

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 NOx; 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 PM2.5 and NOx 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