



California Regulatory Notice Register

REGISTER 2021, NUMBER 31-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JULY 30, 2021

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File Number Z2021-0720-03 959

AMENDMENT

MULTI COUNTY: Balancing Authority of Northern CA JPA (BANC)
Inland Empire Health Plan Access Joint Powers Agency
Inland Empire Health Plan Joint Powers Agency
STATE AGENCY: State Council on Developmental Disabilities

ADOPTION

MULTI-COUNTY: 49-99 Cooperative Library System

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Minimum Standards for Training for District Attorney Investigators — Notice File Number Z2021-0720-05 960

TITLE 13. AIR RESOURCES BOARD

Transport Refrigeration Units ATCM Amendments — Notice File Number Z2021-0714-01 962

TITLE 16. CEMETERY AND FUNERAL BUREAU

Cemeteries: Unitrust Conversion — Notice File Number Z2021-0720-01 973

TITLE 16. BOARD OF ACCOUNTANCY

Sale/Transfer/Discontinuance of Licensee’s Practice — Notice File Number Z2021-0720-02 979

RULEMAKING PETITION DECISION

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Regarding Petition from Griselda C. Moore to Amend Title 15 Division 3 Section 3260.1
Public Record Duplication Services 983

(Continued on next page)

*Time-Dated
Material*

GENERAL PUBLIC INTEREST

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD	
<i>Public Meeting and Business Meeting</i>	985
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	
<i>Proposed Public Health Goals for Perfluorooctanoic Acid and Perfluorooctane Sulfonic Acid in Drinking Water</i>	985

DECISION NOT TO PROCEED

CEMETERY AND FUNERAL BUREAU/ DEPARTMENT OF CONSUMER AFFAIRS	
<i>Regarding Notice of Proposed Rulemaking Concerning Cemeteries: Endowment Care Fund — Unitrust, Originally Published on November 27, 2020, Register 2020, Number 49Z</i>	986

SUMMARY OF REGULATORY ACTIONS

Regulations filed with Secretary of State	987
---	-----

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 <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

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

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

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

CONFLICT-OF-INTEREST CODES

AMENDMENT

- MULTI-COUNTY: Balancing Authority of Northern CA JPA (BANC)
 Inland Empire Health Plan Health Access Joint Powers Agency
 Inland Empire Health Plan Joint Powers Agency
- STATE AGENCY: State Council on Developmental Disabilities

ADOPTION

- MULTI-COUNTY: 49-99 Cooperative Library System

A written comment period has been established commencing on July 30, 2021 and closing on September 13, 2021. 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 code(s) 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 code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), 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 code(s) 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 code(s). Any written comments must be received no later than September 13, 2021. 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 code(s) should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

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

**TITLE 11. COMMISSION ON PEACE
OFFICER STANDARDS AND TRAINING**

MINIMUM STANDARDS FOR TRAINING
FOR DISTRICT ATTORNEY INVESTIGATORS
COMMISSION REGULATION 1005(A)

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by September 13, 2021.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Kirk Bunch at kirk.bunch@post.ca.gov, or by letter to:

Commission on POST
Attention: Rulemaking
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code (PC) section 13503 (authority of POST) and PC section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific PC section 13503(e), which authorizes POST to develop and im-

plement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Currently, Commission Regulation 1005(a) requires the completion of the POST Regular Basic Course (RBC) for District Attorney Investigators (DAI), which excludes those individuals who have completed the POST Specialized Investigators Basic Course (SIBC) from being appointed as a DAI.

Commission Regulation 1005(a) requires a Minimum Entry-Level Training Standards, Basic Course Requirement: *“Every peace officer, except Reserve Levels II and III, those peace officers listed in subsections 1005(a), [peace officers whose primary duties are investigative], 1005(a)(4) [coroners or deputy coroners], and 1005(a)(7) [jail deputies], shall complete the Regular Basic Course before being assigned duties which include the exercise of peace officer powers. Requirements for the Regular Basic Course are set forth in Commission Procedures Section D-1-3.”*

POST staff propose updating Commission Regulation 1005(a) to allow completion of the RBC or SIBC to meet the training requirements for DAIs. This change will provide a District Attorney’s Office the ability to hire individuals who have completed the SIBC or maintain the current training requirement of the RBC.

The proposed regulation change is necessary to allow individuals who have completed either the RBC or the SIBC to become employed as DAIs or Inspectors. In addition to the basic course training requirement, the POST-certified District Attorney Investigator Transition Course, Commission Procedure Section D-14, shall be completed within 12 months from the date of appointment.

Anticipated Benefits of the Proposed Amendments:

The benefits anticipated by the proposed amendment to the regulation will be to allow a District Attorney’s Office the ability to also hire individuals who have completed the SIBC or maintain the current training requirement of the RBC, which will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare of California. The proposed amendments will have no impact on worker safety or the state’s environment.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

POST has determined that these 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, POST

has concluded that these are the only regulations that concern DAIs.

FORMS INCORPORATED BY REFERENCE

There are no forms incorporated by reference.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

Fiscal impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500-17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses: POST has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

Small Business Determination: POST has found that the proposed language will not affect small business because the amended language will not affect small business because the amended language addresses the update to the Minimum Entry-Level Training Standards, Basic Course Requirement.

Additionally, the Commission's main function to select and maintain training standards for law enforcement has no effect financially on small businesses.

Cost Impacts on Representative Private Persons or Businesses: POST is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: POST has made an initial determination that the proposed regulation would have no effect on housing costs.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT PER GOV. CODE
SECTION 11346.3(b)

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

The benefits of the proposed amendments of regulations to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to Kirk Bunch, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-3896. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://post.ca.gov/Regulatory-Actions>.

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

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO
CONSIDER PROPOSED AMENDMENTS
TO THE AIRBORNE TOXIC CONTROL
MEASURE FOR IN-USE DIESEL-FUELED
TRANSPORT REFRIGERATION UNITS
(TRU) AND TRU GENERATOR SETS, AND
FACILITIES WHERE TRUS OPERATE

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider the proposed amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled TRUs and TRU Generator Sets, and Facilities Where TRUs Operate (TRU ATCM).

Date: September 23, 2021

Time: 12:30 p.m.

Please see the public agenda which will be posted at least ten days before the September 23, 2021, Board Meeting for any appropriate direction regarding a possible remote-only Board Meeting. If the meeting is to be held in person — in addition to remote access — it will be held at the California Air Resources Board, Byron Sher Auditorium, 1001 I Street, Sacramento, California 95814.

This item will be considered at a meeting of the Board, which will commence at 12:30 p.m., September 23, 2021, and may continue at 8:30 a.m., on September 24, 2021. Please consult the agenda for the hearing, which will be available at least ten days before September 23, 2021, to determine the day on which this item will be considered.

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 electron-

ic submittal before the hearing. The public comment period for this proposed regulatory action will begin on July 30, 2021. Written comments not submitted during the hearing must be submitted on or after July 30, 2021 and received **no later than September 13, 2021**. 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, 39618, 39658, 39659, 39666, 39667, 43013, 43018, and 43019.1. This action is proposed to implement, interpret, or make specific sections 39618, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 43013, 43018, and 43019.1.

INFORMATIVE DIGEST OF
PROPOSED ACTION AND POLICY
STATEMENT OVERVIEW

(GOV. CODE, § 11346.5, SUBDIVISION (a)(3))

Sections Affected:

Proposed amendments to California Code of Regulations, title 13, sections 2477, 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17, 2477.18, 2477.19, 2477.20, and 2477.21. Pro-

posed adoption of California Code of Regulations, title 13, section 2477.22, 2477.23, and 2477.24.

Background and Effect of the Proposed Regulatory Action:

CARB staff are proposing amendments to the TRU ATCM (Proposed Amendments) to achieve additional emission reductions from diesel-powered TRUs needed to better protect communities from near-source pollution impacts, contribute to meeting the current health-based ambient air quality standards across California, and further the State's climate goals.

Background

CARB adopted the TRU ATCM in 2004 (and amended it in 2010 and 2011) to reduce diesel particulate matter (PM) emissions and resulting health risk from diesel-powered TRUs used to control the environment of temperature-sensitive products transported in insulated trucks, trailers, shipping containers, or railcars, as well as diesel-powered TRU generator sets (gen set) that provide electric power to electrically-powered refrigeration units of any kind.

The TRU ATCM requires that TRU engines that operate in California meet specific in-use performance standards that require diesel PM emissions to be reduced in accordance with a phased compliance schedule. The phased compliance schedule is based on the model year (MY) of the TRU engine and requires compliance with the in-use performance standard seven years after the engine MY. The TRU ATCM includes two levels of stringency that were phased-in over time. The first phase, beginning in 2008, is the low emission TRU performance standard. The second phase, beginning in 2010, is the ultra-low emission TRU (ULETRU) performance standard. Ultimately, all TRU engines are required to meet the ULETRU performance standard and have 85 percent PM control (compared to an uncontrolled Tier 0 engine) to be fully compliant with the TRU ATCM.

CARB subsequently amended the TRU ATCM in 2010 and 2011. The 2010 amendments included additional recordkeeping and reporting requirements for TRU original equipment manufacturers that directly or indirectly sell, or offer for sale, TRUs to the California market. The amendments also included more stringent definitions for compliance. The 2011 amendments extended certain TRU performance standard compliance deadlines from those originally contained in the 2004 regulation and included provisions to improve enforceability.

Despite the progress made, the emission reductions achieved under the TRU ATCM are not sufficient to meet the State's multiple risk reduction, air quality, and climate goals. Staff are proposing amendments to the TRU ATCM to achieve additional emission reductions from diesel-powered TRUs and increase the use of zero-emission technology in the off-road sector.

These amendments are needed to meet these complementary goals, as well as the directive of Executive Order N-79-20.^{1,2} The Proposed Amendments are also needed to address the emergence and growth in the number of units equipped with engines less than 25 horsepower. The 2021 update to the statewide TRU emission inventory indicates growing sales of units with less than 25 horsepower engines, which contrasts with previous inventories where all trailer TRU engines were over 25 horsepower. The federal and California PM off-road emission standard for engines less than 25 horsepower is 15 times higher (i.e., less stringent) than the standard for engines greater than 25 horsepower. As a result, diesel PM emissions have not been reduced under the TRU ATCM as expected. Similar trends are also expected for domestic shipping container (DSC) TRUs, railcar TRUs, and TRU gen sets. Based on the TRU emission inventory, the number of TRUs equipped with engines less than 25 horsepower will become responsible for the majority of PM emissions from TRUs in the near future, if current trends continue.

Effect of the Proposed Amendments

The Proposed Amendments are designed to achieve added public health, air quality, and climate benefits by requiring the transition of diesel-powered truck TRUs to zero-emission technology, a PM emission standard for newly-manufactured TRU engines in the remaining categories, and the use of lower-global warming potential (GWP) refrigerant. The Proposed Amendments also include new requirements for owners and operators of facilities where TRUs operate; expanded requirements for TRU reporting and compliance labels; and fees. Key elements of the Proposed Amendments include the following:

By December 31, 2022:

- All newly-manufactured truck TRUs, trailer TRUs, and DSC TRUs that operate in California shall use refrigerant with a GWP less than or equal to 2,200, or no refrigerant at all.
- MY 2023 and newer trailer TRU, DSC TRU, railcar TRU, and TRU gen set engines shall meet a PM emission standard of 0.02 grams per brake horsepower-hour (g/hp-hr) or lower.
 - Note: MY 2022 and older trailer TRU, DSC TRU, railcar TRU, and TRU gen set engines would continue to operate under the existing TRU ATCM requirements, in which they shall meet ULETRU by December 31 of

¹ Executive Order N-79-20, State of California Executive Order signed by Governor Gavin Newsom, September 23, 2020. (web link: <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>)

² EO N-79-20 set a goal for 100 percent zero-emission off-road vehicles and equipment by 2035.

the seventh year after the engine MY. For example, a trailer TRU equipped with a MY 2020 engine would have to meet ULETRU by December 31, 2027.

By December 31, 2023:

- Applicable facility³ owners shall register their facility with CARB, pay registration fees every three years, and report all TRUs that operate at their facility to CARB quarterly, or alternatively attest that only compliant TRUs (i.e., those with a valid CARB compliance label or showing as compliant on CARB’s website) operate at their facility.
- TRU owners shall report all TRUs that operate in California, regardless of where they are based.
- TRU owners shall pay TRU operating fees and affix CARB compliance labels to their TRU every three years, for each TRU operated in California.
- TRU owners shall turnover at least 15 percent of their truck TRU fleet (defined as truck TRUs operating in California) to zero-emission technology each year (for 7 years). All truck TRUs operating in California shall be zero-emission by December 31, 2029.

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

Objectives and Benefits of the Proposed Regulatory Action:

Objectives

The main objectives of the Proposed Amendments are to: 1) achieve fine particulate matter (PM2.5), oxides of nitrogen (NOx), and greenhouse gas (GHG) emission reductions needed to protect communities from near-source pollution impacts, contribute toward meeting the current health based ambient air quality standards across California, and toward achieving the State’s climate goals; 2) transition diesel-powered TRUs to zero-emission technology, as directed by EO N-79-20, which set a goal for 100 percent zero-emission off-road vehicles and equipment by 2035; 3) address the emergence and growth in the number of trailer TRUs, DSC TRUs, railcar TRUs, and TRU gen sets equipped with engines less than 25 horsepower, which have less stringent emission standards; 4) address multiple State policies and plans directing CARB to achieve additional diesel emission reductions; 5) strengthen the regulation by including

³ An applicable facility is defined in the Proposed Amendments as a refrigerated warehouse or distribution center with a building size greater than or equal to 20,000 square feet, a grocery store with a building size greater than or equal to 15,000 square feet, a seaport facility, or an intermodal railyard if one or more trailer TRUs or TRU gen sets operate within the legal property boundary of the facility.

requirements for owners and operators of facilities where TRUs operate and vehicle owners, as well as expanded TRU reporting and labeling to monitor compliance; and 6) collect fees from TRU and applicable facility owners to cover CARB’s reasonable costs associated with the certification, audit, and compliance of TRUs, as allowed by Senate Bill 854.

Benefits

The primary benefits of the Proposed Amendments are PM2.5, NOx, and GHG emission reductions from diesel-powered TRUs that operate in California. Staff estimate that cumulatively, from 2022 to 2034, the Proposed Amendments will reduce statewide TRU emissions by approximately 1,258 tons of PM2.5, 3,515 tons of NOx, and 1.42 million metric tonnes of GHGs, relative to the baseline. These emission reductions will benefit California residents by reducing cancer risk to individual residents and off-site workers near facilities where TRUs operate, including those located in and near disadvantaged communities; improving air quality and resulting ozone exposure from reductions in NOx; providing GHG emission reductions (including the powerful short-lived climate pollutants hydrofluorocarbons and black carbon) needed to combat climate change; and reducing non-cancer health impacts such as premature deaths, hospital visits for cardiovascular and respiratory illnesses, and emergency room visits for asthma, especially in sensitive receptors including children, the elderly, and people with chronic heart or lung disease. The total statewide valuation of avoided adverse health outcomes as a result of the Proposed Amendments from 2022 to 2034 is approximately \$1.75 billion. Emission reductions will also reduce occupational exposure and benefit on-site workers, including, but not limited to TRU operators, drivers, and other individuals who work at facilities where TRUs operate.

The Proposed Amendments will provide an opportunity to increase zero-emission technology in the off-road sector. As more fleets use zero-emission truck TRU technologies as a result of the Proposed Amendments, industry acceptance of advanced technologies will improve. The state of zero-emission TRU technology will progress and expand into extended range applications, as well as other off-road sectors. Purchases of zero-emission truck TRUs will also benefit zero-emission TRU manufacturers, as well as various businesses in the zero-emission TRU supply chain, including those involved in battery, fuel cell, cold plate, and solar photovoltaic technology throughout the State. Supporting infrastructure installations will provide opportunities for design, engineering, construction, and project management firms to design new and expanded infrastructure at approximately 1,000 truck TRU home base facilities statewide, as well as benefit suppliers, equipment installers, and electricians. The

expansion of electric charging infrastructure will also increase the amount of electricity supplied by utility providers and help the State's investor-owned utilities meet the goals of Senate Bill 350, which requires the State's investor-owned utilities to develop programs to accelerate widespread transportation electrification with goals to reduce dependence on petroleum, increase the uptake of zero-emission vehicles, help meet air quality standards, and reduce GHGs.

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

Public Process

To ensure an open and transparent rulemaking, staff have engaged in an extensive public process since development of the Proposed Amendments began in early 2016. Staff conducted eight public workshops to discuss regulatory concepts, methodology and data used to develop the emission inventory and conduct a health risk assessment, infrastructure considerations, compliance and enforcement mechanisms, as well as solicit stakeholder feedback. Staff posted information regarding these workshops and any associated materials on the TRU Regulation website⁴ and distributed notice of these meetings through several public list serves that include over 17,000 recipients.⁵ In addition, staff held three work group meetings to solicit feedback on regulatory concepts, as well as discuss infrastructure and enforcement issues related to the Proposed Amendments.

As of June 2021, staff have conducted more than 160 informal meetings, phone calls, and site visits with a broad group of stakeholders to discuss the Proposed Amendments and gather input and information. This includes members of impacted communities, environ-

mental justice advocates, air districts, TRU owners and operators, trade associations, TRU manufacturers, TRU dealers and service centers, truck and trailer dealers, truck and trailer leasing companies, freight brokers, forwarders, shippers, receivers, freight facility owners and operators, and other interested parties.

In addition to meeting with a wide range of stakeholders, staff also conducted targeted outreach to potential applicable facilities. This includes mailing over 40,000 postcards to facilities with refrigerated operations potentially affected by the Proposed Amendments to notify them of upcoming workshops and direct them to the TRU Regulation website for more information. Staff also visited several facilities, including refrigerated warehouses and distribution centers, cold storage warehouses, port terminals, and railyards to learn more about their business operations and to better understand potential implementation challenges associated with the Proposed Amendments. A detailed summary of all stakeholder outreach activities is included in Chapter XIV of the Initial Statement of Reasons (ISOR).

Comparable Federal Regulations:

The United States Environmental Protection Agency (U.S. EPA) and CARB regulate TRU engines as mobile non-road (off-road) engines (referred to as off-road throughout this rulemaking). Federal off-road compression-ignition engine emission standards are set forth for new engines in 40 Code of Federal Regulations Part 89. California standards for new off-road compression-ignition engines align with federal requirements and are set forth in California Code of Regulations, title 13, Article 4, sections 2420-2427, under "Heavy Duty Off-road Diesel Cycle Engines."

The Proposed Amendments require new TRU engines operating in California to meet emission standards that generally align with the harmonized federal/State off-road compression-ignition engine emission standards. More specifically, the Proposed Amendments require newly-manufactured (MY 2023 and newer) trailer TRU, DSC TRU, railcar TRU, and TRU gen set engines to meet a PM standard that aligns with the U.S. EPA Tier 4 final PM emission standard for engines greater than 25 horsepower. Engines less than 25 horsepower would be required to meet a PM emission standard more stringent than the harmonized federal/California PM standard. In-use (MY 2022 and older) trailer TRU, DSC TRU, railcar TRU, and TRU gen set engines would continue to operate under the current TRU ATCM requirements.

The more stringent PM standard for newly-manufactured trailer TRU, DSC TRU, railcar TRU, and TRU gen set engines less than 25 horsepower is needed to address the emergence and growth in the number of units equipped with engines less than 25 horsepower. As discussed previously, the 2021 update to the state-

⁴ California Air Resources Board, New Transport Refrigeration Unit Regulation in Development Website. (web link: <https://ww2.arb.ca.gov/our-work/programs/transport-refrigeration-unit/new-transport-refrigeration-unit-regulation>)

⁵ Number of subscribers for the following CARB lists as of January 28, 2021: Agricultural Activities, Community Air, Environmental Justice ChERRP, Commerce, Environmental Justice ChERRP, Mira Loma, Environmental Justice ChERRP, Wilmington, Goods Movement Emission Reduction Program, Port Truck, Reduction of GHG Emissions from Refrigerated Shipping Containers, Stationary Equipment Refrigerant Management Program, Sustainable Freight Transport Initiative, and Transport Refrigeration Units.

wide TRU emission inventory indicates growing sales of trailer TRUs with less than 25 horsepower engines, which contrasts with previous inventories where all trailer TRU engines were over 25 horsepower. The federal and California federal PM off-road emission standard for engines less than 25 horsepower is 15 times higher than the standard for engines greater than 25 horsepower. As a result, diesel PM emissions have not been reduced under the TRU ATCM as expected. Similar trends are also expected for DSC TRUs, railcar TRUs, and TRU gen sets. Based on the TRU emission inventory, the number of units equipped with engines less than 25 horsepower will become responsible for the majority of PM emissions from TRUs in the near future, if current trends continue.

The Proposed Amendments follow the precedent set by the current TRU ATCM, which already requires more stringent in-use diesel emission standards than federal requirements. CARB adopted the TRU ATCM in 2004, and U.S. EPA authorized California to enforce the regulation in 2009.⁶ CARB subsequently adopted amendments in 2010 and 2011. U.S. EPA determined those amendments fell within the scope of the original authorization and also granted full authorization.^{7,8} In granting CARB authorization, U.S. EPA acknowledged that unique circumstances exist in California necessitating the need for the State's own off-road mobile source pollution program. As discussed in Chapter II of the ISOR, California has a critical need to reduce exposure to air toxics such as diesel PM, as well as PM, NOx, and GHG emissions. The benefits of protecting public health and reducing emissions justify the cost of adopting regulations that differ from existing federal regulations.

Currently, there are no federal regulations establishing requirements on the use of zero-emission technologies or lower-GWP refrigerant for TRUs, as would be required by the Proposed Amendments.

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.

⁶ United States Environmental Protection Agency, Federal Register, Vol. 74, No. 11, Page 3030, January 16, 2009. (web link: <https://www.govinfo.gov/content/pkg/FR-2009-01-16/pdf/E9-907.pdf>)

⁷ United States Environmental Protection Agency, Federal Register, Vol. 78, Number 125, Page 39870, June 28, 2013. (web link: <https://www.govinfo.gov/content/pkg/FR-2013-06-28/pdf/2013-15437.pdf>)

⁸ United States Environmental Protection Agency, Federal Register, Vol. 82, Number 12, Page 6525, January 19, 2017. (web link: <https://thefederalregister.org/82-FR/6522/2017-01235.pdf>)

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.

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

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

Pursuant to Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Proposed Amendments are a mandate that would create costs and cost-savings to local agencies and school districts. However, these costs to local agencies are not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500). The mandate is not reimbursable because costs associated with the Proposed Amendments apply generally to all owners of TRUs or applicable facilities, including local agencies and school districts. Therefore, the Proposed Amendments do not constitute a "Program" imposing any unique requirements on local agencies or school districts as set forth in Government Code section 17514.

Cost or Savings for State Agencies

The estimated costs to CARB as a result of the Proposed Amendments include the direct and indirect labor costs for the additional positions needed to successfully implement and enforce the Proposed Amendments as described below and operational costs (e.g., compliance labels, envelopes, and postage).

- 3.0 Air Pollution Specialist (APS) positions and 6.0 Air Resources Technician (ART) II positions in Fiscal Year 2022–2023.
- Air Resources Supervisor I, 1.0 Staff Services Manager, 1.0 APS, and 10.0 ART II positions in Fiscal Year 2023–2024.

Implementation duties include assisting owners with TRU reporting and applicable facility registration, providing technical assistance, and issuing com-

pliance labels. Enforcement duties include conducting unit, fleet, and facility inspections; fleet and facility investigations; and issuing and processing citations. The need for additional staff is due to additional requirements in the Proposed Amendments requiring out-of-state based TRU reporting, TRU operating fees, applicable facility registration, applicable facility registration fees, and applicable facility reporting.

The Proposed Amendments will also have a fiscal impact on State government agencies that own TRUs or applicable facilities. Staff determined State government agencies own 159 TRUs, or 0.08 percent of the total number of TRUs. Staff applied this percentage to the total equipment-related direct costs to estimate the costs incurred by State government TRU owners. Staff determined that State government owns six truck TRU home base facilities and two applicable facilities.

The Proposed Amendments will increase the number of zero-emission TRUs in the State. Displacing diesel with electricity will decrease the total amount of diesel fuel dispensed in the State, resulting in a reduction in diesel fuel tax revenue collected by State government. For this analysis, staff used the combined State and local sales tax rate of 8.6 percent, which is a weighted average based on county-level output, with 3.94 percent⁹ going towards State sales tax and 4.67 percent¹⁰ going towards local sales tax.

The Energy Resources Fee is a \$0.0003/kilowatt-hour surcharge levied on consumers of electricity purchased from electrical utilities.¹¹ The revenue collected is deposited into the Energy Resources Programs Account of the General Fund which is used for ongoing energy programs and projects deemed appropriate by the Legislature, including but not limited to, activities of the California Energy Commission.

The Proposed Amendments include TRU operating fees and applicable facility registration fees. The proposed fee schedule is included in Chapter X of the ISOR. The proposed fees will result in revenue to the State to offset costs to CARB to implement and enforce the Proposed Amendments.

Sales tax is levied in California to fund a variety of programs at the local and State levels. The Proposed Amendments will result in the sale of more expensive TRUs and infrastructure in California, which will result in a direct increase in sales tax revenue collected

by the State. However, overall, State sales tax revenue may increase less than the direct increase from TRU and infrastructure sales if overall business spending does not increase. Staff used a combined State and local sales tax rate of 8.6 percent, which is a weighted average based on county-level output, with 3.94 percent¹² going towards State sales tax and 4.67 percent¹³ going towards local sales tax.

From 2022 to 2034, staff estimated the cost to State government due to the Proposed Amendments to be \$1.1 million, resulting from TRUs and applicable facilities owned by State government; and approximately \$47.1 million in costs to CARB. State government will also see a direct increase in revenue from Energy Resources Fees, TRU operating fees, applicable facility registration fees, and State sales tax of \$71.8 million; as well as a decrease in sales tax from diesel fuel of \$22.6 million. Staff estimated the total fiscal impact to State government to be -\$927,000 from 2022 to 2034. CARB will seek authorization to use collected TRU operating fees and applicable facility registration fees to offset costs incurred to implement and enforce the Proposed Amendments.

Other Non-Discretionary Costs or Savings on Local Agencies

The Proposed Amendments will have a fiscal impact on local government agencies that own TRUs or applicable facilities. Staff determined local governments own 256 TRUs, or 0.132 percent of the total number of TRUs. Staff applied this percentage to the total equipment-related direct costs to estimate the costs incurred by local government TRU owners. Staff determined that local government owns 25 truck TRU home base facilities and 19 applicable facilities.

Several cities and counties in California levy a utility user tax on electricity usage. This tax varies from city to city and ranges from no tax to 11 percent. Staff used a value of 3.53 percent, representing a population-weighted average.¹⁴ The Proposed Amendments will increase the number of zero-emission TRUs in the State, which will increase the amount of electricity used and the amount of utility user tax revenue collected by cities and counties.

⁹ California Department of Tax and Fee Administration, Detailed Description of the Sales & Use Tax Rate. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sut-rates-description.htm>, last accessed May 24, 2021)

¹⁰ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, October 2020. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>)

¹¹ California Department of Tax and Fee Administration, 2020 Electrical Energy Surcharge Rate, December 2019. (web link: <https://www.cdtfa.ca.gov/formspubs/1725.pdf>)

¹² California Department of Tax and Fee Administration, Detailed Description of the Sales & Use Tax Rate. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sut-rates-description.htm>, last accessed May 24, 2021)

¹³ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, October 2020. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>)

¹⁴ California State Controller's Office, California Cities Utility Users Taxes Revenue and Tax Rate Fiscal Year 2018-19, November 2020. (web link: https://www.sco.ca.gov/Files-ARD-Local/LocRep/2018-19_Cities_UUT.pdf)

Off-road diesel is exempt from on-road diesel taxes, but does incur sales tax.¹⁵ Displacing diesel with electricity will decrease the total amount of diesel fuel dispensed in the State, resulting in a reduction in tax revenue collected by local governments. For this analysis, staff used the combined State and local sales tax rate of 8.6 percent, which is a weighted average based on county-level output, with 3.94 percent¹⁶ going towards State sales tax and 4.67 percent¹⁷ going towards local sales tax.

Sales tax is levied in California to fund a variety of programs at the local and State levels. The Proposed Amendments will result in the sale of more expensive TRUs and infrastructure in California, which will result in a direct increase in sales tax revenue collected by local governments. However, overall, local sales tax revenue may increase less than the direct increase from TRU and infrastructure sales if overall business spending does not increase. Staff used a combined State and local sales tax rate of 8.6 percent, which is a weighted average based on county-level output, with 3.94 percent¹⁸ going towards State sales tax and 4.67 percent¹⁹ going towards local sales tax.

From 2022 to 2034, staff estimated the cost to local governments due to the Proposed Amendments to be \$3.8 million, resulting from TRUs and applicable facilities owned by local governments. Local governments will also see a direct increase in utility user and local sales tax revenue of \$19.1 million and a decrease in sales tax from diesel fuel of \$4.9 million. Staff estimated the total fiscal impact to local governments to be -\$10.4 million from 2022 to 2034.

Cost or Savings in Federal Funding to the State

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

¹⁵ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, October 2020. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>)

¹⁶ California Department of Tax and Fee Administration, Detailed Description of the Sales & Use Tax Rate. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sut-rates-description.htm>, last accessed May 24, 2021)

¹⁷ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, October 2020. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>)

¹⁸ California Department of Tax and Fee Administration, Detailed Description of the Sales & Use Tax Rate. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sut-rates-description.htm>, last accessed May 24, 2021)

¹⁹ California Department of Tax and Fee Administration, California City & County Sales & Use Tax Rates, October 2020. (web link: <https://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm>)

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

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

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

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

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

MAJOR REGULATION: STATEMENT OF THE RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA) (GOV. CODE, § 11346.3, SUBDIVISION (c))

In May 2021, CARB submitted a SRIA to the Department of Finance (DOF) for its review. CARB has updated the Proposed Amendments since the original SRIA submittal, and to address DOF comments. The revisions are discussed in Chapter X of the ISOR.

The creation or elimination of jobs within the State

Staff anticipate the statewide employment impacts of the Proposed Amendments to be slightly positive in 2023 and 2024, corresponding with demand for zero-emission truck TRUs and supporting infrastructure from in-state fleets. From 2025 through 2034, the employment impacts are estimated to be negative as the overall costs of the Proposed Amendments offset the positive impacts of additional in-state demand.

Staff used Regional Economic Models, Inc. (REMI) Policy Insight Plus Version 2.4.1 to estimate the macroeconomic impacts of the Proposed Amendments on the California economy. REMI is a structural economic forecasting and policy analysis model that integrates input-output, computable general equilibrium, and econometric and economic geography methodologies. The REMI model estimated at most a 0.01 percent increase or decrease in statewide employment, relative to the baseline, due to the Proposed Amendments. The economy is expected to grow over this period and therefore, reduced employment, relative to the baseline, can be interpreted as a reduction in employment growth. This amounted to a total increase in employment of 151 jobs in the year with the greatest

positive impact, and decreases in employment of 1,438 jobs in the year with the most negative impact.

The creation of new businesses or the elimination of existing businesses within the State

Staff do not anticipate the Proposed Amendments will directly result in business creation or elimination. However, the Proposed Amendments may have a small indirect impact on business creation or elimination. TRU fleets and applicable facilities face compliance costs, and the potential for some of these business to be eliminated cannot be ruled out.

While changes in jobs for the California economy cannot directly estimate the broader impacts of business creation and elimination, job changes can be used to understand some of the potential impacts to businesses. The overall job impacts of the Proposed Amendments are small relative to the total California economy. The changes in statewide employment represent, at most, a 0.01 percent change relative to baseline California employment in any given year.

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

Staff do not anticipate impacts to the competitive advantage or disadvantage to businesses currently doing business in the State because the Proposed Amendments impose requirements equally on all TRUs that operate in California, whether the business that owns or operates them is based in-state or out-of-state. All businesses owning or operating TRUs would be subject to the same refrigerant, PM standard, and zero-emission truck TRU requirements, regardless of in-state or out-of-state ownership status. Thus, the Proposed Amendments would not create any competitive disadvantage to businesses located in California.

Businesses that already use zero-emission TRU technologies may gain a competitive advantage compared to fleets that rely on diesel-powered TRUs in the baseline. Some businesses may already be using cold plate and cryogenic TRUs in addition to battery-electric TRUs. Such businesses will not have large compliance costs associated with the Proposed Amendments and may also gain a competitive advantage compared to fleets that rely on diesel-powered TRUs in the baseline.

Applicable facilities are required to pay registration fees and ensure that TRUs operating on their property are compliant. The applicable facilities are based on size thresholds and facilities below these specific thresholds will not face direct costs associated with the Proposed Amendments. Therefore, facilities below the threshold may gain a slight competitive advantage compared to larger facilities. Out-of-state facilities will not face the same registration fees and reporting costs. Therefore, California-based facilities may also face a competitive disadvantage to other similar-sized applicable facilities in close proximity, but in another

state. Staff do not consider these impacts significant because fees and reporting costs are relatively small compared to the total cost of the Proposed Amendments. The average annual cost for an applicable facility to comply with the Proposed Amendments is less than one percent of their annual revenue.

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. Based on the macroeconomic impact analysis, change in private investment due to the Proposed Amendments ranges from a decrease of \$2 million in 2023 to a decrease of \$48 million in 2029. In any given year, the change in private investment represents less than 0.01 percent of baseline investment.

The incentives for innovation in products, materials, or processes

The Proposed Amendments provide a strong signal for the development of zero-emission TRU technologies and help in building a robust market for advanced technologies. Staff anticipate growth in the industries that manufacture zero-emission TRU technologies, which will strengthen the supply chain and result in technology improvements earlier than they would have otherwise occurred. For example, improvements in battery weight and range are needed to improve market acceptance and bring overall battery-electric technology costs down. These improvements will allow advanced technologies to expand further into extended range TRU applications, as well as other off-road sectors. In addition, due to the large volume of refrigerated product that moves through California, there is the possibility that the Proposed Amendments will compel TRU original equipment manufacturers to incorporate advanced technologies and lower-GWP refrigerant into units sold outside of the State.

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

The Proposed Amendments will reduce PM2.5, NOx, and GHG emissions from diesel-powered TRUs that operate in California. Cumulatively, from 2022 to 2034, the Proposed Amendments are expected to reduce statewide TRU emissions by approximately 1,258 tons of PM2.5, 3,515 tons of NOx, and 1.42 million metric tonnes of GHGs, relative to the baseline. These emission reductions will benefit California residents by reducing cancer risk near facilities where TRUs operate; improving air quality and resulting ozone

exposure from reductions in NO_x; providing GHG emission reductions needed to combat climate change; as well as reducing non-cancer health impacts such as premature deaths, hospital visits, emergency room visits, and other adverse health impacts, especially in sensitive receptors including children, the elderly, and people with chronic heart or lung disease. Emission reductions will also reduce occupational exposure and benefit on-site workers, including, but not limited to TRU operators, drivers, and other individuals who work at facilities where TRUs operate. The estimated statewide value of health benefits from reduced PM_{2.5} and NO_x emissions, as well as the value of GHG emission reductions using the social cost of carbon, are described in Chapter V of the ISOR.

Department of Finance Comments and Responses

DOF Comment #1: The costs of equipment disposal must be quantified. Because existing ATCM regulations prevent sale of non-complying TRUs within California, the revised emissions and zero-emission requirements will effectively decrease or eliminate the resale value of existing equipment that was complying under the existing ATCM requirements within California. Based on CARB's 2019 Emissions Inventory for Transport Refrigeration Units, historically around 20 percent of non-complying non-truck TRUs are replaced rather than retrofit and all truck TRUs must be replaced, which means around 45,000 of the original 200,000 TRUs will either need to be scrapped or sold interstate when they become non-compliant and the SRIA should quantify the costs associated with this.

Response: Because the current TRU ATCM imposes more stringent emissions requirements on TRUs operating in California compared to those that do not, TRU owners already scrap or sell their units for use out-of-state when they become non-compliant for use in California. Under the Proposed Amendments, the PM emission standard requirement applies to newly-manufactured units, while the zero-emission truck TRU requirement is phased in at 15 percent each year. The zero-emission truck TRU phase-in compliance schedule generally aligns with the average 7-to-10-year useful life for truck TRUs. Therefore, staff do not believe TRU turnover would be significantly accelerated due to the Proposed Amendments. Scrap and resale values should not be considerably affected. Based on current listings, truck TRUs can be sold out-of-state for \$6,450 to \$10,000 and trailer TRUs can be sold out-of-state for \$7,500 to \$16,400, depending on the MY and engine hours. Because the SRIA provides an upper bound estimate on costs, staff conservatively did not assume any cost savings associated with scrap and resale.

DOF Comment #2: The SRIA could be improved by including a more explicit discussion of the anticipated state revenues that would be generated by the

proposed operating and facility registration fees that CARB proposes to collect from TRU owners. Furthermore, the SRIA notes an estimated \$48 million in fee revenue would be collected over the lifetime of the regulation, yet CARB's implementation and enforcement costs are estimated to be only \$19.4 million. The SRIA should clarify how the remaining fee revenue would be utilized by CARB.

Response: Staff have updated the economic analysis since the release of the SRIA on May 12, 2021. The changes include increasing the number of CARB staff needed to implement and enforce the Proposed Amendments and updating the salary amount used for the Staff Services Manager I position. These changes resulted in an increase of proposed TRU operating and applicable facility operating fees. In the SRIA, the TRU operating fee for a diesel TRU was \$43, the TRU operating fee for a zero-emission TRU is \$22, and the applicable facility registration fee is \$43. In the updated proposal, the TRU operating fee for a diesel TRU is \$54, the TRU operating fee for a zero-emission TRU is \$27, and the applicable facility registration fee is \$54. Staff also updated the analysis to account for additional costs to CARB, including the indirect labor cost and operational cost (e.g., compliance labels, envelopes, and postage) expected as a result of the Proposed Amendments. More information on these costs can be found in Appendix G. As a result of the updates, staff estimate that CARB's TRU program costs would be \$47.1 million from 2022 to 2034. Approximately \$60.8 million in fee revenue would be collected by CARB.

The proposed fee amounts in the Proposed Amendments would not result in excess fee revenue. The difference in CARB's TRU program costs compared to fee revenue is due to existing TRU program labor costs not associated with the Proposed Amendments and the required SRIA assumption of full compliance.

To determine the fee amounts, staff accounted for non-compliance since it is reflective of actual conditions. This results in a more accurate estimate of the number of TRUs and facilities that would comply with the fee requirements and the resulting fee revenue that CARB would collect. Staff used a non-compliance rate based on the average of non-reporting assumed in the statewide TRU inventory and the percentage of citations issued by CARB's Enforcement Division for non-reporting violations in 2019 equal to approximately 13 percent. Because the economic analysis assumes full compliance, the estimated fee revenue collected over the lifetime of the regulation would be less than what is presented in the SRIA.

DOF Comment #3: The SRIA could be improved by including actual data for 2020 when it becomes available or using the most up-to-date data available. The current baseline assumption of significant turn-

over in 2020 results in nearly double the capital costs in 2027 (\$120 million compared to an average of \$65 million in all other years) because there are double the number of non-truck TRUs that need to take compliance actions in that year (around 40,000 in 2027 compared to an average of 20,000 in all other years). Updating the analysis would be helpful as the costs and benefits appear to be impacted significantly by the share of TRUs assumed to be non-compliant. Alternatively, the SRIA could include a separate scenario analysis with different assumptions on the share of non-compliant TRUs that need to come to compliance in 2020 to illustrate how impacts would vary if the share of non-compliant TRUs in 2020 were higher or lower than the 2018 rate.

Response: For the SRIA, staff used the legal baseline of full compliance with existing regulations by assuming that all non-complying TRUs are replaced in 2020 as well as the most up-to-date data available at the time of SRIA development. Staff agree that costs and benefits are impacted by the number of TRUs assumed to be non-compliant and that the analysis should be based on the most up-to-date data available. As newer data becomes available, staff will consider updating the analysis or adding a sensitivity analysis to determine how impacts would vary if the share of non-compliant TRUs in 2020 were higher or lower than the 2018 rate for inclusion in the Final Statement of Reasons.

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

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

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

In developing this regulatory proposal, staff evaluated the potential economic impacts on representative private persons or businesses. The total direct cost for TRU and applicable facility owners to comply with the Proposed Amendments is estimated to be approximately \$103.9 million per year for 13 years (from 2022 to 2034), or a total of approximately \$1.35 billion and assumes that TRU and infrastructure purchases are amortized over a period of 5 years at 5 percent interest. The estimated annual recurring cost savings average \$23.9 million per year. The total net cost of the Proposed Amendments from 2022 to 2034 is estimated to be \$1.04 billion, which is less than the approximate \$1.75 billion in expected monetized health benefits. The methodology and full details for estimat-

ing the cost impact to a typical business owning TRUs are provided in Chapter X of the ISOR.

The Proposed Amendments will not result in any direct costs on individuals. However, staff anticipate the Proposed Amendments will result in indirect costs to individuals to the extent that affected businesses pass compliance costs through to consumers of refrigerated products. If the total direct cost of the Proposed Amendments is fully passed through to consumers, the cost per California household from total impact of the Proposed Amendments from 2022 to 2034 is estimated to be \$78.35 per household with a yearly average of \$6.03.

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

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

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

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

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

STATE IMPLEMENTATION
PLAN REVISION

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

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the Proposed Amendments, has prepared a draft supplemental environmental analysis (Draft Supplemental EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5). The Draft Supplemental EA concluded implementation of the Proposed Amendments, could result in: beneficial impacts to air quality, energy demand, GHG emissions and climate change; less than significant impacts to energy demand, hazards and hazardous materials, land use and planning, mineral resources, population and housing, public services, recreation, and wildfire; and potentially significant adverse impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, noise, transportation, and utilities and service systems. The beneficial impacts are related to PM, NOx, and GHG emission reductions as well as decreased use of diesel fuel. The potentially significant and unavoidable adverse impacts are primarily related to short-term, construction-related activities. This explains why some resource areas are identified above as having both less-than-significant impacts and potentially significant impacts. The Draft Supplemental EA, included as Appendix D to the ISOR, is entitled “Draft Supplemental Environmental Analysis for the Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.” Written comments on the Draft Supplemental EA will be accepted during a 45-day public review period starting on July 30, 2021 and ending at 5:00 p.m. on September 13, 2021.

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 Lea Yamashita, Staff Air Pollution Specialist, Freight Operations Section at Lea.Yamashita@arb.ca.gov or (designated back-up contact) Cari Anderson, Chief, Freight Transport Branch at Cari.Anderson@arb.ca.gov.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: “Staff Report: Initial Statements of Reasons — Public Hearing to Consider the Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.”

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 July 27, 2021. Please contact Chris Hopkins, Regulations Coordinator, at Chris.Hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, the California Air Resources Board’s offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to the aforementioned Regulations Coordinator, physical copies would be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, (916) 445-9564. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

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

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

FINAL STATEMENT OF REASONS AVAILABILITY

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

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2021/tru2021>.

TITLE 16. CEMETERY AND FUNERAL BUREAU

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

ARTICLE 3.5 ENDOWMENT CARE FUND UNITRUST DISTRIBUTION

§ 2334, ENDOWMENT CARE FUND CONVERSION APPLICATION

§ 2334.1, ENDOWMENT CARE FUND CONVERSION CONDITION

§ 2334.2, DENIAL OF ENDOWMENT CARE FUND

CONVERSION APPLICATION

§ 2334.3, ABANDONMENT OF ENDOWMENT CARE FUND CONVERSION APPLICATION

§ 2334.4, REVERSION TO NET INCOME DISTRIBUTION METHOD

§ 2350, ENDOWMENT CARE FUND REPORTS

NOTICE IS HEREBY GIVEN that the Cemetery and Funeral Bureau (Bureau) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office by **5:00 p.m., Tuesday, September 14, 2021**.

PUBLIC HEARING AVAILABILITY

The Bureau has not scheduled a public hearing on this proposed action. The Bureau will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Bureau may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated

in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 142, and 7606, and Government Code (GC) section 11445.20, and to implement, interpret or make specific BPC sections 142, 7612.6, 7613.9, 7653.6, 7711.1, and Health and Safety Code (HSC) sections 8726, 8726.1, 8726.2, 8731, 8733.5, 8736, 8738, 8738.1, 8740, 8751, 8751.1, and GC sections 11445.10 and 11445.20, the Bureau is considering adding a new Article 3.5 and title, adding sections 2334, 2334.1, 2334.2, 2334.3, 2334.4, and amending section 2350 in Article 5 of Division 23 (commencing with section 2300) of Title 16 of the California Code of Regulations (CCR) as described in this Notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The death care industry transacts business with consumers at a time when they are emotionally vulnerable. Protection of the public is mandated to be the highest priority for the Bureau in exercising its licensing, regulatory, and disciplinary functions. The Bureau achieves its goal of consumer protection through the following primary methods: issuing and renewing licenses; overseeing funeral and cemetery trust funds; investigating complaints; conducting inspections; and disciplining licensees for violations of its laws and regulations.

The Bureau licenses, regulates, and investigates complaints against 14 different licensure categories in California, totaling approximately 13,100 licensees. These licensing categories include funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery broker branch, cemetery broker additional, cemetery salespersons, cremated remains disposers, crematories, crematory managers, hydrolysis facilities, cemetery managers, and private, nonreligious cemeteries.

Existing law requires each privately-owned cemetery authority create an endowment care trust fund through a written trust agreement executed by their board of directors and requires them to deposit funds to the trust for each interment space they sell. There are various types of interments cemeteries sell (graves, crypts, niches, and scattering of cremated remains on the cemetery's property) and each type of interment has a minimum required deposit. The deposits cemeteries make to endowment care trusts, along with the initial contribution required by HSC section 8738.1,

form what is known as the corpus of the trust. The law prohibits expenditure of the fund corpus.

In 2017, the Legislature passed Assembly Bill (AB) 926 (Irwin, Chapter 750, Statutes of 2017), requiring the Bureau to develop processes and functions necessary to facilitate and regulate the conversion of endowment care trust funds from the net income distribution method to the unitrust distribution method ("unitrust method") beginning January 1, 2020 (see HSC sections 8726.1, 8726.2).

Under the net income distribution method, only the income and a portion of realized capital gains generated from endowment care fund investments may be used for cemetery care and maintenance whereas, the unitrust method allows expenditures based on the total net value of the endowment care fund assets. AB 926 capped the unitrust amount at 5 percent and capped trustee fees at 0.1 percent of the net fair market value of the endowment care fund as of the last trading day for each of the three preceding fiscal years. AB 926 further requires the Bureau to evaluate the effectiveness of the unitrust distribution method and to report its findings at its next two hearings before the Joint Sunset Review Oversight Hearings of the Assembly Committee on Business and Professions and Senate Committee on Business, Professions and Economic Development.

In 2019, AB 795 (Irwin, Chapter 309, Statutes of 2019) was passed amending the prior version of HSC section 8726.2 enacted by AB 926 and delaying the implementation date to January 1, 2021. HSC section 8726.2 now sets limits on trustee compensation that allows professional management of trust assets and prevents depletion of assets via excessive trustee fees. Additionally, HSC sections 8726.2 and 8726.3 place controls on excessive investment adviser fees that could unduly deplete a fund and limits the ability of private creditors to seize trust fund assets. HSC section 8726.3 also makes clear that, in the event of a seizure by a public entity, trust fund assets can only be used for care, maintenance, and embellishment of the cemetery for which the funds were originally put in trust.

Significantly, HSC section 8726.2 authorizes a cemetery authority to apply to the Bureau to convert from the net income distribution method to the unitrust method and provides the Bureau with authority to review and evaluate information provided by the applicant (cemetery authority, board of trustees or corporate trustee) to determine whether the cemetery authority meets Section 8726.2's conditions for approval, including the provision of "relevant trust documents." In addition, subdivision (f) of that section authorizes the Bureau to adopt rules to administer HSC section 8726.2 and ensure compliance, including, but

not limited to, reporting requirements for cemetery authorities.

There are no existing regulations that specify the processes and procedures for how a cemetery authority applicant may apply to the Bureau to convert from the net income distribution method to the unitrust distribution method as authorized by Section 8726.2 of the Health and Safety Code. Further, there are no regulations that specify how a cemetery authority may maintain such approval, report any updated or changed information, and the processes and procedures for denial of approval or reversion to the net income distribution method in the event that specified conditions are not met. This proposal would establish such regulations. The Bureau has drafted proposed text to specify: (1) the processes and procedures for applying for and receiving approval from the Bureau to convert from a net income distribution method to a unitrust distribution method, including the provision of a completed application form “Unitrust Conversion Application”, (2) the grounds for denying a unitrust conversion application, (3) the circumstances under which a unitrust conversion application will be deemed abandoned, (4) the process for reverting to a net income distribution method from a unitrust method; and, (5) the process for providing any “created, updated, or changed” information to the Bureau in the cemetery authority’s annual report.

The Bureau has consulted with stakeholders (licensees, consumer advocates, and members of the public) regarding the proposed unitrust distribution method regulations. The Bureau held a stakeholder workshop on June 21, 2021 and discussed and made available for public comment the draft language and application for endowment care fund conversion. Based on stakeholder comments, the Bureau revised the proposed language to address stakeholders’ concerns. The revised proposed language is included with this proposal.

In addition to the aforementioned authority in Section 8726.2 of the Health and Safety Code, BPC section 7606 authorizes the Bureau to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Cemetery and Funeral Act (Act).

The Bureau proposes to:

- **Add a new Article 3.5, and Title, “Endowment Care Fund Unitrust Distribution” and Sections 2334, 2334.1, 2334.2, 2334.3, 2334.4, and Amend Section 2350 in Article 5 of Division 23 of Title 16 of the California Code of Regulations.**
- **Adopt CCR section 2334, Unitrust Conversion Application**

The Bureau proposes to adopt a regulation setting forth the timeframe, required contents of, and documents required to be submitted with a “Unitrust Con-

version Application,” and incorporates the form by reference. The proposal would also provide a process for applicants to use when relevant trust documents are not available, allow the Bureau discretion to condition approval on the applicant’s provision of the relevant trust documents within a certain timeframe and revoke the conditional approval, after notice and potential hearing, as provided in Section 2334.2. The proposal would also require a completed application be submitted at least 90 days prior to the beginning of the cemetery authority’s reporting year for which the conversion is requested.

- **Adopt CCR section 2334.1, Approval of Endowment Care Fund Conversion**

The Bureau proposes to adopt a regulation to establish the requirement for cemeteries to obtain prior approval for, and specify the timing of, the endowment care fund conversion to the unitrust distribution method

- **Adopt CCR section 2334.2, Denial of Unitrust Conversion Application**

The Bureau proposes to adopt a regulation to establish the denial, written notice and appeal process for the endowment care fund conversion to the unitrust distribution method, including opportunities for an informal office conference and informal hearing.

- **Adopt CCR section 2334.3, Abandonment of Unitrust Application**

The Bureau proposes to adopt a regulation to establish the abandonment date for unitrust conversion applications that are returned as incomplete. In addition, this section provides that an applicant who abandons an application must submit a new application and documents to obtain the Bureau’s approval.

- **Adopt CCR section 2334.4, Reversion to Net Income Distribution Method**

The Bureau proposes to adopt a regulation to establish the process for requiring a cemetery authority to revert an endowment care fund to the net income distribution method, including options for the effective date of reversion. The proposal would set standards for notifying the cemetery authority of the requirement to revert and specifies what the Bureau determines is “satisfactory proof” of reversion, as well as the response date for providing the Bureau such proof. The proposal would establish that it constitutes unprofessional conduct to fail to comply with the Bureau’s notice requiring the cemetery authority to revert, or to refuse to provide the “satisfactory proof” of reversion as specified by this section. Finally, the proposal would specify that a cemetery authority that has reverted to net income distribution and seeks to reconvert its endowment care fund to the unitrust method shall submit a new application and receive Bureau approval prior to conversion.

- **Amend CCR section 2350, Endowment Care Fund Reports**

Existing law addresses the annual report required pursuant to BPC section 7612.6(b).

The Bureau proposes to amend the regulation to separate it into two subdivisions to clarify existing regulatory language. Proposed changes to subdivision (a) correct the terminology and citations of the existing regulation which pertains to the annual report requirements pursuant to BPC section 7612.6(b) and proposes other technical and grammatical clean-up to this Section to improve readability. It also adds a requirement for the audit report to be “signed” by a licensed independent certified public accountant or public accountant and adds text to clarify that the report must fully and accurately disclose the “financial” position of the endowment care fund. It strikes references to the requirement of rendering an “independent” opinion and replaces it with an “unmodified” opinion requirement.

This proposal adds a new subdivision (b) that lists the additional information that must be provided with the endowment care fund report when the cemetery authority is using the unitrust distribution method including any information that has been created, updated or changed since the Bureau’s approval. It also replaces outdated code BPC section 9650(c) with BPC section 7612.6(b) in the text and the Authority and Reference section.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS

This regulatory proposal would establish: (1) a consistent and straightforward process for obtaining Bureau approval to convert to the unitrust distribution method, (2) the grounds for denying a unitrust conversion application, (3) the circumstances under which a unitrust conversion application will be deemed abandoned, (4) the process for reverting to a net income distribution method from a unitrust method; and, (5) the process for providing any “created, updated, or changed” information to the Bureau in the cemetery authority’s annual report.

Section 2334 will help eliminate confusion for licensed cemetery authorities and the public regarding the application and documentation requirements, procedures, and timelines for seeking the Bureau’s approval to convert an endowment care fund from the net income distribution method to the unitrust distribution method. The information collected from the application and the accompanying documents enables the Bureau to properly evaluate the application and determine the cemetery authority meets the conditions of approval set forth in HSC section 8726.2(b). This will help ensure that only qualified cemetery authorities are able to use the unitrust income distribution

method, and therefore helps ensure the licensee’s ongoing care and future maintenance of the cemetery for the benefit of the public in general.

The proposed adoption of section 2334.1 will provide notice and clarity to licensed cemetery authorities and the public of the requirement to receive the Bureau’s approval before converting to the unitrust distribution method and notifies them of the effective date of the conversion.

The proposed adoption of section 2334.2 will inform licensed cemetery authorities and the public of the denial process for unitrust conversion applications. In addition, it provides an opportunity for the applicant to submit additional documentation and information which the applicant believes supports a reversal of the denial resulting in the approval of the application. Its establishment of an appeal process will ensure due process is provided to applicants.

The proposed adoption of section 2334.3 will provide transparency and clarity to cemetery authorities and the public of the date for abandonment of the application. The 12-month limit will encourage applicants to submit documentation necessary to complete the application and to obtain the Bureau’s approval in a timely manner.

The proposed adoption of section 2334.4(a) through (e) provides straightforward and uniform procedures and instruction to cemetery authorities and the public of the requirements, procedures, and timeframes applicable to the reversion process. It will provide that a failure to comply with the Bureau’s direction to revert to the net income distribution method will subject cemetery authorities to disciplinary action for unprofessional conduct. Since the size of the endowment care fund when the cemetery is sold out is the dominant factor in determining how much income can be produced to meet the needs of cemeteries, protection of principal through reversion will ensure that cemeteries have adequate funds now and in the future so that they do not fall into disrepair.

The proposed amendment of section 2350 clarifies the annual reporting requirements for cemetery authorities who have been approved to convert to the unitrust method. This new requirement provides a simplified and efficient method for the Bureau to meet section 8726.2(e)’s review requirement. It also provides a less costly alternative for the cemetery authority to report updated or new information to the Bureau rather than requiring the filing of a separate report or notice with the Bureau. The proposed amendments also eliminate confusion regarding those requirements by replacing an outdated code reference and updating other provisions consistent with BPC section 7612.6.

DETERMINATION OF INCONSISTENCY/
INCOMPATIBILITY WITH
EXISTING REGULATION(S)

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

INCORPORATION BY REFERENCE

Unitrust Conversion Application, form 23–UCA
(New 7/21)

DISCLOSURES REGARDING
PROPOSED ACTION

FISCAL IMPACT ESTIMATES

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

The proposed regulations are not anticipated to increase workload or costs to the state.

Current law requires the Bureau to implement and oversee an application process to convert an endowment care fund from a net distribution method to a unitrust distribution method. Any workload and costs of implementation are a result of current law.

Cost or Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None.

Business Impact:

The Bureau 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. This initial determination is based on the following facts:

- The Bureau has determined that the only types of businesses that may be affected are licensed cemetery authorities seeking the Bureau’s approval to convert their endowment care trust fund from the net income distribution method to the unitrust distribution method.
- As of July 2020, the Bureau licenses 194 endowment care cemeteries, which are all

projected to apply for the unitrust distribution method in the first year. Of the 194, the Bureau anticipates 96 licensees will qualify for the unitrust distribution method. Given that the licensee population is only 194, and not all will meet the conditions of approval, the Bureau has determined that the number of licensees is insufficient to create a statewide adverse economic impact.

- These proposed regulations would provide licensed cemeteries with an additional business structure option consistent with current law. The regulation does not require licensed cemeteries to convert to or to be established using the unitrust distribution method.
- Opting to utilize the unitrust distribution method is a voluntary business decision made by the cemetery and therefore, any business impact is a result of this choice and not the regulations.
- Existing law requires licensed cemetery authorities to annually submit an endowment care fund report. The Bureau is requesting additional documents and/or information to aid in its evaluation of the effectiveness of the unitrust distribution method. The additional documents and/or information add to the existing reporting requirements, which would not add additional cost to the cemetery authorities because the cemetery already keeps records of this information and this proposal would not require a separate report to be filed.

Business Reporting Requirement

The proposed regulations impose additional reporting, recordkeeping, or other compliance requirements:

BPC section 7612.6(b) addresses the cemetery authority annual report requirements.

Proposed amendments to Section 2350 would require additional information to be included in that report for cemetery authorities who elect to convert to the unitrust method and who have information that was created, updated or changed since the cemetery authority was approved to convert by the Bureau.

Health and Safety Code section 8726.2(e)(1) requires the Bureau to review on an annual basis whether a cemetery authority continues to meet the conditions of approval for use of the unitrust method. The Bureau has determined that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses. Adding reporting requirements and/or information to the existing regulation will aid the Bureau in its annual evaluation that will demonstrate the cemetery authority continues to meet the conditions of approval, which helps ensure sufficient oversight over the administration of the endowment care fund.

Cost Impact on Representative Private Person or Business:

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There is no cost for the cemetery authority to apply for the Bureau's approval to convert from the net income distribution method to the unitrust distribution method.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations does not affect small businesses because this proposed regulation only applies to licensed cemetery authorities seeking the Bureau's approval to convert the endowment care fund to the unitrust distribution method. These proposed regulations would provide licensed cemeteries with an additional business structure option consistent with current law. The option is not expected to result in any additional operating costs to cemeteries choosing to use the unitrust distribution method. The regulation does not require licensed cemeteries to convert to the unitrust distribution method.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

As of July 2020, the Bureau currently licenses 194 endowment care cemeteries, which are all projected to apply for the unitrust distribution method in the first year. Of the 194, the Bureau anticipates 96 licensees will qualify for the unitrust distribution method. The Bureau expects at least half of all licensees annually will remain utilizing the unitrust distribution method.

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

- It will not create or eliminate jobs in the State of California because this proposed regulation applies to the licensed cemetery authorities seeking the Bureau's approval to convert the endowment care fund to the unitrust distribution method. These proposed regulations would provide licensed cemeteries with an additional business structure option consistent with current law. The regulation does not require licensed

cemeteries to convert to or to be established using the unitrust distribution method.

- It will not create new businesses within the State of California because the proposed regulations would only allow existing licensed cemetery authorities to apply for the Bureau's approval to convert to the unitrust distribution method. The proposed regulation does not negatively impact the existing cemetery industry. The regulation does not require licensed cemeteries to convert to or to be established using the unitrust distribution method
- It will not expand or eliminate existing business because this regulation applies to the existing licensed cemetery authorities in California. The proposed regulations are only applicable to cemeteries that are already licensed by the Bureau and provides the cemetery with the business option to expend funds, which may be available to the cemetery under the unitrust distribution method. The regulation proposal does not require licensed cemeteries to convert to or to be established using the unitrust distribution method.
- This regulatory proposal will not affect the health and welfare of California residents because the regulations are aimed toward licensed cemetery authorities seeking the Bureau's approval to convert the endowment care fund to the unitrust distribution method.
- This regulatory proposal may positively affect worker safety if a sufficient endowment care fund is maintained by the cemetery that would allow the cemetery to expend funds to repair surfaces and ensure the property is kept in a condition so as to prevent a hazard to the worker.
- This regulatory proposal may positively affect the state's environment if a sufficient endowment care fund is maintained over the life expectancy of the cemetery, which may enhance the condition of the cemetery grounds, thus making a positive impact on the environment.

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the

information upon which the proposal is based, may be obtained upon request from the Bureau at 1625 North Market Boulevard, Suite S-208, Sacramento, California 95834.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONSIDERATION OF ALTERNATIVES

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

Set forth below are the alternatives that were considered and the reason the alternative was rejected or adopted:

Alternative 1: Maintain the status quo. This alternative was rejected because it would make the Bureau non-compliant with the statutory mandates of Health and Safety Code section 8726.2.

Alternative 2: Adopt new regulations and amend existing regulatory sections. This alternative was accepted as the most compliant and administratively consistent option for the Bureau to evaluate the application to grant approval to licensed cemetery authorities seeking the Bureau's approval to convert the endowment care fund to the unitrust distribution method, in order to comply with Section 8726.2 of the Health and Safety Code, which mandates the Bureau allow application for conversion to the unitrust distribution method by a cemetery authority, its board of trustees or its corporate trustee by January 1, 2021.

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

CONTACT PERSON

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

Name: Carolina Sammons
 Address: 1625 North Market Boulevard, Suite S-208
 Sacramento, CA 95834
 Telephone No.: (916) 574-7876
 Fax No.: (916) 928-7988
 Email Address: carolina.sammons@dca.ca.gov

The backup contact person is:

Name: Cheryl Jenkins
 Address: 1625 North Market Boulevard, Suite S-208
 Sacramento, CA 95834
 Telephone No.: (916) 574-8203
 Fax No.: (916) 928-7988
 Email Address: cheryl.jenkins@dca.ca.gov

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

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

TITLE 16. BOARD OF ACCOUNTANCY

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING: SALE, TRANSFER, OR DISCONTINUANCE OF LICENSEE'S PRACTICE

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

California Board of Accountancy
 2450 Venture Oaks Way, Suite 420
 Sacramento, CA 95833
 September 16, 2021
 10:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office no later than **5:00 p.m. on Tuesday, September 14, 2021**, or must be received by the CBA at the hearing. The CBA, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may

modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 5010, 5018 and 5063.3 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 5018 and 5063.3 of said Code and Civil Code section 1798.81, the CBA is considering adding section 54.3 and 54.4 to Division 1 of Title 16 of the California Code of Regulations¹ (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

BPC section 5018 authorizes the CBA to adopt regulations to prescribe or amend rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession.

Existing law, BPC section 5063.3, prohibits licensees from disclosing a client or prospective client's confidential information, except under certain specified circumstances. Existing CBA regulation, section 54, defines confidential information and indicates that it includes all information obtained by a licensee in their professional capacity regarding a client or prospective client, except information obtained from a prospective client who does not subsequently become a client, as long as certain conditions are met. Existing CBA regulation, CCR section 54.1, states that licensees are generally prohibited from disclosing a client or potential client's confidential information, except in specified circumstances. BPC sections 5063.3 and CCR section 54.1 generally permit disclosures of confidential client information in connection with the sale or merger of a business.

Existing law, BPC section 5018, requires licensees to adhere to the rules and standards of professional conduct adopted by the CBA, which are set forth in Title 16, Division 1, Article 9, of the CCR. Existing regulation, CCR section 58, requires licensees to comply with all applicable professional standards, which includes the Code of Professional Conduct developed by the American Institute of Certified Public Accountants² (AICPA) [“Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards”]. The Code of Professional Conduct is a set of principles, rules and interpretations that guides Certified Public Accountants (CPAs) in the performance of their professional responsibilities.

Existing law, BPC section 5097, governs a licensee's maintenance of audit documentation.

Existing law, Civil Code section 1798.81 governs the appropriate destruction of customer records.

In October 2016, the AICPA Professional Ethics Executive Committee's (PEEC) adopted new and revised interpretations (Interpretations) of the AICPA Code of Professional Conduct. As indicated above, pursuant to CCR section 58, the CBA requires its licensees to comply with all applicable professional standards, including the Code of Professional Conduct developed by the AICPA.

The CBA's proposal would add two new sections to Article 9 of Division 1 of Title 16 to address new Interpretation 1400.205 (Transfer of Files and Return of Client Records in Sale, Transfer, Discontinuance or Acquisition of a Practice) and revised Interpretation 1.700.050 (Disclosing Client Information in Connection With a Review or Acquisition of Member's Practice). CCR section 54.3 would address the sale or transfer of all or part of a licensee's practice to a successor licensee and CCR section 54.4 would address notification to clients when a licensee's practice is discontinued without a sale or transfer of the practice to a successor licensee. Both sections would establish requirements to ensure licensees are handling client records appropriately.

Specifically, this proposal would do the following:

Section 54.3

This proposed section specifies various steps a licensee would be required to take regarding notifying clients when selling or transferring all or part of the licensee's practice, the circumstances under which the licensee would be permitted to transfer client files to the successor licensee, the documents the licensee would be required to retain and how long to retain them.

Section 54.4

This proposed section would establish requirements that licensees must follow when discontinuing their practice without a sale or transfer of the practice to a successor licensee, including providing written notice to the client, returning records to the client, what to do if the licensee is unable to return the client's records, and proper manner of disposing client records.

¹ All California Code of Regulations references are to title 16, unless otherwise indicated.

² The AICPA is the world's largest member association representing the accounting profession with a history of serving the public interest since 1887. It sets ethical standards for the accounting profession and U.S. auditing standards for private companies, nonprofit organizations, and federal, state and local governments.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This regulatory proposal would establish requirements for licensees to follow when selling, transferring, or discontinuing their practice and provides guidance regarding the proper disposal of client records. The CBA anticipates that the proposed regulations would benefit licensees by providing them with clear direction for notifying clients and appropriately handling client records when selling, transferring or discontinuing their accountancy practice. The CBA also anticipates that this proposal would benefit consumers by ensuring that clients are notified when a licensee sells, transfers, or discontinues their practice and provides an opportunity for the client to obtain their records. It would also ensure the confidentiality of client records by establishing requirements for licensees to follow when transferring them to a successor licensee or properly disposing of them.

Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

None.

FISCAL IMPACT ESTIMATES

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

The CBA does not anticipate additional workload or costs resulting from the proposed regulations.

The CBA would ensure compliance with the proposed regulation through enforcement and investigation measures, which would typically be conducted in response to a consumer complaint related to the client’s inability to receive their records or files. However, the CBA notes over the past two years it received 4,751 total complaints (2,134 in 2018–19 and 2617 in 2019–20) of which zero percent were related to violations of the proposed regulations. As a result, no additional workload or costs are anticipated.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement:

None.

Economic Impact:

The regulations will require licensees to notify clients of the sale or transfer of the practice via first class mail, which would result in costs of \$0.55 (domestic) and \$1.20 (international) per notification. The CBA cannot provide an estimate of the total future costs related to notifying clients because the number of notifications would depend on unknown variables including: 1) the number of future sale or transfers of practices, and 2) the number and location of clients impacted.

Licensees would also be required to either transfer client files to the successor licensee or to the client, as specified, or retain the files, as specified. Because any client file transfer and/or retention costs would also depend on these same unknown variables, the CBA cannot provide an estimate of these transfer or retention costs.

However, the CBA notes most client files are typically retained by the licensee in digital format and any transfer or retention of these files would occur digitally, which would not likely result in additional costs.

The CBA further notes a typical licensee opting to sell or transfer their practice would likely be averse to significant file transfer or retention costs. As a result, these individuals would probably choose to digitize any files as part of their normal course of business and complete the digitizing of files prior to the sale or transfer to eliminate these potential costs.

Business Impact:

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

The following studies/relevant data were relied upon in making the above determination:

Pursuant to CBA Regulations section 58, all licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, which includes the AICPA Code of Professional Conduct. The AICPA Code of Professional Conduct contains standards regarding the sale, transfer and discontinuance of a practice and changes to these standards is the basis for this rulemaking action. The CBA’s proposed regulations provide added detail regarding how licensees can meet the existing standards relating to sale, transfer, or discontinuance of a practice. As licensees would already be subject to any costs associated with meeting the standards, pursuant to CBA Regulations section 58, the proposed regula-

tions specific to the sale, transfer and discontinuance (54.3 and 54.4) will not create an additional significant economic impact for licensees

Cost Impact on Representative Private Person or Business:

The cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the CBA are mailing costs to notify or provide records to a client. The cost impact in providing records to a client would be dependent on the volume of records the licensee has for that client. For example, a licensee with fewer and/or smaller clients with fewer records to maintain would incur less cost than a licensee with many and/or larger clients with a larger volume of records to maintain. Additionally, depending on whether the records are stored in a hardcopy or electronic format, storage of said records may incur costs, and such costs would vary based on the volume of records being maintained.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations would affect small businesses. Specifically, any licensee who is a small business and decides to sell, transfer, or discontinue their practice will need to notify their clients via a written notification and based on the response (or non-response) to that notification, must follow specific requirements for transfer, return or storage of the records. Ultimately, in cases where the licensee must retain a client's records, they will also be required to dispose of the records, following a specific timeframe, in a manner that will ensure confidentiality.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

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

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

This proposal would benefit the welfare of California residents because it would require licensees to follow specified procedures intended to protect consumers and their client files or records when a licensee

sells, transfers, or discontinues a public accountancy practice.

This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.

This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

CONSIDERATION OF ALTERNATIVES

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

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

INITIAL STATEMENT OF REASONS AND INFORMATION

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2450 Venture Oaks Way, Suite 300, Sacramento, California, 95833.

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

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

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Deanne Pearce
 Address: 2450 Venture Oaks Way,
 Suite 300
 Sacramento, CA 95833
 Telephone No.: (916) 561-1740
 Fax No.: (916) 263-3678
 E-Mail Address: deanne.pearce@cba.ca.gov

The backup contact person is:

Name: Peter Renevitz
 Address: 2450 Venture Oaks Way,
 Suite 300
 Sacramento, CA 95833
 Telephone No.: (916) 561-1742
 Fax No.: (916) 263-3678
 E-Mail Address: peter.renevitz@cba.ca.gov

Website Access:

Materials regarding this proposal can be found at <http://www.dca.ca.gov/cba/about-cba/laws-and-rules.shtml>.

**RULEMAKING PETITION
 DECISION**

**DEPARTMENT OF CORRECTIONS AND
 REHABILITATION**

**Title 15, Crime Prevention and Corrections
 Division 3, Adult Institutions,
 Programs and Parole**

PETITIONER:

Griselda C. Moore
 1201 Fulton Avenue #22
 Sacramento, CA 95825

AUTHORITY:

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and

control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON:

Please direct any inquiries regarding this action to Ying Sun, Associate Director, Regulation and Policy Management Branch, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION:

The petition to amend regulations is available upon request directed to the Department’s contact person.

SUMMARY OF PETITION:

The Petitioner is petitioning to amend California Code of Regulations (CCR), Title 15, Division 3, Section 3260.1, Public Record Duplication Services. The Petitioner states Government Code 6253(b) in part requires “each state or local agency, upon request for a copy of that reasonably describes an identifiable record or records shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable.” The Petitioner states CCR Section 3260.1 of the Title 15 sets the cost of reproduction at 12 cents per page for CDCR public records and Departmental Operations Manual Section 13040.8 make it clear that inmates, like members of the public may request copies of public record.

The Petitioner states, “In practice, the cost of reproduction discourages members of the public from requesting printed copies of public records. To alleviate this problem, Government Code 6253.9 requires agencies to provide electronic copies when requested to do. Since the actual cost of copying an electronic record is essentially zero, this option is more economical for members of the public and agencies alike. Section 3260.1 does not notify the public of their right to request electronic copies of CDCR records and to avoid the 12 cent per page reproduction cost by doing so.”

The Petitioner also states, Government Code 6253(f) allows agencies to host public records on their websites, thus reducing the need to respond to individual record request for commonly requested records. The Petitioner goes on to state, CDCR recently signed a six (6) year contract with Global Tel Link (GTL) to provide tablets and tablet-based services to all inmates. The Petitioner claims under the terms of the contract, CDCR can make an unlimited number of department or institution documents available to inmates on the tablets. The inmates will have access to a tablet on

which to consume electronic copies of public records and access to a server containing CDCR's documents. Therefore, there is no longer any reason to exempt inmates from requesting and receiving copies of public records and saving the cost of reproducing paper copies.

The Petitioner is requesting Section 3260.1 be amended to notify the public of the option to request electronic copies of CDCR records and to clarify that the 12 cent per duplication fee does not apply electronic of records and requesting CDCR to respond to inmates request for electronic copies of public records by placing a copy of the record where all inmates can access it on their tablets.

The Petitioner states CDCR already host a variety of public records on their public websites, including, but not limited to; COMPSTAT DAI Statistical Data, Senate Bill 601 Reports, and other reports. The department could reduce the number of inmate request for records by hosting public records that are available on the CDCR public websites so that inmates can access them on their tablets.

The Petitioner is requesting Section 3260.1 should state that the ability to request electronic records should apply to inmates as well, as CDCR can make an "unlimited number of department or institution documents available to inmates on their tablets."

The Petitioner indicates CDCR maintains a public records portal on the public website that allows members of the public to make request electronically. Responsive public records are stored in electronic form in a public record archive for everyone to see. This reduces administrative overhead by eliminating multiple request for the same documents. Making public records from the archive available to inmates on their tablets would serve the same purpose.

The Petitioner is requesting Section 3260.1 should stipulate that public records that are available on the Department's website and in the public records archive shall be made available to inmates on their tablets.

DEPARTMENT DECISION:

The Department denies the petition to amend CCR, Title 15, Division 3, Section 3260.1, Public Record Duplication Services. The Petitioner is requesting to have public accessible electronic documents available in their GTL tablets and not be required to pay a 12 cent per page for duplicating document. The Petitioner indicates CDCR already host a number of documents in their website and should make them available as well as archived documents.

It is not yet known what documents will be made available to the inmates and how much data the tablets will be able accommodate. Additionally, not all inmates will have access to this data as not all inmates will have access to a GTL tablet. All information CDCR makes accessible to one inmate must be made accessible to all inmates. In this case, all same information would not be accessible by the same means due to not all inmates will have GTL tablets. Inmates that have personal tablets purchased through quarterly packages will not have access to the same information. Inmates will be permitted to have one tablet in their possession.

The Petitioner references Government Code 6253(b), which states in part, "Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so." Because the documents can be made available electronically, the Petitioner suggest there should be no fees to create electronic documents.

However, there will be a cost associated with electronic copies. First, Government Code 6253.9(2) which states in part, "Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format." Second, there will be no other means for an inmate to forward the electronic copy if necessary, so the need to generate paper copies will still be necessary at a cost. CCR Section 3260.1, Public Record Duplication Services states, "The Department shall charge a requester a fee of 12 cents per page, plus postage, to duplicate and mail a public record as defined in the California Public Records Act, Government Code Sections 6250, et seq." In theory, some inmates will have access to GTL tablets to email love ones, however, there has been no determination on whether inmates will have the ability to add attachments to their emails. So the need to request paper copies of documents will remain necessary.

GENERAL PUBLIC INTEREST

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

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

PUBLIC MEETING:

On **September 16, 2021**, at 10:00 a.m. via the following:

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

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

BUSINESS MEETING:

On **September 16, 2021**, at 10:00 a.m. via the following:

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

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

DISABILITY ACCOMMODATION NOTICE:

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll

free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

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

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

ANNOUNCEMENT OF AVAILABILITY OF A DRAFT TECHNICAL SUPPORT DOCUMENT FOR PROPOSED PUBLIC HEALTH GOALS FOR PERFLUOROCTANOIC ACID AND PERFLUOROCTANE SULFONIC ACID IN DRINKING WATER

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency is announcing the release of a draft document for public review describing proposed Public Health Goals (PHGs) for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) in drinking water.

A PHG is the level of a drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996¹ requires OEHHA to develop PHGs based exclusively on public health considerations.² PHGs published by OEHHA are considered by the State Water Resources Control Board in setting drinking water regulatory standards (Maximum Contaminant Levels, or MCLs) for California.³

The technical support document, posted on the OEHHA website (<https://oehha.ca.gov/water>), presents the scientific information available on the toxicity of PFOA and PFOS, and the calculation of the proposed PHGs. The proposed PHG of 0.007 parts per trillion (ppt) for PFOA is based on kidney cancer in humans and the proposed PHG of 1 ppt for PFOS is based on liver and pancreatic tumors in laboratory an-

¹ Codified at Health and Safety Code, section 116270 *et seq.*

² Health and Safety Code, section 116365(c).

³ Health and Safety Code, section 116365(a) and (b).

imals. The proposed PHGs are set at a level of risk of one additional cancer case per one million persons exposed over a lifetime. The draft document also presents health-protective drinking water concentrations for noncancer health effects. The proposed noncancer health-protective concentrations are 3 ppt for PFOA, based on increased risk of liver damage in humans and 2 ppt for PFOS, based on increased total cholesterol in humans.

The public comment period for the draft document begins July 30, 2021 and ends September 28, 2021. The public is encouraged to submit written comments via OEHHA's website, rather than in paper form. Comments may be submitted electronically through the following link: <https://oehha.ca.gov/comments>.

Hard-copy comments may be mailed or hand-delivered to the address below. Any written comments concerning this draft PHG document, regardless of the form or method of transmission, must be received by the PHG program by September 28, 2021, to be considered.

The Office will hold a virtual public workshop on September 28, 2021, from 1:00 p.m. to 4:00 p.m. Pacific Time. Information about the webinar can be found on the OEHHA website at <https://oehha.ca.gov/water>.

Pursuant to Health and Safety Code section 57003, the workshop is provided to enable a dialogue between OEHHA scientists and the public to discuss the scientific basis of the proposed PHGs, and to receive comments. After the closure of the comment period, OEHHA will submit the draft risk assessment for external scientific peer review.⁴

Following the workshop, public comment period and external scientific peer review, OEHHA will evaluate all the comments received, revise the document as appropriate, and make it available for an additional 30-day public comment period. After any subsequent revisions, the final document will be posted on the OEHHA website along with responses to the external peer review comments and to major comments received at the workshop and during the two public comment periods.

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

If you would like to receive further information on this announcement or have questions, please contact Hermelinda Jimenez at PHG.Program@oehha.ca.gov or at (916) 324-7572. Written inquiries should be sent to:

Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard
Assessment
California Environmental Protection Agency
P.O. Box 4010, MS-12B
Sacramento, California 95812-4010
Attention: PHG Program

DECISION NOT TO PROCEED

Editorial Note: Concurrent with its publication of the following Notice of Decision Not to Proceed, the Cemetery and Funeral Bureau is also publishing a new 45-Day Notice of Proposed Regulatory Action on the same subject. See PROPOSED ACTION ON REGULATIONS above for the Bureau's new Notice.

**CEMETERY AND FUNERAL
BUREAU/ DEPARTMENT OF
CONSUMER AFFAIRS**

Pursuant to Government Code section 11347

**RE: NOTICE OF PROPOSED
RULEMAKING CONCERNING
CEMETERIES: ENDOWMENT CARE
FUND — UNITRUST**

Pursuant to Government Code Section 11347, the Cemetery and Funeral Bureau (Bureau) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on November 27, 2020, Register 2020, Number 49-Z. The proposed rulemaking concerned Cemeteries: Endowment Care Funds — Unitrust. (OAL Notice Z2020-1117-06)

Any interested person with questions concerning this rulemaking should contact Carolina Sammons at either 916-574-7876 or by e-mail at: Carolina.Sammons@dca.ca.gov.

The Bureau will also post this Notice of Decision Not to Proceed on its website at https://www.cfb.ca.gov/laws_regs/proposed_regs.shtml.

⁴ Health and Safety Code section 116365(c)(3)(D).

**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 Food and Agriculture
File # 2021-0604-04
Peach Fruit Fly Eradication Area

This Certificate of Compliance by the Department of Food and Agriculture (the "Department") makes permanent the emergency changes made in OAL Matter No. 2020-1009-01E, wherein the Department established Madera County as a part of the peach fruit fly (*Bactocera zonata*) eradication area.

Title 03
Amend: 3591.12
Filed 07/15/2021
Effective 07/15/2021
Agency Contact: Karen Olmstead (916) 403-6879

California Alternative Energy and Advanced
Transportation Financing Authority
File # 2021-0707-01
Commercial Energy Efficiency Financing Program

This emergency action by the California Alternative Energy and Advanced Transportation Financing Authority is a deemed an emergency under Public Resources Code section 26009 and adopts and amends regulations regarding the Commercial Energy Efficiency Financing Program.

Title 04
Adopt: 10092.15 Amend: 10092.1, 10092.2,
10092.3, 10092.4, 10092.5, 10092.6, 10092.7,
10092.8, 10092.9, 10092.10, 10092.11, 10092.12,
10092.13, 10092.14
Filed 07/19/2021
Effective 07/19/2021
Agency Contact: David Gibbs (916) 653-2212

Bureau of Cannabis Control
File # 2021-0615-07
Medicinal and Adult-Use Commercial Cannabis
Regulations

This change without regulatory effect relocates the Bureau's Commercial Cannabis regulations from title 16, division 42, chapters 1-8 to title 4, division 19, chapters 1-8 of the California Code of Regulations.

Title 16, 04
Amend: 5000 (renumbered to 15000), 5001 (renumbered to 15001), 5002 (renumbered to 15002), 5003 (renumbered to 15003), 5004 (renumbered to 15004), 5005 (renumbered to 15005), 5006 (renumbered to 15006), 5007 (renumbered to 15007), 5007.1 (renumbered to 15007.1), 5007.2 (renumbered to 15007.2), 5008 (renumbered to 15008), 5009 (renumbered to 15009), 5010 (renumbered to 15010), 5010.1 (renumbered to 15010.1), 5010.2 (renumbered to 15010.2), 5010.3 (renumbered to 15010.3), 5011 (renumbered to 15011), 5012 (renumbered to 15012), 5013 (renumbered to 15013), 5014 (renumbered to 15014), 5015 (renumbered to 15015), 5017 (renumbered to 15017), 5018 (renumbered to 15018), 5019 (renumbered to 15019), 5020 (renumbered to 15020), 5021 (renumbered to 15021), 5022 (renumbered to 15022), 5023 (renumbered to 15023), 5024 (renumbered to 15024), 5024.1 (renumbered to 15024.1), 5025 (renumbered to 15025), 5026 (renumbered to 15026), 5027 (renumbered to 15027), 5028 (renumbered to 15028), 5030 (renumbered to 15030), 5031 (renumbered to 15031), 5032 (renumbered to 15032), 5033 (renumbered to 15033), 5034 (renumbered to 15034), 5035 (renumbered to 15035), 5036 (renumbered to 15036), 5037 (renumbered to 15037), 5037.1 (renumbered to 15037.1), 5037.2 (renumbered to 15037.2), 5038 (renumbered to 15038), 5039 (renumbered to 15039), 5040 (renumbered to 15040), 5040.1 (renumbered to 15040.1), 5041 (renumbered to 15041), 5041.1 (renumbered to 15041.1), 5042 (renumbered to 15042), 5043 (renumbered to 15043), 5044 (renumbered to 15044), 5045 (renumbered to 15045), 5046 (renumbered to 15046), 5047 (renumbered to 15047), 5048 (renumbered to 15048), 5049 (renumbered to 15049), 5050 (renumbered to 15050), 5051 (renumbered to 15051), 5052 (renumbered to 15052), 5052.1 (renumbered to 15052.1), 5053 (renumbered to 15053), 5054 (renumbered to 15054), 5300 (renumbered to 15300), 5301 (renumbered to 15301), 5302 (renumbered to 15302), 5303 (renumbered to 15303), 5303.1 (renumbered to 15303.1), 5304 (renumbered to 15304), 5305 (renumbered to 15305), 5305.1 (renumbered to 15305.1), 5306 (renumbered to 15306), 5307 (renumbered to 15307), 5307.1

(renumbered to 15307.1), 5307.2 (renumbered to 15307.2), 5308 (renumbered to 15308), 5309 (renumbered to 15309), 5310 (renumbered to 15310), 5311 (renumbered to 15311), 5312 (renumbered to 15312), 5313 (renumbered to 15313), 5314 (renumbered to 15314), 5315 (renumbered to 15315), 5400 (renumbered to 15400), 5402 (renumbered to 15402), 5403 (renumbered to 15403), 5403.1 (renumbered to 15403.1), 5404 (renumbered to 15404), 5405 (renumbered to 15405), 5406 (renumbered to 15406), 5407 (renumbered to 15407), 5408 (renumbered to 15408), 5409 (renumbered to 15409), 5410 (renumbered to 15410), 5411 (renumbered to 15411), 5412 (renumbered to 15412), 5413 (renumbered to 15413), 5414 (renumbered to 15414), 5415 (renumbered to 15415), 5415.1 (renumbered to 15415.1), 5416 (renumbered to 15416), 5417 (renumbered to 15417), 5418 (renumbered to 15418), 5419 (renumbered to 15419), 5420 (renumbered to 15420), 5421 (renumbered to 15421), 5422 (renumbered to 15422), 5423 (renumbered to 15423), 5424 (renumbered to 15424), 5426 (renumbered to 15426), 5427 (renumbered to 15427), 5500 (renumbered to 15500), 5501 (renumbered to 15501), 5502 (renumbered to 15502), 5503 (renumbered to 15503), 5504 (renumbered to 15504), 5505 (renumbered to 15505), 5506 (renumbered to 15506), 5506.1 (renumbered to 15506.1), 5507 (renumbered to 15507), 5600 (renumbered to 15600), 5601 (renumbered to 15601), 5602 (renumbered to 15602), 5603 (renumbered to 15603), 5604 (renumbered to 15604), 5700 (renumbered to 15700), 5701 (renumbered to 15701), 5702 (renumbered to 15702), 5703 (renumbered to 15703), 5704 (renumbered to 15704), 5705 (renumbered to 15705), 5706 (renumbered to 15706), 5707 (renumbered to 15707), 5708 (renumbered to 15708), 5709 (renumbered to 15709), 5710 (renumbered to 15710), 5711 (renumbered to 15711), 5712 (renumbered to 15712), 5713 (renumbered to 15713), 5714 (renumbered to 15714), 5715 (renumbered to 15715), 5717 (renumbered to 15717), 5718 (renumbered to 15718), 5719 (renumbered to 15719), 5720 (renumbered to 15720), 5721 (renumbered to 15721), 5722 (renumbered to 15722), 5723 (renumbered to 15723), 5724 (renumbered to 15724), 5725 (renumbered to 15725), 5726 (renumbered to 15726), 5727 (renumbered to 15727), 5728 (renumbered to 15728), 5729 (renumbered to 15729), 5730 (renumbered to 15730), 5731 (renumbered to 15731), 5732 (renumbered to 15732), 5733 (renumbered to 15733), 5734 (renumbered to 15734), 5735 (renumbered to 15735), 5736 (renumbered to 15736), 5737 (renumbered to 15737), 5738 (renumbered to 15738), 5739 (renumbered to 15739), 5800 (renumbered to 15800), 5801 (renumbered to 15801),

5802 (renumbered to 15802), 5803 (renumbered to 15803), 5804 (renumbered to 15804), 5805 (renumbered to 15805), 5806 (renumbered to 15806), 5807 (renumbered to 15807), 5808 (renumbered to 15808), 5809 (renumbered to 15809), 5810 (renumbered to 15810), 5811 (renumbered to 15811), 5812 (renumbered to 15812), 5813 (renumbered to 15813), 5814 (renumbered to 15814), 5815 (renumbered to 15815), 5900 (renumbered to 15900), 5901 (renumbered to 15901), 5902 (renumbered to 15902), 5903 (renumbered to 15903), 5904 (renumbered to 15904), 5905 (renumbered to 15905)
Repeal: 5016

Filed 07/14/2021

Agency Contact: Kaila Fayne (916) 465-9120

Department of Food and Agriculture
File # 2021-0615-06
Medicinal and Adult-Use Commercial Cannabis
Regulations

This change without regulatory effect relocates the Department's Cannabis Cultivation Program regulations from title 3, division 8, chapter 1 to title 4, division 19, chapter 9 of the California Code of Regulations.

Title 03, 04

Amend: 8000 (renumbered to 16000), 8100 (renumbered to 16100), 8101 (renumbered to 16101), 8102 (renumbered to 16102), 8103 (renumbered to 16103), 8104 (renumbered to 16104), 8105 (renumbered to 16105), 8106 (renumbered to 16106), 8107 (renumbered to 16107), 8108 (renumbered to 16108), 8109 (renumbered to 16109), 8110 (renumbered to 16110), 8112 (renumbered to 16112), 8113 (renumbered to 16113), 8114 (renumbered to 16114), 8115 (renumbered to 16115), 8200 (renumbered to 16200), 8201 (renumbered to 16201), 8202 (renumbered to 16202), 8203 (renumbered to 16203), 8204 (renumbered to 16204), 8205 (renumbered to 16205), 8206 (renumbered to 16206), 8207 (renumbered to 16207), 8208 (renumbered to 16208), 8209 (renumbered to 16209), 8210 (renumbered to 16210), 8211 (renumbered to 16211), 8212 (renumbered to 16212), 8213 (renumbered to 16213), 8214 (renumbered to 16214), 8215 (renumbered to 16215), 8216 (renumbered to 16216), 8300 (renumbered to 16300), 8301 (renumbered to 16301), 8302 (renumbered to 16302), 8303 (renumbered to 16303), 8304 (renumbered to 16304), 8305 (renumbered to 16305), 8306 (renumbered to 16306), 8307 (renumbered to 16307), 8308 (renumbered to 16308), 8400 (renumbered to 16400), 8401 (renumbered to 16401), 8402 (renumbered to 16402), 8403 (renumbered to 16403), 8404 (renumbered to 16404), 8405 (renumbered to 16405), 8406 (renumbered to 16406), 8407 (renumbered to

16407), 8408 (renumbered to 16408), 8409 (renumbered to 16409), 8410 (renumbered to 16410), 8411 (renumbered to 16411), 8500 (renumbered to 16500), 8501 (renumbered to 16501), 8600 (renumbered to 16600), 8601 (renumbered to 16601), 8602 (renumbered to 16602), 8603 (renumbered to 16603), 8604 (renumbered to 16604), 8605 (renumbered to 16605), 8606 (renumbered to 16606), 8607 (renumbered to 16607), 8608 (renumbered to 16608), 8609 (renumbered to 16609) Repeal: 8111, 8407

Filed 07/14/2021

Agency Contact:

Kristi Armstrong (916) 263-0801

Department of Insurance

File # 2021-0510-01

Gender Neutral Pronoun Usage

In this change without regulatory effect, the Department amends its regulations to remove gender identifying pronouns and replace them with gender inclusive language.

Title 10

Amend: 2050.1, 2052.4, 2056, 2057, 2058, 2059, 2061.1, 2061.4, 2061.5, 2062, 2063, 2063.1, 2063.2, 2063.3, 2064, 2065, 2066, 2066.1, 2066.3, 2067, 2068, 2069, 2073, 2074, 2077, 2077.1, 2079, 2080, 2081, 2082, 2084, 2087, 2088.1, 2088.2, 2088.3, 2090, 2091, 2092, 2094, 2094.2, 2095, 2096, 2097, 2098, 2100, 2101.1, 2101.2, 2101.3, 2102, 2103, 2104, 2110, 2112, 2113, 2114, 2114.3, 2114.5, 2114.7, 2120, 2121, 2123, 2124, 2131, 2172, 2199.2.1, 2199.2.3, 2199.2.4, 2199.3.3, 2199.3.6, 2199.4.3, 2202, 2216, 2218.6, 2218.10, 2218.82, 2219, 2220.7, 2220.11, 2220.52, 2222.15, 2222.16, 2232.15, 2232.18, 2232.32, 2232.38, 2232.56, 2236.3, 2240, 2240.15, 2241.3, 2241.5, 2241.7, 2241.9, 2242.1, 2278.58, 2279, 2303.15, 2303.16, 2305, 2309.3, 2309.6, 2309.7, 2309.10, 2309.12, 2309.13, 2309.14, 2321, 2325, 2327.1, 2601.01, 2603.05, 2603.10, 2603.12, 2603.13, 2603.14, 2603.17, 2603.18, 2603.20, 2604.03, 2605.01, 2607.03, 2607.04, 2608.01, 2608.02, 2608.03, 2608.05, 2608.06, 2609.03, 2610.01, 2610.03, 2614, 2614.5, 2614.8, 2614.9, 2614.13, 2614.14, 2614.17, 2614.24, 2632.5, 2632.13, 2632.13.1, 2632.14.3, 2632.19, 2643.3, 2643.6, 2644.4, 2644.8, 2644.12, 2644.16, 2644.25, 2644.27, 2646.1, 2646.2, 2646.4, 2654.1, 2655.1, 2655.6, 2655.8, 2656.2, 2661.1, 2670.4, 2670.8, 2670.17, 2670.18, 2670.19, 2670.20, 2680.2, 2680.4, 2680.11, 2680.12, 2682.9, 2682.10, 2682.19, 2682.20, 2682.21, 2682.22, 2683.9, 2683.18, 2683.19, 2683.20, 2683.22, 2689.4, 2689.8, 2689.22, 2690.1, 2691.5, 2691.6, 2691.13, 2691.14, 2691.17, 2695.2, 2695.3, 2695.6, 2695.7, 2695.8,

2695.9, 2695.26, 2696.5, 2696.6, 2696.8, 2697.3, 2697.8, 2698.52, 2698.55, 2698.58, 2698.59, 2698.65, 2698.67, 2698.82, 2698.85, 2698.86, 2698.97.1, 2698.98.1

Filed 07/14/2021

Agency Contact: George Teekell (415) 538-4390

Department of Public Health

File # 2021-0615-04

Manufactured Cannabis Regulations

This change without regulatory effect filing by the Department of Public Health relocates the Department's manufactured cannabis regulations from title 17, division 1, chapter 13 to title 4, division 19, chapters 10-15 of the California Code of Regulations.

Title 17, 04

Amend: 40100 (renumbered to 17000), 40101 (renumbered to 17001), 40102 (renumbered to 17002), 40105 (renumbered to 17003), 40115 (renumbered to 17004), 40116 (renumbered to 17005), 40118 (renumbered to 17006), 40120 (renumbered to 17009), 40126 (renumbered to 17100), 40128 (renumbered to 17101), 40129 (renumbered to 17102), 40130 (renumbered to 17103), 40131 (renumbered to 17104), 40132 (renumbered to 17105), 40133 (renumbered to 17106), 40135 (renumbered to 17107), 40137 (renumbered to 17108), 40150 (renumbered to 17109), 40152 (renumbered to 17110), 40155 (renumbered to 17111), 40159 (renumbered to 17113), 40162 (renumbered to 17114), 40165 (renumbered to 17115), 40167 (renumbered to 17116), 40175 (renumbered to 17117), 40177 (renumbered to 17118), 40178 (renumbered to 17119), 40179 (renumbered to 17120), 40180 (renumbered to 17121), 40182 (renumbered to 17122), 40184 (renumbered to 17123), 40186 (renumbered to 17123.1), 40187 (renumbered to 17123.2), 40190 (renumbered to 17124), 40191 (renumbered to 17125), 40192 (renumbered to 17126), 40194 (renumbered to 17127), 40196 (renumbered to 17128), 40200 (renumbered to 17200), 40205 (renumbered to 17201), 40207 (renumbered to 17202), 40220 (renumbered to 17203), 40222 (renumbered to 17204), 40223 (renumbered to 17205), 40225 (renumbered to 17206), 40230 (renumbered to 17207), 40235 (renumbered to 17208), 40240 (renumbered to 17209), 40243 (renumbered to 17210), 40246 (renumbered to 17211), 40248 (renumbered to 17212), 40250 (renumbered to 17213), 40253 (renumbered to 17214), 40255 (renumbered to 17215), 40258 (renumbered to 17216), 40270 (renumbered to 17217), 40272 (renumbered to 17218), 40275 (renumbered to 17219), 40277 (renumbered to 17220), 40280 (renumbered to 17221), 40282 (renumbered to 17222), 40290 (renumbered

to 17223), 40292 (renumbered to 17224), 40295 (renumbered to 17225), 40297 (renumbered to 17226), 40300 (renumbered to 17300), 40305 (renumbered to 17301), 40306 (renumbered to 17302), 40308 (renumbered to 17303), 40315 (renumbered to 17304), 40330 (renumbered to 17305), 40400 (renumbered to 17400), 40401 (renumbered to 17401), 40403 (renumbered to 17402), 40404 (renumbered to 17403), 40405 (renumbered to 17404), 40406 (renumbered to 17405), 40408 (renumbered to 17406), 40409 (renumbered to 17407), 40410 (renumbered to 17408), 40411 (renumbered to 17409), 40412 (renumbered to 17410), 40415 (renumbered to 17411), 40417 (renumbered to 17412), 40500 (renumbered to 17500), 40505 (renumbered to 17501), 40510 (renumbered to 17502), 40512 (renumbered to 17503), 40513 (renumbered to 17504), 40515 (renumbered to 17505), 40517 (renumbered to 17506), 40525 (renumbered to 17507), 40550 (renumbered to 17508), 40551 (renumbered to 17509), 40570 (renumbered to 17510) Repeal: 40156

Filed 07/14/2021

Agency Contact:

Hannah Strom–Martin (916) 440–7371

Professional Fiduciaries Bureau

File # 2021–0608–01

Address Change

This action without regulatory effect by the Professional Fiduciaries Bureau changes the mailing address for the Bureau.

Title 16

Amend: 4402

Filed 07/14/2021

Agency Contact: Angela Cuadra (916) 574–7341

Department of Corrections and Rehabilitation

File # 2021–0211–01

Content of Law Libraries

In this rulemaking action, the Department amends its regulation related to the content of law libraries. Legal materials are to be made available by means of the Law Library Electronic Delivery System (LLEDS). The amendments also include removing the requirement to maintain one year back file for the Daily Journal.

Title 15

Amend: 3124

Filed 07/20/2021

Effective 10/01/2021

Agency Contact: Sarah Pollock (916) 445–2308

Department of Fish and Wildlife

File # 2021–0520–02

Drift Gill Net Transition Program Timeline Extension

This rulemaking action by the Department of Fish and Wildlife amends regulations relating to the voluntary Drift Gill Net Transition Program pursuant to Fish and Game Code sections 8583 and 8583.5.

Title 14

Amend: 106.5

Filed 07/15/2021

Effective 07/15/2021

Agency Contact: Michelle Selmon (916) 653–4674

State Mining and Geology Board

File # 2021–0226–04

Appeals of Orders to Comply with SMARA

This action by the State Mining and Geology Board amends regulations for procedures for appeals of orders to comply with the Surface Mining and Reclamation Act of 1975 (SMARA) to conform with statutory changes to SMARA.

Title 14

Adopt: 3940.5 Amend: 3940, 3941, 3942, 3943, 3944, 3945, 3946, 3947, 3948

Filed 07/14/2021

Effective 10/01/2021

Agency Contact: Matthew Livers (916) 214–2066

Board of Behavioral Sciences

File # 2021–0604–05

Supervision–Related Requirements

The Board of Behavioral Sciences has made comprehensive amendments to regulations governing the supervision requirements needed to obtain licensure for three substantially equivalent license types. The three license types are Licensed Professional Clinical Counselors, Licensed Marriage and Family Therapists, and Licensed Clinical Social Workers.

Title 16

Adopt: 1815.8, 1820.3, 1821.1, 1821.2, 1821.3, 1833.05, 1833.1.5, 1834, 1869, 1869.3, 1870.3, 1870.5, 1871 Amend: 1820, 1820.5, 1821, 1833, 1833.1, 1833.2, 1870 Repeal: 1822, 1870.1

Filed 07/14/2021

Effective 01/01/2022

Agency Contact: Christy Berger (916) 574–7817

Department of Food and Agriculture

File # 2021–0714–01

Ocal Program

The Department of Food and Agriculture (Department) has adopted an organic cannabis pro-

gram that is comparable to the National Organic Program and the California Organic Food and Farming Act, as required by Business and Professions Code section 26062(a)(1). The Department's organic cannabis program, OCal, establishes a program for certifying organically grown cannabis and nonmanufactured cannabis products by accrediting and registering third-party certifying agents that certify as OCal organic cannabis operations under the purview of the Department (licensed cultivators and distributors), with related application and fee requirements; sets minimum standards for production of organically grown cannabis and nonmanufactured cannabis products intended to be sold, labeled, or represented as OCal; establishes labeling and marketing standards for use of the OCal program seal and designation; and establishes adverse actions, fines, and mediation and appeals options for OCal certifying agents and organic cannabis operations found to be noncompliant with OCal regulations.

Title 03

Adopt: 10000, 10001, 10100, 10101, 10102, 10103, 10104, 10105, 10200, 10201, 10202, 10203, 10204, 10205, 10206, 10207, 10208, 10209, 10210, 10300, 10301, 10302, 10303, 10400, 10401, 10402, 10403, 10404, 10405, 10406, 10407, 10408, 10409, 10410,

10411, 10412, 10500, 10501, 10502, 10503, 10504, 10505, 10506, 10600, 10601, 10602, 10603, 10700, 10701, 10702, 10703, 10704, 10705, 10706, 10707, 10708, 10709, 10710, 10711, 10712, 10713

Filed 07/14/2021

Effective 07/14/2021

Agency Contact:

Kristi Armstrong

(916) 263-0801

**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 www.oal.ca.gov.