlicensed Laboratory Personnel, (4) portions of Article 2, Training Program Requirements, (5) Article 2.3, Clinical Laboratory Supervisors, (6) Article 2.5, Continuing Education, (7) Article 3, License, and (8) Article 7, Cytotechnology.

Problem Statement

Existing licensing and certification standards are outdated and require revision to reflect advances in laboratory science and technology and consequent changes in industry procedures, tests, techniques, and standards, and requirements for education and training. In addition, the standards need updating to account for changes to statutory law. The regulated community has also requested regulations to clarify the requirements of California laboratory law.

Objectives (Goals) of the Regulation

The goal of the proposed regulations is to ensure consistency and clarity in the Department regulations, specifically:

- To ensure California laboratories satisfy federal Clinical Laboratory Improvement Amendments (CLIA) standards.
- To ensure consistency and quality in clinical laboratories throughout the state.
- To address the regulatory challenges posed by new technological advances in the industry.
- To update the list of organizations whose training and examinations are accepted by the Department for licensure and certification purposes.
- To clarify the law and answer questions frequently received by the Department.
- To create a system of definitions in alphabetical order for ease of reference.
- To implement recommendations and proposals from the program’s Clinical Laboratory Technology Advisory Committee (CLTAC) and stakeholders.

Anticipated Benefits

Implementation of these standards will enhance the efficiency of the licensing and certification program and help ensure compliance with related federal regulations.

Other benefits of the proposed regulations include:

- Protecting the health and safety of the public by helping ensure high quality training schools produce qualified clinical laboratory personnel.
- Increasing worker safety through ensuring proper education, training, and experience for personnel employed in laboratories.

- Promoting fairness of the licensing and certification process through objective, consistent, and equitable standards for applying and qualifying for licensure.
- Protecting the integrity and quality of test results produced by clinical laboratories.
- Implementing proper and safe use of new technologies.

Non-substantive changes in existing regulations will benefit the industry and California residents by providing clarification and ease of reference; clearer regulations will likely increase adherence to those regulations. Further, this should increase departmental efficiency, as fewer individuals will need to ask for clarification on regulations.

Evaluation as to Whether the Proposed Regulations Are Inconsistent or Incompatible with Existing State and Federal Regulations

The Department evaluated whether the regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the Department’s existing state regulations and those regulations specific to Laboratory Field Services regulations. An internet search of other state agency regulations was also performed, and it was determined that no other state agency regulation addressed the same subject matter, and that this proposal is not inconsistent or incompatible with other state regulations. Therefore, the Department has determined that the regulations is not inconsistent or incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

None.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed regulations are not mandated by federal law or regulations.

LOCAL MANDATE

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, and not impose any costs for which reimbursement is required by part 7 (commencing with section 17500) of division 4 of the Government Code.

DISCLOSURES REGARDING THE
PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Cost to any local agencies or school districts that must be reimbursed pursuant to Section 17561 of Government Code:

None.

The cost or savings to any state agency

None.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies:

None.

Cost or Savings in Federal Funding to the State:

None.

HOUSING COSTS

The Department has determined that the proposed regulations would not have an impact on housing costs.

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

The Department has made an initial determination that the regulations 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.

STATEMENT OF THE RESULTS OF THE
ECONOMIC IMPACT ASSESSMENT (EIA)

The Department has determined that the proposed regulations would not significantly affect the following:

- A. The creation or elimination of jobs within the state.
- B. The creation of new businesses or the elimination of existing businesses within the state.
- C. The expansion of businesses currently doing business within the state.

The regulations will benefit the health and welfare of California residents and improve worker safety.

COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS

The Department is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORTING REQUIREMENTS

None.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations will have no adverse impact on small businesses. Defining terms used in the industry does not create new policies, procedures, or programs that do not already exist. Licensure requirements and scope of work standards adopted in this package do not have an impact on small businesses and do not introduce substantial changes to existing requirements that would affect small businesses.

SPECIFIC TECHNOLOGIES
OR EQUIPMENT

None.

ALTERNATIVES CONSIDERED

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

The Department itself has made an initial determination that there are no acceptable alternatives to the regulations to protect the public interest. However, the Department invites interested persons to present alternatives with respect to the proposed regulation either during the public comment period or at the public hearing (if scheduled).

TECHNICAL, THERETICAL, AND/OR
EMPIRICAL STUDIES, REPORTS OR
DOCUMENTS RELIED UPON

None.

CONTACT PERSON

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Mary Wogec of the Laboratory Field Services Branch.

All other inquiries concerning the action described in this notice may be directed to Veronica Rollin, Office of Regulations, at (279) 217–0836, or to the designated backup contact person, Christy Correa at (279) 217–0674.

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH–20–007.

AVAILABILITY STATEMENTS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814, will be the custodian of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file).

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (279) 217–0836 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department’s Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

Final Statement of Reasons

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

INTERNET ACCESS

Materials regarding the action described in this notice (including this public notice, the text of the proposed regulations, and the initial statement of reasons) that are available via the Internet may be accessed at the Department’s website (www.cdph.ca.gov) by clicking on these links, in the following order: Decisions Pending & Opportunities for Public Participation, Proposed Regulations.

GENERAL PUBLIC INTEREST

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

PRELIMINARY AGENDA AND CHANGE TO VIRTUAL–ONLY FORMAT FOR MEETING OF THE DEVELOPMENTAL AND REPRODUCTIVE TOXICANT IDENTIFICATION COMMITTEE

Virtual Meeting

**Tuesday, December 12, 2023
10 a.m.**

The Office of Environmental Health Hazard Assessment is convening a meeting of the Developmental and Reproductive Toxicant Identification Committee on December 12. This meeting will be fully virtual, rather than taking place in person and online as originally noticed on October 6 (Notice Register Number 40–Z). Details on how to register (Zoom registration) and how to provide public comment are given below. The meeting will also be webcast, as described below.

The preliminary agenda

The order of items on the agenda is provided for general reference only and is subject to change at the discretion of the Committee Chair.

- I. Welcome and Opening Remarks
- II. Consideration of Bisphenol S (BPS) as Known to the State to Cause Reproductive Toxicity (based on Female Reproductive Toxicity):
 - Staff presentation
 - Committee discussion
 - Public comments
 - Committee discussion and decision
- III. Consent Item — Update of the California Code of Regulations Title 27 Section 27000 List of Chemicals Which Have Not Been Adequately Tested as Required
- IV. Staff Updates
 - Chemical listings via the administrative listing mechanisms
 - Safe harbor levels
 - Other regulations and litigation
- V. Summary of Committee Actions

Meeting Registration and Oral Comment Instructions

OEHHA will be using the Zoom Webinar platform for this meeting. You can join the webinar from a PC,

Mac, iPad, iPhone or Android device using the following link: <https://bit.ly/registerDARTIC2023>.

If you wish to provide oral public comments at the meeting, you must register as an attendee at the link above. Public comments are limited to 5 minutes or less per commenter. If slides will be used during a public comment, please provide the slides at least 24 hours before the meeting by emailing them to p65public.comments@oehha.ca.gov.

We encourage advance registration and request that registered attendees join the webinar at least 5 minutes before the 10:00 a.m. meeting start time. However, registration will not close until the meeting has adjourned.

Note that you do not have to enter your actual name during registration; for example, you could use initials instead. If you do not enter a functioning email address, you will need to save the meeting attendance information that displays after completing the registration form.

For View and Listen Only Mode

If you wish to view the meeting without participating, you can watch the webcast at <https://video.calepa.ca.gov/>. The webcast will become active approximately 15 minutes prior to the event. Please note that viewers of the webcast will not be able to provide oral comments during the meeting.

Special Accommodations or Language Needs

If you have special accommodation or language needs, please contact the Proposition 65 Implementation Office at (279)-216-0002 or Kiana.Vaghefi@oehha.ca.gov as soon as possible before the meeting. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

**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 Cannabis Control

File # 2023-1016-02

Track and Trace Requirements for Delivery of Cannabis Goods

This certificate of compliance action makes permanent the changes adopted in emergency rulemaking action 2022-1214-01E (readopted in 2023-0616-02EE), which established new track and trace requirements for licensed retailers conducting delivery of cannabis goods.

Title 04

Adopt: 15049.3

Amend: 15418

Filed 11/17/2023

Effective 11/17/2023

Agency Contact: Kaila Fayne (916) 251-4544

Department of Health Care Access and Information

File # 2023-1013-03

Health Care Payments Data Program

This Certificate of Compliance makes permanent emergency action no. 2021-1208-03ER, which established Health Care Payments Data (HCPD) Program procedures for core health care data collection and submission. This action further adopts new HCPD Program submission requirements that will replace existing requirements beginning in February 2024.

Title 22

Adopt: 97300, 97305, 97310, 97314, 97318, 97330, 97331, 97332, 97334, 97340, 97342, 97344, 97346, 97348, 97349, 97350, 97351, 97352, 97360, 97362, 97370

Filed 11/17/2023

Effective 11/17/2023

Agency Contact: Sherry Mung (916) 326-3939

Department of Resources Recycling and Recovery

File # 2023-1108-01

Processing Payment Emergency Regulations

In this emergency rulemaking action, the Department of Resources Recycling and Recovery amends the reasonable financial return for recycling centers to 10 percent of the statewide average allowable costs calculated in Title 14, section 2960.

Title 14
 Amend: 2975
 Filed 11/20/2023
 Effective 11/20/2023
 Agency Contact: Kris Chisholm (916) 322–2404

Fish and Game Commission
 File # 2023–1106–01
 White Sturgeon bag and possession limit

This emergency action reduces the harvest of White Sturgeon in recreational fishery by restricting the bag limit, legal size, and fish that can be landed per boat.

Title 14
 Amend: 5.79, 5.80, 27.90, 27.92
 Filed 11/16/2023
 Effective 11/16/2023
 Agency Contact: Jennifer Bacon (916) 902–9285

Fish and Game Commission
 File # 2023–1116–01
 Recreational California Halibut Emergency

This emergency rulemaking action by the Fish and Game Commission (“Commission”) readopts, without amendment, reductions to the daily bag and possession limits of California halibut taken in waters north of a line extending due west magnetic from Point Sur, Monterey County, from three to two fish.

Title 14
 Amend: 28.15
 Filed 11/22/2023
 Effective 11/30/2023
 Agency Contact: David Haug (916) 902–9286

Department of Corrections and Rehabilitation
 File # 2023–1020–02
 Correctional Clinical Case Management System

This action by the Department of Corrections and Rehabilitation (“CDCR”) adopts section 3999.31 as a pilot program for the Correctional Clinical Case Management System — Cuesta Camp Pilot Program, which will allow specified inmates to participate in the Conservation Camp Program while housed at the California Men’s Colony and assigned to Cuesta Conservation Camp. This filing is exempt from Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code (“APA”) pursuant to Penal Code section 5058.1 and is not subject to review by the Office of Administrative Law (“OAL”). This action is effective on filing with the Secretary of State pursuant to Penal Code section 5058.1 and remains in effect for two years.

Title 15
 Adopt: 3999.31
 Filed 11/22/2023
 Effective 11/22/2023
 Agency Contact: Sarah Pollock (916) 445–2308

Fish and Game Commission
 File # 2023–1024–02

San Bernardino Kangaroo Rat

This action by the Fish and Game Commission (“Commission”) adds the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) to the list of “endangered” mammal species and subspecies under the California Endangered Species Act (“CESA”), Fish and Game Code Section 2050 et seq. This action is exempt from the procedural and substantive requirements of the Administrative Procedure Act (“APA”) pursuant to Section 2075.5, subdivision (e)(2).

Title 14
 Amend: 670.5
 Filed 11/22/2023
 Effective 11/22/2023
 Agency Contact: Jennifer Bacon (916) 902–9285

Department of Toxic Substances Control
 File # 2023–1006–01
 San Diego Field Office Address Change

This action makes changes without regulatory effect to reflect the relocation of the Department of Toxic Substance Control’s (DTSC) San Diego Field Office in regulations for notifying DTSC regarding import and export of hazardous waste.

Title 22
 Amend: 66262.83, 66264.12, 66265.12
 Filed 11/20/2023
 Agency Contact:
 Gabby Nepomuceno (916) 251–8328

Board of Forestry and Fire Protection
 File # 2023–1005–02

Coastal Commission Special Treatment Areas Silviculture Amendments

This action by the Board of Forestry and Fire Protection amends regulations concerning the Coastal Commission Special Treatment Areas.

Title 14
Amend: 917.2, 921.3, 921.4, 921.6, 961.3, 961.4
Filed 11/16/2023
Effective 01/01/2024
Agency Contact:
Jane Van Susteren (916) 619-9795

Board of Forestry and Fire Protection

File # 2023-1006-03

Ford Definition Amendment, 2023

In this rulemaking action, the Board of Forestry and Fire Protection is expanding the definition of ford to include three sub-definitions of different types of fords.

Title 14
Amend: 895.1
Filed 11/16/2023
Effective 01/01/2024
Agency Contact:
Jane Van Susteren (916) 619-9795

Civil Rights Department

File # 2023-1010-04

Fair Employment and Housing Act Fair Housing Regulations

This action makes grammatical and typographical corrections and other edits to fair housing regulations in order to better facilitate compliance. This action also adopts new regulations against discrimination in housing accommodations because of source of income.

Title 02
Adopt: 12140.1
Amend: 12005, 12040, 12042, 12050, 12051, 12140, 12141, 12179, 12181
Filed 11/22/2023
Effective 01/01/2024
Agency Contact: Mariel Block (916) 208-6210

Department of Rehabilitation

File # 2023-1009-02

Vocational Rehabilitation Application

This action deletes references to the DR 222 Vocational Rehabilitation Services Application and instead identifies the minimum information an individual must provide to apply for vocational rehabilitation services. This action also amends current regulations to align with changes to federal law and to make various nonsubstantive changes.

Title 09
Adopt: 7044
Amend: 7041, 7045, 7122, 7140.5
Filed 11/21/2023
Effective 01/01/2024
Agency Contact:
Elizabeth Colegrove (916) 558-5825

Fish and Game Commission

File # 2023-1009-01

Commercial take of pacific herring with lampara bait nets

This action permits Humboldt Bay Herring Permit holders to use single small-scale lampara nets.

Title 14
Amend: 163, 163.1, 164
Filed 11/21/2023
Effective 01/01/2024
Agency Contact: David Haug (916) 902-9286

Franchise Tax Board

File # 2023-1018-04

Other State Tax Credit

This action clarifies the meaning of the term “net income tax” for purposes of eligibility for the Other State Tax Credit.

Title 18
Amend: 18001-1
Filed 11/16/2023
Effective 01/01/2024
Agency Contact: Jay Gottman (916) 845-4576

Commission on Peace Officer Standards and Training

File # 2023-1018-05

Definitions Related to Peace Officer Certification

This action by the Commission on Peace Officer Standards and Training (“POST” or “Commission”) adds definitions related to Peace Officer Certification.

Title 11
Amend: 1201
Filed 11/17/2023
Effective 01/01/2024
Agency Contact: Michelle Weiler (916) 227-4870

Emergency Medical Services Authority

File # 2023-1010-03

Administration of Medications

This action adds three pain relieving medications (ketamine, ketorolac, and acetaminophen IV), and one new medication to slow bleeding after major trauma (tranexamic acid) to the list of medications that may be administered by paramedics.

Title 22

Amend: 100146

Filed 11/22/2023

Effective 01/01/2024

Agency Contact:

Ashley Williams

(916) 591–3266

**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.